

## **Chapter 27**

### **Zoning**

#### **Part 1 Zoning**

- §27-101. Short Title
- §27-102. Purpose
- §27-103. Interpretation
- §27-104. Scope
- §27-105. Conflict
- §27-106. Statement of Community Development Objectives
- §27-107. Applicability to Municipal Use
- §27-108. Other Applicable Regulations

#### **Part 2 Definitions**

- §27-201. Interpretation
- §27-202. Definitions

#### **Part 3 Establishment of Districts**

- §27-301. Classes of Districts
- §27-302. Zoning Map
- §27-303. District Boundaries

#### **Part 4 AP - Agricultural Preservation District**

- §27-401. Purpose
- §27-402. Use Regulations
- §27-403. Area and Bulk Regulations
- §27-404. General Design Standards

#### **Part 5 RC - Rural Conservation District**

- §27-501. Purpose
- §27-502. Use Regulations
- §27-503. Area and Bulk Regulations
- §27-504. General Design Standards

#### **Part 6 LR - Low Density Residential District**

- §27-601. Purpose
- §27-602. Use Regulations
- §27-603. Area and Bulk Regulations
- §27-604. General Design Standards

**Part 7**  
**MR - Moderate-Density Residential District**

- §27-701. Purpose
- §27-702. Use Regulations
- §27-703. Area and Bulk Regulations
- §27-704. General Design Standards

**Part 8**  
**HR - High-Density Residential District**

- §27-801. Purpose
- §27-802. Use Regulations
- §27-803. Area and Bulk Regulations
- §27-804. General Design Standards

**Part 9**  
**Open Space Design Option**

- §27-901. Purpose
- §27-902. Eligibility
- §27-903. General Regulations
- §27-904. Area and Bulk Regulations
- §27-905. Conservation and Development Design Standards
- §27-906. Open Space Designation and Management Standards

**Part 10**  
**NC - Neighborhood Commercial District**

- §27-1001. Purpose
- §27-1002. Use Regulations
- §27-1003. Area and Bulk Regulations
- §27-1004. Design Standards

**Part 11**  
**GC - General Commercial District**

- §27-1101. Purpose
- §27-1102. Use Regulations
- §27-1103. Area and Bulk Regulations
- §27-1104. Design Standards

**Part 12**  
**PO - Industrial/Professional Office/Research District**

- §27-1201. Purpose
- §27-1202. Use Regulations
- §27-1203. Area and Bulk Regulations
- §27-1204. Design Standards
- §27-1205. Special Provisions for Planned Industrial Development

**Part 13**  
**GI - General Industrial District**

- §27-1301. Purpose
- §27-1302. Use Regulations
- §27-1303. Area and Bulk Regulations
- §27-1304. Design Standards
- §27-1305. Special Provisions for Planned Industrial Development

**Part 14**  
**Cultural Resource Conservation**

- §27-1401. Purpose
- §27-1402. French Creek Scenic Corridor Overlay District
- §27-1403. Special Provisions for Historic Resources

**Part 15**  
**Natural Features Conservation**

- §27-1501. Floodplain District
- §27-1502. Steep Slope Conservation
- §27-1503. Conservation of Woodlands, Hedgerows and Specimen Vegetation
- §27-1504. Conservation of Riparian Buffer Areas
- §27-1505. Excavation of Clay, Sand, Gravel and Rock
- §27-1506. Concurrent Submission Requirements
- §27-1507. Stormwater Management and Erosion and Sedimentation Control
- §27-1508. Conservation of Water Resources

**Part 16**  
**Supplemental Land Use Regulations**

- §27-1601. Purpose
- §27-1602. Accessory Uses, Buildings and Structures
- §27-1603. Storage
- §27-1604. Swimming Pools
- §27-1605. Home Occupation
- §27-1606. Antennae and Telecommunications Facilities
- §27-1607. Microwave Dish Antennae
- §27-1608. Residential Conversion
- §27-1609. Agricultural Controls
- §27-1610. Keeping of Animals
- §27-1611. Junkyard
- §27-1612. Group Homes
- §27-1613. Gasoline Service Stations and Quick Service Food Stores

- §27-1614. Campgrounds or Recreational Vehicle Parks
- §27-1615. Bus Shelters

## **Part 17**

### **General Regulations and Design Standards**

- §27-1701. Purpose
- §27-1702. Vision Obstruction on Corner Lots
- §27-1703. Projections into Required Yards
- §27-1704. Reduction of Front Yard Requirement
- §27-1705. Exemptions to Height Restrictions
- §27-1706. Public Utility Corporations
- §27-1707. Prohibited Uses
- §27-1708. Access, Highway Frontage and Interior Circulation
- §27-1709. Parking Standards
- §27-1710. [Reserved]
- §27-1711. Loading and Unloading
- §27-1712. Screening
- §27-1713. Landscape Design, Installation, and Maintenance
- §27-1714. Minimum Habitable Floor Areas
- §27-1715. Lighting
- §27-1716. Physical Performance Requirements
- §27-1717. Signs
- §27-1718. Sewer and Water Service

## **Part 18**

### **Nonconforming Uses, Structures, Lots and Signs**

- §27-1801. Applicability
- §27-1802. Continuation
- §27-1803. Nonconforming Use
- §27-1804. Nonconforming Structures
- §27-1805. Nonconforming Lots
- §27-1806. Nonconforming Signs
- §27-1807. Lots Forming Part of Certain Pre-June 12, 1992 Lot Averaging/Cluster Subdivision Plans

## **Part 19**

### **Conditional Use Process**

- §27-1901. Procedures and Criteria

## **Part 20**

### **Zoning Hearing Board**

- §27-2001. Establishment and Membership
- §27-2002. Organization of the Zoning Hearing Board
- §27-2003. Jurisdiction
- §27-2004. Rules of Procedure; Expenditures; Fees
- §27-2005. Meetings

- §27-2006. Appeals and Requests to the Zoning Hearing Board
- §27-2007. Notice of Hearing
- §27-2008. Hearing Procedures
- §27-2009. Standards for Review of Special Exception
- §27-2010. Standards for Review of a Variance
- §27-2011. Burden of Proof; Conditions
- §27-2012. Decision on Appeals and Requests
- §27-2013. Appeals to Court
- §27-2014. Expiration of Special Exceptions and Variances

## **Part 21 Administration**

- §27-2101. Administration
- §27-2102. Procedures Involving the Code Enforcement Officer
- §27-2103. The Building Inspector
- §27-2104. Procedures Involving the Building Inspector
- §27-2105. Fees and Expenses
- §27-2106. Municipal Liability

## **Part 22 Amendments**

- §27-2201. Power of Amendment
- §27-2202. Citizen's Petition
- §27-2203. Planning Commission Referral

## **Part 23 Enforcement**

- §27-2301. Violations
- §27-2302. Enforcement Notice
- §27-2303. Causes of Action
- §27-2304. Enforcement Remedies

## **Part 24 Transferable Development Rights**

- §27-2401. Purpose
- §27-2402. Basic Concept
- §27-2403. Sale of TDRS from Sending Area
- §27-2404. Receiving Area Qualifications and Calculations
- §27-2405. Plan Submittal Process
- §27-2406. Public Acquisition
- §27-2407. Amendment and/or Extinguishment

## **Part 25 Unified Development Area Option ("UDA Option")**

- §27-2501. Purpose

- §27-2502. Master Development Plan and Eligibility
- §27-2503. Master Development Plan Approval
- §27-2504. Permitted Uses
- §27-2505. Performance Standards
- §27-2506. Plan Submission Requirements
- §27-2507. Procedures

## **Residential Density Table**

### **Zoning Map**

**Part 1****Zoning****§27-101. Short Title.**

This Chapter shall be known, and may be cited as, the "East Vincent Township Zoning Ordinance of 2002."

(*Ord. 162, 6/12/2002, §100*)

**§27-102. Purpose.**

This Chapter has as its purposes:

A. To promote, protect and facilitate the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, the provision of adequate light and air, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, public grounds and other public improvements.

B. To prevent the overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flooding, panic or other dangers.

C. To preserve prime agriculture and farmland.

D. To provide for residential housing of various dwelling types; as well as,

E. To accommodate reasonable overall community growth.

(*Ord. 162, 6/12/2002, §101*)

**§27-103. Interpretation.**

In interpreting the language of this Chapter to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the governing body, in favor of the property owner and against any implied extension of the restriction. Where the provisions of this Chapter impose time limitations on actions by the Township, Board of Supervisors, Planning Commission, Code Enforcement Officer, Township Engineer or any other agency, which time limitations are not required by the Pennsylvania Municipalities Planning Code or other applicable statute, or which are shorter than required by the Pennsylvania Municipalities Planning Code or other applicable statute, the time limitations set forth in this Chapter shall be deemed directory and not mandatory, and any longer time periods provided by the Pennsylvania Municipalities Code or other applicable statute shall prevail.

(*Ord. 162, 6/12/2002, §102*)

**§27-104. Scope.**

From and after the effective date of this Chapter, the use of all land, every building or portion of a building erected, altered in respect to height or area, or relocated, and every use hereinafter established within any building or property or use accessory thereto in East Vincent Township shall be in conformity with the provisions of this

Chapter. Any building, structure or use of a building or land existing at the effective date of this Chapter which is not in conformity herewith may be continued, extended or changed only in accordance with the regulations herein contained relating to non-conforming buildings and uses (Part 18).

(*Ord. 162, 6/12/2002, §103*)

**§27-105. Conflict.**

1. It is not intended by this Chapter to repeal, abrogate, annul or interfere with any existing ordinance or enactment, or with any rule, regulation or permit adopted or issued thereunder, except insofar as the same may be inconsistent or in conflict with any of the provisions of this Chapter.

2. In the case where any general provision of this Chapter governing a given use conflicts with a more specific provision of this Chapter, the more restrictive provision shall apply.

3. Provisions of the Township's Subdivision and Land Development Ordinance [Chapter 22] providing for the varying of design standards shall not be considered in conflict with the provisions of this Chapter, which shall take precedence.

(*Ord. 162, 6/12/2002, §103*)

**§27-106. Statement of Community Development Objectives.**

The objectives of zoning, as embodied in this Chapter, are derived from and conform to the comprehensive planning process and activities of East Vincent Township and its policies for resource protection, land use, growth management, housing, circulation, and the provision of community facilities and services. The particular objectives for community development which East Vincent Township seeks to achieve through this Chapter are those contained in the East Vincent Comprehensive Plan of 1994, consistent with the requirements for such as prescribed in §606 of the Pennsylvania Municipalities Planning Code (MPC), Act 247 as amended, 53 P.S. §10101 *et seq.* Those particular objectives, as articulated among the overall set of "Community Goals and Objectives" within the Comprehensive Plan, are as follows:

A. To preserve, protect and manage the Township's natural resources and environment including quality streams and other water bodies, wetlands, woodlands, and other wildlife habitats, preclude development in floodplains and on steep slopes and poor soils, and enhance residents' experience of the Township's environmental resources through the protection of scenic landscapes and roads.

B. To protect the Township's valuable cultural and historic resources from degradation or destruction and promote the adaptive re-use of older buildings and structures.

C. To conserve the Township's agricultural lands and encourage the long-term viability of agricultural operations and supporting agricultural industry.

D. To provide for development in an orderly manner which preserves the rural character of the Township by guiding higher density residential, commercial and industrial development to Township areas with accommodating zoning; compatible and supportive land uses, available infrastructure, and other urban facilities and services.



E. To provide for a variety of residential housing types and densities to meet current and future needs of the Township's residents.

F. To promote the use of flexible and creative planning, open space management, land stewardship, and engineering practices within the Township to facilitate protection and enhancement of its natural, cultural, agricultural, scenic, historic and recreational resources.

G. To promote innovative and efficient development designs within the Township that enhance their surroundings through careful attention to building scale and orientation, incorporate surrounding historic and cultural features, provide proper traffic circulation, on-site parking and site access, incorporate high quality architecture and site landscaping, retain scenic views, and, where appropriate, establish adequate buffers to separate incompatible land uses.

H. To promote a safe, efficient transportation system and to provide adequate and efficient community facilities and services within the Township.

(*Ord. 162, 6/12/2002, §107*)

**§27-107. Applicability to Municipal Use.**

Except as expressly addressed by any specific provision of this Chapter, the provisions hereof shall not apply to regulate municipal use on any lands by the Township of East Vincent, and any such municipal use shall not be subject to the provisions hereof.

(*Ord. 162, 6/12/2002, §108*)

**§27-108. Other Applicable Regulations.**

Specific references herein to other applicable regulations (e.g., Pennsylvania Department of Environmental Protection) are advisory and do not waive applicability of any other regulations not specifically referenced. Any applicable regulation more stringent than those herein shall apply. Preemption of any regulation herein by regulation or other authority shall not be presumed. Applicability of this Chapter shall be determined by the Code Enforcement Officer in consultation with the Township Solicitor.

(*Ord. 162, 6/12/2002, §109*)



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

1. Unless otherwise expressly stated, the following words shall be construed throughout this Chapter to have the meaning set forth in this Part. Words used in the present tense include the future.

2. The singular includes the plural and the plural the singular. The masculine gender includes the feminine and the neuter. The words "shall" or "must" are mandatory.

3. The words "district" and "zone" shall be synonymous.

4. The word "person" includes an individual, corporation, partnership, incorporated association or other similar entity.

5. The word "includes" or "including" shall not limit the term to the specified example, but is intended to extend its meaning to all other instances of like kind and character. The phrase "used for" includes "arranged for," "designed for," "intended for," "maintained for," or "occupied for."

(Ord. 162, 6/12/2002, §200; as amended by Ord. 179, 12/1/2004)

**§27-202. Definitions.**

For the purpose of this Chapter, certain words and phrases shall have the following meanings. Words and phrases not included in this Section shall have their common meanings.

*Abandonment* - an intentional and absolute relinquishment and cessation of that use without intention to resume the said use for a period of time or the voluntary discontinuance of a use for a continuous period of time as indicated within §27-1803.4.

*Abut* - to border upon, or lie next to, but not necessarily "contiguous" or "adjoining," which see.

*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 of the structure. The term "accessory use" shall not include any home occupation, as hereinafter defined.

*Act 247* - the Pennsylvania Municipalities Planning Code, Act 247 of 1968, (P.L. 805) as now and hereafter amended, by Acts 67, 68, and 127 of 2000, 53 P.S. §10101 *et seq.*

*Adjoining* - touching at some point or along a line.

*Adult-oriented use* - any adult bookstore, adult cabaret, or adult mini-picture theater, as defined herein and which, under the Pennsylvania Obscenity Code, must exclude minors or may not knowingly distribute to minors.

(1) *Adult bookstore* - a commercial establishment, having as a substantial or significant portion of its stock in trade, whether for sale or rental, books,

magazines, videos, novelties, or other materials which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specific sexual activities" as defined herein.

(2) *Adult cabaret* - a cabaret, tavern, theater, or club which features strippers, male or female impersonators or similar entertainers who exhibit, display, or engage in nudity, sexual conduct or sadomasochistic abuse, as defined in the Pennsylvania Obscenity Code.

(3) *Adult mini-motion picture theater* - an enclosed building offering video presentations distinguishing or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" for observation by patrons within private viewing booths and/or by use of token or coin operated projectors or other video machines.

(4) *Adult theater* - any business, indoor or outdoor, which exhibits a motion picture show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sadomasochistic abuse as defined in the Pennsylvania Obscenity Code.

(5) *Massage establishment* - any establishment or business which provides the services of a massage or body manipulation, including exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, unless operated by a medical practitioner, chiropractor or professional physical therapist licensed by the State. This definition does not include an athletic club, school, gymnasium, reducing salon, spa or similar establishment where massage or similar manipulation of the human body is offered as an incidental or accessory service.

*Age restricted community* - a development of individual or multiple dwelling units that is designed and operated for mature adults with or without certain support facilities. Age restricted community may include "assisted living community" as defined in this Part. The residents thereof need not be actually retired from their occupation or employment, however, they must have attained the age of at least 55 years or are elderly families (i.e., families whose heads or their spouses are at least 55 years of age or are under a disability as defined in §223 of the Social Security Act or in §1025 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970).

*Age-restricted residences* - residences restricted to heads of households age 55 or over and with no children under age 18 residing on a permanent basis.

*Agriculture* - the cultivation of the soil and the raising and harvesting of the products of the soil including, but not limited to, nurserying, horticulture, and the breeding and raising of livestock, and poultry, excluding pets such as dogs, cats, rabbits and the like and excluding horses for the personal recreational use of the occupant of the principal house.

*Agricultural lot* - existing lot of record intended for continued agricultural use and from which a new lot or lots is/are created for the purposes of very low density, rural residential development. See §27-403.2.E(1) for applicability.

*Alteration* - any construction or renovation to an existing structure other than repair or addition.

*Antenna* - a device used to receive or transmit wireless communications signals including, but not limited to, cellular panels, microwave dishes, monopoles and whip antennae.

*Applicant* - a landowner or developer, as herein after defined, who has filed an application for development, including heirs, successors and assigns.

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

*Assisted living community* - an age-restricted residential community comprising one or more principal residential structures containing dwelling units for assisted living or personal care whose residents are provided proper professional care, supervision, and nursing in accordance with all applicable State licensing requirement.

*Basement or cellar* - that portion of a building which is partly below and partly above grade. A basement shall be counted as a story for purposes of measurement of building height if the vertical distance between the ceiling of the basement and the average level of the adjoining ground is more than 5 feet, or where the basement is used as an office or for dwelling purposes, but not where used solely as a game or recreation room and/or a garage. For the purposes of administering the Floodplain District, "basement" is defined as any area of a building having its floor below ground level on all sides.

*Berm* - a raised earthen structure generally level and formed of compacted soils used for (1) the control of stormwater or other liquids, either by impoundment or diversion, or (2) for screening or landscaping purposes.

*Board* - for the purpose of this Chapter, the term refers to the East Vincent Township Board of Supervisors. This term is not intended to include the Zoning Hearing Board.

*Buffer area* - an area to be used as a visual and/or auditory barrier, consisting of a mound, berm or strip of land planted and maintained as an effective barrier separating parcels or uses of land in which no building is permitted.

*Building* - a structure or appendage to a structure which is permanently affixed to the land, and is used for human, animal or chattel enclosure, or in the case of a mobile home, connected in any fashion to any source of electricity, gas, heating fuel, telephone, or to a sewage disposal or water system of any type.

*Building coverage* - the ratio of the total ground floor area of all buildings, plus the total surface area of any roof overhangs and decks, on a lot to the total lot size of the lot on which they are located, expressed as a percentage.

*Building height* - where measured as a distance, building height is the vertical distance measured from average finished grade at all foundation corners of the building, or at not less than 10 equidistant points in the case of a circular structure, to a point midway between the highest and lowest points of the roof, excluding the chimney or any superstructure above the roof such as stair or elevator bulkheads, water towers, etc. Where measured as a number of stories, building height shall

include all stories containing habitable floor area and shall include the basement where applicable. Also see "basement." For structures other than buildings, see "height."

*Building Inspector* - the Code Enforcement Officer or other designated authority charged with the administration and enforcement of the Township Building Code [Chapter 5, Part 1].

*Building line* - a line passing through the point of a building nearest to the front lot line, parallel to such line and at a distance therefrom established by the actual location of the building; the building line may be the same as the "building setback line" or may be farther from the front lot line, but cannot be closer to the front lot line than the building setback line.

*Building permit* - a statement issued and signed by the Building Inspector/Code Enforcement Officer authorizing the erection, alteration, or enlargement of a building or structure. The statement should indicate that the proposed activity complies with the applicable Township codes and ordinances.

*Building, principal* - a structure in which is conducted, designed to be conducted or intended to be conducted, the primary use of the lot on which it is located.

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

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

*Bus shelter* - a frame-like structure enclosed on a maximum of three sides built to mark an existing regional transportation system bus stop and to shelter pedestrians from the weather while waiting for buses in a public or private regional transportation system.

*Campground or recreational vehicle park* - a lot of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes. "Temporary" shall mean not to exceed 14 days in any 1 calendar year.

*Campsite or recreational vehicle site* - a plot of ground within a recreational vehicle park intended for the accommodation of a recreational vehicle, tent, or other individual camping unit on a temporary basis. "Temporary" shall mean not to exceed 14 calendar days in any 1 calendar year.

*Carport* - a roofed-over structure, open on at least two sides, used in conjunction with a dwelling for storage of private motor vehicles.

*Cartway* - that portion of a street right-of-way, paved or unpaved, customarily used by vehicles in the regular course of travel over the street.

*Cellar* - see "basement."

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

*Central sewage collector and treatment system* - a sanitary sewage collection and treatment system in which sewage is carried from individual dischargers by a system of pipes to one or more common treatment and disposal facilities approved by the applicable agencies.

*Central water supply system* - a system for supplying water from a common source or sources to all dwellings and other buildings within a development. The water supply source may be located on-site and/or off site and may be publicly or privately owned.

*Certificate of occupancy* - a statement signed, issued, and enforced by the Building Inspector/Code Enforcement Officer upon completion of construction of a new building or upon change or conversion of the structure or use of a building, which establishes that a building and the lot upon which it is situated comply with all requirements and regulations as provided in this Chapter and other applicable codes, and that the same may be appropriately used for the intended use.

*Church* - a building utilized for public divine worship. The term church shall also include accessory temple, hall, synagogue, mosque, rectory, parish house or parsonage.

*Code Enforcement Officer* - the Code Enforcement Officer, charged with enforcing the literal terms of this Chapter or the representative agent of the Zoning Hearing Board. The Code Enforcement Officer is the Zoning Officer as described in Municipalities Planning Code, §614, 53 P.S. §10614.

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

*Common open space* - restricted open space within a development designed and intended for the use or enjoyment of residents of the development, and conforming to all applicable provisions of Part 9 of this Chapter.

*Composting* - the processing of source-separated wastes such as plant waste, agricultural waste, pre-consumer and post-consumer food residuals, yard waste, card board, land clearing and other grubbing material, provided such processing produces a finished product for marketing and distribution, such as mulch, a soil additive, fertilizer, or other landscaping product(s). The term composting shall not include any processing of biosolids or sewage sludge, nor construction or rubber waste. No more than 5 percent of such source-separated waste can consist of untreated wood waste, gypsum wallboard, paper cardboard, waxed cardboard, virgin paper mill sludge, or spent mushroom substrate. [Ord. 203]

*Comprehensive Plan* - the "Comprehensive Plan of East Vincent Township," as adopted and amended from time to time.

*Comprehensive trail system* - a system of interlinking trails throughout East Vincent Township, designated for transportation and recreation purposes. The Township Comprehensive Trail System Plan delineates existing and proposed trails and is available from the Township.

*Completely dry space* - for the purposes of administering the Floodplain District provisions, a space that will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

*Conditional use* - a use which is not necessarily appropriate to a particular zoning district, but which may be suitable when specific conditions and factors prescribed for such cases within this Chapter are present. Conditional uses are approved or denied by the Board of Supervisors after a public hearing and review and comments from the Planning Commission as set forth in Part 19.

*Condominium* - a form of ownership of real property including an undivided interest in a portion of a parcel, together with a separate interest in a space within a structure, subject to the provisions of the Pennsylvania Uniform Condominium Act of 1980 as may be amended from time to time, 68 Pa.C.S.A. §3101 *et seq.*

*Conservation plan* - a plan for the conservation of precipitation and soils meeting the standards established and revised from time to time by the Pennsylvania Department of Environmental Protection, the Chester County Soil and Water Conservation District, and by the Natural Resources Conservation Service of the U.S. Department of Agriculture.

*Construction* - the erection or alteration of any structure and/or any disturbance of the existing surface of the land or any disturbance to existing vegetation related to the erection or alteration of structures thereon, including the cutting of trees or clearing of brush, provided that limited disturbance to soil or vegetation associated with the entering upon the premises for purposes of surveying, staking, or to obtain necessary data on existing conditions shall not be deemed "construction."

*Contiguous* - touching along all or most of one side. Not the same as "abut," which see.

*Contributing resource* - a building, structure or site adding to the historical significance of an individual property or an historic district. Contributing resources included in the East Vincent Township Historic Resource Inventory shall be regulated as Class I or Class II resources with the same classification as the principal resource(s) to which they contribute.

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

*Cornice line* - an imaginary line that differentiates the roof of a structure from its walls, closely following the cornice, generally a horizontal molding projecting along the top of a wall, building, etc.

*Cultural studio* - a facility used for providing to the public instruction in the performing arts, limited to dance, music, and theater, and the fine arts, including drawing, painting, photography and sculpture.

*Datum* - used as a basis for calculations or measurements, as a level from



which elevations are measured in surveying.

*DBH (dbh)* - the diameter of a tree at breast height, more specifically measured 4.5 feet from the ground surface at the point of highest elevation in contact with the trunk of such tree.

*Demolition or demolish* - in the context of Part 14, the razing or destruction, whether entirely or in significant part, of the exterior of a building, structure, or site. Demolition includes the removal of a building or structure from its site or the removal, stripping, concealing or destruction of the facade or any significant



exterior architectural features which are integral to the historic character of the resource, for whatever purpose, including new construction or reconstruction.

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

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

*Developmental disability* - a disability of a person which has continued or can be expected to continue indefinitely, which disability is attributable to mental retardation, cerebral palsy, epilepsy or autism; is found to be attributable to any other condition found to be closely related to mental retardation because such condition results in similar impairment of general intellectual functioning or adaptive behavior to that of mentally retarded persons or requires treatment and services similar to those required for such persons; or is attributable to dyslexia resulting from such disability.

*Developmentally disabled person* - a person with a developmental disability.

*Dwelling or dwelling unit* - a building or entirely self-contained portion thereof containing complete housekeeping facilities, for occupancy by only one family (including any domestic servants living or employed on the premises) with no enclosed space (other than vestibules, entrance or other hallways or porches) in common with any other dwelling unit. Dwelling units may be classified, but not limited to, the following:

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

(2) *Two-family dwelling* - a building containing two dwelling units; a 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, one above the other, each of which has independent outside access and open space on all sides.

(3) *Multi-family dwelling* - a building containing three or more dwelling units; including, but not limited to, fourplex (quadraplex), townhouse (single-family, attached), apartment buildings, and other similar building types.

(a) *Fourplex or quadraplex* - four dwelling units contained in a single residential building, each of which is exposed to the exterior on two nonparallel sides, and all of which include principal living space on the ground floor level.

(b) *Townhouses or single-family attached dwellings* - not more than six dwelling units contained in a single residential building, each of which is separated by party walls on opposite sides, and each of which has only

one dwelling unit from ground to roof, independent outside access, not more than two walls in common with adjoining units and open space to the front and rear (internal units) or front, rear and one side (end units).

(c) *Apartments* - a building containing three or more dwelling units separated by party walls, and which may have more than one dwelling unit from ground to roof.

*Drip line* - a generally circular line, the circumference of which is determined by the outer reaches of a tree's widest branching points.

*Dump* - any lot upon which trash, debris and other refuse are periodically and illegally deposited; not a permitted use.

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

*Easement, conservation* - a 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.

*Educational use* - land and/or buildings specifically designed, arranged, and intended for the purpose of education, including preschool, elementary, and secondary schools, either private or public, including schools relating to religious organizations and vocational schools.

*Effective screen* - any arrangement of structural or vegetative materials capable of diverting or interrupting a clear view of an object or activity, but not necessarily 100 percent opaque during all seasons of the year.

*Electric substation* - buildings, or structures and equipment erected and used for the purpose of transmission, switching or transforming of electrical current between customers and the utility company facilities, not including the storage of materials, trucks, repair facilities or housing of repair crews, such buildings or structures being effectively screened to blend the installation with the surrounding landscape.

*Eleemosynary* - charitable.

*Engineer, Township* - a registered professional engineer, licensed by the Commonwealth of Pennsylvania, duly designated by the Board to perform the duties of engineer as herein specified.

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

*Essentially dry space* - for purposes of administering the Floodplain District provisions, 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.

*Facade* - any exterior face or front of a building.

*Family* - two or more individuals living together as a single, non-profit housekeeping unit and doing their cooking on the premises, but not more than four unrelated individuals. This definition does not include the occupants of a club,

fraternity or sorority house, boarding, lodging or rooming house, or group homes.

*Farm building* - any building used for storing agricultural equipment or farm produce or products, housing livestock or poultry, or processing dairy products. The term "farm building" shall not include dwellings, but shall include a barn, silo, and incidental storage sheds.

*Feedlot* - any area where cows are held or maintained for the purpose of feeding or fattening where 60 percent or more of the feed for such cows is imported or purchased, when not incidental to a farm.

*Fill* - any earth, sand, gravel, rock, or any other material, except landscape plantings or other customary landscape materials, which is deposited, placed, pushed, dumped, pulled, transported, or moved to a new location, including conditions resulting therefrom.

*Flood* - a general and temporary inundation of land areas.

*Flood fringe* - that portion of the 100-year floodplain outside the floodway.

*Flood, 100-year* - the highest level of flooding that, on the average, is likely to occur every 100 years, that has a 1 percent chance of occurring each year, as delineated by the Federal Insurance Agency Maps developed in the Flood Insurance Program.

*Floodplain* - a relatively flat or low land area that is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and are subject to the unusual and rapid accumulation of the surface waters from any source. The limits of a floodplain area shall be as mapped by the U.S. Department of Housing and Urban Development as part of the National Flood Insurance Program.

*Floodproofing* - for purposes of administering the Floodplain District provisions, any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway* - the designated area of the 100-year floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Chapter, the floodway shall be capable of accommodating a flood of the 100-year magnitude.

*Floor area* - the total enclosed area in the horizontal planes of a principal structure, and all accessory structures.

*Floor area, habitable* - the sum of the gross horizontal areas of all rooms used for habitation, exclusive of the hallways, stairways, basements not included in height calculations, cellars, attics, bathrooms, closets, unheated areas, rooms without one window or skylight, garages and accessory buildings.

*Floor area ratio* - the aggregate floor area, in square feet, of a building or group of buildings on a lot divided by the area, in square feet, of the lot.

*Foot-candle* - a unit of light intensity stated in lumens per square foot and measurable with an illuminant meter, also known as foot-candle or light meter.

*Forb* - a broad-leaved flowering plant, as distinguished from the grasses, sedges, etc.

*Forestry* - the management of forests and timberlands when practiced in

accordance with accepted silvicultural principals and where otherwise in conformance with the provisions of this Chapter and/or the Subdivision and Land Development Ordinance [Chapter 22], as applicable, and including development, cultivation, harvesting, transporting and selling of trees for commercial purposes, but excluding any land development.

*Front lot line* - front lot line shall mean the line separating such lot from any street or public right-of-way, whether or not it is the recorded boundary of the lot.

*Garage, private* - an accessory building or part of a principal building used for the storage of motor vehicles owned and used by the owner(s) or tenant(s) of the premises, and for the storage of not more than three motor vehicles owned and used by persons other than the owner or tenant of the premises. No occupation, business or service for profit shall be carried on within a private garage except for a permitted home occupation.

*Garage, public* - a building other than a private garage, one or more stories in height, used for the commercial storage, service or repair of motor vehicles.

*Glare* - the sensation produced by lighting that causes an annoyance, discomfort or loss in visual performance and visibility to the eye.

*Golf course, public or private* - a tract designed and improved for the playing of golf, with a minimum of 2,800 yards of play in nine holes. A golf course may include accessory uses such as club house, snack bar, golf equipment pro-shop, and practice areas, provided that these uses are clearly incidental and subordinate to the use of the property as a golf course and are not directed primarily toward the general public. Private golf courses may also include swimming pools, tennis courts, and other recreational facilities provided solely for use by club members and their guests. Uses excluded from this definition include driving ranges or pitch and putt as a principal use, or miniature golf courses.

*Grade, existing* - the elevation, relative to a given datum, of the ground surface prior to any excavation or fill.

*Grade, finished* - the elevation, relative to a given datum, of the ground surface after completion of any excavation or fill.

*Grade, proposed* - the elevation, relative to a given datum, of the ground surface proposed to be achieved by excavation or fill.

*Group home* - a dwelling operated by a reasonably responsible individual, family or organization with a program to provide a supportive living arrangement for individuals where special care is needed by the individual served due to age, emotional, mental or physical handicap. This definition shall expressly include facilities for the care of developmentally disabled persons. A "group home" shall be licensed where required by an appropriate governmental agency, and a copy of such license must be delivered to the Township prior to the beginning of such use. It is the express intent of this definition to comply with the requirements of the Fair Housing Amendments Act of 1988, P.L. 100-430.

*Habitable floor area* - any area of living or work space within a building or structure, excluding storage closets, stairwells, crawl spaces, walk-in coolers or freezers, or other similar spaces not intended for human occupancy for a long duration of time.

*Hedgerow* - a linear plant community dominated by trees and/or shrubs. Hedgerows often occur along roads, fencelines, property lines, or between fields, and may occur naturally or be specially planted (e.g., as a windbreak).

*Height* - see "building height." For structures other than buildings, including telecommunications towers and/or antennae, the height shall be the vertical distance measured from the elevation of the average finished grade at all foundation corners of the structure, or at not less than 10 equidistant points in the case of a circular structure, to its highest point. Where a structure other than a building is attached to a building, the average finished grade at the foundation of such building shall be utilized as the elevation of the base of the structure.

*Historic resource* - any building, wall, bridge, structure, road, trail, quarry, archeological site or cultural artifact identified in the Chester County Historic Sites Survey and/or meeting the definition of either Class I or Class II Historic Resources in accordance with §27-1403.2 of this Chapter.

*Home occupation* - a business use generally of a service nature which is clearly incidental to the residential use of a dwelling unit and which is customarily undertaken by the residents thereof, does not alter the character of the structure, and otherwise conforms to the provisions of §27-1605 of this Chapter. A home occupation shall be classified as either a minor home occupation or a major home occupation, as provided in §27-1605.

*Homeowners association* - a non-profit organization comprised of homeowners or property owners, planned and operated under approved rules and regulations, for the purpose of administering the needs of residents through the maintenance of community-owned or controlled property, subject to the provisions of the Pennsylvania Uniform Planned Community Act of 1996, 68 Pa.C.S.A. §5101 *et seq.*

*Hospital* - an accredited medical facility within which the diagnosis, treatment and care, both inpatient and outpatient, of human ailments are performed, but excluding facilities for the mentally retarded and the emotionally disturbed.

*Hotel, motel, inn* - a building or buildings, arranged or intended for sheltering tourists or transient guests for compensation, not providing individual cooking facilities for guests, and providing sufficient off-street parking facilities adjacent or convenient thereto.

*Hydric soils* - for purposes of determining compliance with the provisions of this Chapter, those soil types identified as hydric soils or soils with hydric inclusions by the U.S. Soil Conservation Service, as mapped for the Soil Survey of Chester and Delaware Counties, shall be considered hydric soils in the Township of East Vincent including, but not limited to:

Bo Bowmansville Silt Loam

Ch Chewacla Silt Loam

Cn Congaree Silt Loam

CrA Croton Silt Loam (0 to 3 percent slopes)

CrB Croton Silt Loam (3 to 8 percent slopes)

GnB Glenville Silt Loam (3 to 8 percent slopes)

RdA Readington Silt Loam (0 to 3 percent slopes)

RdB Readington Silt Loam (3 to 8 percent slopes)  
RdB2 Readington Silt Loam (3 to 8 percent slopes, moderately eroded)  
Ro Rowland Silt Loam  
Rp Rowland Silt Loam, dark surface  
WoA Worsham Silt Loam (0 to 3 percent slopes)  
WoB Worsham Silt Loam (3 to 8 percent slopes)  
WoB2 Worsham Silt Loam (3 to 8 percent slopes, moderately eroded)  
WoC2 Worsham Silt Loam (8 to 15 percent slopes, moderately eroded)  
WsB Worsham Very Stony Silt Loam (0 to 8 percent slopes)  
W Water

Where site conditions indicate differing location of hydric soils or hydric inclusions, the burden shall be on the applicant to verify such location(s) to the satisfaction of the Township Board. Where tile drainage has been introduced to drain soils defined herein as hydric soils, such areas shall be considered hydric for the purpose of this Chapter.

Appendix C of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22] lists all hydric soils in Chester and Delaware Counties, including those listed above.

*Illuminance* - the quantity of light measured in foot-candles or lux.

*Impervious cover* - any surface which does not absorb precipitation or runoff. All buildings, including roof overhangs, parking areas, driveways, roads, sidewalks, decks, and other such areas in concrete or asphalt shall be considered components of impervious cover. In addition, other areas determined by the Township Engineer to be impervious within the meaning of this definition shall also be considered as contributing to total impervious cover. For purposes of determining compliance with maximum impervious cover limitations on any lot or tract, impervious cover shall be measured as a percentage of net tract area, defined herein. In no way shall the calculation of impervious cover for any lot exceed the maximum impervious coverage percentages under the area and bulk regulations of each zoning district established within this Chapter. In no event shall the calculation of impervious cover for any lot exceed the maximum impervious cover percentages set forth under the area and bulk regulations of each zoning district. [Ord. 166]

*Industry, light* - a productive enterprise not resulting in the emission of steam, gas, noise, obnoxious odor, dust or waste particles, which does not provide for outdoor storage and which includes but is not limited to warehouses and offices.

*Junkyard* - an area of land with or without buildings used for storage of used and/or discarded materials, outside a completely enclosed building including, but not limited to, wastepaper, rags, metal, building materials, house furnishings, machinery, parts thereof, or vehicles, thereof, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The deposit or storage on a lot of two or more unlicensed, uninspected, wrecked, or disabled vehicles, or the major part thereof, is a "junkyard."

*Kenel* - an establishment for the breeding or boarding of six or more dogs that are more than 6 months old.



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

*Land development* - according to usage:

(1) The improvement of one or more contiguous lots, or tracts or parcels of land for any purpose permitted in this Chapter involving a group of two or more buildings, whether proposed individually or cumulatively, or one nonresidential building on a lot or lots regardless of the number of occupants or tenure; or the division or allocation of land between or among two or more existing or prospective occupants by means of, or for the purpose of, streets, common areas, leaseholds, building groups or other features.

(2) A division of land into lots for the purpose of conveying or leasing such lots singly or in groups to any person, partnership or corporation for the purpose of erection of buildings by such person, partnership or corporation.

(3) The conversion of an existing single-family detached dwelling into not more than three residential units, unless such units are intended to be a condominium, and the addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building, shall not be considered a land development, pursuant to the Commonwealth's Municipalities Planning Code, as amended, 53 P.S. §10101 *et seq.*

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

*Landscaping* - the planting of turf or other appropriate ground cover or the planting of deciduous and evergreen trees and shrubbery, other than for agricultural purposes, and including the maintenance and replacement thereof, for control of erosion, retention of precipitation, protection against elements or promotion of human comfort and welfare.

*Land disturbance* - any activity that exposes soils, alters topography and/or alters vegetation, except for removal of hazardous or invasive alien vegetation (see definition of "woodland disturbance.") Customary agricultural practices such as tilling, plowing, mowing and harvesting are excluded from the definition of land disturbance.

*Level of service* - a description of traffic conditions along a given roadway or at a particular intersection according to the *Highway Capacity Manual*, Transportation Research Board, 1994, and as amended thereafter.

*Light trespass* - light emitted by a lighting installation which extends beyond the boundaries of the property on which the installation is sited.

*Lot* - a tract, plot or parcel of land occupied or capable of being occupied by a building or permitted structure and its accessory buildings, in compliance with the terms of this Chapter, together with such open spaces as are arranged and designed to be used in connection with such buildings, held in single or joint ownership. The term "lot" shall also mean parcel, plot, site, or any similar term but

shall not be confused with "outlot," which see. For purposes of determining compliance with maximum impervious cover limitations, a "lot" shall be considered a "tract" and the definition of "net tract area" shall apply.

*Lot area, net* - the total land surface contained within the limits of the property lines bounding the lot, exclusive of any streets; rights-of-way; easements for purposes of access, stormwater management, sewer or water service or other infrastructure; any area within the Flood Hazard District as established in §27-1501; and any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection. For purposes of determining compliance with maximum impervious cover limitations, the definition of "net tract area" shall apply.

*Lot, corner* - a lot at the junction of, and abutting on two or more intersecting streets where the interior angle of intersection does not exceed 135 degrees.

*Lot, interior* - any lot which only has access to a street by either an easement or right-of-way and may be characterized as "landlocked"; or any lot which has limited frontage to a street by virtue of being "flag-shaped." Interior lots are prohibited by §22-403.4 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22].

*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 centerline of the street or any other line within the street lines even though such may be the property boundary.

*Lot line, front* - see "front lot line."

*Lot, reverse frontage* - a lot extending between and having frontage on two generally parallel streets with vehicular access only from the minor street.

*Lot size*. The total land surface of the lot lying within the limits of the property lines bounding the lot, exclusive of streets. The area of any lot abutting a street shall be measured to the street line only. In the case of interior lots, where permitted subject to modification of applicable subdivision regulations, the minimum lot size and any other applicable dimensional requirements shall be calculated and measured on that portion of the lot exclusive of the easement or access strip which gives the lot access to a street. See also "lot area, net."

*Lot width* - the distance between side lot lines at the building setback line, measured parallel to the street line. Where the street line is curved or angled, the lot may be measured as an arc distance instead of a straight line.

*Lowest floor* - for purposes of administering the Floodplain District provisions, the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Chapter.

*Luminance* - the physical and measurable quantity corresponding to the brightness of a surface (e.g., a lamp, luminaries, reflecting material) in a specific area, and measurable with a luminance meter.

*Lux* - a unit of light intensity stated in lumens per square meter. There are approximately 10.7 lux per foot-candle.

*Manufactured home* - see “mobile home.”

*Map, Official* - a legally adopted map of all or a portion of the Township which may show appropriate elements or portions of elements of the comprehensive plan with regard to public lands and facilities, and which may include, but need not be limited to:

- (1) Existing and proposed public streets, watercourses and public grounds, including widenings, narrowings, extensions, diminutions, openings or closings of the same.
- (2) Existing and proposed public parks, playgrounds and open space reservations.
- (3) Pedestrian ways, trails, and easements.
- (4) Railroad and transit rights-of-way and easements.
- (5) Flood control basins, floodways and floodplains, stormwater management areas and drainage easements.
- (6) Support facilities, easements and other properties held by the Township or other public agencies.

*Master development plan* - a plan or plans accompanied by written materials where such are necessary to describe, in graphic form and narrative form, the information required in a master development plan conditional use application under Part 25 of this Chapter. Such plan shall be a conceptual plan which visually and/or verbally defines and describes a comprehensively planned integrated mixed use development which qualifies under the unified development area option requirements of Part 25 of this Part. [Ord. 182]

*Meadow* - a plant community or area of vegetation dominated by grasses and/or forbs, often managed through annual or seasonal mowing.

*Medical clinic* - a facility for the examination and treatment of ill and afflicted human outpatients; provided, however, that the patients are not kept overnight except under emergency conditions. This includes doctors and dental offices and clinics.

*Minimize* - to reduce to the smallest amount or extent possible. "Minimize" shall not mean complete elimination but shall require that the most substantial efforts possible under the circumstances have been taken to reduce the adverse effect(s) of the action required to be minimized. "Minimize" shall include, but not be limited to, the requirement that the placement of dwellings and other structures and the locations of roads, stormwater management facilities, and other land disturbance shall be planned and designed to reduce the adverse effect(s) of the activity in question to the smallest amount possible under the circumstances consistent with otherwise permitted development.

*Mitigation* -

- (1) An action undertaken to accomplish one or more of the following:
  - (a) Avoid and minimize impacts by limiting the degree or magnitude of the action and its implementation.

(b) Rectify the impact by repairing, rehabilitating or restoring the impacted environment.

(c) Reduce or eliminate the impact over time by preservation and maintenance operations during the life of the action.

(2) If the impact cannot be minimized in accordance with clauses (a) - (c) above, compensation for the impact by replacing the environment impacted by the project or by providing substitute resources or environments.

*Mobile home/manufactured home* - a transportable, single-family dwelling intended for permanent occupancy contained in one unit, in two units, or in three 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 packing and assembly operations; and constructed so that it may be used without a permanent foundation, but with the same, or equivalent, electrical, plumbing and sanitary facilities as for a conventional dwelling. A mobile home shall include any addition or accessory structure, such as porches, sheds, decks or additional rooms. The term includes park trailers, travel trailers, recreational and similar vehicles which are placed on a site for more than 180 consecutive days. [Ord. 188]

*Mobile home/manufactured home lot* - a parcel of land in a mobile home park or subdivision, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home either leased or held in private ownership.

*Mobile home/manufactured home pad* - a concrete pad at least 6 inches in thickness with at least six tie-down rings to which the mobile home shall be secured, and equal in length and width to the dimensions of the mobile home to be placed thereon. [Ord. 188]

*Mobile home/manufactured home park* - a parcel of land under single ownership which has been planned and improved for placement of mobile homes for non-transient use, consisting of two or more mobile home lots. [Ord. 188]

*Motel* - a building or a group of two or more detached or semi-detached buildings on a lot held in single and separate ownership, containing rental units having separate entrances, provided directly, or closely, in connection with the automobile parking or storage space serving such units, which rental units are designed, intended or used principally for the providing of sleeping accommodations with private baths for automobile travelers, and which are suitable for occupancy throughout the year.

*Municipal use* - the use of land by East Vincent Township for township administrative building, equipment storage facility, public park or public recreation area, or any similar use owned or operated by East Vincent Township; and public sewage treatment plant, pumping stations and similar sewage treatment and collection facilities owned or operated by East Vincent Township or the East Vincent Municipal Authority.

*Museum* - an institution devoted to the procurement, care, study, display and exhibition of objects of lasting interest or value.

*New construction* - for purposes of administering the Floodplain District

provisions, structures for which the "start of construction" as herein defined commenced on or after May, 1971, and includes any subsequent improvements to such structures.

*Non-conforming lot* - a lot which does not conform to the area or bulk regulations of the district in which it is located, either at the time of the enactment of this Chapter or as a result of subsequent amendments thereto, but which did not violate such regulations prior to the enactment of such ordinance or amendment.

*Non-conforming structure* - a structure or building, or part thereof which does not conform to the applicable provisions or requirements of the district in which it is located, either at the time of enactment of this Chapter, or as a result of subsequent amendments thereto, where such building or structure lawfully existed prior to the enactment of such ordinance or amendment.

*Non-conforming use* - use of land or use of building or structure, which use does not conform to the applicable regulations of the district in which it is located, either at the time of the enactment of this Chapter or as a result of subsequent amendment of this Chapter or as a result of subsequent amendments thereto, but which did not violate such regulations prior to the enactment of such ordinance or amendment.

*Nursing home* - a facility operated for the purposes of providing therein lodging, board and nursing care to sick, invalid, infirm, disabled or convalescent persons for compensation. The terms "convalescent home" and "assisted living housing" are included within this definition.

*Old field* - an area undergoing natural succession characterized by the presence of grasses, forbs, shrubs, and small trees (seedlings) whose branches do not form a complete or nearly complete aerial canopy.

*One hundred year flood* - see "flood, 100-year."

*On-site sewer service, individual* - the disposal of sewage by use of a system entirely contained within the confines of a lot to which the use it serves and is located as approved by the Chester County Health Department, as delegated by the Pennsylvania Department of Environmental Protection.

*On-site water service, individual* - the supply of water to a single user from a private well within the confines of the lot on which the use is located.

*Open space, common* - see "common open space."

*Open space, restricted* - see "restricted open space."

*Open space management plan* - a plan which provides for the long-term management over time of private, public, or common open space, in accordance with Part 9.

*Operator* - the owner of a mobile home park, or his authorized agent, who is duly licensed for maintaining a mobile home park in the Township.

*Outlot* - a tract, plot or parcel of land precluded from occupancy, or incapable of being occupied by a building or permitted structure and its accessory buildings, as a result of subdivision or severance from a larger tract, plot or parcel conducted in accordance with this Chapter or the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22].

*Parking lot* - an off-street surfaced area designed solely for the parking of motor vehicles, including driveways, passageways and maneuvering space appurtenant thereto.

*Parking space* - an outdoor space located off the public right-of-way designated for the parking of motor vehicles, the usable area of which is not less than 171 square feet (9 x 19) to which there is access from a street, alley, or driveway.

*Pasture* - a plant community or area of vegetation dominated by grasses which is actively or periodically grazed by livestock or which is managed through mowing to maintain the appearance and vegetative characteristics of pasture.

*Perimeter buffers* - an area to be used as a visual and/or auditory barrier, consisting of a mound, berm, or strip of land planted and maintained as an effective barrier separating parcels or uses of land.

*Person* - any individual, partnership, firm, association, corporation, or organization.

*PennDOT* - for the purpose of this Chapter, the Commonwealth of Pennsylvania Department of Transportation.

*Planned commercial development* - a contiguous area of land controlled by a single landowner and developed as a single entity for a number of commercial and other similar uses, the development plan for which may or may not correspond in lot size, bulk or other design standards in any one commercial district created from time to time, under the provisions of this Chapter.

*Planned industrial development* - a contiguous area of land controlled by a single landowner and developed as a single entity through a unified development plan for a number of professional office, research and development, manufacturing and other similar industrial uses.

*Planned use area* - a sub-area of a master plan prepared for a unified development as defined in Part 25 of this Chapter and which includes areas for both residential and nonresidential development uses as permitted under the unified development area option. [Ord. 182]

*Planning Commission* - for the purpose of this Chapter, the Planning Commission of East Vincent Township.

*PNDI* - Pennsylvania Natural Diversity Inventory.

*Principal use* - the primary use, on a lot, serving as the basis for clarification as to use category.

*Public grounds or public facilities* - areas of land or water and any facilities thereon used for public purposes, including parks, playgrounds, trails, paths, other recreational areas or facilities, and other public areas, and the sites for schools, sewage treatment, refuse disposal, publicly owned or operated scenic and historic sites, and other publicly owned or operated facilities.

*Public hearing* - a formal meeting held pursuant to public notice by the Board of Supervisors, the Planning Commission or the Zoning Hearing Board, intended to inform and obtain public comment, prior to taking action in accordance with this Chapter.

*Public meeting* - a forum held pursuant to notice under the Act of July 3, 1986,

P.L. 1988, known as the "Sunshine Act."

*Public notice* - notice published once each week for 2 successive weeks in a newspaper of general circulation in the Township. Such public notice shall, at a minimum, state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall be not more than 30 days and the second publication shall be not less than 7 days from the date of the hearing.

*Public school* - educational facilities and their accessory uses funded and operated by the Owen J. Roberts School District or Chester County Intermediate Unit used for the provision of Kindergarten through 12<sup>th</sup> Grade education to the general public, and not including charter schools.

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

*Quick service food store* - a convenience store for the sale of food, beverages, paper products and other retail items with fuel-dispensing facilities, including, but not limited to, self-service gasoline facilities (such as facilities which are designed, intended or do require, permit or allow customers to dispense any type of fuel for motor vehicles rather than having such fuel dispensed by employees or the operator of the facilities or the operator of the convenience store). "Gasoline" includes any type of fuel for motor vehicles. See "service station" for a comparison.

*Recreation, active* - those recreational pursuits which require physical alteration to the area in which they are performed. Such areas are intensively used and include playgrounds, ball courts and swimming pools.

*Recreation, passive* - recreational pursuits which can be carried out with little alteration or disruption in the area in which they are performed. Such uses include hiking and picnics.

*Recreational vehicle* - a vehicle which is: (1) built on a single chassis; (1) 400 square feet or less when measured at the largest horizontal projection; (2) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Registered landscape architect* - a professional that is registered as a landscape architect with the Harrisburg Chapter of the American Society of Landscape Architects (ASLA).

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

*Rental unit* - an individual space offered for rent or lease within but not limited to a residence, motel, rooming house, tourist home, dormitory, or professional or commercial office building.

*Repetitive loss* - flood-related damages sustained by a structure on 2 separate occasions during a 10-year period for which the costs of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value. [Ord. 188]

*Restricted open space* - a parcel or parcels of land or an area of water, or a combination of land and water which, regardless of ownership, is restricted from further subdivision or development other than open space purposes permitted in accordance with this Chapter. Restricted open space shall exclude public or private rights-of-way and shall be substantially free of structures and impervious surfaces but may contain such improvements as are in a development plan as finally approved, or an open space management plan, and as are necessary or appropriate for permitted open space use. Restricted open space may include stormwater management facilities where approved by the Board of Supervisors subject to applicable provisions of this Chapter and the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22].

*Retail or retailing* - a commercial activity comprising the sale of commodities in small quantities directly to the consumers.

*Right-of-way* - the total width of any land acquired by any means and reserved, dedicated, or intended for use as a street, alley, crosswalk, utility or for any other public or private purpose, as reflected on a recorded easement, deed, subdivision plat, boundary plat, or dedication plat. Where additional right(s)-of-way may be required for future occupation by a road or street, including for purposes of ultimate widening, or for a crosswalk, trail, railroad, electric transmission lines, oil or gas pipelines, water lines, sewer mains, storm sewers, or other similar uses, the Township may require that the ultimate right(s)-of-way for such purpose(s) be indicated in any appropriate documentation. Any provisions herein requiring measurement from the right-of-way, including but not limited to yard area setback regulations, shall be measured from the ultimate right-of-way wherever applicable.

*Riparian buffer areas* - a riparian buffer area is an area of trees and other vegetation adjacent to a wetland, stream, or water body that forms a transition area between the aquatic and terrestrial environment. The riparian buffer is designed to intercept runoff from upland sources for the purpose of mitigating the effects of nutrients, sediment, organic matter, pesticides or other pollutants prior to entry into surface waters. For the purposes of this Chapter, the riparian buffer shall be divided into two zones:

(1) *Zone One: inner riparian buffer* - This zone shall begin at each edge of any wetland, stream, lake, or pond and shall occupy a margin of land on each side, each with a minimum width of 25 feet. The width of such margin shall be measured horizontally on a line perpendicular to the applicable edge of the wetland, normal waters edge of a lake or pond, or, in the case of a stream, to the nearest edge of the water at bank-full flow. Where very steep slopes (+25 percent) are located within and extend beyond such margin, Zone One shall extend to include the entirety of the very steep slopes up to a maximum dimension of 100 feet on either side of the subject wetland, water body or stream.

(2) *Zone Two: outer riparian buffer* - Zone Two begins at the outer edge and on each side of any area delineated within Zone One and occupies any additional area, if any, within 50 feet of the nearest edge of any wetland or 100 feet of any stream, lake or pond, measured as for Zone One. Zone Two shall further extend to include any area of hydric soil as defined herein and not included in Zone One, regardless of dimension, location, or relationship to Zone



One.

*Sanatorium / sanitarium* - an institution for the recuperation and treatment of persons suffering from physical or mental disorders.

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

*Service station* - structures, buildings, or area of land or any portion thereof that is used for the selling or dispensing of gasoline, and/or diesel fuel or other motor vehicle fuel which may or may not include facilities for lubricating, washing, sale of accessories and otherwise servicing and minor repair of motor vehicles, but not principally the painting and/or body work thereof or the sale of new or used automobiles. See "quick service food store" for a comparison. Any business or industry dispensing gasoline for its own use and vehicles will be deemed to be a service station.

*Setback line* - the line that establishes the required minimum distance from the street right-of-way line or any other lot line within which the principal structure must be erected or placed.

*Sewage facilities or systems* -

(1) *Individual on-site* - an individual sewage disposal system as defined and regulated by the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection.

(2) *Central/community collection and treatment* - a sanitary sewage system which carries sewage from individual dischargers by a system of pipes to one or more common treatment and disposal facilities, either on-site or off-site, and approved by the Pennsylvania Department of Environmental Protection.

(3) *Public sewage system* - an off-site system for treatment and disposal of sewage in which sewage is conveyed to a publicly operated treatment plant and disposed of through means approved by the Pennsylvania Department of Environmental Protection.

*Sight distance* - the length of street visible to the driver of a vehicle, essentially unobstructed.

*Sign* - any structure or part thereof or any device attached to a building or painted or represented thereon which shall display or include any letter, word, model, banner, pennant, insignia, device, trade flag, symbol or representation which is in the nature of, or which is used as, an announcement, direction or advertisement for commercial purposes or otherwise. A sign includes a billboard, neon tube, string of lights or similar device outlining or placed upon any part of a building or lot but does not include the flag or insignia of any nation, group of nations, governmental agency, or any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

(1) *Business sign* - a sign which announces or directs attention to a business, produce, service or activity sold or conducted on the premises where such sign is located.

(2) *Directional sign* - a sign which directs the reader to a business,

product, service or activity, sold or conducted at a location a short distance away from where the sign is located.

(3) *Identification sign* - a sign which identifies only the occupant of the premises, the profession or occupation of the occupancy, and/or the name of the building upon which the sign is placed.

*Single and separate ownership* - the ownership of a lot by one or more persons, partnerships, or corporations, which ownership is separate and distinct from that of any abutting or adjoining lot.

*Site* - a lot, tract, or parcel of land on which grading, construction, or land development is taking place, or is proposed to take place; the location of the work.

*Slope* - the ratio of the change in elevation (rise) over the horizontal distance (run) as measured between consecutive contour lines, expressed as a percentage.

(1) *Steep slope areas* - any area where the slope exceeds 15 percent.

(2) *Very steep slope areas* - any area where the slope exceeds 25 percent.

*Special exception* - a use which, when deemed suitable, with or without the imposition of conditions or restrictions under applicable standards, may be allowed by the Zoning Hearing Board after public hearing.

*Specified sexual activities* -

(1) Acts of masturbation, homosexuality, sexual intercourse or similar physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or breasts.

(2) The condition of human male or female genitals when in a state of sexual stimulation or arousal.

*Specimen vegetation* - individual trees or other vegetation determined to be of specimen quality as determined by a registered landscape architect or which generally fall within the parameters of the following table shall be protected in accordance with these standards. The examples of specimen trees included in the following table are intended to provide general guidelines and examples of what constitutes a specimen tree and is not considered an all-inclusive list.

#### Examples of Potential Specimen Trees

Species	dbh	Species	dbh	Species	dbh
Apple	24"	Hickory	32"	Sassafras	20"
Ash	32"	Locust	30"	Spruce	30"
Beech	32"	Maple	32"	Sycamore	36"
Cherry	24"	Oak	32"	Tulip Poplar	36"
Elm	30"	Osage Orange	20"	Walnut	30"
Hemlock	30"	Pine	30"		

*Storage* - the deposit of goods, materials, or products intended for future disposition.

*Stormwater* - any precipitation, but usually rainfall, which is sufficient to flow

on any natural or impervious surface; frequently termed “runoff.”

*Story* - that portion of a building comprised between the surface of any floor and the surface of any floor or roof next above.

*Stream* - any watercourse.

*Street* - a strip of land, including the entire right-of-way, devoted or intended for public (dedicated) or private (undedicated) use primarily as a means of vehicular circulation to provide access to more than one lot. Streets also may accommodate pedestrian circulation. The term "street" shall be construed as synonymous with thoroughfare, avenue, boulevard, court, drive, expressway, highway, lane, alley, way, service street, and road or similar terms. Streets are further classified within the East Vincent Township Comprehensive Plan.

*Street Line* - the dividing line between a lot and the outside boundary or ultimate right-of-way line of a public street, road, or highway legally open or officially platted; or between a lot and a privately owned street, road, or way over which the owners or tenants of two or more lots each held in single and separate ownership have the right-of-way.

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

*Structure* - an assembly of material having an ascertainable stationary location on or in land or water, whether or not affixed to the land, including among other things, buildings, signs, fences, or walls, aerials, and antennae, porches, platforms, piers, pipelines, paddle tennis courts, shelters, swimming pools, tents, towers, tanks, tennis courts, and telephone poles.

*Substantial damage* - for purposes of administering the Floodplain District, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the fair market value of the structure before the damage occurred.

*Substantial improvement* - for purposes of administering the Floodplain District provisions, any repair, reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the fair market value of the structure before the start of construction of the improvement. This term includes structures that have incurred “substantial damage,” or “repetitive loss,” as defined herein, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

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

[Ord. 188]

*Swimming pool* - a pool or tank capable of containing water to a depth greater than 24 inches for the purpose of swimming and/or other water-related recreational activities. Farm ponds and stormwater basins are not swimming pools unless specifically designed for that purpose.

*Tall structure* - any building or structure not less than 40 feet in height as defined herein, where a lawful non-conforming structure or where permitted in accordance with §27-1705 or through approval of a variance request by the Zoning Hearing Board.

*Telecommunications facilities* - facilities providing for the transmission or reception of radio, television, telephone or digital communications or any other wireless telecommunication services, whether free-standing or attached to another structure or building, including any support structures, reception and/or transmission antenna(c) and accessory facilities and/or equipment.

*Theme lighting* - exterior fixtures and posts which are manufactured to a high level of design and craftsmanship from material such as (but not limited to) wrought iron, cast aluminum, brass or copper, and installed to be consistently used throughout designated areas of East Vincent Township including, for example, locations where promotion of a particular village character or historical theme is desired.

*Tourist home* - a dwelling in which over-night sleeping accommodations are provided for rent to less than 10 travelers, whether or not the serving of meals is included.

*Tower* - a structure that is intended to support wireless communication antenna(e).

*Township* - the Township of East Vincent, Chester County, Pennsylvania.

*Tract* - one or more lots assembled for the purpose of unified development, including a planned residential, commercial, or industrial development.

*Tract area, gross* - for purposes of establishing the minimum open space required or, where applicable, the maximum number of dwelling units permitted, the gross tract area shall include all areas within the titled lines of a tract.

*Tract area, net* - for purposes of establishing the maximum permissible number of lots or dwelling units on any tract, or for determining compliance with maximum impervious cover limitations, the net tract area shall include all areas within the titled lines of a tract, excluding the following:

- (1) Any existing area that has been set aside as a permanent right-of-way or easement for a public or private street or for aboveground or underground utilities other than for local service.
- (2) Any existing area comprising permanent drainage or stormwater management easements.
- (3) Any existing area comprising sewage disposal facilities serving any property not part of the subject tract.
- (4) An area equivalent to 75 percent of any area comprised of one or more of the following areas and excluding any area already excluded by clauses (1),

(2), and (3), above:

(a) Any area within the Floodplain District as established in §27-1501 of this Chapter.

*Trail* - a corridor through which passes, or will pass, a pedestrian or equestrian accessway or a bikeway as part of the East Vincent Township Comprehensive Trail System or as otherwise authorized or designated by the Township. A trail is to serve transportation, commuting, and/or recreational functions as part of an inter-modal transportation system. Trails shall exclude all motorized vehicles except motorized wheel chairs or as authorized by the Township for maintenance, management and emergency purposes.

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

*Travel trailer* - any vehicle used for temporary living or sleeping purposes for transient use.

*Truck terminal* - an area and/or building for the maintenance and storage of trucks and where cargo is stored and where trucks load and unload cargo on a regular basis.

*Use* - any purpose for which a building or other structure or a tract or lot of land may be designed, arranged, intended, maintained or occupied, or any activity, occupation, business, or operation carried on in a building or other structure on a tract of land.

*Variance* - a modification of the regulations of this Chapter granted by the Zoning Hearing Board on grounds of physical conditions or unnecessary hardship, not self-imposed, pursuant to the provisions of this Chapter and Act 247, 53 P.S. §10101 *et seq.*

(1) Any area comprising wetlands under the jurisdiction of the United States Army Corps of Engineers and/or the Pennsylvania Department of Environmental Protection; the Township reserves the right to retain a wetlands scientist or other qualified consultant to ascertain the extent of jurisdictional wetlands, reasonable and necessary charges therefor to be borne by the applicant.

(2) Any area of steep slope, as defined herein and where the ratio of the change in elevation over the horizontal distance as measured between consecutive 2-foot contour intervals exceeds 15/100.

*Vegetation, permanent* - perennial grasses, legumes, or other long-lived plant materials, such as crown vetch, fescues, and bluegrasses, etc. depending upon the degree of refinement desired.

*Vegetation, temporary* - fast growing grasses, usually annuals, such as rye, oats, sudan, or other appropriate cover to prevent erosion until permanent vegetation can be installed.

*Vehicular auction* - an area of land with or without buildings used for temporary storage, display and wholesale sales of new or used autos, trucks, boats,

motorcycles, and recreational vehicles that are in an operable condition. A vehicular auction is a commercial establishment, subject to the use, development, and design standards of the zoning district in which permitted, and other applicable ordinance provisions. Vehicles stored on-site shall remain intact and operable, and shall not be dismantled, processed, salvaged, crushed, demolished, or sold in parts. See "junkyard" for comparison.

*Watercourse* - a permanent stream, intermittent stream, river, brook, creek, or a channel or ditch for water, whether natural or man-made, and having defined bed and banks.

*Water hazard area* - any area of land, whether natural or man-made, which is or may be hazardous to the public health, safety or welfare as a result of either of the following conditions:

(1) *Floodplain* - land which has been, and may be inundated periodically by water over-flowing the normal banks of a stream as a result of natural causes, or as a result of grading, damming or other man-made changes.

(2) *High water table* - soil in which the ground water exists at, or periodically rises to, a level too near the surface of the ground to permit a particular type of construction or installation.

*Water supply systems* -

(1) *Individual system* - a safe and healthful supply of water, to a single user from a private well located on the lot in which the use is located.

(2) *Central water supply system* - a system for supplying water from a common source or sources to all dwellings and other buildings within a development. The water supply source may be located on-site and/or off-site and may be publicly or privately owned.

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

*Wetlands* - areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. Wetlands include all lands regulated as wetlands by the Pennsylvania Department of Environmental Protection and/or the U.S. Army Corps of Engineers.

*Wetland delineation* - the on-site method or process for identifying jurisdictional wetlands which is currently or hereafter be adopted by the Pennsylvania Department of Environmental Protection [Note: the Commonwealth currently requires the methodology outlined the Corps of Engineers *Wetlands Manual* (Technical Report Y-87-1) January 1987, and as amended].

*Wetland delineation report* - a document that describes the investigation procedures and findings of a wetland delineation.

*Wholesaling* - a commercial activity comprising the sale of commodities in large quantities or in bulk, as to retailers or jobbers, rather than to consumers directly, including warehousing, loading and unloading, and shipping of such commodities.

*Wild crops* - indigenous vegetation such as berries, mushrooms and other vegetation used as forage by wild animals in the area.

*Wireless communications facility* - consists of the antenna and any related equipment and structures involved in receiving wireless communications signals from a mobile radio communication source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines.

*Woodland* - a tree mass or plant community in which tree species are dominant or codominant, the branches of the trees form a complete, or nearly complete, aerial canopy. Any area, grove, or stand of mature or largely mature trees (i.e., larger than 6 inches dbh) covering an area of  $\frac{1}{4}$  of an acre or more, or consisting of more than 10 individual trees larger than 6 inches dbh, shall be considered a woodland. For the purpose of this Chapter, the extent of any woodland plant community or any part thereof shall be measured from the outer-most drip line of all the trees in the community. "Woodland" shall include any area where timber has been harvested within the previous 3 years and/or woodland disturbance has occurred within the previous 3 years which would have met the definition of woodland prior to timbering or disturbance. Woodlands do not include orchards or old fields (former agricultural fields or pastures where natural succession has been allowed to occur, but where most trees are smaller than 6 inches dbh).

*Woodland disturbance* -

(1) Any activity which alters the existing structure of a woodland or hedgerow. Alterations include the cutting or removal of canopy trees, subcanopy trees, understory shrubs and vines, woody and herbaceous woodland floor species.

(2) Any activity which constitutes a land disturbance (exposes soils, alters topography) within a woodland or hedgerow.

(3) Woodland disturbance does not include the selective cutting or removal of invasive alien trees, shrubs, vines or herbaceous species including but not limited to: *Rosa multiflora* (Multiflora Rose), *Eleagnus umbellata* (Autumn Olive), *Lonicera japonica* (Japanese Honeysuckle), *Celastrus orbiculatus* (Oriental Bittersweet), *Acer platanoides* (Norway Maple) and *Polygonum perfoliatum* (Mile-a-Minute Weed).

*Yard* or *Setback* - an open area around the inner periphery of each lot extending along the lot lines and street lines in which no buildings or structures shall be erected. The size of the yard shall be measured as the shortest distance between the structure and a lot line or street line.

(1) *Yard front* - a yard between a structure and a street line, extending the entire length of the street line. The minimum front yard setback shall be measured from the street line to the building setback line and shall be the same for all principal and accessory structures. In the case of a corner lot, the yards extending along all streets shall be considered front yards and the remaining yards shall include a rear yard, opposite the street to which the principal structure is generally faced, and a side yard, opposite the other street.

*Yard, rear* - a yard between a structure and a rear lot line. The rear yard may

be less for an accessory structure per provisions of this Chapter.

*Yard, side* - a yard between a structure and a side lot line, which extends from the front yard to the rear yard. The side yard may be less for an accessory structure per provisions of this Chapter.

*Zoning Hearing Board* - the Zoning Hearing Board of East Vincent Township.

*Zoning Ordinance* - the East Vincent Township Zoning Ordinance, as amended [this Chapter].

(*Ord. 162*, 6/12/2002, §201; as amended by *Ord. 166*, 10/16/2002; by *Ord. 179*, 12/1/2004; by *Ord. 182*, 12/1/2005, §1; by *Ord. 188*, 10/18/2006, §1; and by *Ord. 203*, 12/14/2009)



**Part 3****Establishment of Districts****§27-301. Classes of Districts.**

For the purpose of this Chapter, East Vincent Township is hereby divided into 10 classes of districts which shall be designated as follows:

"AP" - Agricultural Preservation District

"RC" - Rural Conservation District

"LR" - Low Density Residential District

"MR" - Moderate-Density Residential District

"HR" - High-Density Residential District

"NC" - Neighborhood Commercial District

"GC" - General Commercial District

"PO" - Industrial/Professional Office Research District

"GI" - General Industrial District

"FC" - French Creek Scenic Corridor Overlay District

(*Ord. 162, 6/12/2002, §300*)

**§27-302. Zoning Map.**

The boundaries of the districts shall be as shown on the map attached to, and made a part of this Chapter. This map shall be known as the "Zoning Map of East Vincent Township." All notations, references and data shown thereon are hereby incorporated by reference into this Chapter, and shall be as much a part hereof as if all were fully described herein. Whenever an amendment of this Chapter, involving change of district boundaries, is approved by the Board of Supervisors, said change shall be recorded immediately on the "Zoning Map of East Vincent Township."

(*Ord. 162, 6/12/2002, §301*)

**§27-303. District Boundaries.**

The boundaries between districts are, unless otherwise indicated, either the center-lines of streets or railroad rights-of-way, or such lines extended, or lines parallel or perpendicular thereto. Where figures are shown on the zoning map between a street line and a district boundary, they shall indicate that the district boundary runs parallel to the center-line of the right-of-way of the street at a distance therefrom equivalent to the number of feet so indicated. Where the boundaries of a single district are indicated as including directly opposite sides of a street, lake or watercourse, or right-of-way of a utility line, for any portion of its length, the district so indicated shall be construed to apply to the entire bed of such street, lake or watercourse, or right-of-way of such utility line, lying within such portion of its length. Where uncertainty exists as to the location of any boundaries shown on the zoning map, the following rules shall apply:

A. Where a district boundary is indicated as approximately following the center-line of a street, lake or watercourse, or right-of-way of a utility line, such

center-line shall be construed to be such boundary.

B. Where the district boundary is indicated as approximately following a lot line, or other property line, such lot line or other property line shall be construed to be such boundary.

C. Where a district boundary divides a lot or runs through undivided property, the location of such boundary unless otherwise specified by figures on the zoning map, shall be determined by the use of the scale appearing on said map.

D. Where scaled distances on the map do not agree with figures indicating the distance in feet, the figures shall always control.

E. Where physical features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by the above, the Zoning Hearing Board, upon appeal, shall interpret the district boundaries.

(*Ord. 162, 6/12/2002, §302*)

**Part 4****AP - Agricultural Preservation District****§27-401. Purpose.**

In addition to the general goals and purposes expressed in the Statement of Community Development Objectives (§27-106), the AP - Agricultural Preservation District is established for the following purposes:

A. To protect and preserve high-quality agricultural soils as a natural resource, and agricultural land and activities, as provided for in §§603(b)5 and 604(3) of Act 247 as amended, the Municipalities Planning Code, 53 P.S. §§10603(b)(5), 10604(3), particularly those classified by the U.S. Department of Agriculture within agricultural capability Class I, Class II, and Class III, and listed as follows:

BrB2	Brandywine Loam
BxD2	Bucks Silt Loam
Ch	Chewacla Silt Loam
Cn	Congaree Silt Loam
CdA	Chester Silt Loam
CdB	Chester Silt Loam
CdB2	Chester Silt Loam
GeA	Glenelg Channery Silt Loam
GeA2	Glenelg Channery Silt Loam
GeB	Glenelg Channery Silt Loam
GeB2	Glenelg Channery Silt Loam
GeC2	Glenelg Channery Silt Loam
GgA3	Glenelg Silt Loam
GnA	Glenville Silt Loam
GnB	Glenville Silt Loam
GnB2	Glenville Silt Loam
MgA2	Manor Loam
MgB2	Manor Loam
PmB2	Penn Silt Loam
PmC2	Penn Silt Loam
PtB2	Penn and Lansdale Sandy Loams
PtC2	Penn and Lansdale Sandy Loams
RdA	Readington Silt Loam
RdB	Readington Silt Loam
RdB2	Readington Silt Loam

Ro Rowland Silt Loam

Rp Rowland Silt Loam, dark surface

Soil classes referred to are those established by the United States Department of Agriculture as Agricultural Capability Units I, II, and III and described in the Soil Survey of Chester and Delaware Counties, Pennsylvania, 1959, published by the Soil Conservation Service of the United States Department of Agriculture.

B. To accommodate non-farm residential development in a manner that will neither obstruct nor interfere with farm operation, and will minimize the loss of prime farmland to non-agricultural uses.

C. To accommodate non-farm residential development at densities which will assure a healthful water supply from on-lot wells and the safe disposal of sewage waste to on-lot systems.

D. To accommodate limited commercial activities customarily carried out on farm properties and generally involving the sale of farm products produced on-site.

E. To preserve open space and the rural character of the Township for the welfare of current and future residents.

(Ord. 162, 6/12/2002, §400)

#### **§27-402. Use Regulations.**

1. *Uses by Right.* Within the AP-Agricultural Preservation District a building may be erected, altered, or used, and a lot may be used for only one of the following purposes as a use by right:

A. Agriculture, in accordance with §27-1609 of this Chapter. [Ord. 166]

B. Conservation uses including woodlands preserve, game preserve, arboretum or other similar use.

C. Single family detached dwellings in accordance with §27-403.2 of this Chapter.

D. Municipal uses.

E. Public school.

F. Forestry, where conducted in compliance with the provisions of §22-429.2 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22].

2. *Uses by Special Exception.* Within the AP-Agricultural Preservation District the following uses may be permitted by the Zoning Hearing Board as a special exception in accordance with Part 20. Special exception uses shall be compatible with the surrounding neighborhood and shall not be detrimental to public health, safety, or welfare:

A. Church or similar place of worship, including rectory or parish house.

B. Educational use other than public school.

3. *Conditional Uses.* Where approved by the Board of Supervisors as a conditional use, the following uses will be permitted within the AP-Agricultural Preservation District, subject to the conditions and procedures in Part 19:

A. Development under the open space design option in accordance with Part

9, including single family dwellings, two-family dwellings, and multi-family dwellings.

B. Telecommunication facilities on tall structures as provided in §27-1606.B(2) and subject to full compliance with the provisions of §27-1606. Telecommunications facilities as provided in §27-1606.B(2) shall not be permitted in portions of the AP-Agricultural Preservation District overlain by the FC-French Creek Scenic Corridor District.

4. *Accessory Uses.* The following accessory uses shall be permitted, where in compliance with all applicable provisions of Part 16 and provided that they shall be incidental to any of the foregoing permitted uses.

A. Customary residential and agricultural accessory uses.

B. Swimming pool.

C. Private, non-commercial greenhouses.

D. Minor home occupations by right where in accordance with §27-1605 of this Chapter.

E. Major home occupations where approved by the Zoning Hearing Board as a special exception and where in accordance with §27-1605 of this Chapter.

(*Ord. 162, 6/12/2002, §401; as amended by Ord. 166, 10/16/2002*)

#### **§27-403. Area and Bulk Regulations.**

1. *Agriculture.* Tracts or lots used for agricultural purposes shall meet the following standards.

A. Minimum lot size 20 acres.

Existing lots less than 20 acres in size as of the date of adoption of this Chapter may be used for agricultural purposes subject to compliance with all other applicable regulations herein.

B. Minimum lot width at street line 200 feet.

C. Minimum setback at building setback line 100 feet.

D. Minimum side yard 50 feet each.

E. Minimum rear yard 100 feet.

F. Maximum building coverage 8 percent.

G. Maximum impervious cover 10 percent.

H. Maximum building height 35 feet.

Barns, silos, and bulk bins shall be exempt from the maximum building height limit when attached to an existing structure or located such that the distance from the base of the barn, silo, or bulk bin to both the nearest property line and the nearest street right-of-way line is no less than the height of said barn, silo, or bulk bin.

2. *Residential Uses.* Except for development under the open space design option as provided in Part 9, residential development of single family detached dwellings shall comply with the following standards:

A. On any tract undergoing subdivision or land development for residential

purposes, the total maximum number of residential units, including new and existing units, shall be equal to:

Gross tract area in acres x 0.10.

Computations resulting in fractional numbers of units shall be rounded to the nearest whole number; fractions of one-half shall be rounded up. On existing lots less than 5 acres in area as of the date of adoption of this Chapter, a single family detached dwelling may be erected subject to compliance with all other applicable regulations herein.

B. Except for lots established under the open space design option as provided in Part 9, each lot used for a single family detached dwelling shall be as follows:

- |  |               |
|--|---------------|
| (1) Minimum lot size                         | 1 acre.       |
| (2) Minimum lot width at building line       | 150 feet.     |
| (3) Minimum lot width at street line         | 50 feet.      |
| (4) Minimum setback at building setback line | 50 feet.      |
| (5) Minimum side yard                        | 25 feet each. |
| (6) Minimum rear yard                        | 40 feet.      |
| (7) Maximum impervious cover                 | 20 percent.   |
| (8) Maximum building coverage                | 10 percent.   |
| (9) Maximum building height                  | 35 feet.      |
| (10) Minimum accessory building setback      | see §27-1602. |

C. No single residential lot created according to the standards of this Section shall occupy more than 1 acre of Class I, Class II, and Class III soils. Residential lots may occupy more than 1 acre, provided that acreage above that amount is comprised of Class IV or less productive soils.

D. Except for lots established under the open space design option as provided in Part 9, where any proposed 1 acre or larger lot is served by an individual on-site sewage system, a contiguous net lot area of at least 30,000 square feet shall be provided which shall not be divided completely by any of the following areas:

- (1) Any permanent right-of-way or easement for a public or private street.
- (2) Any area within the Flood Hazard District as established in §27-1501 of this Chapter.
- (3) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.

E. *Remaining lands.*

(1) Subdivision of residential lots from an agricultural lot according to the standards of this Section shall be configured so as to create the least practicable disruption to agricultural operations. Remaining agricultural parcels shall be no less than 20 acres each, so located and configured as to be appropriate for continued agricultural use.

(2) On tracts existing as of the date of adoption of this Section, where creation of all the residential lots permitted by the formula in subsection .2.A

would result in remaining agricultural lands of less than 20 acres, a single agricultural parcel of less than 20 acres may be created.

(3) Remaining lands shall have frontage on a public street equal to or greater than 40 percent of the frontage of the tract prior to subdivision.

(4) When the maximum number of residential lots has been created, as determined by subsection .2.A. above, the remaining lands, regardless of use, shall be restricted from further subdivision or development for other than agricultural purposes by deed restriction, conservation easement, or other agreement in a form acceptable to the Township and duly recorded in the office of the Recorder of Deeds of Chester County. Such restrictions shall not preclude such remaining lands from inclusion in calculation of available transferable development rights nor from leasing for agricultural uses as defined by this Chapter.

3. *All Other Uses.* Tracts or lots used for any other principal use permitted by right, special exception or conditional use, except where otherwise provided in this Chapter, shall meet the following standards:

A. Each new lot for any permitted use shall be as follows:

- |  |               |
|--|---------------|
| (1) Minimum lot size                         | 5 acres.      |
| (2) Minimum lot width at building line       | 200 feet.     |
| (3) Minimum lot width at street line         | 50 feet.      |
| (4) Minimum setback at building setback line | 50 feet.      |
| (5) Minimum side yard                        | 25 feet each. |
| (6) Minimum rear yard                        | 40 feet.      |
| (7) Maximum impervious cover                 | 20 percent.   |
| (8) Maximum building coverage                | 10 percent.   |
| (9) Maximum building height                  | 35 feet.      |
| (10) Minimum accessory building setback      | see §27-1602. |

B. Where any lot is served by an individual on-site sewage system, a contiguous net lot area of at least 30,000 square feet shall be provided which shall not be divided completely by any of the following areas:

- (1) Any permanent right-of-way or easement for a public or private street.
- (2) Any area within the Flood Hazard District as established in §27-1501 of this Chapter.
- (3) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.

Any lot existing prior to the effective date of this provision which does not meet the minimum net lot area requirement may be used for any other purpose permitted by right, special exception or conditional use, except where otherwise provided in this Chapter subject to demonstration of adequate sewage disposal to the Code Enforcement Officer and Chester County Health Department.

(Ord. 162, 6/12/2002, §402)

**§27-404. General Design Standards.**

1. *Access and Highway Frontage.* As required by §27-1708 of this Chapter.
  2. *Visibility at Intersections.* As required by §27-1702 of this Chapter.
  3. *Interior Circulation and Emergency Access.* As required by §27-1708 of this Chapter.
  4. *Loading and Unloading.* As required by §27-1711 of this Chapter.
  5. *Parking.* As required by §27-1709 of this Chapter.
  6. *Storage.* As required by §27-1603 of this Chapter.
  7. *Lighting.* As required by §27-1715 of this Chapter.
  8. *Landscaping and Screening.* As required by §§27-1712 and 27-1713 of this Chapter.
  9. *Signs.* As required by §27-1717 of this Chapter.
- (Ord. 162, 6/12/2002, §403)



**Part 5****RC - Rural Conservation District****§27-501. Purpose.**

In addition to the general goals and purposes expressed in the Statement of Community Development Objectives (§27-106), the RC - Rural Conservation District is established for the following purposes:

- A. To preserve and promote continued agricultural, open space, and conservation uses, perpetuating the rural character of the area and facilitating the conservation of land, water and cultural resources.
- B. To assure a healthful water supply from on-lot wells and the safe disposal of sewage waste to on-lot systems.
- C. To provide for low density residential development generally consistent with existing residential development patterns.
- D. To provide for alternative residential development patterns through the use of the open space design option provisions of Part 9, offering higher net densities of development while affording greater opportunities for preservation of open space ancillary to such development.

(Ord. 162, 6/12/2002, §500)

**§27-502. Use Regulations.**

1. *Uses by Right.* Within the RC-Rural Conservation District a building may be erected, altered, or used, and a lot may be used for only one of the following purposes as a use by right:

- A. Agriculture, in accordance with §27-1609 of this Chapter. [Ord. 166]
- B. Conservation uses including woodlands preserve, game preserve, arboretum or other similar use.
- C. Single family detached dwellings in accordance with §27-503.2 of this Chapter.
- D. Municipal uses.
- E. Public school.
- F. Forestry, where conducted in compliance with the provisions of §22-429.2 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22].
- G. National cemetery containing a minimum lot area of 170 acres. [Ord. 182]

2. *Uses by Special Exception.* Within the RC-Rural Conservation District the following uses may be permitted by the Zoning Hearing Board as a special exception in accordance with Part 20. Special exception uses shall be compatible with the surrounding neighborhood and shall not be detrimental to public health, safety, or welfare:

- A. Church or similar place of worship, including rectory or parish house.
- B. Educational use other than public school.

C. Residential conversions in accordance with the provisions of §27-1608 of this Chapter.

D. Public or private golf course, country club, riding stable, commercial driving ranges, or other outdoor recreational use or similar club or lodge, provided that:

(1) The minimum area of the property on which the use is conducted shall not be less than 10 acres.

(2) Each structure shall be clearly incidental to the outdoor use.

(3) Any club or lodge building and its services shall be for the use of members and their guests only.

(4) No commercial activity or use such as campground, amusement park, pitch and putt or miniature golf course, and similar uses customarily carried on as businesses, shall be permitted.

(5) The use and design are compatible with the natural character of the area.

3. *Conditional Uses.* Where approved by the Board of Supervisors as a conditional use, the following uses will be permitted within the RC-Rural Conservation District, subject to the conditions and procedures in Part 19:

A. Development under the open space design option in accordance with Part 9, including single-family dwellings, two-family dwellings, and multi-family dwellings.

B. Telecommunication facilities on tall structures as provided in §27-1606.B(2) and subject to full compliance with the provisions of §27-1606. Telecommunications facilities as provided in §27-1606.B(2) shall not be permitted in portions of the RC-Rural Conservation District overlain by the FC-French Creek Scenic Corridor District.

4. *Accessory Uses.* The following accessory uses shall be permitted, where in compliance with all applicable provisions of Part 16 and provided that they shall be incidental to any of the foregoing permitted uses:

A. Customary residential and agricultural accessory uses.

B. Swimming pool.

C. Private, non-commercial greenhouses.

D. Minor home occupations by right where in accordance with §27-1605 of this Chapter.

E. Major home occupations where approved by the Zoning Hearing Board as a special exception and where in accordance with §27-1605 of this Chapter.

(*Ord. 162, 6/12/2002, §501; as amended by Ord. 166, 10/16/2002; and by Ord. 182, 12/1/2005, §4*)

### **§27-503. Area and Bulk Regulations.**

1. *Agriculture.* Tracts or lots used for agricultural purposes shall meet the following standards:

A. Minimum lot size 20 acres.

Existing lots less than 20 acres in size as of the date of adoption of this Chapter may be used for agricultural purposes subject to compliance with all other applicable regulations herein.

- |   |               |
|---|---------------|
| B. Minimum lot width at street line         | 200 feet.     |
| C. Minimum setback at building setback line | 75 feet.      |
| D. Minimum side yard                        | 50 feet each. |
| E. Minimum rear yard                        | 100 feet.     |
| F. Maximum building coverage                | 8 percent.    |
| G. Maximum impervious cover                 | 10 percent.   |
| H. Maximum building height                  | 35 feet .     |

Barns, silos, and bulk bins shall be exempt from the maximum building height limit when attached to an existing structure or located such that the distance from the base of the barn, silo, or bulk bin to both the nearest property line and the nearest street right-of-way line is no less than the height of said barn, silo, or bulk bin.

2. *Residential Uses.* Except for development under the open space design option as provided in Part 9, residential development of single family detached dwellings shall comply with the following standards:

A. On any tract undergoing subdivision or land development for residential purposes, the total maximum number of residential units, including new and existing units, shall be equal to:

(1) Gross tract area in acres x 0.20.

(2) Computations resulting in fractional numbers of units shall be rounded to the nearest whole number; fractions of one-half shall be rounded up. On existing lots less than 5 acres in area as of the date of adoption of this Chapter, a single family detached dwelling may be erected subject to compliance with all other applicable regulations herein.

B. Each lot used for a single family detached dwelling shall be as follows:

- |  |               |
|--|---------------|
| (1) Minimum lot size                         | 2.5 acres.    |
| (2) Minimum lot width at building line       | 150 feet.     |
| (3) Minimum lot width at street line         | 50 feet.      |
| (4) Minimum setback at building setback line | 50 feet.      |
| (5) Minimum side yard                        | 25 feet each. |
| (6) Minimum rear yard                        | 40 feet.      |
| (7) Maximum impervious cover                 | 20 percent.   |
| (8) Maximum building coverage                | 10 percent.   |
| (9) Maximum building height                  | 35 feet.      |
| (10) Minimum accessory building setback      | see §27-1602. |

C. When the maximum number of residential lots has been created, as determined by subsection .2.A. above, any remaining lands and/or any residential lots of 5 acres or more, regardless of use, shall be restricted from further

subdivision or development for other than open space purposes by deed restriction, conservation easement, or other agreement in a form acceptable to the Township and duly recorded in the office of the Recorder of Deeds of Chester County. Such restrictions shall not preclude such remaining lands from inclusion in calculation of available transferable development rights nor from leasing for agricultural uses as defined by this Chapter.

D. Except for lots established under the open space design option as provided in Part 9, where any lot is served by an individual on-site sewage system, a contiguous net lot area of at least 30,000 square feet shall be provided which shall not be divided completely by any of the following areas:

- (1) Any permanent right-of-way or easement for a public or private street.
- (2) Any area within the Flood Hazard District as established in §27-1501.
- (3) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.

3. *All Other Uses.* Tracts or lots used for any other principal use permitted by right, special exception or conditional use, except where otherwise provided in this Chapter, shall meet the following standards:

A. Each new lot for any permitted use shall be as follows:

- |  |               |
|--|---------------|
| (1) Minimum lot size                         | 5 acres.      |
| (2) Minimum lot width at building line       | 200 feet.     |
| (3) Minimum lot width at street line         | 50 feet.      |
| (4) Minimum setback at building setback line | 50 feet.      |
| (5) Minimum side yard                        | 25 feet each. |
| (6) Minimum rear yard                        | 40 feet.      |
| (7) Maximum impervious cover                 | 20 percent.   |
| (8) Maximum building coverage                | 10 percent.   |
| (9) Maximum building height                  | 35 feet.      |
| (10) Minimum accessory building setback      | see §27-1602. |

B. Where any lot is served by an individual on-site sewage system, a contiguous net lot area of at least 30,000 square feet shall be provided which shall not be divided completely by any of the following areas:

- (1) Any permanent right-of-way or easement for a public or private street.
- (2) Any area within the Flood Hazard District as established in §27-1501.
- (3) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.

(Ord. 162, 6/12/2002, §504)

#### **§27-504. General Design Standards.**

1. *Access and Highway Frontage.* As required by §27-1708 of this Chapter.

2. *Visibility at Intersections.* As required by §27-1702 of this Chapter.
  3. *Interior Circulation and Emergency Access.* As required by §27-1708 of this Chapter.
  4. *Loading and Unloading.* As required by §27-1711 of this Chapter.
  5. *Parking.* As required by §27-1709 of this Chapter.
  6. *Storage.* As required by §27-1603 of this Chapter.
  7. *Lighting.* As required by §27-1715 of this Chapter.
  8. *Landscaping and Screening.* As required by §§27-1712 and 27-1713 of this Chapter.
  9. *Signs.* As required by §27-1717 of this Chapter.
- (Ord. 162, 6/12/2002, §503)



**Part 6****LR - Low Density Residential District****§27-601. Purpose.**

In addition to the general goals and purposes expressed in the Statement of Community Development Objectives (§27-106), the LR - Low-Density Residential District is established for the following purposes:

- A. To provide for low to medium density residential development consistent with existing residential development patterns and easily accessible to major highways, commercial areas and/or centers of employment.
- B. To assure a healthful water supply from on-lot wells and the safe disposal of sewage waste to on-lot systems.
- C. To provide for alternative residential development patterns through the use of the open space design option provisions of Part 9, offering higher net densities of development while affording greater opportunities for preservation of open space ancillary to such development.
- D. To preserve and promote continued open space and conservation uses, perpetuating the semi-rural residential character of the area and facilitating the conservation of land, water and cultural resources.

(*Ord. 162, 6/12/2002, §600*)

**§27-602. Use Regulations.**

1. *Uses by Right.* Within the LR-Low-Density Residential District a building may be erected, altered, or used, and a lot may be used for any one of the following purposes as a use by right:

- A. Single family detached dwellings in accordance with §27-603.1.
- B. Agriculture, in accordance with §27-1609 of this Chapter.
- C. Conservation uses including woodlands preserve, game preserve, arboretum or other similar use.
- D. Park, playground, athletic field, recreation building, or a community center operated on a non-commercial basis for recreation purposes.
- E. Municipal uses.
- F. Public school.
- G. Forestry, where conducted in compliance with the provisions of §22-429.2 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22].
- H. National cemetery containing a minimum lot area of 170 acres. [*Ord. 182*]
- I. Composting, provided it is operated in compliance with all Department of Environmental Protection and other applicable governmental regulations. Sales of composting products, including but not limited to topsoil, soil additives, and mulch, landscaping, agricultural, and horticultural products, are also permitted by right in connection with a composting operation. Composting operations shall only be

permitted to occur between the hours of 7 a.m. and 6 p.m. [Ord. 203]

2. *Uses by Special Exception.* Within the LR-Low-Density Residential District the following uses may be permitted by the Zoning Hearing Board as a special exception in accordance with Part 20. Special exception uses shall be compatible with the surrounding neighborhood and shall not be detrimental to public health, safety, or welfare:

- A. Church or similar place of worship, including rectory or parish house.
- B. Educational use other than public school.
- C. Day-care centers, kindergartens, preschools, and day nursery subject to the following special requirements:

- (1) At least 100 square feet of outdoor play space per child shall be provided.

- (2) Outdoor play space shall be fenced or otherwise enclosed on all sides and shall not include driveways, parking areas, or land unsuited by other usage or natural features for children's play space.

- (3) Fencing or other enclosures shall be a minimum height of 4 feet and shall be subject to all setback requirements for the district.

- D. Group homes in accordance with the provisions of §27-1612 of this Chapter.

- E. Residential conversions in accordance with the provisions of §27-1608 of this Chapter.

- F. Public or private golf course, country club, riding stable, commercial driving ranges, or other outdoor recreational use or similar club or lodge, provided that:

- (1) The minimum area of the property on which the use is conducted shall not be less than 10 acres.

- (2) Each structure shall be clearly incidental to the outdoor use.

- (3) Any club or lodge building and its services shall be for the use of members and their guests only.

- (4) No commercial activity or use such as campground, amusement park, pitch and putt or miniature golf course, and similar uses customarily carried on as businesses, shall be permitted.

- (5) The use and design are compatible with the natural character of the area.

- G. Nursing home or convalescent home, or home for handicapped individuals.

3. *Conditional Uses.* Where approved by the Board of Supervisors as a conditional use, the following uses will be permitted within the LR-Low-Density Residential District, subject to the conditions and procedures in Part 19:

- A. Development under the open space design option in accordance with Part 9, including single-family detached dwellings, two-family dwellings, and multi-family dwellings.

- B. Hospital (general, medical and surgical) or sanitarium, in accordance with the following specific provisions:



(1) The intensity of use shall not exceed five beds per acre, including patient beds and on-site living accommodations for staff persons.

(2) Not less than 30 percent of the total area of the tract shall be designated as and used exclusively for common open space. Ownership, location design and layout, and maintenance of common open space shall be in accordance with §27-906.

(3) There shall be a minimum setback of 75 feet around the entire perimeter of the tract in which no building shall be situated.

(4) The tract shall be supplied with public or community sewer and water supply and comply with the design standards set forth in §27-604.

(5) The tract of land on which each use is conducted shall, in its entirety, be owned and operated as a single or common management and maintenance unit.

C. Age restricted community, subject to the open space design option of Part 9.

D. Telecommunication facilities on tall structures as provided in §27-1606.B(2) and subject to full compliance with the provisions of §27-1606.

4. *Accessory Uses.* The following accessory uses shall be permitted, where in compliance with all applicable provisions of Part 16 and provided that they shall be incidental to any of the foregoing permitted uses.

A. Customary residential and agricultural accessory uses.

B. Swimming pool.

C. Private, non-commercial greenhouses.

D. Minor home occupations by right where in accordance with §27-1605 of this Chapter.

E. Major home occupations where approved by the Zoning Hearing Board as a special exception and where in accordance with §27-1605 of this Chapter.

(*Ord. 162, 6/12/2002, §601; as amended by Ord. 182, 12/1/2005, §6; and by Ord. 203, 12/14/2009*)

### **§27-603. Area and Bulk Regulations.**

1. *Uses Permitted by Right.* Except for public schools, all uses permitted by right shall comply with the following standards:

A. Each lot shall be as follows:

- |  |               |
|--|---------------|
| (1) Minimum lot size                         | 1.5 acres.    |
| (2) Minimum lot width at building line       | 150 feet.     |
| (3) Minimum lot width at street line         | 50 feet.      |
| (4) Minimum setback at building setback line | 50 feet.      |
| (5) Minimum side yard                        | 25 feet each. |
| (6) Minimum rear yard                        | 40 feet.      |
| (7) Maximum impervious cover                 | 20 percent.   |
| (8) Maximum building coverage                | 10 percent.   |

- |   |               |
|---|---------------|
| (9) Maximum building height             | 35 feet.      |
| (10) Minimum accessory building setback | see §27-1602. |

B. Where any lot is served by an individual on-site sewage system, a contiguous net lot area of at least 30,000 square feet shall be provided which shall not be divided completely by any of the following areas:

- (1) Any permanent right-of-way or easement for a public or private street.
- (2) Any area within the Flood Hazard District as established in §27-1501 of this Chapter.

C. Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.

D. A minimum lot size of 50 acres is required for composting in accordance with §27-602.1.I. No more than 30 percent of the tract shall be utilized in connection with composting operations and sales thereof. A setback of 200 feet shall be required from any residential use; otherwise, a setback of 50 feet shall be required. [Ord. 203]

2. *All Other Uses.* Tracts or lots used for any other principal use permitted by right, special exception or conditional use, except for development under the open space design option as provided in Part 9 or where otherwise provided in this Chapter, shall meet the following standards:

A. Each lot shall be as follows:

- |  |               |
|--|---------------|
| (1) Minimum lot size                         | 5 acres.      |
| (2) Minimum lot width at building line       | 200 feet.     |
| (3) Minimum lot width at street line         | 50 feet.      |
| (4) Minimum setback at building setback line | 50 feet.      |
| (5) Minimum side yard                        | 25 feet each. |
| (6) Minimum rear yard                        | 40 feet.      |
| (7) Maximum impervious cover                 | 20 percent.   |
| (8) Maximum building coverage                | 10 percent.   |
| (9) Maximum building height                  | 35 feet.      |
| (10) Minimum accessory building setback      | see §27-1602. |

B. Except for lots established under the open space design option as provided in Part 9. where any lot is served by an individual on-site sewage system, a contiguous net lot area of at least 30,000 square feet shall be provided which shall not be divided completely by any of the following areas:

- (1) Any permanent right-of-way or easement for a public or private street.
- (2) Any area within the Flood Hazard District as established in §27-1501.
- (3) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.

(Ord. 162, 6/12/2002, §602; as amended by Ord. 203, 12/14/2009)

**§27-604. General Design Standards.**

1. *Access and Highway Frontage.* As required by §27-1708 of this Chapter.
  2. *Visibility at Intersections.* As required by §27-1702 of this Chapter.
  3. *Interior Circulation and Emergency Access.* As required by §27-1708 of this Chapter.
  4. *Loading and Unloading.* As required by §27-1711 of this Chapter.
  5. *Parking.* As required by §27-1709 of this Chapter.
  6. *Storage.* As required by §27-1603 of this Chapter.
  7. *Lighting.* As required by §27-1715 of this Chapter.
  8. *Landscaping and Screening.* As required by §§27-1712 and 27-1713 of this Chapter.
  9. *Signs.* As required by §27-1717 of this Chapter.
- (Ord. 162, 6/12/2002, §603)



**Part 7****MR - Moderate-Density Residential District****§27-701. Purpose.**

In addition to the general goals and purposes expressed in the Statement of Community Development Objectives (§27-106), the MR - Moderate-Density Residential District is established for the following purposes:

- A. To provide for medium density residential development consistent with existing residential development patterns and easily accessible to major highways, commercial areas and/or centers of employment.
- B. To assure a healthful water supply and the safe disposal of sewage waste, utilizing and/or extending public water and sewer systems where appropriate.
- C. To provide for alternative residential development patterns through the use of the open space design option [Part 9], offering higher net densities of development while affording greater opportunities for preservation of open space ancillary to such development.
- D. To facilitate the conservation of land, water and cultural resources ancillary to residential development.

(Ord. 162, 6/12/2002, §700)

**§27-702. Use Regulations.**

1. *Uses by Right.* Within the MR-Moderate-Density Residential District a building may be erected, altered, or used, and a lot may be used for only one of the following purposes as a use by right:

- A. Single family detached dwellings in accordance with §27-703.1.
- B. Agriculture, in accordance with §27-1609 of this Chapter.
- C. Conservation uses including woodlands preserve, game preserve, arboretum or other similar use.
- D. Park, playground, athletic field, recreation building, or a community center operated on a non-commercial basis for recreation purposes.
- E. Municipal uses.
- F. Public school.
- G. Forestry, where conducted in compliance with the provisions of §22-429.2 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22].

2. *Uses by Special Exception.* Within the MR-Moderate-Density Residential District the following uses may be permitted by the Zoning Hearing Board as a special exception in accordance with Part 20. Special exception uses shall be compatible with the surrounding neighborhood and shall not be detrimental to public health, safety, or welfare:

- A. Church or similar place of worship, including rectory or parish house.
- B. Educational use other than public school.

C. Day-care centers, kindergartens, pre-schools, and day nursery subject to the following special requirements:

(1) At least 100 square feet of outdoor play space per child shall be provided.

(2) Outdoor play space shall be fenced or otherwise enclosed on all sides and shall not include driveways, parking areas, or land unsuited by other usage or natural features for children's play space.

(3) Fencing or other enclosures shall be a minimum height of 4 feet and shall be subject to all setback requirements for the district.

D. Group homes in accordance with §27-1612 of this Chapter.

E. Residential conversion in accordance with §27-1608 of this Chapter.

F. Public or private golf course, country club, riding stable, or other outdoor recreational use or similar club or lodge, provided that:

(1) The minimum area of the property on which the use is conducted shall not be less than 10 acres.

(2) Each structure shall be clearly incidental to the outdoor use.

(3) Any club or lodge building and its services shall be for the use of members and their guests only.

(4) No commercial activity or use such as campground, amusement park, pitch and putt or miniature golf course, driving range as a principal use, and similar uses customarily carried on as businesses, shall be permitted.

(5) The use and design are compatible with the natural character of the area.

G. Nursing home or convalescent home, or home for handicapped individuals.

3. *Conditional Uses.* Where approved by the Board of Supervisors as a conditional use, the following uses will be permitted within the MR-Moderate-Density Residential District, subject to the conditions and procedures in Part 19.

A. Development under the open space design option in accordance with Part 9, including single-family detached dwellings, two-family dwellings, and multi-family dwellings.

B. Hospital (general, medical and surgical) or sanitarium in accordance with the following specific provisions:

(1) The intensity of use shall not exceed five beds per acre, including patient beds and on-site living accommodations for staff persons.

(2) Not less than 30 percent of the total area of the tract shall be designated as and used exclusively for common open space. Ownership, location design and layout, and maintenance of common open space shall be in accordance with §27-906 of this Chapter.

(3) There shall be a minimum setback of 75 feet around the entire perimeter of the tract in which no building shall be situated.

(4) The tract shall be supplied with public or community sewer and water supply and comply with the design standards set forth in §27-604 of this Chapter.

(5) The tract of land on which each use is conducted shall, in its entirety, be owned and operated as a single or common management and maintenance unit.

C. Age restricted community, subject to the open space design option provisions of Part 9.

D. Telecommunication facilities on tall structures as provided in §27-1606.B(2) and subject to full compliance with the provisions of §27-1606.

4. *Accessory Uses.* The following accessory uses shall be permitted, where in compliance with all applicable provisions of Part 16 and provided that they shall be incidental to any of the foregoing permitted uses:

A. Customary residential and agricultural accessory uses.

B. Swimming pool.

C. Private, non-commercial greenhouses.

D. Minor home occupations by right where in accordance with §27-1605 of this Chapter.

E. Major home occupations where approved by the Zoning Hearing Board as a special exception and where in accordance with §27-1605 of this Chapter.

(Ord. 162, 6/12/2002, §701)

### **§27-703. Area and Bulk Regulations.**

1. *Uses Permitted by Right.* Except for public schools, uses permitted by right shall comply with the following standards, as applicable:

A. Where public sewer and water service is provided in accordance with all applicable regulations, each lot shall be as follows:

(1) Minimum lot size	25,000 square feet.
(2) Minimum lot width at building line	100 feet.
(3) Minimum lot width at street line	50 feet.
(4) Minimum setback at building setback line	40 feet.
(5) Minimum side yard	20 feet each.
(6) Minimum rear yard	35 feet.
(7) Maximum impervious cover	25 percent.
(8) Maximum building coverage	15 percent.
(9) Maximum building height	35 feet.
(10) Minimum accessory building setback	see §27-1602.

B. Where individual on-lot sewer or water service is provided, each lot shall be as follows:

(1) Minimum lot size	1 acre.
(2) Minimum lot width at building line	150 feet.
(3) Minimum lot width at street line	50 feet.
(4) Minimum setback at building setback line	50 feet.

- |   |               |
|---|---------------|
| (5) Minimum side yard                   | 25 feet each. |
| (6) Minimum rear yard                   | 40 feet.      |
| (7) Maximum impervious cover            | 20 percent.   |
| (8) Maximum building coverage           | 10 percent.   |
| (9) Maximum building height             | 35 feet.      |
| (10) Minimum accessory building setback | see §27-1602. |

C. Where any lot is served by an individual on-site sewage system, a contiguous net lot area of at least 30,000 square feet shall be provided which shall not be encroached upon by any of the following areas:

- (1) Any permanent right-of-way or easement for a public or private street.
- (2) Any area within the Flood Hazard District as established in §27-1501.
- (3) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.

2. *All Other Uses.* Tracts or lots used for any other principal use permitted by right, special exception or conditional use, except for development under the open space design option as provided in Part 9 or where otherwise provided in this Chapter, shall meet the following standards:

A. Each lot shall be as follows:

- |  |               |
|--|---------------|
| (1) Minimum lot size                         | 5 acre.       |
| (2) Minimum lot width at building line       | 200 feet.     |
| (3) Minimum lot width at street line         | 50 feet.      |
| (4) Minimum setback at building setback line | 50 feet.      |
| (5) Minimum side yard                        | 25 feet each. |
| (6) Minimum rear yard                        | 40 feet.      |
| (7) Maximum impervious cover                 | 20 percent.   |
| (8) Maximum building coverage                | 10 percent.   |
| (9) Maximum building height                  | 35 feet.      |
| (10) Minimum accessory building setback      | see §27-1602. |

B. Except for lots established under the open space design option as provided in Part 9, where any lot is served by an individual on-site sewage system, a contiguous net lot area of at least 30,000 square feet shall be provided which shall not be divided completely by any of the following areas:

- (1) Any permanent right-of-way or easement for a public or private street.
- (2) Any area within the Flood Hazard District as established in §27-1501.
- (3) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.

(Ord. 162, 6/12/2002, §702)



**§27-704. General Design Standards.**

1. *Access and Highway Frontage.* As required by §27-1708 of this Chapter.
  2. *Visibility at Intersections.* As required by §27-1702 of this Chapter.
  3. *Interior Circulation and Emergency Access.* As required by §27-1708 of this Chapter.
  4. *Loading and Unloading.* As required by §27-1711 of this Chapter.
  5. *Parking.* As required by §27-1709 of this Chapter.
  6. *Storage.* As required by §27-1603 of this Chapter.
  7. *Lighting.* As required by §27-1715 of this Chapter.
  8. *Landscaping and Screening.* As required by §§27-1712 and 27-1713 of this Chapter.
  9. *Signs.* As required by §27-1717 of this Chapter.
- (Ord. 162, 6/12/2002, §703)



**Part 8****HR - High-Density Residential District****§27-801. Purpose.**

In addition to the general goals and purposes expressed in the Statement of Community Development Objectives (§27-106), the HR - High-Density Residential District is established for the following purposes:

- A. To provide for medium and high-density residential development consistent with existing residential development patterns and easily accessible to major highways, commercial areas and/or centers of employment.
- B. To assure a healthful water supply and the safe disposal of sewage waste, utilizing and/or extending public water and sewer systems where appropriate.
- C. To provide for alternative residential development patterns through the use of the open space design option as provided by Part 9, offering higher net densities of development while affording greater opportunities for preservation of open space ancillary to such development.
- D. To facilitate the conservation of land, water and cultural resources ancillary to residential development.

(Ord. 162, 6/12/2002, §800)

**§27-802. Use Regulations.**

1. *Uses by Right.* Within the HR-High-Density Residential District a building may be erected, altered, or used, and a lot may be used for only one of the following purposes as a use by right:

- A. Single family detached dwellings in accordance with §27-803.1.
- B. Two-family dwellings in accordance with §27-803.1.
- C. Development under the open space design option subject to the provisions of Part 9, including single-family detached dwellings, two-family dwellings and multi-family dwellings.
- D. Agriculture, in accordance with §27-1609 of this Chapter.
- E. Conservation uses including woodlands preserve, game preserve, arboretum or other similar use.
- F. Park, playground, athletic field, recreation building, or a community center operated on a non-commercial basis for recreation purposes.
- G. Municipal uses.
- H. Public schools.
- I. Forestry, where conducted in compliance with the provisions of §22-429.2 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22].

2. *Uses by Special Exception.* Within the HR-High-Density Residential District the following uses may be permitted by the Zoning Hearing Board as a special exception in accordance with Part 20. Special exception uses shall be compatible with the

surrounding neighborhood and shall not be detrimental to public health, safety, or welfare:

- A. Church or similar place of worship, including rectory or parish house.
- B. Educational use other than public school.
- C. Day-care centers, kindergartens, pre-schools, and day nursery subject to the following special requirements:

- (1) At least 100 square feet of outdoor play space per child shall be provided.

- (2) Outdoor play space shall be fenced or otherwise enclosed on all sides and shall not include driveways, parking areas, or land unsuited by other usage or natural features for children's play space.

- (3) Fencing or other enclosures shall be a minimum height of 4 feet and shall be subject to all setback requirements for the district.

- D. Group homes in accordance with §27-1612 of this Chapter.

- E. Residential conversions in accordance with §27-1608 of this Chapter.

3. *Conditional Uses.* Where approved by the Board of Supervisors as a conditional use, the following uses will be permitted within the HR-High-Density Residential District, subject to the conditions and procedures in Part 19:

- A. Mobile home park in accordance with §27-803 below and the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22].

- B. Age restricted community, subject to the open space design option provisions of Part 9.

- C. Telecommunication facilities on tall structures as provided in §27-1606.B(2) and subject to full compliance with the provisions of §27-1606.

- D. *Accessory Uses.* The following accessory uses shall be permitted, where in compliance with all applicable provisions of Part 16 and provided that they shall be incidental to any of the foregoing permitted uses:

- (1) Customary residential and agricultural accessory uses.

- (2) Swimming pool.

- (3) Private, non-commercial greenhouses.

- (4) Minor home occupations by right where in accordance with §27-1605 of this Chapter.

- (5) Major home occupations where approved by the Zoning Hearing Board as a special exception and where in accordance with §27-1605 of this Chapter.

(Ord. 162, 6/12/2002, §801)

### **§27-803. Area and Bulk Regulations.**

1 *Uses Permitted by Right.* Except for public schools and residential development utilizing the open space design option in accordance with Part 9, uses permitted by right shall comply with the following standards, as applicable:

- A. For two-family dwellings, where public sewer and water service is provided in accordance with all applicable regulations, each new lot shall be as follows:

(1) Minimum lot size	15,000 square feet per unit.
(2) Minimum lot width at building line	75 feet.
(3) Minimum lot width at street line	50 feet.
(4) Minimum setback at building setback line	40 feet.
(5) Minimum side yard	20 feet each.
(6) Minimum rear yard	35 feet.
(7) Maximum impervious cover	30 percent.
(8) Maximum building coverage	20 percent.
(9) Maximum building height	35 feet.
(10) Minimum accessory building setback	see §27-1602.

B. For single family detached dwellings, where public sewer and water service is provided in accordance with all applicable regulations, each new lot shall be as follows:

(1) Minimum lot size	20,000 square feet.
(2) Minimum lot width at building line	100 feet.
(3) Minimum lot width at street line	50 feet.
(4) Minimum setback at building setback line	40 feet.
(5) Minimum side yard	20 feet each.
(6) Minimum rear yard	35 feet.
(7) Maximum impervious cover	25 percent.
(8) Maximum building coverage	15 percent.
(9) Maximum building height	35 feet.
(10) Minimum accessory building setback	see §27-1602.

C. Where individual on-lot sewer or water service is provided, each new lot shall be as follows:

(1) Minimum lot size	1 acre.
(2) Minimum lot width at building line	150 feet.
(3) Minimum lot width at street line	50 feet.
(4) Minimum setback at building setback line	50 feet.
(5) Minimum side yard	25 feet each.
(6) Minimum rear yard	40 feet.
(7) Maximum impervious cover	20 percent.
(8) Maximum building coverage	10 percent.
(9) Maximum building height	35 feet.
(10) Minimum accessory building setback	see §27-1602.

D Where any lot is served by an individual on-site sewage system, a contiguous net lot area of at least 30,000 square feet shall be provided which shall not be divided completely by any of the following areas:

- (1) Any permanent right-of-way or easement for a public or private street.
- (2) Any area within the Flood Hazard District as established in §27-1501.
- (3) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Resources.

2. *All Other Uses.* Tracts or lots used for any other principal use permitted by right, special exception or conditional use, except for development under the open space design option provisions of Part 9 or where otherwise provided in this Chapter, shall meet the following standards:

A. Each new lot shall be as follows:

- |  |               |
|--|---------------|
| (1) Minimum lot size                         | 1 acre.       |
| (2) Minimum lot width at building line       | 200 feet.     |
| (3) Minimum lot width at street line         | 50 feet.      |
| (4) Minimum setback at building setback line | 50 feet.      |
| (5) Minimum side yard                        | 25 feet each. |
| (6) Minimum rear yard                        | 40 feet.      |
| (7) Maximum impervious cover                 | 20 percent.   |
| (8) Maximum building coverage                | 10 percent.   |
| (9) Maximum building height                  | 35 feet.      |
| (10) Minimum accessory building setback      | see §27-1602. |

B. Except for lots established under the open space design option provisions of Part 9, where any lot is served by an individual on-site sewage system, a contiguous net lot area of at least 30,000 square feet shall be provided which shall not be divided completely by any of the following areas:

- (1) Any permanent right-of-way or easement for a public or private street.
- (2) Any area within the Flood Hazard District as established in §27-1501.
- (3) Any area comprising wetlands under the jurisdiction of the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection.

(Ord. 162, 6/12/2002, §802)

**§27-804. General Design Standards.**

- 1. *Access and Highway Frontage.* As required by §27-1708 of this Chapter.
- 2. *Visibility at Intersections.* As required by §27-1702 of this Chapter.
- 3. *Interior Circulation and Emergency Access.* As required by §27-1708 of this Chapter.
- 4. *Loading and Unloading.* As required by §27-1711 of this Chapter.
- 5. *Parking.* As required by §27-1709 of this Chapter.
- 6. *Storage.* As required by §27-1603 of this Chapter.
- 7. *Lighting.* As required by §27-1715 of this Chapter.
- 8. *Landscaping and Screening.* As required by §§27-1712 and 27-1713 of this Chapter.

Chapter.

9. *Signs*. As required by §27-1717 of this Chapter.  
(*Ord. 162*, 6/12/2002, §803)





**Part 9****Open Space Design Option****§27-901. Purpose.**

1. To provide an opportunity for flexibility in lot designs and building arrangement not afforded by conventional lot-by-lot development.
2. To provide for a more varied, innovative, and efficient development pattern.
3. To promote new development that is compatible with existing uses, architecture, landscapes and community character.
4. To preserve unique and sensitive landscapes and site features, including agricultural soils, woodlands, wetlands, and scenic views, by locating new dwelling sites in areas removed from such features.
5. To protect scenic vistas from encroachment by development.
6. To retain and protect open space areas within residential development.
7. To provide a means to attain the aims and objectives of the East Vincent Township Comprehensive Plan relative to orderly growth and the enhancement of environmental resources.
8. To support the specific objectives of the East Vincent Township Open Space, Recreation and Environmental Resources Plan.
9. To support the specific objectives of the French Creek Scenic Rivers evaluation and management studies.

(Ord. 162, 6/12/2002, §900; as amended by Ord. 179, 12/1/2004)

**§27-902. Eligibility.**

1. *Applicable Approval Process.*

A. *Use by Right.* Use of the open space design option shall be permitted by right in the HR Zoning District but shall nevertheless be subject to all provisions of this Part, as applicable.

B. *Conditional Use Approval.* Use of the open space design option shall be permitted in the AP, FC, RC, LR, and MR Districts when approved as a conditional use in accordance with the provisions of Part 19 of this Chapter and where the applicant, to the satisfaction of the Board of Supervisors, can demonstrate compliance with all design standards and criteria of this Part.

C. *Sketch Plan Submission.* Any applicant for use of the open space design option is strongly encouraged to submit a sketch plan to the East Vincent Township Planning Commission and to discuss community development and open space resource conservation objectives with the Planning Commission prior to formal conditional use or subdivision and land development application. Upon written request from the applicant and if the Board of Supervisors and Planning Commission have previously reviewed a sketch plan and site analysis of the proposed development, the Board of Supervisors may elect to consider the preliminary subdivision plans concurrently with the conditional use approval

where applicable.

2. *Water Supply.* Development under the open space design option shall be served by individual, community, or public water supply systems in accordance with the provisions of §22-424 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22], where the applicant can demonstrate, to the satisfaction of the Board of Supervisors, adequate supply for the intended residential and open space uses.

3. *Sewage Disposal.* Development under the open space design option shall be served by individual or public sewage disposal systems consistent with the East Vincent Township Sewage Facilities (Act 537) Plan and in accordance with the provisions of §22-423 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22], subject to demonstration of compliance with all applicable regulations of the Chester County Health Department and/or the Pennsylvania Department of Environmental Protection, as applicable.

4. *Single Plan.* The tract, or tracts in the case of contiguous or non-contiguous parcels, of land to be developed shall be in one ownership or, if in multiple ownership, shall be developed according to a single plan with common authority and responsibility. (Ord. 162, 6/12/2002, §901; as amended by Ord. 179, 12/1/2004)

#### **§27-903. General Regulations.**

1. *Permitted Uses.* Where permitted by the Board of Supervisors as a conditional use, an applicant may utilize the open space design option for development of any of the following uses:

- A. Single-family dwellings.
- B. Two-family dwellings.
- C. Multi-family dwellings.
- D. Open space uses as set forth in §27-906 of this Part.

E. Age restricted community, including the following facilities when demonstrated by an applicant to be clearly intended for use principally by residents, staff, and visitors to the community, dining facilities, medical offices and/or clinics, retail service area, indoor and outdoor recreation facilities, maintenance shop, emergency power generation, central laundry, or central kitchen.

F. Accessory uses customarily incidental to any of the foregoing permitted uses.

2. *Existing Features Plan.*

A. At the time of application for conditional use approval, applicant shall submit an existing features plan conforming to the requirements of §22-307.1 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22].

B. The Board of Supervisors may retain such consultants as necessary to review and certify the accuracy of submitted plans and documents, reasonable and necessary charges therefor to be borne by the applicant.

C. At the request of the applicant, the Board of Supervisors may agree to defer submission of all or portions of the existing features plan until application for

preliminary subdivision or land development approval, where the Board is satisfied that sufficient information has been submitted for adequate consideration of conditional use approval.

(Ord. 162, 6/12/2002, §902; as amended by Ord. 179, 12/1/2004)

**§27-904. Area and Bulk Regulations.**

1. *Minimum Restricted Open Space.* The minimum restricted open space shall not be less than the following percentage of the gross acreage of the tract, as stipulated for the appropriate zoning district; designated restricted open space shall comply with all standards and criteria for restricted open space established in §§27-905 and 906 below.

A. *Zoning District Minimum Restricted Open Space.*

- (1) AP District 65 percent.
- (2) RC District 65 percent.
- (3) LR District 50 percent.
- (4) MR District 45 percent.
- (5) HR District 30 percent.

2. *Permitted Density Calculation.* Except where bonus density is permitted in accordance with the provisions of subsection .3, the maximum permissible number of lots or dwelling units on any tract utilizing the open space design option shall be calculated by multiplying the net tract area (in acres) by the multiplier stipulated for each zoning district as provided below. The product of any such calculation may be rounded to the nearest whole number:

<b>Zoning District and Conditions for use of Applicable Multiplier</b>	<b>Applicable Density Multiplier</b>
AP District	0.51
RC District	0.51
LR District	0.70
MR District, without public sewer and water	0.90
MR District, with public sewer and water	1.50
HR District, without public sewer and water	0.90
HR District, where single-family and two-family dwellings are utilized and with public sewer and water	1.75
HR District, where multi-family dwellings are utilized and with public sewer and water	3.00
HR District, where a mobile home park is developed and with public sewer and water	4.00

Applicant is advised that the maximum number of units calculated under the provisions herein, including potential bonus density, may not always be achievable while meeting requirements for minimum restricted open space and all other standards, criteria, and regulations herein. The use of any multiplier shall be conditioned upon

compliance with the specific conditions stated for such multiplier. Only one multiplier may be used for any tract or portion thereof meeting the stated conditions; multipliers provided in this Section are not cumulative.

3. *Bonus Density for Open Space Resource Conservation.* In order to promote conservation of significant open space resources, the maximum density or number of lots or dwelling units permitted on any tract of land proposed for development under the open space design option may be increased over and above the base maximum calculated as above or over and above the adjusted maximum in cases where transferable development rights (TDRs) are received, where open space is provided meeting the criteria established in paragraphs .A to .D, below, as follows: for each percentage point of eligible open space, calculated as a percentage of gross tract area, the maximum number of units may be increased by 2 percent. This density bonus shall be calculated as a percentage of the maximum number of units originally calculated under subsection .2 or as adjusted in cases of receipt of TDRs.

A. In order to be eligible for calculation of bonus density, open space must comprise open space area(s) fully in addition to the minimum required restricted open space area, established in accordance with subsection .1 above.

B. Open space eligible for calculation of bonus density must meet all criteria for restricted open space stipulated in §27-905 herein.

C. Open space eligible for calculation of bonus density must comprise one or more of the following resource categories:

(1) Prime agricultural land, as defined by the Municipalities Planning Code, and as further listed in §27-401.A of this Chapter, as Class I, II, and III soils of East Vincent Township.

(2) Significant wooded areas, as mapped in the East Vincent Township Open Space, Recreation, and Environmental Resources Plan.

(3) Lands adjoining and within 300 feet of the designated boundaries of Historic Districts included in the National Register of Historic Places.

(4) Lands located within the French Creek Scenic Overlay District.

D. Conservation of resource areas used toward calculation of bonus density must be guaranteed through establishment of restrictions and management criteria satisfactory to the Board of Supervisors.

4. *Density and Open Space Determinations for Split-zoned Properties.*

A. *Density Calculations.* Where a single contiguous tract of land falls into more than one residential zoning district, the gross density of development permitted, including any bonus density, shall be calculated separately for each zoning district. Where applicant demonstrates to the satisfaction of the Board of Supervisors that a development more fully in compliance with the objectives of this Part shall result, the gross density of development on the entire tract may be calculated as the sum of the density calculations made for each district separately. In such cases, ultimate placement of dwelling units may reflect a uniform plan for the entire tract without regard to zoning district boundaries within the tract.

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

to ultimate geographic location of open space parcels relative to each zoning district.

5. *Residential Area and Bulk Regulations.* Under the open space design option, no minimum lot size is prescribed, rather, the following area and bulk regulations shall apply to any principal residential structure or any other building. At the time of conditional use application, applicant shall demonstrate to the satisfaction of the Township that each lot created under this development option contains sufficient area for a feasible building envelope which complies with these area and bulk requirements:

A. Minimum separation between buildings, except accessory buildings, at any point shall not be less than 20 feet, except that minimum separation shall not be less than 50 feet measured perpendicularly from the rear wall of any residential structure to any point on any other principal building not accessory to such residential structure.

B. Minimum separation between accessory buildings and any principal structures to which they are not accessory (i.e., any principal structure on any other lot) at any point shall comply with paragraph .A above.

C. No exterior windows, doors, or other openings shall be permitted in any portion of any principal or accessory structure located less than 5 feet from any lot line (as in a "zero-lot-line " design scenario).

D. Where any portion of any principal or accessory structure is located less than 5 feet from any lot line, a perpetual easement providing for maintenance of such structure, and measuring no less than 5 feet in width from the affected walls, shall be provided on the adjacent lot(s). This provision shall not apply to lot line(s) where separating two-family or multi-family dwelling units on the interior of the same principal structure.

E. Minimum setback from the edge of cartway (or outside edge of curb, if applicable) of any street shall be not less than 25 feet, except as provided under paragraph .F below.

F. All proposed dwelling units in a development utilizing the open space design option shall be situated so that they are set back a minimum of 50 feet from the predevelopment perimeter boundary of the tract. Existing dwellings and dwellings resulting from the conversion of existing structures shall be exempt from this requirement except that additions to such existing structures shall not further reduce any setback less than 50 feet.

G. Maximum length of any residential building, including rows of attached townhouses or other multi-family buildings, shall not exceed 160 feet. Residential buildings other than single family detached and two-family detached dwelling units shall comply with the architectural design provisions of §27-905.2.

H. Maximum depth of any section of any residential building shall not exceed 75 feet.

I. *Maximum Building Height.* Three stories or 35 feet, exclusive of basements, whichever is less.

J. *Maximum Building Coverage:* 65 percent of permitted maximum impervious coverage, as set forth below.

K. *Maximum impervious coverage.* Maximum impervious coverage limitations

shall be established for each building lot and open space parcel in accordance with the following schedule:

- (1) Lots or parcels less than 20,000 square feet in area: 35 percent.
- (2) Lots or parcels greater than or equal to 20,000 square feet and less than one acre in area: 25 percent.
- (3) Lots or parcels greater than or equal to 1 acre and less than 5 acres in area: 20 percent.
- (4) Lots or parcels greater than or equal to 5 acres and less than 20 acres in area: 15 percent.
- (5) Lots or parcels greater than 20 acres in area: 10 percent.
- (6) For apartment dwellings, condominiums, and any other dwelling units not provided with individual lots, maximum impervious coverage shall be limited to 40 percent of the gross land area devoted to such dwellings. The gross land area used to satisfy this limitation shall be indicated on submitted plans, shall constitute a single contiguous land area including buildings, parking, access, and yard areas clearly associated with and in the immediate vicinity of the subject residential development, and shall not include any land area that is counted toward meeting minimum restricted open space requirements nor any coverage nor yard area requirements for any other dwelling unit(s) or other permitted use(s).

[*Ord. 166*]

L. While conformance to these area and bulk regulations is not dependent upon any specific minimum lot size or dimensions, conditional use approval for development in accordance with this Part shall only be granted where applicant has demonstrated to the satisfaction of the Board of Supervisors that the design of lots, house sites, and open spaces conform to the purposes of this Part and are of appropriate size, shape, and layout relative to the following:

- (1) Establishment of safe and efficient pedestrian and vehicular access and circulation.
- (2) Establishment of suitable private yard areas for all residences.
- (3) Consideration of potential impacts to existing neighboring properties.
- (4) Provision for adequate and cost-effective use and management of open space areas in conformance with all applicable provisions of §§27-905 and 27-906 herein.

(*Ord. 162*, 6/12/2002, §903; as amended by *Ord. 166*, 10/16/2002; and by *Ord. 179*, 12/1/2004)

#### **§27-905. Conservation and Development Design Standards.**

1. *General Development Standards.* All applicable standards provided in Parts 16 and 17 of this Chapter shall apply to any development utilizing the open space development option.

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

intended architectural design, selected by the applicant, is consistent with, and promotes the purposes of this Part and the standards set forth herein. For all structures developed under the open space design option, excepting single-family and two-family dwellings, the following provisions shall apply:

A. Applicant shall submit drawings illustrating the general character of the intended exterior design of structures, including principal exterior materials.

B. For principal structures in excess of 80 feet in length, the applicant shall demonstrate sufficient variation in roofline and/or articulation of facade to mitigate the visual impact of long continuous building facades.

C. Where the Board of Supervisors determines that architectural design, as presented by the applicant, is an essential means by which the proposed development will comply with the purposes and standards of this Part, the Board may require, as a condition of approval, establishment of appropriate means to guarantee general adherence to the intended architectural character. Examples of such situations include development design replicating the general scale and appearance of a village or of a rural farmstead.

D. Applicant shall address proposed means of long-term maintenance of exterior building facades and landscaping to the satisfaction of the Board of Supervisors, for example, including where appropriate establishment of covenants and/or homeowners association documentation. In granting approval of any conditional use, the Board may establish appropriate conditions to require provision for long term maintenance of exterior building facades and landscaping.

3. *Special Provisions for Conservation of Historic Resources.*

A. Historic resources shall be preserved to the greatest degree practicable, through incorporation into development plans and design, including historic structures, ruins or sites, historic road or other transport traces, paths and trails, and any other historic landscape features.

B. *Density Bonus for Conservation of Historic Resources.* In addition to the maximum permissible number of lots or dwelling units otherwise permitted on any tract developed under the open space design option, applicant may provide dwelling units and lots therefor through the renovation or adaptive reuse of structures included in the Chester County Historic Sites Survey subject to compliance with the standards in subsection .3.C below. Except where physically infeasible due to existing locational and/or structural attributes, all such dwelling units must comply with applicable lot and yard area requirements for the base zoning district in which the structure is located.

C. *Standards for Historic Resources Utilized for Density Bonus.* Where maintenance, renovation or reuse of any structure included in the Historic Sites Survey of Chester County is proposed in order to develop dwelling units in addition to the maximum otherwise permissible, applicant shall comply with the following standards:

(1) Applicant shall demonstrate to the satisfaction of the Board of Supervisors that development plans involving historical structures shall adequately conserve the historical integrity of such structures, particularly in terms of how they are viewed from any adjacent public street or road.

(2) Authentic period materials and colors or appropriate modern replication shall be utilized on any portion of any historic structure or enlargement thereof visible from any existing or proposed public right-of-way.

(3) Applicant shall maintain sufficient landscaped or buffer area surrounding historic structures to retain the integrity of the historical landscape setting. Applicant may demonstrate mitigation of impacts to historical landscape setting through introduction of vegetation or other screening in harmony with such landscape setting and through retention of view lines which visually link historic structures to their landscape setting.

(4) Facilities and equipment for heating/air conditioning, trash collection and compaction, and other structural elements not in keeping with historical architectural themes shall be concealed architecturally or otherwise screened from view.

(4) Where bonus density is provided, applicant shall provide for long-term protection of affected historic structures through establishment of appropriate deed restrictions, easement(s) or other agreement in a form acceptable to the Township.

4. *Open Space Resource Protection Standards.* In utilizing the open space design option, the proposed design shall limit disturbance of all open space resources identified in the existing features plan where required in accordance with §27-903.2.

A. Applicant shall demonstrate maximum conservation of scenic views from public roads and neighboring residential properties, utilizing existing vegetation, structures, or changes in topography or providing landscaping to screen proposed development from view. In considering conditional use approval, the Board may reduce screening requirements where applicant submits individual building design plans with sufficient detail to demonstrate, in terms of how such buildings may be viewed from public roads or neighboring residential properties, reasonable replication of proportional relationships of form and massing evident in existing historic resources, including ratios of height to width, length of individual facade segment, roof pitch, relative size and placement of windows, doors, and other facade details. The distance from point of public or neighboring view also may be considered as a mitigating factor in review of plans for buildings within such view.

B. Lands within the Flood Hazard District shall comply with the terms of §27-1501 of this Chapter.

C. Lands within areas of steep slopes shall comply with the terms of §27-1502 of this Chapter.

D. Applicant shall demonstrate compliance with applicable state and/or federal regulation of streams and wetlands. For any proposed activity requiring the submission of a wetland delineation report, stream or wetland encroachment permit, or mitigation plan to the Pennsylvania Department of Environmental Protection (DEP) and/or U.S. Army Corps of Engineers or successive agencies, copy of all such documentation shall be submitted to East Vincent Township.

E. Mature trees and tree masses, including any individual free-standing trees over 6 inches caliper dbh, hedgerows, native flowering trees and shrubs, fencelines, rock outcroppings and other noted landscape features shall be inventoried and included on the existing features plan required in accordance with §27-903.2. These



features shall be preserved to the greatest degree feasible. Removal or disturbance of such landscape features shall not occur on more than 20 percent of the total area they occupy, except as provided below. As a condition of approval, disturbance greater than 20 percent may be permitted subject to the following:

(1) Applicant shall submit a request for consideration of approval for disturbance of landscape features, inventoried in accordance with this Section, to an extent greater than 20 percent, as part of conditional use application.

(2) The Board of Supervisors may require that applicant submit an Environmental Impact Study in accordance with §22-307.6.E(5) of the East Vincent Subdivision and Land Development Ordinance [Chapter 22]. For the purposes of this Section, such study may focus on impacts related to the specific disturbance(s) for which the request is being made.

(3) Applicant shall demonstrate to the satisfaction of the Board of Supervisors that adverse impacts associated with the additional disturbance shall be adequately mitigated through means incorporated into proposed development plans and/or that overall community planning and open space resource protection objectives are best served through development plans dependent upon approval of the requested additional disturbance.

(Ord. 162, 6/12/2002, §904; as amended by Ord. 179, 12/1/2004)

**§27-906. Open Space Designation and Management Standards.**

1. *General Standards for Open Space Designation.*

A. The location and layout of restricted open space shall be configured so as to serve residents adequately and conveniently and to promote adherence to resource protection standards in §§27-905.3 and 27-905.4 above, and shall further conform to the following conditions:

(1) A portion of the designated restricted open space equal in area to no less than 15 percent of the gross tract area shall exclude areas comprised of designated flood hazard districts, wetlands, and slopes in excess of 25 percent.

(2) No portion of the designated restricted open space shall be measured as contributing to the minimum required restricted open space area or to any open space utilized in calculation of any density bonus where it:

(a) Is within 25 feet of any structure except structures devoted to permitted open space uses.

(b) Extends less than 100 feet in the narrowest dimension at any point.

(c) Comprises stormwater management facilities, except that areas devoted to stormwater management facilities may be included within the minimum required restricted open space area where the applicant can demonstrate to the satisfaction of the Township Engineer that such facilities are designed to:

1) Promote recharge of the groundwater system.

2) Be available and appropriate for active or passive recreational use or scenic enjoyment.

3) Otherwise conform to the purposes, standards, and criteria for open space set forth in this Part.

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

B. Areas designated for open space purposes, regardless of ownership, may be used for any of the following:

- (1) Crop or pasture land.
- (2) Woodland, meadow, wetland, wildlife habitat, game preserve, or similar conservation-oriented area.
- (3) Public, common, or private park or outdoor recreation area.
- (4) Water supply facilities and sewage treatment and disposal facilities, including individual sewage disposal systems to the extent that it is not practicable to locate such facilities on individual lots. The placement of water and sewer facilities in open space areas shall be subject to all applicable regulations and shall be permitted only where the Board of Supervisors is satisfied that adequate provision(s) for the long-term management and maintenance of such facilities are guaranteed and that the placement of such systems in open space areas does not significantly compromise compliance with all other applicable standards for the designation, use and management of open space.
- (5) Stormwater management facilities, subject to the provisions of measurement of minimum required open space stipulated in §27-906.1.A(2) above.
- (6) Structures principally used for any of the above permitted open space uses, subject to compliance with any applicable impervious cover limitations.
- (7) Where water, sewer, or stormwater management facilities are located within restricted open space, easements satisfactory to the Board of Supervisors shall be established to require and enable the maintenance of such facilities by the appropriate parties.

C. Open space shall be interconnected with open space areas on abutting parcels wherever possible including, where appropriate, provisions for pedestrian pathways for general public use to create linked systems within the Township.

D. As a condition of approval, the Township may require that open space areas be provided with sufficient perimeter parking, and with safe and convenient access by adjoining street frontage or other rights-of-way or easements capable of accommodating pedestrian, bicycle, and maintenance and vehicle traffic, and containing appropriate access improvements.

E. Required restricted open space may be utilized to meet the requirements of §22-428 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22] where such land fully meets the standards of §22-428.

F. Existing and/or proposed trails accessible to the public shall be incorporated in any open space design option development where such trails have been indicated on the Trail System Map. Where no trails have been indicated on the

adopted Trail System Map, the applicant shall provide local/collector trails as a means of connection to the publicly accessible Comprehensive Trail System. Any new trail shall comply with the standards in §22-434 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22].

2. *Standards for Ownership of Restricted Open Space.* Except to provide for permitted open space uses, designated open space shall be restricted from further subdivision or development by deed restriction, conservation easement, or other agreement in a form acceptable to the Township and duly recorded in the office of the Recorder of Deeds of Chester County. Subject to such permanent restrictions, restricted open space land in any open space development may be owned by a homeowners association, the Township, a land trust or other conservation organization recognized by the Township, or by a similar entity, or may remain in private ownership.

A. *Offer of Dedication.* The Township may, but shall not be required, to accept dedication in the form of fee simple ownership of restricted open space land provided:

- (1) Such land is accessible to the residents of the Township.
- (2) There is no cost of acquisition other than any costs incidental to the transfer of ownership such as title insurance and recording fees.
- (3) The Township agrees to and has access to maintain such lands.

Where the Township accepts dedication of restricted open space land that contains improvements, the Board of Supervisors may require the posting of financial security to ensure structural integrity of said improvements as well as the functioning of said improvements for a term not to exceed 18 months from the date of acceptance of dedication. The amount of financial security shall not exceed 15 percent of the actual cost of installation of said improvements.

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

- (1) The developer shall provide a description of the association including its bylaws and methods for maintaining the open space.
- (2) The association shall be organized by the developer and operated with financial subsidization by the developer, before the sale of any lots within the development.
- (3) Membership in the association is mandatory for all purchasers of homes therein and their successors. The conditions and timing of transferring control of the association from developer to homeowners shall be identified.
- (4) The association shall be responsible for maintenance and insurance on common open space land and any permitted improvements thereon, enforceable by liens placed by the homeowners association. The Township has the right, but not the obligation, to enforce maintenance of common open space land, and may place liens to recover its costs. Any governmental body with jurisdiction in the area where the development is located may place liens on the owners of the lots subject to membership in the homeowners association and/or the open space to collect unpaid taxes.

- (5) The members of the association shall share equitably the costs of

maintaining and developing such common land. Shares shall be defined within the association declaration and bylaws. Association dues shall be structured to provide for both annual operating costs and to cover projected long-range costs relating to the repair of any capital facilities (which shall be deposited in a sinking fund reserved for just such purposes).

(6) In the event of a proposed transfer, within the methods here permitted, of common open space land by the homeowners association, or of the assumption of maintenance of such land by the Township, notice of such action shall be given to all property owners within the development.

(7) The association shall have or hire adequate staff to administer common facilities and properly and continually maintain the common open space land.

(8) The homeowners association may lease open space lands to any other qualified person, or corporation, for operation and maintenance of such lands, but such a lease agreement shall provide:

(a) That the residents of the development shall at all times have access to the open space lands contained therein (except that access to land that is actively farmed shall be limited to times of the year when the fields are fallow).

(b) That the common open space land to be leased shall be maintained for the purposes set forth in this Chapter.

(c) That the operation of open space facilities may be for the benefit of the residents only, or may be open to the residents of the Township, at the election of the developer and/or homeowners association, as the case may be.

(9) The lease shall be subject to the approval of the Board of Supervisors and any transfer or assignment of the lease shall be further subject to the approval of the Board of Supervisors. Lease agreements so entered upon shall be recorded with the Recorder of Deeds of Chester County within 30 days of their execution and a copy of the recorded lease shall be filed with the Secretary of the Township.

(10) Homeowners association documentation demonstrating compliance with the provisions herein shall be filed with the final subdivision and land development plans. At the time of preliminary plan submission, applicant shall provide draft homeowners association documentation with sufficient detail to demonstrate feasible compliance with this Section.

C. *Condominiums.* The restricted open space land and associated facilities may be held in common through the use of condominium agreement(s), approved by the Board of Supervisors. Such agreement shall be in conformance with the Uniform Condominium Act of 1980, 68 Pa.C.S.A. §3101 *et seq.* All common open space land shall be held as "common elements" or "limited common elements." To the degree applicable, condominium agreement(s) shall comply with the provisions of subsection .2.B above, set forth for homeowners associations. Condominium agreement(s) shall be filed with the final subdivision and land development plans. At the time of preliminary plan submission, applicant shall provide draft condominium agreement(s) with sufficient detail to demonstrate compliance with

this Section.

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

(1) Such land is accessible to Township residents.

(2) There is no costs of acquisition other than any costs incidental to the transfer of ownership, such as title insurance.

(3) A satisfactory maintenance agreement is reached between the developer, condominium or homeowners association and the Township.

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

(1) The organization is acceptable to the Board of Supervisors, and is a bona fide conservation organization with perpetual existence.

(2) The conveyance contains appropriate provision for proper reverter or retransfer in event that organization becomes unwilling or unable to continue carrying out its functions.

(3) A maintenance agreement acceptable to the Board of Supervisors is entered into by the developer and the organization.

F. *Private Ownership of Restricted Open Space.*

(1) Restricted open space may be retained in ownership by the applicant or may be transferred to other private parties subject to compliance with all standards and criteria for restricted open space herein.

(2) All or portions of the designated restricted open space, where permitted by the Board of Supervisors, may be included within or divided among one or more of the individual lots. Where deemed appropriate, the Board of Supervisors may require that responsibility for maintenance of restricted open space be conferred upon and/or divided among the owners of one or more individual lots.

3. *Required Open Space Management Plan.*

A. Any application for conditional use approval of the open space design option, under this Part, shall contain a conceptual plan for the long-term management of the restricted open space which is to be created as part of the development. Such a plan shall include a discussion of (1) the manner in which the restricted open space and any facilities within the open space, will be owned and by whom it will be managed and maintained; (2) the conservation, land management and agricultural techniques and practices which will be used to conserve and perpetually protect the restricted open space, including conservation plan(s) approved by the Chester County Conservation District, where applicable; (3) if applicable, a listing of private or public utilities (water, sewer, stormwater) that are proposed within open space areas, how they will be integrated into the landscape to protect the natural and cultural resource values, and how they will be maintained or replaced over time; (4) the professional and personnel resources that

will be necessary in order to maintain and manage the property; (5) the nature of public or private access that is planned for the restricted open space; and (6) the source of money that will be available for such management, preservation and maintenance on a perpetual basis. The adequacy and feasibility of this conceptual management plan as well as its compatibility with the open space resource protection objectives of §27-901 shall be a factor in the approval or denial of the conditional use application by the Board of Supervisors.

B. The conceptual management plan shall be transformed into a more detailed open space management plan and presented to the Township for review and approval with the preliminary subdivision and land development plan application. The Board of Supervisors may require that the management plan be recorded with the final subdivision and land development plans in the Office of the Recorder of Deeds of Chester County. In order to allow for the changing needs inherent in the perpetual management of land, the management plan shall contain a provision to the effect that it may be changed by written application to the Board of Supervisors. The approval of the Board of Supervisors in such regard shall not be unreasonably withheld or delayed, so long as the proposed change is feasible and consistent with the purposes of preservation of open space set forth in this Part and so long as the plan for such change avoids a likelihood of the obligation for management and maintenance of the land falling upon the Township without the consent of the Board of Supervisors.

4. *Open Space Performance Guarantees.*

A. All landscape improvements, plantings, accessways, and recreational facilities within designated open space areas shall be provided by the developer as applicable. A performance guarantee shall be required to cover costs of all installation of proposed improvements in the open space area. The financial security shall be in the same form and adhere to the same conditions as otherwise required for proposed improvements under §22-311 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22].

B. An appropriate portion of the financial security will be applied by the Township should the developer fail to install the planting or recreational facilities.

(*Ord. 162, 6/12/2002, §905; as amended by Ord. 179, 12/1/2004*)

**Part 10****NC - Neighborhood Commercial District****§27-1001. Purpose.**

In addition to the general goals listed in the Statement Community Development Objectives (§27-106), it is the intent of the NC - Neighborhood Commercial District to provide for the development of a village center offering shopping, personal services, and offices to serve the limited basic needs of the adjacent residential areas and remain compatible with a village setting and the immediate community.

(Ord. 162, 6/12/2002, §1000)

**§27-1002. Use Regulations.**

1. *Uses by Right.* In the NC - Neighborhood Commercial District, a building may be erected, altered, or used, and a lot or premises may be used, by right, for any of the following purposes, provided there is no more than one principal use on a single lot, except as provided in subsection .1.F below, and provided that no use(s) permitted by right shall occupy more than 3,500 gross square feet on any one floor, except those uses permitted in accordance with subsections .1.G and .1.I below:

A. Retail store except adult-oriented use, designed primarily to provide goods to the immediate community such as grocery and food products, flowers, clothing, music, hardware, newspaper and magazines, drugs and variety items, and provided that no merchandise or other material shall be displayed within any required setback or yard area.

B. Personal service establishments including shoe shine and repair, tailor, dressmaker, barber and beauty shop, but excluding adult-oriented use.

C. Professional or business offices including banks and financial establishments, real estate and insurance offices, medical clinics, and doctor's and dentist's offices.

D. Eating and drinking establishments excluding outdoor counter, drive through or curb service.

E. Professional studios including: artists and photographers, music or dance school for individual or group instruction.

F. Residential units accessory to a principal use, provided that the building containing such units also contains a commercial use on the first floor, and that the dwelling units are located on the upper floors of the building with separate means of access.

G. The following uses shall be permitted by right where occupying in excess of 3,500 square feet on any one floor:

(1) Government and semi-public offices serving the public, including a library, fire station, post office, municipal building, community or civic center buildings or use; library, fire station, post office, municipal building, community or civic center buildings or use.

(2) Municipal use.

(3) Public schools.

H. Single-family detached and two-family dwellings.

I. Forestry, where conducted in compliance with the provisions of §22-429.2 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22].

2. *Uses by Special Exception.* Within the NC - Neighborhood Commercial District, the following uses shall be permitted when authorized as a special exception by the Zoning Hearing Board in accordance with Part 20:

A. Churches, including parish houses, Sunday school buildings and similarly related uses.

B. Funeral homes and mortuaries.

C. Any single use permitted by right exceeding 3,500 square feet of gross floor area on any one floor, except as provided in subsection .1.G above.

D. Coin-operated laundromat, provided adequate water and sewage service is provided.

E. Day care facility as per §27-802.2.C(1) - (3).

F. Tourist home.

3. *Conditional Uses.* Within the NC - Neighborhood Commercial District, the following uses shall be permitted when approved by the Board of Supervisors as a conditional use authorized, subject to the conditions and procedures set forth in Part 19:

A. Gasoline service station or quick-service food store, provided in accordance with §27-1613.

B. More than one principal use on a single lot or tract, including any use otherwise permitted by right, special exception, and/or conditional use in the NC District. Any use otherwise permitted by special exception may be permitted as a condition of conditional use approval for more than one principal use without requiring separate application for special exception.

C. Telecommunication facilities on tall structures as provided in §27-1606.B(2) and subject to full compliance with the provisions of §27-1606.

D. *Accessory Uses.* The following accessory uses shall be permitted within the NC - Neighborhood Commercial District, where in compliance with all applicable provisions of Part 16 and provided that they shall be incidental to any of the foregoing permitted uses:

(1) Accessory buildings and uses customarily incidental to the above uses, when located on the same lot.

(Ord. 162, 6/12/2002, §1001)

### **§27-1003. Area and Bulk Regulations.**

1. The following regulations shall be observed for all uses:

A. Minimum lot size 1 acre.

B. Minimum lot width at street line 100 feet.



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C. Maximum impervious cover	40 percent.
D. Minimum front yard	35 feet.
E. Minimum side yard	15 feet.
F. Maximum rear yard	30 feet.
G. Maximum building height	35 feet.

(Ord. 162, 6/12/2002, §1002)

**§27-1004. Design Standards.**

1. All uses shall comply with the following design standards:

- A. *Access and Highway Frontage.* As required by §27-1708 of this Chapter.
- B. *Interior Circulation and Emergency Access.* As required by §27-1708 of this Chapter.
- C. *Loading and Unloading.* As required by §27-1711 of this Chapter.
- D. *Parking.* As required by §27-1709 of this Chapter.
- E. *Storage.* As required by §27-1603 of this Chapter.
- F. *Screening and Landscaping.* As required by §§27-1712 and 27-1713 of this Chapter.
- G. *Lighting.* As required by §27-1715 of this Chapter.
- H. *Visibility at Intersections.* As required by §27-1702 of this Chapter.
- I. *Signs.* As required by §27-1717 of this Chapter.

2. In addition, the Township at its sole discretion may require compliance with the additional design standards of §27-1104 as applicable.

(Ord. 162, 6/12/2002, §1003)



**Part 11****GC - General Commercial District****§27-1101. Purpose.**

In addition to the general goals listed in the Statement of Purpose and Community Development Objectives (§27-106), it is the purpose of this district to provide for a broad range of retail and service commercial establishments and activities with a major emphasis on circulation and parking and the creation of a high quality center for shopping and employment.

(Ord. 162, 6/12/2002, §1100)

**§27-1102. Use Regulations.**

1. *Uses by Right.* In the GC - General Commercial District, a building may be erected, altered, or used, and a lot or premises may be used, by right, for any of the following purposes, provided there is no more than one principal use on a single lot, except as provided in subsection .1.H below, and provided that no use(s) permitted by right shall occupy more than 8,000 gross square feet on any one floor, except those uses permitted in accordance with subsections .1.J and .1.K below:

A. Retail store for the sale of grocery and food products, dry goods, flowers, clothing, music, hardware, newspaper and magazines, drugs and variety items, except items intended for adult entertainment, and provided that no article, material, merchandise or goods shall be displayed within the required yard areas.

B. Personal service establishments including shoe shine and repair, tailor and dressmaker, barber or beauty shop, coin-operated laundromat (using public water and sewer only), dry cleaning establishment (pick-up and drop-off only), or other similar uses.

C. General service and repair shops (radio, TV, appliances, etc.).

D. Professional or business offices including banks and financial establishments, real estate and insurance offices, medical clinics, and doctor's and dentist's offices.

E. Offices or shops for a contractor or craftsman (plumber, carpenter, electrician, printer, etc.), provided that all storage of materials used by contractors, plumbers, etc., be enclosed in a structure or totally screened from public view.

F. Eating and drinking establishments excluding outdoor counter, drive through or curb service.

G. Professional studios including: artists and photographers, music or dance school for individual or group instruction.

H. Residential units, provided that the building containing such units also contains a commercial use on the first floor, and the units are located on the upper floors of the building with separate means of access.

I. Clubs, lodges, fraternal organizations, educational or philanthropic use.

J. The following uses shall be permitted by right where occupying in excess

of 8,000 gross square feet on any one floor:

- (1) Nursery, greenhouse, garden shop.
- (2) Indoor amusements, recreation or entertainment, including theaters and bowling alleys.
- (3) Telephone or public utility office, radio and television broadcasting station or studio.
- (4) Printing, publishing or bookbinding establishment.
- (5) Government and semi-public offices serving the public, including a library, fire station, post office, municipal building, community or civic center buildings or use.
- (6) Public schools.
- (7) Municipal use.

K. Forestry, where conducted in compliance with the provisions of §22-429.2 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22].

2. *Uses by Special Exception.* Within the GC - General Commercial District, the following uses shall be permitted when authorized as a special exception by the Zoning Hearing Board in accordance with Part 20:

- A. Gasoline service station or quick service food store, subject also to the provisions of §27-1613.
- B. Outdoor amusement, recreation, theater.
- C. Eating and drinking establishments with outdoor counter, drive-through or curb service.
- D. Sales and service of new and used automobiles; automobile repair shops (not including gasoline service stations), provided that all repair, servicing and other similar functions shall be completely enclosed within a building.
- E. Campgrounds or recreational vehicle parks, subject to the provisions of §27-1614 of this Chapter.
- F. Laboratory for research, testing and development (indoor).
- G. Animal hospital, kennel.
- H. Day care facility.

3. *Conditional Uses.* Within the GC - General Commercial District, the following uses shall be permitted when approved by the Board of Supervisors as a conditional use authorized, subject to the conditions and procedures set forth in Part 19.

- A. Any use otherwise permitted by right where occupying in excess of 8,000 gross square feet on any one floor, except as provided in subsection .1.J above.
- B. Any other cleaning and laundry establishments not permitted by-right.
- C. Hotel, motel, inn, and related facilities such as restaurants, meeting rooms, auditorium spaces, and swimming pools.
- D. Retail sale of books or variety merchandise or personal services intended for adult entertainment purposes, where located not less than 500 feet from any similar use and from any residence, church, or school.

E. Planned commercial development involving more than one principal use on a single lot or tract, including any use otherwise permitted by right, special exception, and/or conditional use in the GC District, subject to the provisions set forth in §27-1103.2. Any use permitted by special exception may be permitted as a condition of conditional use approval of the planned commercial development without requiring separate application for special exception.

F. Telecommunication facilities on tall structures as provided in §27-1606.B(2) and subject to full compliance with the provisions of §27-1606.

4. *Accessory Uses.* The following accessory uses shall be permitted within the GC - General Commercial District, where in compliance with all applicable provisions of Part 16 and provided that they shall be incidental to any of the foregoing permitted uses:

A. Accessory buildings and uses customarily incidental to the above uses, when located on the same lot.

(Ord. 162, 6/12/2002, §1101)

### **§27-1103. Area and Bulk Regulations.**

1. The following regulations shall be observed for all uses, except Planned Commercial Development, which shall comply with the provisions of subsection .2:

- |                                       |   |
|---------------------------------------|---|
| A. Minimum lot size                   | 1 acre.   |
| B. Minimum lot width at building line | 150 feet.   |
| C. Maximum impervious cover           | 40 percent except where increased through receipt of transferable development rights as provided in Part 24.                        |
| D. Minimum front yard                 | 50 feet.  |
| E. Minimum side yard                  | 25 feet.  |
| F. Minimum rear yard                  | 50 feet.  |
| G. Maximum building height            | 2 stories, not to exceed 35 feet, except where increased through receipt of transferable development rights as provided in Part 24. |

2. The following regulations shall apply to any planned commercial development:

- |                                     |   |
|-------------------------------------|---|
| A. Minimum lot size                 | 5 acres.  |
| B. Minimum lot width at street line | 400 feet.   |
| C. Maximum impervious cover         | 50 percent, except where through receipt of transferable development rights as provided in Part 24. |
| D. Minimum setback for all yards    | 50 feet.  |
| E. Maximum building height          | 2 stories, not to exceed 35 feet, except where increased through receipt of transferable develop-   |

ment rights as provided in Part 24.

(Ord. 162, 6/12/2002, §1102)

**§27-1104. Design Standards.**

1. All uses within the GC District shall comply with the following design standards as applicable, in addition to the specific standards of this §27-1104.

- A. *Access and Highway Frontage.* As required by §27-1708 of this Chapter.
- B. *Interior Circulation and Emergency Access.* As required by §27-1708 of this Chapter.
- C. *Loading and Unloading.* As required by §27-1711 of this Chapter.
- D. *Parking.* As required by §27-1709 of this Chapter.
- E. *Storage.* As required by §27-1603 of this Chapter.
- F. *Screening and Landscaping.* As required by §§27-1712 and 27-1713 of this Chapter.
- G. *Lighting.* As required by §27-1715 of this Chapter.
- H. *Visibility at Intersections.* As required by §27-1702 of this Chapter.
- G. *Signs.* As required by §27-1717 of this Chapter.

2. *Building Form, Size and Spacing Requirements.*

A. For purposes of this Section, an individual building shall be considered as a space or contiguous spaces under one roof fully separated from any abutting building by permanent walls and with no direct access to any abutting building.

B. No individual building shall contain more than 45,000 square feet of total floor area, except as provided in subsection .2.B below or where increased square footage above 45,000 is entirely within an additional story or stories permitted through receipt of transferable development rights as provided in Part 24.

C. Within a planned commercial development, one individual building may contain up to a maximum of 60,000 square feet of total floor area, except where increased square footage above 60,000 is entirely within an additional story or stories permitted through receipt of transferable development rights as provided in Part 24.

D. Except where buildings directly abut one another, no individual building shall be placed closer to any other building than the height of the taller of such adjacent buildings.

E. Building design shall conform to the provisions of §22-432 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22].

F. As a condition of approval, the Board of Supervisors may permit roof structures above the cornice line which exceed the 35-foot height limit, where the Board agrees that such structures enhance the appearance of the overall design.

G. On any lot or tract within the GC District, not more than 15 percent of the gross lot or tract area shall be occupied by structures less than one and one-half stories in height. For this purpose, one-half story shall mean a roof-story with sufficient height and space within the form of a pitched roof to permit the

development of habitable or leasable space, whether or not any actually is proposed for development.

3. *Signs.* No more than one free-standing sign shall be permitted along the frontage of each public street or highway abutting a lot or tract under development, provided that not more than a total of two free-standing signs shall be permitted on the lot or tract. Such sign(s) may serve as a directory to uses on the lot or tract. All other signs identifying individual uses, tenants, owners, or any other entity shall be mounted to the building or structure housing the use. Signs shall be designed in accordance with §27-1717 and shall be designed to complement overall appearance within the GC District.

(*Ord. 162, 6/12/2002, §1103*)





**Part 12****PO - Industrial/Professional Office Research District****§27-1201. Purpose.**

It is the intent of this Part to provide an area within the Township which encourages well-planned professional office building, non-nuisance research establishments, and compatible commercial and industrial uses, in an environment which maintains a relatively high degree of aesthetic quality and environmental sensitivity, and serves as a transition from commercial or industrial uses to residential uses.

(Ord. 162, 6/12/2002, §1200)

**§27-1202. Use Regulations.**

1. *Uses by Right.* A building may be erected, altered or used, and a lot or premises may be used, by right, for any of the following purposes and for no other, provided that any on-site retail sales related to the uses by right shall be permitted only when authorized as a special exception as set forth in subsection .2 or as a permitted accessory use as provided in subsection .4:

- A. Scientific research laboratory or other testing or research establishment.
- B. Executive, administrative, business, or professional office building.
- C. Educational use, including public or educational use other than public school; corporate technical school for executives and employees; conference center, training center, or vocational-technical school.
- D. Eleemosynary or philanthropic institution, charitable use.
- E. Hospital or medical clinic.
- F. Government offices or semi-public offices serving the public such as a library, post office, fire station, police station, municipal building, and community or civic center buildings.
- G. Agriculture as provided for in §27-1609 of this Chapter.
- H. Municipal use.
- I. Cold storage plant, frozen food plant.
- J. Health or fitness club.
- K. Mail order merchandise establishment.
- L. Recreation, active and/or passive.
- M. Self-service storage buildings; mini-warehouses.
- N. Wholesale businesses.
- O. Warehousing and distribution of products related to the uses above.
- P. Planned industrial development.
- Q. Express mail pick-up or delivery establishment.
- R. Forestry, where conducted in compliance with the provisions of §22-429.2 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22].

2. *Uses by Special Exception.* The following uses shall be permitted as a special exception when authorized by the Zoning Hearing Board, subject to the standards of Part 20 of this Chapter:

- A. Any on-site retail sales related to the above permitted uses.
- B. Auction house, excluding vehicular auction.
- C. Day care center.
- D. Park and ride facility.
- E. Public utility.
- F. Veterinary hospital or animal hospital.

G. Telecommunication facilities as provided in §27-1606.B(2) and subject to full compliance with the provisions of §27-1606.

3. *Conditional Uses.* The following uses shall be permitted as a conditional use when authorized by the Board of Supervisors, subject to the standards set forth herein and in Part 19 of this Chapter:

- A. Cemetery.
- B. Mass transit station.
- C. Motel, hotel or inn.
- D. Newspaper publishing establishment.

E. Sales and service of new and used automobiles; automobile repair shops provided that all repair, servicing and other similar functions shall be completely enclosed within a building.

- F. Contractors office and yard.
- G. Farm and garden machinery and equipment sales and service.
- H. Garden center and landscape nursery.

I. Lumberyard.

J. Manufacturing facilities, which involve the processing, assembly, packaging or distribution of goods and materials.

K. Printing establishment.

L. Vehicular auction.

M. Unified development area option in accordance with Part 25 and subject to the conditions and procedures in Part 19. [Ord. 182]

4. *Accessory Uses.* The following accessory uses shall be permitted, where in compliance with all applicable provisions of Part 16 and provided that they shall be incidental to any of the foregoing uses. Any on-site retail sales involved with any accessory uses shall be permitted only when authorized as a special exception unless permitted as a condition of conditional use approval where accessory to any use permitted subject to subsection .3, above:

- A. Restaurant or cafeteria facilities for employees.
- B. Buildings and uses customarily incidental to the above uses, when located on the same lot.
- C. Storage within a completely enclosed building, or as otherwise regulated

by §27-1603 of this Chapter.

D. Living accommodations for a watchman or similar employee.

E. Day care facility.

F. Any other customary accessory uses that are clearly incidental to the principal building, structure or use.

(*Ord. 162*, 6/12/2002, §1201; as amended by *Ord. 182*, 12/1/2005, §2)

### **§27-1203. Area and Bulk Regulations.**

The following regulations shall be observed:

	<b>With Public or Central Sewer and/or Water</b>	<b>With On-Site Sewer and Water</b>
A. Minimum lot size	1.5 acres with a 3.5 acre average	3.5 acres
B. Minimum lot width at street line	200 feet	250 feet
C. Maximum impervious cover	40 percent	40 percent
Exceptions to the above impervious cover limitations:		
(1) Where approved by the Township subject to conditional use approval, maximum impervious cover may be increased up to, but not exceeding, 45 percent for a planned industrial development, when compliance is demonstrated with the provisions of §27-1205.2.		
(2) Where approved by the Township subject to conditional use approval, maximum impervious cover may be increased through receipt of transferable development rights as provided for in Part 24.		
D. Minimum setback at building setback line	50 feet	75 feet
E. Minimum side yard	50 feet	60 feet
F. Minimum rear yard	60 feet 100 feet minimum when adjoining district	60 feet 120 feet minimum adjoining any resi- dential district
G. Maximum building height	2 stories, not to exceed 35 feet	2 stories, not to exceed 35 feet

Where approved by the Township subject to conditional use approval, maximum building height may be increased beyond two stories and 35 feet through receipt of transferable development rights as provided in Part 24.

H. Condominium ownership of buildings is encouraged to provide for small

businesses. Zero lot line (party wall) is permitted between units of a building.  
(Ord. 162, 6/12/2002, §1202)

**§27-1204. Design Standards.**

1. *Access, Frontage and Interior Circulation.* As required by §27-1708 of this Chapter.
2. *Loading and Unloading.* As required by §27-1711 of this Chapter.
3. *Parking.* As required by §27-1709 of this Chapter.
4. *Visibility at Intersections.* As required by §27-1702 of this Chapter.
5. *Storage.* As required by §27-1603 of this Chapter.
6. *Lighting.* As required by §27-1715 of this Chapter.
7. *Screening and Landscaping.* As required by §§27-1712 and 27-1713 of this Chapter.
8. *Signs.* As required by §27-1717 of this Chapter.

(Ord. 162, 6/12/2002, §1203)

**§27-1205. Special Provisions for Planned Industrial Development.**

1. All proposed planned industrial development shall comply with the requirements set forth in §22-433 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22].

2. *Procedure for Permitting Increased Impervious Lot Cover.* The impervious lot cover limitations of §27-1203.C may be increased by the Township up to a 45 percent maximum, measured on a tract-wide basis, and subject to conditional use approval, when the applicant demonstrates to the Board of Supervisors compliance with the following site development objectives:

A. A preliminary soils report, submitted by the applicant at the time that an increase in impervious coverage is requested, shall adequately demonstrate to the Township that the development, including any proposed impervious coverage increases, will fully comply with the stormwater management plan requirements of the East Vincent Subdivision and Land Development Ordinance [Chapter 22]. The Township reserves the right to request on-site soil testing to be performed by the applicant at his or her expense prior to granting an impervious coverage increase request to verify the preliminary soils report conclusions.

B. Access control measures such as reduced curb cuts, shared driveways, interparcel access, or service drives will allow for better traffic flows both internal and external to the development.

C. An overall landscape plan for the entire planned industrial development shall demonstrate that the amount of required landscaping will be increased a minimum of 10 percent above that stipulated in §22-422 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22], measured both tract-wide and lot by lot. Increasing the size of landscape materials beyond the minimum sizes may be substituted for increasing the numbers of plant materials, subject to Township approval.

D. A comprehensive sidewalk and trails plan shall accompany the internal

street plan for the entire planned industrial development, showing the required perimeter trail interlinked with internal pedestrian and other nonmotorized travel ways. All such trails and sidewalks also shall be coordinated with sidewalks and trails of other neighboring developments, to the extent applicable.

E. A uniform signage plan for the development is included, addressing the location, size, height, colors and illumination of subdivision entrance signs, free standing signs for each lot, building-mounted signs, and directional signage.

F. Where granted by the Township, conditional use approval for increases in the impervious lot coverage maximum shall not waive the applicant's or any assign's responsibility to comply with the stormwater management plan requirements of the East Vincent Subdivision and Land Development Ordinance [Chapter 22] at the time of subdivision plan approval.

(*Ord. 162, 6/12/2002, §1204*)



**Part 13****GI - General Industrial District****§27-1301. Purpose.**

It is the intent of this Part to provide an industrial district that:

A. Provides for and protects areas for general industrial manufacturing activity and other lawful uses.

B. Encourages only those types of uses which would not constitute a hazard or nuisance to the population of the adjacent areas.

C. Is expected to retain less aesthetic quality and is separated from residential uses in recognition of the general incompatibility.

D. To create a well designed industrial development which maintains a high degree of aesthetic quality and environmental sensitivity in keeping with the design standards and unified development plan regulations of this Part.

(Ord. 162, 6/12/2002, §1300)

**§27-1302. Use Regulations.**

1. *Uses by Right.* Within the GI - General Industrial District, a building may be erected, altered or used, and a lot or premises may be used for only one of the following purposes as a use by right:

A. Auction house.

B. Day care center.

C. Park and ride facility.

D. Public utility.

E. Sales and service of new and used automobiles; automobile repair shops; auto body shops; provided that all repair, servicing and other similar functions shall be completely enclosed within a building.

F. Vehicular auction.

G. Veterinary hospital or animal hospital.

H. Cemetery.

I. Mass transit station.

J. Newspaper publishing establishment.

K. Wholesale business.

L. Truck terminal.

M. Contractor's office and yard.

N. Farm and garden machinery and equipment sales and service.

O. Garden center and landscape nursery.

P. Lumberyard.

Q. Manufacturing facilities, which involve the processing, assembly,

packaging or distribution of goods and materials.

R. Printing establishment.

S. Agriculture, in accordance with §27-1609 of this Chapter.

T. Forestry, where conducted in compliance with the provisions of §22-429.2 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22].

2. *Prohibited Uses.* The following uses are hereby prohibited:

A. Any use which may be noxious or offensive as per §27-1716 or by reason of the emission of odor, dust, fumes, smoke, gas, vibration, noise, air pollution, fire and explosive hazards, glare and heat, liquid and solid waste, vibration, radioactivity, or electromagnetic interference, so as to constitute a nuisance.

3. *Uses by Special Exception.* The following uses shall be permitted when authorized as a special exception by the Zoning Hearing Board in accordance with Part 20:

A. A junkyard, subject also to the provisions of §27-1611 of this Chapter.

B. Outdoor advertising billboards, subject to the provisions of §27-1717 of this Chapter.

C. Telecommunication facilities as provided in §27-1606.B(2) and subject to full compliance with the provisions of §27-1606.

4. *Conditional Uses.* The following uses shall be permitted as conditional use when authorized by the Board of Supervisors, subject to the standards set forth herein and in Part 19 of this Chapter:

A. Trash transfer station, incinerator, crematory, and other solid waste disposal facilities.

B. Sanitary landfill.

C. Resource extraction uses.

D. Feedlots.

E. Planned commercial development including outlet center, involving more than one principal use on a single lot or tract, including any use otherwise permitted by right, special exception, and/or conditional use in the GC or GI Districts, subject to the provisions set forth in §§27-1103.2 and 27-1104.2. Any use permitted by special exception may be permitted as a condition of conditional use approval of the planned commercial development without requiring separate application for special exception.

F. Subject to conditional use approval, a building may be erected or used and a lot or premises may be used or occupied for any lawful purpose in addition to those uses listed in §§27-1302.1, 27-1302.3 and 27-1302.4 herein, except for any use prohibited in accordance with §27-1302.2. Notwithstanding the foregoing, no building shall be erected or used in whole or in part for dwelling purposes, except for dwelling quarters in connection with any manufacturing or industrial establishment for watchmen and caretakers employed upon the premises.

5. *Accessory Uses.* The following accessory uses shall be permitted, where in compliance with all applicable provisions of Part 16 and provided that they shall be incidental to any of the foregoing uses, and further provided that any onsite retail sales involved with any accessory uses shall be permitted only when authorized as a special



exception:

- A. Restaurant or cafeteria facilities for employees.
- B. Storage within a completely enclosed building or as otherwise regulated by §27-1603.
- C. Living accommodations for a watchman or similar employee.
- D. Day care facility.
- E. Any other customary accessory uses that are clearly incidental to the principal building, structure or use.

(*Ord. 162*, 6/12/2002, §1301; as amended by *Ord. 166*, 10/16/2002)

### **§27-1303. Area and Bulk Regulations.**

The following regulations shall be observed:

	<b>With Public or Central Sewer and/or Water</b>	<b>With On-Site Sewer and Water</b>
A. Minimum lot size	1.5 acres with a 3.5 acre average lot size across the entire subdivision	3.5 acres
B. Minimum lot width at street line	200 feet	250 feet
C. Maximum impervious cover	40 percent	40 percent
Exceptions to the above impervious cover limitations:		
(1) Where approved by the Township subject to conditional use approval, maximum impervious cover may be increased up to, but not exceeding, 45 percent for a planned industrial development, when compliance is demonstrated with the provisions of §27-1205.2.		
(2) Where approved by the Township subject to conditional use approval, maximum impervious cover may be increased through receipt of transferable development rights as provided for in Part 24.		
D. Minimum setback at building setback line	50 feet	75 feet
E. Minimum side yard	50 feet	60 feet
F. Minimum rear yard	50 feet 100 feet minimum when adjoining any residential district	60 feet 120 feet minimum when adjoining any residential district

G. Maximum building height	2 stories, not to exceed 35 feet	2 stories, not to exceed 35 feet
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Where approved by the Township subject to conditional use approval, maximum building height may be increased beyond two stories and 35 feet through receipt of transferable development rights as provided in Part 24.

(Ord. 162, 6/12/2002, §1302)

#### **§27-1304. Design Standards.**

1. *Access, Frontage and Interior Circulation.* As required by §27-1708 of this Chapter.

2. *Loading and Unloading.* As required by §27-1711 of this Chapter.

3. *Parking.* As required by §27-1709 of this Chapter.

4. *Visibility at Intersections.* As required by §27-1702 of this Chapter.

5. *Storage.* As required by §27-1603 of this Chapter.

6. *Lighting.* As required by §27-1715 of this Chapter.

7. *Screening and Landscaping.* As required by §§27-1712 and 27-1713 of this Chapter.

8. *Signs.* As required by §27-1717 of this Chapter.

(Ord. 162, 6/12/2002, 1303)

#### **§27-1305. Special Provisions for Planned Industrial Development.**

All proposed planned industrial development shall comply with the requirements set forth in §22-433 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22].

(Ord. 162, 6/12/2002, §1304)

**Part 14****Cultural Resource Conservation****§27-1401. Purpose.**

In addition to the general goals and purposes expressed in the Statement of Community Development Objectives (§27-106), this Part is intended to address the following purposes:

A. To promote conservation of the unique and sensitive natural, historic, and visual attributes of the French Creek scenic river corridor, particularly the scenic views visible from public roads within the corridor and from the French Creek.

B. To encourage the preservation of historic settings and landscapes by promoting their continued use, facilitating appropriate reuse, and discouraging unnecessary demolition.

C. To establish clear processes by which proposed changes affecting identified historic resources and scenic landscapes are reviewed and the impacts of such changes mitigated.

(Ord. 162, 6/12/2002, §1400)

**§27-1402. French Creek Scenic Corridor Overlay District.**

1. *Use Regulations.* Within the French Creek Scenic Corridor Overlay District a building may be erected, altered, or used, and a lot maybe used as provided in the underlying base zoning district.

2. *Area and Bulk Regulations.* Within the French Creek Scenic Corridor Overlay District the area and bulk regulations of the underlying base zoning district shall apply.

3. *Special Criteria for Development in the Scenic Corridor.* Except as otherwise noted herein, the following special criteria are applicable within the French Creek Scenic Corridor Overlay District to any new principal use and to the expansion, alteration, modification, or reconstruction of any existing use or structure for which a building permit is required:

A. *Siting in Relation to Existing Topography.*

(1) Permitted structures shall be sited entirely below the elevation of the nearest ridge line, to the greatest extent feasible.

(2) Where the applicant contends that the siting of structures entirely below ridge lines is not feasible, the applicant shall include within submitted sketch, subdivision, or land development plans one or more of the following mitigative design techniques:

(a) Siting of buildings and roof lines parallel to topography.

(b) Siting of buildings so as to minimize prominence from the perspective of public views (for example, face short side/end toward prominent view).

(c) Submission of individual lot landscaping plans demonstrating effective screening of views from public roads.

(d) Introduction of landscape screening comprised primarily of native plant material designed to be compatible with the existing landscape.

Such siting and/or landscaping shall comply in all other relevant respects with the provisions of this Chapter.

*B. Standards for Retention or Installation of Vegetation.*

(1) A landscape plan shall be required which details existing vegetation and its maintenance and all supplemental landscaping, including introduction of required screening and/or shade trees.

(2) Disturbance of existing woodland areas shall be minimized. Where feasible, clearing of woodland to provide for construction access shall be minimized by locating access clearings so as to coincide with ultimate driveway locations. Otherwise, access clearings should be located such that each clearing serves two or more adjacent lots or building sites. Restrictions regarding tree and other vegetation removal shall not extend to deadwood or diseased vegetation.

(3) Except as provided herein, clearing of trees for any purpose shall not result in the removal of more than 20 percent of any existing tree mass, treeline, hedgerow, or individual freestanding trees over 6 inches DBH. For the purposes of this Section, the extent of area occupied by such trees shall be measured from the outer-most drip line of any tree or of all the trees in a tree mass, treeline or hedgerow.

(4) Where the applicant demonstrates to the satisfaction of the Board that additional woodland removal is necessary to permit development in accordance with this Section, replacement plantings shall be provided. Replacement plantings shall include at least one tree and two shrubs for each 300 square feet of woodland, or fraction thereof, removed beyond 20 percent. All specimen trees to be retained shall be credited toward any tree replacement requirement, at a ratio of three trees credited for each individual specimen tree retained. The applicant's required landscape plan shall indicate all areas of woodland removal, as well as the species and locations of replacement plantings. Plantings used to comply with the minimum number of replacement plantings shall conform to the woodland conservation provisions of §27-1503.4.B., 4.C., and 4.D.

(5) Within the French Creek Scenic Corridor Overlay District, the riparian buffer area conservation provisions of §27-1504 are modified as follows:

(a) Agricultural activities in accordance with §27-1609 of this Chapter may be conducted to within 25 feet of the bank of the French Creek.

(b) Vegetation may be cleared as a reforestation measure to within 25 feet of the bank of the French Creek, or up to the bank as a means to eliminate dead, diseased, or hazardous tree stands or noxious vegetation, pursuant to clause (7) below.

All other provisions of §27-1504 apply within this overlay district as stated therein.

(6) Wildlife habitat in the riparian corridors along the French Creek and its tributaries shall be preserved to the greatest extent feasible. Where feasible, more than one type of habitat area on a single tract shall be preserved in order to promote maintenance of habitat diversity.

(7) *Reforestation.* In the context of an application for approval of a conditional use, preliminary subdivision plan, special exception, variance, or building permit, the Township may require that riparian vegetation be reestablished to a minimum width of 50 feet, measured from the top of the bank of the French Creek. A landscape plan shall accompany the application and adequately illustrate the proposed riparian buffer, including a list of native trees and shrubs to be provided, and defining the long-term management provisions. All plantings shall be established prior to final occupancy permit approval.

C. *Grading standards.* Alteration of natural ridgelines within the French Creek Scenic Corridor Overlay District through grading or earthmoving shall be avoided or, if not feasible, shall be minimized to the greatest extent feasible.

D. *Special Criteria for Use of the Open Space Design Option in the French Creek Scenic Corridor Overlay District.* It shall be the burden of the applicant to demonstrate to the Board of Supervisors that to the greatest degree feasible, development under the open space development option shall be sited outside areas visible from any public road or from the French Creek. Where it is not entirely feasible to locate development outside such areas (due to insufficient or unsuitable alternative portions of the tract), approval of proposed siting within visible areas shall be contingent upon determination by the Board of Supervisors that either or a combination of the following mitigative design techniques shall be satisfactorily employed:

(1) Applicant shall submit landscape plans indicating that the introduction of landscape screening and/or the retention of existing vegetation or topographic features shall achieve an effective visual screen as viewed from any adjacent public road and from the French Creek. An effective screen shall not be construed to require the complete preclusion of view of new development, but shall minimize the visual impact of such development to the greatest degree feasible. Landscape screening may include plant material as well as other landscape material such as berms or walls and shall constitute a continuous visual screen at least 6 feet in height at the time of initial occupancy of the development and lasting as long as the use requiring the screening is established. Plant material utilized for screening may include a mixture of evergreen and deciduous trees and shrubs; evergreen plantings shall be grouped and spaced with such frequency as to minimize opportunity for direct view through the screen during the winter season. Submitted landscape plans shall further demonstrate to the satisfaction of the Board that proposed landscaping is designed so as to achieve the following:

- (a) Compatibility with existing surrounding landscape features.
- (b) Replication of characteristic landscape features.
- (c) Plant material composition consisting primarily of native plant material.

(2) Where proposed development within areas visible from any public road or from the French Creek is not effectively screened from view to the satisfaction of the Board of Supervisors, the Board may require that applicant submit schematic plans and/or drawings of affected structures. It is not the intention of the Township to govern specific architectural design nor to link development approval to any specific architectural design criteria. Rather, submitted drawings shall aim to indicate proposed siting and to illustrate the general character of the intended exterior design with sufficient detail to demonstrate, in terms of how such buildings may be viewed from adjacent public roads or from the French Creek, reasonable replication of proportional relationships of form and massing evident in existing historic resources in the Township, including ratios of height to width, length of individual facade segment, roof pitch, relative size and placement of windows, doors, and other facade details.

4. *General Design Standards.* Within the FC-French Creek Scenic Corridor Overlay District the general design standards applicable in the underlying base zoning district shall apply.

(Ord. 162, 6/12/2002, §1401)

### **§27-1403. Special Provisions for Historic Resources.**

1. *Purpose.* It is hereby declared as a matter of public policy that the preservation and protection of buildings, structures, and sites of historic, architectural, cultural, archeological, educational, and aesthetic merit are public necessities and are in the interests of the health, prosperity and welfare of the people of East Vincent Township. It is therefore the intent of this Part to provide a comprehensive framework for the preservation of historic sites, objects, buildings, structures and districts within the Township, in order to promote the following public purposes:

- A. To promote the general welfare by facilitating protection of the historical integrity of the historic resources of East Vincent 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.

2. *Classification of Historic Resources.*

A. *Class I Historic Resources.* Class I Historic Resources include the following, whether or not specifically designated on the Historic Resources Map, unless removed from Class I by the Board of Supervisors:

- (1) All buildings, sites, structures, and objects listed individually in the National Register of Historic Places.
- (2) All buildings and structures classified as "certified historic structures" by the Secretary of the Interior.
- (3) All buildings, sites, structures, and objects documented as "contribut-

ing resources" in a National Register Historic District.

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

(5) Any historic district included in the National Register of Historic Places or any historic district which has received a determination of eligibility (DOE) by the Pennsylvania Historical and Museum Commission (PHMC).

Other resources of similar historical significance may be added to Class I by the Board of Supervisors, provided the owner has been notified of such intent in accordance with §27-1403.2.C below. Class I Historic Resources so added shall be designated as such on the Historic Resources Map. Owners may submit a request to the Board of Supervisors for consideration of removal of a resource from Class I listing in accordance with §27-1403.2.C hereafter. Adoption of the Historic Resources Map and amendment from time to time shall conform to all procedural requirements for amendment to the Zoning Map.

B. *Class II Historic Resources.* All other historic resources included in the historic resource inventory conducted by the Historical Commission and shown on the Historic Resources Map. Class II Historic Resources include but are not limited to all resources included in the Chester County Historic Sites Survey of 1982 not otherwise included in Class I, unless removed from the Historic Resources Map by the Board of Supervisors. Owners may submit a request to the Board of Supervisors for consideration of removal of a resource from Class II listing in accordance with 2.C hereafter.

C. *Procedure for Addition or Removal of Historic Resources from the East Vincent Township Historic Resources Inventory, or for Change of Classification.*

(1) Any property may be proposed for addition to or removal from the East Vincent Township Historic Resources Inventory, or for a change in classification (Class I or Class II) by the owner of such property, by the Historical Commission, by the Board of Supervisors, as provided for in this paragraph.

(2) The receipt by the Township of written notification from the designating organization (PHMC or National Register) that any Historic Resource no longer meets the criteria upon which its classification has been based shall be treated as a proposal for a change in classification of that resource (i.e., from Class I to Class II) or for its removal from the East Vincent Township Historic Resource Inventory.

(3) Any proposal for addition to or removal from the East Vincent Township Historic Resources Inventory, or for a change in classification (Class I or Class II), shall be considered by the Township in accordance with the following:

(a) Upon receipt, any proposal regarding resource classification shall be referred to the Historical Commission, which shall hold a public meeting thereon.

(b) Unless a property is proposed by the owner(s), such owner(s) shall be notified upon receipt of a proposal affecting their property, and shall be

invited to respond to such proposal at or prior to the public meeting.

(c) The Historical Commission shall give 10 days public notice of the public meeting to consider the proposed, and shall send written notice to the owner(s) of the affected property. Such notice shall be published once and shall indicate the date, time and place of the public meeting at which the Historical Commission will consider the proposal. Notice shall be sent to the registered owner's last known address as the same appears in the real estate tax records of the Township Treasurer and sent to the "owner" at the street address of the property in question.

(d) Any interested party may present testimony or documentary evidence regarding the proposal at the public meeting, describing how or why the subject property meets the criteria for designation of historic resources set forth in §27-1403.2.D below, or the definitional criteria for §27-1403.2.A., or does not. Such evidence may be presented at the public meeting held to consider the proposal or may be submitted in writing to the Township prior to said meeting.

(e) The Historical Commission shall present a written report to the Board of Supervisors within 30 days following the public meeting stating its recommendation regarding the subject proposal, based upon the criteria established herein. A property shall be recommended for removal from Class I if it does not currently meet the definitional criteria set forth in §27-1403.2.A or is not deemed by the Commission to be of similar historical significance based on the evidence presented at the public meeting or otherwise received by the Commission. Properties removed from Class I shall remain as Class II Historic Resources unless removed from the Historic Resources Inventory altogether. A property shall be recommended for removal from said inventory if it does not currently meet the criteria for designation set forth in §27-1403.2.D. The report to the Board shall include a summary of the information and copies of all documents presented at the meeting and/or used by the Historical Commission in making its recommendation.

(f) Based upon the criteria set forth herein and after receiving the recommendations of the Historical Commission, the Board of Supervisors shall from time to time, by ordinance, add or delete structures, sites and objects to or from the Historic Resources Inventory, or to or from Class I. Written notice of the proposed action of the Board of Supervisors shall be given to the property owner at the time of publication of the proposed ordinance.

D. *General Criteria for Classification of Historic Resources.* A structure, site or object, or a complex of the same, may be placed on the Historic Resources Inventory if it meets one or more of the following criteria. Resources designated as Class I also shall meet one or more of the definitional criteria set forth in §27-1403.2.A or shall be deemed of similar historical significance as provided below:

(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 an icon associated with an era characterized by a distinctive architectural style.

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

(5) 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.

(6) Contains elements of design, detail, materials, or craftsmanship which represent a significant innovation.

(7) Is part of or related to a commercial center, park, community or other distinctive area which should be preserved according to an historic, cultural, or architectural motif.

(8) Owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community, or Township.

(9) Has yielded, or may be likely to yield, information important in pre-history or history.

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

3. *Historic Resource Overlay District.* In furtherance of the purposes set forth in §27-1401 of this Part, a separate zoning district is hereby created to overlay all other zoning districts in the Township, to be known as the Historic Resource Overlay District.

A. *Applicability.* The provisions of the Historic Resource Overlay District shall apply to all properties containing Class I or Class II Historic Resources as identified on the East Vincent Township Historic Resource Inventory. The properties identified on the Historic Resource Inventory shall constitute an overlay to the Township Zoning Map. Adoption of the Historic Resource Inventory and amendment from time to time shall conform to all procedural requirements for amendment to the Zoning Map, provided in Part 22.

B. *Permitted Uses.* The following uses and no other shall be permitted in the Historic Resource Overlay District:

(1) Any use permitted in the underlying zoning district in which the property is located.

(2) Where approved by the Board of Supervisors as a conditional use in accordance with Part 19 of this Chapter as well as the specific requirements for conditional use approval set forth in subsection .3.D of this Part, additional use opportunities may be permitted on properties containing Class I or Class II Historic Resource(s). Such use opportunities may be permitted in place of any use currently being made of the property or as an additional principal and/or accessory use. It is intended that uses not otherwise permitted in the

underlying zoning district be principally contained within structures designated as Class I or Class II Historic Resources. Permitted use opportunities may include but are not limited to the following:

- (a) Any use permitted in the underlying zoning district (i.e., as a second principal use).
- (b) Any major or minor home occupation exceeding the area limitations set forth in §27-1605.A.6.
- (c) Business, administrative or professional office, studio or library.
- (d) Cultural studio, subject to the condition that if access is provided from a local 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.
- (e) Artist studio, crafts workshop or cottage industry employing not more than three persons. Such use(s) may include model making, rug weaving, lapidary work, furniture making and similar crafts.
- (f) Day care facility.
- (g) Tourist home.
- (h) Food preparation or catering facility not involving food consumption, employing not more than three persons on the premises.
- (i) Personal service shop, including barber, beauty salon, tailor, 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.
- (j) Repair services, including small appliances, small business machines, watches, household furnishings, shoes, bicycles and locks, but shall not include automobile, 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.
- (k) Residential conversion of a Class I or Class II Historic Resource other than a single-family dwelling into one or more dwelling units, subject to compliance with the requirements of §27-1608.C, .D, .F, .G and .H. Conversion of a single-family dwelling which is a Class I or Class II Historic Resource into more than three dwelling units, subject to compliance with the requirements of §27-1608.C, .D, .F, .G and .H.
- (l) Other uses of a similar nature and similar neighborhood impact.

C. *Lot Area, Width, Building Coverage, Height and Yard Requirements.* Lot area, width, building coverage, height and yard requirements otherwise applicable in the underlying zoning district shall apply, except that where approved by the Board of Supervisors as a conditional use in accordance with Part 19 of this Chapter, as well as the specific requirements for conditional use approval set forth in subsection .3.D of this Part, requested modifications to applicable lot area, lot dimension, yard requirements or any otherwise applicable area and bulk regulation or design standard for plans affecting historic resources may be permitted. In all cases, such modifications may be permitted to reduce otherwise applicable requirements to the minimum degree necessary to accommodate proposed plan(s).

D. *Specific Requirements for Conditional Use Approval.* Where additional use opportunities for historic resources and/or modifications to otherwise applicable area and bulk regulations are permitted, the following requirements shall apply:

(1) All applicable standards and criteria set forth in Part 19 for conditional use approval shall be complied with to the satisfaction of the Township.

(2) The granting of conditional use approval shall be deemed to be necessary to the preservation of the historic resource(s).

(3) To the extent applicable, the Secretary of the Interior's Standards for Rehabilitation of Historic Structures shall serve as guidelines for any plans involving the rehabilitation, alteration, or enlargement of structures designated as Class I or Class II Historic Resources. In approving a conditional use, the Board of Supervisors may set conditions requiring compliance with the Secretary of the Interior's Standards for Rehabilitation as presented in subsection .6, as applicable.

(4) In granting conditional use approval in accordance with this Section, the Board of Supervisors shall be satisfied that adequate water supply and sewage disposal can be provided for all permitted uses.

(5) Where plans involving historic resource(s) under this Section result in all or portions of any such resource(s) remaining unoccupied, such unoccupied resources shall be tightly sealed and barred off in a manner not jeopardizing historical integrity, and the utilities turned off for safety.

(6) In granting conditional use approval in accordance with this Section, the Board of Supervisors may require as a condition of approval the establishment of conservation easement(s) or other means to guarantee permanent protection of the historical integrity of the subject resource(s).

(7) Except where clearly detrimental to historical integrity 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.

(8) The Board of Supervisors may deny the request for additional use or for modification of area and bulk regulations where, upon the review of the Historical Commission, it deems the proposal to be unacceptably destructive to the integrity of the Historic Resource and/or where the Board finds the proposal to be inappropriate in the context of the immediate neighborhood.

E. *Application Procedures for Conditional Use Approval Regarding Historic Resources.*

(1) An applicant seeking conditional use approval under the provisions of this Section shall submit the appropriate application to the Township in accordance with the provisions of Part 19. The application shall include, in addition to that which is required under Part 19 where relevant, a detailed depiction of the proposed use(s), any physical changes proposed for the affected historic resource(s) and their surrounding landscape, and any proposed modifications to otherwise applicable area and bulk regulations.

(2) Upon receipt by the Township, the complete application shall be forwarded to the Historical Commission, the Planning Commission and the Board of Supervisors. Within 30 days of receipt of a complete application by the Township, the Historical Commission and the Planning Commission shall each, at a regular or special meeting, review the application for conditional use approval. The applicant will be notified of such meetings at least 10 days prior to their scheduled dates and shall have the opportunity to present his reasons for filing the application.

(a) In reviewing the application for conditional use approval, the Historical Commission shall consider the following:

1) In regard to proposed modification of area and bulk regulations, the Historical Commission shall evaluate.

2) Whether the proposed modifications are necessary to preserve the affected historic resource(s).

Where the application involves physical changes to historic resource(s) and/or the surrounding landscape, the Historical Commission shall review the proposed changes and make recommendations as to their appropriateness.

(b) The Planning Commission shall review the proposed changes for their impact on the health, safety and welfare of the Township including, but not necessarily limited to, traffic impacts, water supply and sewerage.

(3) Recommendations, if any, of the Historical Commission and Planning Commission shall be transmitted in the form of written reports to the Board of Supervisors and shall include suggestions for specific changes to proposed plans, if any. If either the Historical Commission and/or Planning Commission does not transmit its recommendations to the Board by the date set by the Board for public hearing to consider the application for conditional use approval, then it shall be deemed that such Commission recommends the approval of the application.

(4) The Board of Supervisors shall act upon the application in accordance with the provisions of Part 19.

#### 4. *Demolition of Historic Resources.*

##### A. *Applicability of Demolition Permit Requirement.*

(1) No Class I or Class II Historic Resource may be demolished, in whole or in part, whether deliberately or by neglect, including the indiscriminate removal, stripping, or destruction of any significant exterior architectural features, unless a demolition permit is obtained from the Township Code Enforcement Officer in accordance with the procedures and requirements of this subsection, and other applicable standards and procedures of this Chapter and the Township Building Code [Chapter 5, Part 1].

(2) Demolition permit requirements shall extend to demolition by neglect which is defined as the failure to provide ordinary and necessary maintenance and repair to a building or structure located in a historic district, or to an historic resource, except for ruins existing at the time of adoption of this Section, whether by ordinary negligence or willful neglect, purpose or design,

by the owner or any party in possession thereof, which results in any of the following conditions:

(a) Deterioration of exterior features so as to create or permit a hazardous or unsafe condition to exist.

(b) Deterioration of exterior walls, roofs, chimneys, or windows; the lack of adequate waterproofing; or deterioration of interior features or foundations which will or could result in permanent damage or loss of exterior features.

(c) Deterioration resulting from a building or structure having been left open or vulnerable to vandalism or decay by the elements. Unoccupied resources shall be tightly sealed and barred off and the utilities turned off for safety.

(3) These provisions shall not be construed to prevent the ordinary maintenance or repair of any building, structure, site, or object where such work does not require a permit and where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, a building, structure, site, or object and to restore the same to its condition prior to the occurrence of such deterioration, decay, or damage.

*B. Procedure for Obtaining Demolition Permit.*

(1) The applicant shall submit to the Township an application for a demolition permit, obtainable from the Township Code Enforcement Officer. If the Township determines that the permit request is for the demolition of a Class I or Class II Historic Resource, the Code Enforcement Officer shall be directed not to issue the demolition permit and the application shall be forwarded to the Historical Commission for review.

(2) Information to be Provided. In addition to applicable requirements under the Township Building Code [Chapter 5, Part 1], an applicant seeking a permit to demolish an historic resource shall provide the following documents and written narrative supporting the application.

(a) Owner of record.

(b) Site plan showing all buildings and structures on the property.

(c) Recent photographs of the resource proposed for demolition.

(d) Reasons for the demolition.

(e) Proposed method of demolition.

(f) Intended future use of the site and of the materials from the demolished resource.

(g) List of alternatives to demolition which the applicant has considered.

(h) 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 property, particularly considering the incentives

potentially available as conditionally permitted in accordance with this Part, and shall include written estimates of the cost(s) of restoration and/or renovation from at least two professional restoration contractors.

(3) *Review by Historical Commission.* Within 30 days of receipt of a complete application for demolition from the Code Enforcement Officer, the Historical Commission, at a regular or special meeting, shall review the application. Ten days prior written notice of the meeting shall be given to the applicant who shall have the opportunity to present his reasons for filing the application. The Historical Commission shall consider the following:

(a) The effect of demolition on the historical significance and architectural integrity of the resource in question and neighboring historic resources.

(b) Whether the applicant has demonstrated that he has considered all alternatives to demolition.

(c) Economic feasibility of adaptive reuse of the resource proposed for demolition.

(d) Alternatives to demolition of the resource.

(e) Whether the resource in its current condition presents a threat to public safety.

(f) Whether the resource has been intentionally neglected.

(g) Whether the required retention of the resource would represent an unreasonable economic hardship.

(4) *Historical Commission Recommendation.* The Historical Commission shall promptly communicate its recommendation(s) in a written report to the Board of Supervisors either recommending approval of the application as submitted, recommending approval of the application with condition, or recommending delay of demolition as provided below.

C. *Approval of Demolition Permit or Delay of Demolition by the Board of Supervisors.*

(1) Within 30 days of receiving the recommendation from the Historical Commission, the Board of Supervisors shall consider the application at a public meeting, together with the recommendations of the Historical Commission, and vote either to approve the application, approve the application with changes, or defer their decision, affording a delay of demolition for up to 90 days as set forth in paragraph .D of this Section. The applicant shall be notified of the meeting at least 10 days prior to its date, and shall have the opportunity to present his reasons for filing the application. Within 5 days of making its decision, the Board shall provide written communication of its decision to the applicant, Historical Commission, and Code Enforcement Officer.

(2) *Issuance of Demolition Permit.* Where the Board acts to approve the application, it shall authorize the Code Enforcement Officer to issue the permit. Where the approval is authorized to be granted with conditions attached, the Code Enforcement Officer shall be authorized to issue the permit upon his receipt from the applicant of written acceptance of those conditions.

D. *Delay of Demolition.*

(1) The specified period of delay up to 90 days shall be used to provide an opportunity to engage in discussion with the applicant about alternatives to demolition and to allow for complete historical documentation of the resource. The Historical Commission shall make every effort to communicate with the applicant to inform him of the historical importance of the resource, its significance to the Township, and alternatives to demolition (additional uses, etc.).

(2) *Documentation of Class I Historic Resources.* When prescribing the delay of demolition for a Class I Historic Resource, the Board of Supervisors may require the applicant to provide documentation of the resource proposed for demolition. Such documentation may include, as available: historical data, surveys, and other data provided by local, state, and federal historic preservation organizations and agencies; photographs; floor plans; measured drawings; archaeological surveys (if appropriate); and any other comparable form of documentation recommended by the Historical Commission. Where necessary, the delay shall continue past the stipulated 90 days until the applicant has sufficiently satisfied the documentation requirements.

(3) Not later than the date set by the Board of Supervisors to act upon the application for demolition prior to or at the end of the applicable 90-day time period, the Historical Commission may recommend in writing to the Board of Supervisors approval of the demolition permit or, where the Commission does not believe that the applicant has proven unreasonable economic hardship or the lack of a reasonable alternative, recommend denial of the demolition permit.

E. *Approval or Denial of Demolition Permit after Delay of Demolition.*

(1) The Board of Supervisors shall act upon the application for demolition within or at 90 days, whether it receives a recommendation from the Historical Commission or not, and shall vote either to approve the application, to approve the application with changes, or to deny the application. Within 15 days of making its decision, the Board shall provide written communication of its decision to the applicant, Historical Commission, and Code Enforcement Officer.

(2) *Issuance of Demolition Permit.* Where the Board acts to approve the application, it shall authorize the Building/Code Enforcement Officer to issue the permit. Where the approval is granted with conditions attached, the Code Enforcement Officer shall be authorized to issue the permit upon receipt from the applicant of written acceptance of those conditions.

(3) *Denial of Application.* Where the Board acts to deny the application, a notice of denial shall be sent to the applicant indicating what changes in the plans and specifications, if any, would be sufficient to meet the standards of this Section.

5. *Violations, Penalties, and Enforcement.* Any person who violates the terms of this Part shall be subject to the enforcement procedures, fines and penalties provided for in Part 23 of this Chapter, as well as applicable enforcement procedures, fines and penalties provided for in regulations adopted by East Vincent Township to govern

building construction. In addition:

A. In the event any person demolishes a historic resource in violation of the provisions of this Part or violates any conditions or requirements specified in a conditional use approval or 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. Such proceeding may include, but is 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 Chapter or any other applicable law.

B. In the event the Board of Supervisors authorizes the commencement of an action pursuant to §27-1403.5.A, the Code Enforcement Officer shall withhold issuing 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 subject of a violation of this Part, or any building or structure 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.

C. 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 Chapter, was occupied by a historic resource(s) that subsequently was demolished or otherwise altered in violation of this Part, impose a condition requiring the satisfactory reconstruction or restoration of any such historic resource(s).

D. The Code Enforcement Officer, or his designee, shall monitor the progress and status of any change being made to a historic resource subject to the provisions of this Part, and shall render such reports thereon to the Board and to the Historical Commission as may be necessary to assure compliance with the provisions of this Part and/or any compliance with any conditions which may have been attached to any building permit, demolition permit, subdivision/land development approval, or conditional use approval.

E. In addition to the above remedies, the Board of Supervisors may take other appropriate legal action, which may include equitable and injunctive relief, to enforce the provisions of this Part.

6. *Secretary of the Interior's Standards for Rehabilitation (Guidelines).*

A. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

B. The historic character of the property shall be retained and preserved. The removal of historic materials or alterations of features and spaces that characterize a property shall be avoided.

C. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.



D. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

E. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

F. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

G. Chemical or physical treatments, such as sand blasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

H. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

I. New materials, exterior alterations, or related construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

J. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

(*Ord. 162, 6/12/2002, §1402*)



**Part 15****Natural Features Conservation****§27-1501. Floodplain District.**

1. *Purpose.* The Flood Hazard District has been established to minimize the threat to public health, safety and general welfare of the Township residents from periodic inundation which could result in loss of property, damage to structures and possible injury to people, the disruption of public and private activities and services, and burdensome public expenditures for flood protection and relief. In advancing this purpose and the general purposes of this Chapter and the Comprehensive Plan, the specific intent of this district includes the following:

A. Regulate uses, activities and development which, acting alone or in combination with other existing or fixture uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies.

B. Restrict or prohibit certain uses, activities and development from locating within areas subject to flooding.

C. Require all uses, activities and development that occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage.

D. Protect individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

2. *Delineation of Flood Hazard District.* The Flood Hazard District shall be comprised of those areas of the Township adjoining any perennial stream, as shown on the most recent United States Geological Survey Quadrangle, and areas adjoining ponds or lakes with an area of 1 or more acres, which complies with any of the following conditions, whichever distance is greater:

A. Areas designated by the Federal Emergency Management Agency (FEMA) as being within the 100-year Floodplain (Zones AE and A) in the Flood Insurance Study (FIS) for East Vincent Township, Community Number 420278, effective September 29, 2006, or the most recent revision thereof, including the following areas as shown on the Flood Insurance Rate Maps (FIRMs), or the most recent revision thereof, including all digital data developed as part of the FIS: [Ord. 188]

(1) *FW (Floodway Area)* - the areas identified as "Floodway" in the AE Zone in the Flood Insurance Study and Flood Insurance Rate Maps, effective September 29, 2006, or the most recent revision thereof, as prepared by 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. [Ord. 188]

(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 and FIRMs, where a floodway has been delineated. The basis for the outermost boundary of this area shall be the 100-year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.

(3) *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 the identified floodplain area which is nearest the construction site in question. In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by East Vincent Township. [Ord. 188]

(4) FE (Special Floodplain Area) - the areas identified as Zone AE in the Flood Insurance Study, where 100-year flood elevations have been provided, but no floodway has been delineated. [Ord. 188]

B. Areas identified as having alluvial soil types which are subject to flooding as indicated in the Soil Survey for Delaware and Chester Counties, Soil Conservation Service, United States Department of Agriculture.

C. On-site field surveys to fix the precise boundaries of the Flood Hazard District. Such surveys shall be scaled and certified by a professional engineer, registered and licensed by the Commonwealth of Pennsylvania to perform such surveys. Any property owner shall pay all costs of these surveys except for work done under retainer to or on behalf of East Vincent Township.

3. *Changes in District Boundaries.* The delineation of any Flood Hazard District may be revised by the Board of Supervisors where natural or man-made changes have occurred and more detailed studies have been conducted by a qualified agency to document such changes. All changes to the boundaries of the Flood Hazard District are subject to review and approval by the Federal Insurance Administration (FIA).

4. *Rules for Interpretation of District Boundaries.* The Code Enforcement Officer shall make initial interpretations of district boundaries, and may consult the Township's Engineer to assist with the interpretation. Should any person dispute an interpretation made by the Code Enforcement Officer, an appeal shall rest with the Zoning Hearing Board. The Zoning Hearing Board shall make further interpretation as to the exact location of the boundaries of the said district. Upon appeal, the person contesting the location of the district boundary shall have the burden of establishing that the land does not lie within the Flood Hazard District. The applicant shall pay all Township related costs associated with the Hearing before the Zoning Hearing Board.

5. *District Overlay.* The Flood Hazard District, as defined in subsection .2, shall be deemed an overlay district to the otherwise applicable zoning district(s) delineated on the East Vincent Township Zoning Map. Should the Flood District be determined as inapplicable to any tract by reason of amendment by the Board of Supervisors, interpretation by the Zoning Hearing Board, or the decision of a court of competent jurisdiction, the underlying zoning provisions shall be deemed applicable.

6. *Compliance.* All structures, tracts of land and bodies of water shall hereafter be located, used, developed, or altered only in full compliance with the provisions of this

Chapter.

7. *Abrogation and Greater Restriction.* It is not intended by this Part to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Part poses greater restrictions, the provisions of this Part shall prevail.

8. *Warning and Disclaimer.*

A. The degree of flood protection required by this Part is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes. In such instances, areas outside the limits of the Flood Hazard District or land uses permitted within such areas may be subject to flooding or flood damage.

B. The adoption of this Part shall not create liability on the part of East Vincent Township or any officer or employee thereof for any flood damages that result from reliance on this Part or any administrative decision lawfully made pursuant to its provisions.

9. *Use Regulations.*

A. *Uses Permitted by Right.* The following uses and no others shall be permitted within the Flood Hazard District to the extent that they are not prohibited by any other ordinance, will not cause any increase in flood levels during a 100-year flood, and provided that they do not require a structure, fill or storage of materials or equipment:

(1) Agricultural uses, such as general farming, pasture, orchard, grazing, outdoor plant nurseries, farm ponds, truck farming, forestry, and wild crop harvesting, excluding structures, and excluding any grading or filling which would cause any increase in flood heights or frequency.

(2) Recreational uses, such as parks, picnic grounds, golf courses, archery ranges, hiking and riding trails, hunting and fishing areas, game farms, fish hatcheries, wildlife sanctuaries, nature preserves, swimming and picnic areas.

(3) Open space and not more than 50 percent of side or rear yards required for development of any lot or tract in any district contiguous to any Flood Hazard District may lie within such Flood Hazard District, provided that no structure shall be placed closer than 50 feet from any Flood Hazard District boundary.

(4) Erosion and sedimentation control measures and facilities, provided no unhealthful ponding or other unsanitary conditions shall occur.

(5) Harvesting of any wild crop.

(6) Stream improvements, the purpose of which is to improve aquatic life habitat, and which are approved by the Pennsylvania Fish Commission and reviewed by the Chester County Conservation District.

(7) Circuses, carnivals and similar transient enterprises, provided that natural vegetative ground cover is not destroyed, removed or covered in such a way as to create erosion or sedimentation.

(8) Public utility facilities, excluding buildings, under the jurisdiction of the Pennsylvania Public Utility Commission.

B. *Uses By Special Exception.* The following uses in the Flood Hazard District are permitted only when special exceptions are granted by the Zoning Hearing Board as provided for herein and in Part 20. In addition, the Zoning Hearing Board shall not permit by special exception any structure located in a floodway or any development which would cause any increase in flood levels during a 100-year flood. Special exception uses shall be in accordance with the provisions of the Clean Stream Law of Pennsylvania, Act 394 of 1937, as amended, 35 P.S. §691.1 *et seq.*; the rules and regulations of the Pennsylvania Department of Environmental Protection, and all other provisions of this Chapter:

(1) Parking lots, loading areas, driveways, and aircraft landing strips and taxiways, if they are water-permeably surfaced, except that parking lots designed or used for storage and parking lots for hotels, motels and other transient lodgings are prohibited.

(2) Water-oriented uses such as docks, piers, wharves, marinas, boat liveries, and boat launching ramps.

(3) Public utility facilities not under the exclusive jurisdiction of the Pennsylvania Public Utility Commission, subject to the following conditions:

(a) Facilities such as pipelines, gas lines, storm sewers, water lines, outlets installations for sewage treatment plants, sealed public and private water supply wells, pumping stations, and underground communications facilities, shall, together with associated structures, but excepting necessary vents, be designed and installed underground so as to be at or below the existing natural surface grade within the floodplain, and in such a manner as will prevent flotation, minimize or eliminate flood damage, and not alter the cross-sectional area of the floodplain. All new or replacement water supply facilities and/or sanitary sewage facilities shall be designed to minimize or eliminate infiltration of floodwaters into the facilities and discharges from the facilities into floodwaters. All gas lines shall have a system of shut-off valves for service to the Flood Hazard District to allow positive control during flood emergencies. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood. [Ord. 188]

(b) Electrical transmission lines and supporting structures shall be installed so as to minimize or eliminate flood damage, and all lines of less than 15 kilovolts shall be installed underground, below the existing natural surface grade within the floodplain. Above-ground electrical transmission lines of 15 kilovolts or more may be allowed above ground as a special exception, provided they are certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania as meeting all of the following standards:

1) Above ground lines and supporting structures shall enter the Flood Hazard District only to cross a watercourse, shall cross the watercourse and the Flood Hazard District using the most direct and shortest route possible consistent with the goals, objectives, purposes,

and intents of this Part, shall make the minimum number of crossings necessary, and shall be designed and installed so as to minimize or eliminate flood damage.

2) Above ground lines shall be elevated so that their lowest portions are a minimum of 20 feet above the regulatory flood elevation.

3) Supporting structures for above ground lines within the Flood Hazard District shall be the minimum number necessary to carry the lines across the Flood Hazard District. Supporting structures shall be designed and installed so as to be able to withstand the maximum volume, velocity, and force of floodwaters which can be expected at the point where they are located.

4) Facilities and services in the Flood Hazard District shall be designed so that flood damage within the district does not disrupt services outside the district.

(4) Fish hatcheries, including uncovered ponds and raceways, which are approved by the Pennsylvania Fish Commission, but excluding other structures.

(5) Water monitoring devices.

(6) Culverts, bridges and approaches to public and private culverts and bridges provided the same meet all of the following conditions:

(a) Review by the Chester County Planning Commission, if required.

(b) Approval by the Delaware River Basin Commission, if required.

(c) Approval by the Pennsylvania Department of Environmental Protection, if required.

(d) Approval by the Pennsylvania Department of Transportation (PennDOT), if required.

(e) Approval by the United States Army Corps of Engineers, if required.

(f) If approval by PennDOT is not required, the proposed use must still meet all of the appropriate minimum design standards of PennDOT.

(g) The proposed structure must be designed in such a way as to have the capacity to allow the unrestricted passage of waters of the regulatory flood elevation below and through it without any upstream or downstream increase in water surface elevation or any horizontal change in current velocity or direction.

(7) Extraction of sand, gravel, and other mineral resources, excluding topsoil.

(8) Other uses similar to the above, provided the use will not reduce the cross-sectional area of the floodplain.

C. *Prohibited Uses.* The following uses and activities are specifically prohibited in any Flood Hazard District, and are not eligible for variance consideration:

(1) All uses prohibited either expressly or implicitly in the underlying

zoning district for the land in question.

(2) All structures with the exception of those specifically allowed in §§27-1501.9.A and 27-1501.9.B of this Part.

(3) Removal of top soil, excluding sod-production and nursery activities as allowed in §27-1501.9.A, and except such removal as is necessary to accomplish and carry out the permitted uses and special exception uses under this Part.

(4) Cutting or removal of living trees or other flora except where diseased and in areas devoted to forestry or nursery use, in which case cutting or removal shall be on a selective basis and with reforestation measures.

(5) Damaging or relocation of any watercourses, except as provided for in §§27-1501.9.A and 27-1501.9.B.

(6) Hospitals, nursing homes, jails or prisons.

(7) Swimming pools.

(8) Cemeteries for humans or animals.

(9) Mobile homes and mobile home parks and substantial improvements to existing mobile home parks.

(10) Sanitary landfills, dumps, junk and salvage yards, and outdoor storage of vehicles and materials.

(11) The production, storage, or maintenance of a supply of any of the following materials or substances in any amount:

(a) Acetone

(b) Ammonia

(c) Benzene

(d) Calcium carbide

(e) Carbon disulfide

(f) Celluloid

(g) Chlorine

(h) Herbicides

(i) Hydrocyanic acid

(j) Hydrochloric acid

(k) Magnesium

(l) Nitric acid and oxides of nitrogen

(m) Petroleum products

(n) Phosphorous

(o) Potassium

(p) Sodium

(q) Sulphur and sulphur products.

(r) Pesticides.

(s) Radioactive substances, insofar as such substances are not



otherwise regulated.

(12) Any development, structure, or use which may, whether alone or in combination with others, except where specifically authorized elsewhere in this Part:

- (a) Endanger human life.
- (b) Obstruct, impede, retard, change, or increase the velocity, direction, or flow of floodwaters.
- (c) Increase the surface elevation of floods, or the frequency of floods.
- (d) Catch or collect debris carried by floodwaters.
- (e) Be placed where the natural flow of the stream or floodwaters would carry it downstream to the damage or detriment of property within or adjacent to the Flood Hazard District.
- (f) Degrade the water carrying capacity of any watercourse, channel, or floodplain.
- (g) Increase the rate or cumulative volume of local runoff, erosion, or sediment loss.
- (h) Degrade the quality of surface water or the quality or quantity of ground water.
- (i) Be susceptible to flotation and subsequent movement which would cause damage to other property.
- (j) Create unhealthful pending or other sanitary conditions.
- (k) Not be in harmony with the intent and purpose of this Part as set forth in §27-1501.1.

(13) Feedlots.

(14) Placing, depositing and dumping any soil, fill or solid waste except such grading, filling or depositing necessary to accomplish and carry out the permitted uses and uses by special exception in §§27-1501.9.A and 27-1501.9.B, provided that no grading, filling or depositing is permitted within the floodway.

10. *Standards and Criteria for Special Exceptions.* In any instance where the Zoning Hearing Board is requested to grant a special exception under this Part, the Zoning Hearing Board shall determine that the standards and criteria enumerated under this Section are met before granting request. In considering whether the special exception, if granted, would be injurious to the public health, welfare or safety, the Zoning Hearing Board shall consider the following factors:

- A. The danger to life and property due to increased flood heights, velocities or frequencies caused by encroachments is minimized.
- B. The danger that floodwaters or materials may be swept onto other lands or downstream to cause injury to others is minimized.
- C. The proposed water supply and sanitation systems which may be involved, and the ability of these systems to avoid causing disease, contamination and unsanitary conditions is minimized.
- D. The proposed facility needs a waterfront or floodplain location.

E. The susceptibility of the proposed use to flood damage and the probable effect of such damage on the owner or occupant.

F. The importance of the proposed use to the community and its compatibility with existing development.

G. The availability for the proposed use of alternative locations not subject to flooding.

H. The safety of access to the property for ordinary and emergency vehicles in times of flooding will be assured.

I. The expected area, height, depth, velocity, pressure, frequency, duration, rate of rise, and sediment transport of the flood waters anticipated at the site is not inconsistent with the proposed use.

J. The proposed activity will not unduly alter natural water flow or water temperature.

K. Such other factors as are relevant to the purposes of this Part, this Chapter and the Comprehensive Plan of East Vincent Township.

11. *Application for Special Exceptions.* Upon receiving an application for a special exception, the Township shall, prior to the Zoning Hearing Board's hearing, require the applicant to submit such of the following material as it shall deem necessary for a complete consideration of the matter of the Zoning Hearing Board. In making its determination, the Township may request the opinion of the Township Engineer with respect to the necessity or non-necessity therefore, but shall not be bound by his opinion:

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

B. A series of cross-sections of the stream valley at such intervals as may be deemed necessary along the lot shoreline, showing the stream channel or the lake or pond bottom, elevation of adjoining land areas to be occupied by the proposed uses, and high water information.

C. A plan view showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; delineated wetlands; location and elevation of streets, water supply and sanitary treatment facilities; photographs showing existing land uses and vegetation upstream and downstream; and other pertinent information.

D. A profile showing the slope of the bottom of the channel, lake, pond, or flow-line of the watercourse.

E. Specifications for building materials and construction, flood-proofing, filling, dredging, grading, storage, water supply and sanitary facilities.

F. Computation of the increase, if any, in the height of flood stages which would be attributable to any proposed use or uses.

12. *Conditions to Granting a Variance.* Upon consideration of the purposes of this Chapter, the Zoning Hearing Board shall attach such conditions to the granting of variances it deems necessary to further the purposes of this Part. In all variance

proceedings, the burden of proof shall be on the applicant. The following conditions may be imposed to implement the purpose of this district:

- A. Modification of waste disposal and water supply facilities.
- B. Limitations on periods of the proposed use and operation.
- C. Imposition of operational controls, sureties and deed restrictions.
- D. Flood-proofing measures under §27-1501.14.D.

E. In any case where the Zoning Hearing Board shall grant a variance to permit the erection of a structure in any Flood-Fringe portion of a Flood Hazard District (structures are prohibited within any floodway) or to permit a change in a nonconforming use of an existing structure in the Flood Hazard District, the Zoning Hearing Board shall, for the protection of prospective purchasers and lessees, have the right to impose the following conditions:

(1) Require the applicant to advise prospective purchasers and/or lessees that the lot is located either entirely or partially, as the case may be, in a floodplain area.

(2) Require that before settlement or change in nonconforming use, as the case may be, may take place, the purchaser or lessee shall signify in writing that he has been advised that the premises lie partially or entirely in a floodplain area. A signed copy of the signification shall be delivered to and retained by the Township Code Enforcement Officer.

(3) Where the premises are to be conveyed, the deed shall contain the following provisions:

"This lot is entirely (partially) within a floodplain as defined by the Flood Hazard District Part of the Zoning Ordinance of East Vincent Township, Chester County, Pennsylvania [Chapter 27 of the Township of East Vincent Code of Ordinances]."

F. No variance shall be granted for any use, structure or development or activity within any floodway; no variance shall be granted for any use, structure or development or activity within any Flood Hazard District which would cause any increase in flood levels during a 100-year flood.

G. A determination that the granting of a variance will not result in additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with any other applicable laws, ordinances or regulations.

H. A determination that the granting of a variance will not jeopardize the Flood Insurance Program of East Vincent Township.

I. Whenever a variance is granted, the Board shall notify the applicant in writing that:

(1) The granting of the variance may result in increased premium rates for flood insurance.

(2) Such variance may increase the risks to life and property.

J. A completed record of all variance requests and related actions shall be maintained by East Vincent Township. In addition, a report of all variances granted shall be included in an annual report submitted to the Federal Insurance

Administration.

13. *Nonconforming Uses and Structures in the Flood Hazard District.*

A. *Continuation.* All uses or structures in the Flood Hazard District lawfully existing on the effective date of this Chapter which are not in conformity with the provisions of this Part shall be deemed nonconforming uses or structures. Such nonconforming uses or structures may be continued, maintained, repaired, and floodproofed, except as otherwise provided for in this Part. However, such nonconforming uses or structures may at any time be improved to comply with existing Pennsylvania or East Vincent Township health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

B. *Abandonment.* Nonconforming uses or structures which have been discontinued or vacated for 12 consecutive months shall be considered abandoned. Vacation of land or structures or the non-operative status of the use normally carried on by the property shall be evidence of discontinuance. No abandoned use or structure may be reestablished, repaired, or re-occupied. The East Vincent Township Supervisors may require the removal of any abandoned nonconforming use or structure upon proper notice to the owner of the property on which an abandoned nonconforming use or structure exists. If the owner has not completely removed the abandoned use or structure within a reasonable amount of time, not to exceed 9 months, the East Vincent Township Supervisors shall have the authority to itself cause the removal to be accomplished; the costs of such removal to be paid by the property owner.

C. *Expansion and Modification.* A nonconforming use or structure may not be expanded or modified in any manner which would increase or aggravate flooding or flood hazards. Nothing shall be done which would otherwise violate any of the provisions of this Part. No nonconforming use or structure shall be expanded, enlarged, or altered in any way which increases its nonconformity with respect to height, area, yard, and other requirement established in other Parts of this Chapter, nor in any way which causes it to occupy more space within the Flood Hazard District than was occupied by it on the effective date of this Part. If the improvement, expansion, enlargement, alteration, or modification is a substantial improvement as defined in this Chapter, then it must comply with the requirements of §27-1501.14.

D. *Replacement and Rebuilding.*

(1) A nonconforming use or structure may be replaced, repaired, or rebuilt if it is damaged or destroyed by any means, including floods, to the extent of less than 50 percent of its fair market value at the time of its damage or destruction. In such a case, however, the nonconformity of the new use or structure with respect to requirements as expressed in provisions of this Part shall not exceed that of the original use or structure which was damaged or destroyed. Nothing shall be done which would otherwise violate any of the provisions of this Part.

(2) A nonconforming use or structure which has been damaged or destroyed by any means, including floods, to the extent of 50 percent or more of its fair market value at the time of its damage or destruction may not be replaced, restored, repaired, reconstructed, unproved, or rebuilt in any way

other than in complete conformity and full compliance with the provisions of this Part, all other Parts of this Chapter, and all other ordinances of East Vincent Township. The Zoning Hearing Board may waive, as a special exception, the requirements of this paragraph where it is shown that such requirements could not be met on land owned by the appellant or where such requirements would impose undue hardship to appellant in the efficient operation of the premises. In such a case, the Zoning Hearing Board shall be authorized to grant only the minimum relief necessary and the least modification possible of the provisions of this Part, while respecting and maintaining the purposes and intents of this Part. The above activity shall also address the requirements of the 34 Pa.Code, Chapters 401-405, as amended and the 2003 IBC (§§3402.1 and 1612.4) and the 2003 IRC (§§R105.3.1.1 and R323.1.4). [Ord. 188]

(3) The Code Enforcement Officer shall have the initial responsibility of determining the percent of damage or destruction and the fair market value of the damaged or destroyed use or structure at the time of its damage or destruction, and may call on any experts or authorities he may deem necessary to assist him in arriving at a fair and impartial determination. Appeals of the decision of the Code Enforcement Officer may be made to the Zoning Hearing Board, in accordance with the procedure established under §27-2006 of this Chapter.

(4) Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this Chapter. [Ord. 188]

(5) The requirements of 34 Pa.Code, Chapter 401-405, as amended and the 2003 IRC (§§R102.7.1, R105.3.1, R105.3.1.1 and Appendices E and J) or the latest revision thereof and the 2003 IBC (§§101.3, 3403.1 and Appendix G) or the latest revision thereof shall also be utilized in conjunction with the provisions of this Chapter. [Ord. 188]

E. *Historic Structures.* The Zoning Hearing Board shall have the right to modify by reducing strict compliance with, as a special exception, any of the requirements of this Section and subsection .14 for any structure listed on the National Register of Historic Places or the Pennsylvania Register of Historic Sites and Landmarks. The provisions of subsection .10 of this Part shall be applied in such a case.

#### 14. *Design and Performance Standards.*

A. *Applicability.* Unless otherwise specified in this Part, the standards and criteria included in this Section are to be used, together with the provisions of all other Parts of this Chapter and all other ordinances in force in East Vincent Township by the Code Enforcement Officer and Zoning Hearing Board in their administration of this Part.

B. *Regulations and Reviews by Other Agencies.*

(1) Where applicable and where possible, all necessary permits or other written approvals must be obtained from all other agencies before any approvals of plans, special exceptions, variances, or permits may be granted by East Vincent Township or its agencies, officials, or employees.

(2) Where necessary permits or written approvals from other agencies cannot be obtained prior to action by East Vincent Township, any approvals or plans, special exceptions, variances, or permits by East Vincent Township or its agencies, officials, or employees shall be conditioned upon receiving such other agencies' permits or written approval.

(3) No regulations of the Commonwealth governing watercourses are amended or repealed by this Part. Prior to any proposed alteration or relocation of any watercourse, a permit shall be obtained from the Pennsylvania Department of Environmental Protection, and notification of any such proposal shall be given to all affected adjacent municipalities. Copies of such permit, application and municipal notification shall be forwarded to the Federal Insurance Administration and to the Pennsylvania Department of Economic and Community Development by the applicant, with a copy of the transmittal provided to the Code Enforcement Officer.

*C. Placement and Construction of Authorized Uses and Structures.*

(1) All uses and structures shall be designed, constructed, and placed so as to offer the minimum obstruction possible to the flow of water and shall be designed to have a minimum effect upon the flow, velocity, or height of floodwaters. Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow, and, so far as it is practicable, structures shall be placed approximately on the same flood flow lines as those of nearby structures.

(2) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage and shall be constructed by methods and practices that minimize flood damage.

(3) All new or replacement drains, water supply facilities, or sanitary sewage facilities shall be designed to preclude infiltration or backup of sewage or floodwaters into the facilities or structures and discharges from the facilities into floodwaters.

(4) All new construction and substantial improvements of nonresidential structures shall either (a) have the lowest floor (including basement) elevated to 1½ feet above the 100-year flood elevation as defined by Part 2 of this Chapter, or (b) together with attendant utility and sanitary facilities, be floodproofed to the regulatory flood elevation as defined by Part 2 of this Chapter so that the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(5) All authorized improvements or additions to existing residential structures shall, to the greatest extent possible, be elevated. Any portion of the structure not elevated to 1½ feet above the 100-year flood elevation defined by this Part shall be floodproofed.

(6) All authorized new construction and substantial improvements of residential structures shall have the lowest floor (including basement) elevated to the regulatory flood elevation as defined by this Chapter.

(7) *Space Below the Lowest Floor:*

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

(b) Partially enclosed space below the lowest floor (including basement) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space" also includes crawl spaces.

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

1) A minimum of two openings having a net total area of not less than 1 square inch for every square foot of enclosed space.

2) The bottom of all openings shall be no higher than 1 foot above grade.

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

(d) *Floodproofing.* Where floodproofing is authorized by this Part, it shall be done according to the standards and provisions for floodproofing classes W-1 and W-2 as contained in "Floodproofing Regulations," U.S. Army, Publication EP 1165 2 314 (June 1972, as amended) where such standards and provisions do not conflict with other provisions of this Part. Where reference is made in "Floodproofing Regulations" to the "RFD" (regulatory flood datum), it shall be interpreted to mean the 100-year flood elevation as defined by Part 2. The floodproofing of new residential structures within the floodplain is specifically prohibited.

(e) *Anchoring.* All structures, including buildings (when permitted as a special exception or by variance), air ducts, large pipes, and storage tanks within the Flood Hazard District shall be firmly anchored to prevent flotation, movement, or collapse, thus reducing the possibility of the blockage of bridge openings and other restricted sections of the water-course.

(f) *Surface Drainage.* Adequate drainage shall be provided for all new development to reduce exposure to flood hazards.

(g) *Public Utility Facilities and Structures.* Public utility facilities and structures (except buildings) subject to the jurisdiction of the Pennsylvania Public Utility Commission shall comply with the following standards in the interest of achieving the purpose and intent of this Part:

1) Public utility facilities and associated structures, such as pipelines, gas lines, storm sewers, sanitary sewers, water lines, outlet installations for sewage treatment plants, sealed public and private water supply wells, pumping stations, and underground communications facilities, should, except for necessary vents, be designed and

installed underground so as to be at or below the existing natural surface grade within the floodplain and in such a manner as will prevent flotation, minimize or eliminate flood balance, and not alter the cross-sectional area of the floodplain. All new or replacement water supply facilities and/or sanitary sewage facilities should be designed to minimize or eliminate infiltration of floodwaters into the floodwaters. All gas lines should have a system of shut-off valves for service to the Flood Hazard District to allow positive control during flood emergencies.

2) Public utility electrical transmission lines and supporting structures should be installed so as to minimize or eliminate flood damage and be installed underground below the existing natural surface grade within the floodplain. Above-ground electrical transmission lines should be designed to meet the following standards:

(i) Above-ground lines and supporting structures should enter the Flood Hazard District only to cross a watercourse, should cross the watercourse and the Flood Hazard District using the most direct and shortest route possible consistent with the goals, objectives, purposes, and intents of this Part, should make the minimum number of crossings necessary, and should be designed and installed so as to minimize or eliminate flood damage.

(ii) Above-ground lines should be elevated so that their lowest portions are a minimum of 20 feet above the maximum flood elevation.

(iii) Supporting structures for above-ground lines within the Flood Hazard District should be the minimum number necessary to carry the lines across the Flood Hazard District. Supporting structures should be designed and installed so as to be able to withstand the maximum volume, velocity, and force of floodwaters which can be expected at the point where they are located.

(iv) Facilities and service in the Flood Hazard District should be designed so that flood damage within the district does not disrupt service outside the district.

(h) *Agricultural Standards.*

1) A filter strip is required between any watercourse and any tilled land. Such strip shall be a minimum of 25 feet in width measured from the bank of the watercourse channel. The filter strip shall be planted and maintained in grass.

2) Within the Flood Hazard District, a cover crop, such as annual rye grass, is required whenever the land is not being tilled for major crops.

3) Livestock shall not be confined in pastures or other enclosures located entirely within the Flood Hazard District.

4) Within the Flood Hazard District, feedlots are prohibited.

(i) *Uniform Construction Code Coordination.*



1) The standards and specifications contained 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.

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

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

[Ord. 188]

15. *Building Permits.*

A. *Building Permit Requirements.* Irrespective of any other provisions of this Chapter, within the Flood Hazard District, building permits shall be required for all proposed development, construction, reconstruction, placement, replacement, expansion, renovation, extension, repair, or other improvement of uses or structures, regardless of value, including the placement of mobile homes and activities such as mining, dredging, filling, grading, logging, paving, excavation, or drilling operation, and the storage of materials or equipment.

B. *Building Permit Application.* Every building permit application for work or uses within the Flood Hazard District shall include or be accompanied by all information necessary for the Code Enforcement Officer to determine that the proposal meets all of the provisions of this Part and East Vincent Township Building Code [Chapter 5, Part 1].

C. *Building Permit Information.* The following information is specifically required to accompany all building permit applications involving structures within the Flood Hazard District:

(1) A plan of the entire site, clearly and legibly drawn at a scale of 1 inch being equal to 100 feet or less, showing the following:

- (a) North arrow, scale, and date.
- (b) Topographic contour lines, if available.
- (c) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.
- (d) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development.
- (e) The location of all existing streets, drives, and other access ways.
- (f) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.

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

- (a) The elevation (in relation to the North American Vertical Datum of 1988) the proposed lowest floor (including basement).

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

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

(d) Detailed information concerning any proposed floodproofing measures including the elevation (in relation to the North American Vertical Datum of 1988) to which the structure was flood-proofed.

(e) Supplemental information as may be necessary under 34 Pa.Code, Chapters 401-405, as amended, and §§1612.5.1, 104.7 and 109.3 of the 2003 IBC and §§R106.1.3 and R104.7 of the 2003 IRC.

[*Ord. 188*]

D. *Documentation.* Where floodproofing is proposed to be utilized for a particular structure, the building permit application shall be accompanied by a document certified by a licensed professional engineer registered by the Commonwealth of Pennsylvania or a licensed professional architect registered by the Commonwealth of Pennsylvania certifying that the floodproofing methods used meet the provisions of §27-1501.14.C.(7)(d) of this Section and are adequate to withstand the flood depths, pressures, velocities, impact, uplift forces, and other factors associated with the 100-year flood as defined by this Part, and indicating the specific elevation (in relation to mean sea level) to which such structure is floodproofed (see East Vincent Township Building Code [Chapter 5, Part 1]). [*Ord. 188*]

(*Ord. 162, 6/12/2002, §1501; as amended by Ord. 179, 12/1/2004; and by Ord. 188, 10/18/2006; §§2-10*)

## **§27-1502. Steep Slope Conservation.**

1. *Purpose.* This Section is intended to promote the health, safety and general welfare and to minimize negative environmental impacts by:

A. Conserving and protecting very steep slope areas from inappropriate development.

B. Regulating development that would cause excessive erosion and resultant promotion of increased runoff and downstream flood hazards.

C. Protecting the natural vegetative cover in steep slope areas, thereby reducing runoff and flooding potential.

D. Protecting the quality of surface and groundwater resources that may be threatened by indiscriminate grading and development in steep slope areas.

2. *Prohibited Uses on Very Steep Slope Areas (Greater than 25 percent).* The erection of buildings or streets, the installation of subsurface sewage disposal systems, and the disturbance or removal of topsoil on land sloping greater than 25 percent shall be prohibited except as provided below.

3. *Uses Permitted Subject to Special Exception or Conditional Use Approval in Areas of Very Steep Slope (Greater than 25 percent).* Any of the following uses shall be permitted as a special exception when authorized by the Zoning Hearing Board, or may be approved by the Board of Supervisors as a conditional use where otherwise subject to application for conditional use approval. Any approval or authorization shall be

subject to the requirements of this Section. In consideration of any such approval or authorization, the Zoning Hearing Board or Board of Supervisors, as applicable, shall consider the extent to which the proposed use or uses may disrupt the stability of soils and natural vegetation and contribute to erosion during and after construction:

A. Sealed public water supply wells provided they have been approved by all regulatory agencies.

B. Sanitary or storm sewers, provided they have been approved by all regulatory agencies.

C. Access roads that shall be suitable for the passage of emergency vehicles in the event of fire or accident. Such roads shall be constructed only when no viable alternative for emergency access exists, and so long as the terms of East Vincent Township Subdivision and Land Development Ordinance [Chapter 22] have been complied with and approval from all regulatory agencies has been secured.

4. *Permitted Uses on Steep Slope Areas (15 percent to 25 percent)*. Except as provided in subsections .2 and .3, above, all uses permitted under applicable base zoning provisions shall be permitted in steep slope areas subject to the provisions of this Section.

5. *Determination of Slope*. In determining the area of steeply sloping land on any site, the following rules shall apply:

A. The maximum elevation difference over which slope may be determined is 20 feet.

B. The limit of steeply sloping areas is to be determined by the first contour interval over which 15 percent slopes occur or, in the case of very steep slope areas, over which 25 percent or greater slopes occur, and steep slope areas may not be averaged over areas of lessor slopes.

C. Areas of very steep slope consisting of two contour intervals and less than 1,000 square feet in extent may be excluded, provided that they do not adjoin or abut larger areas of steep slopes, as defined herein.

D. Small areas of less than steep slope occurring in the midst of larger areas of steep slope shall be averaged into the adjoining steep slope area.

E. For the purpose of lot area calculation, the total area of steep slope shall be carefully measured and enumerated on the plan with respect to their occurrence in each of the individual lots proposed.

F. Where topographic data is not available and submission thereof not otherwise required, areas mapped as sloping 15 percent or more on the Land Resources Map in the East Vincent Township Open Space, Recreation and Environmental Resources Plan shall be considered steep slope areas, except where applicant has demonstrated otherwise to the satisfaction of the Township.

6. *Standards for Development or Disturbance of Any Steep Slope Areas*. The following standards are applicable to all uses located wholly or partly within any steep slope areas as defined in Part 2 herein:

A. All grading shall be minimized, and no grading shall be undertaken within any steep slope areas except in accordance with the terms of this Section.

B. The proposed development, any impervious ground cover, and the

resultant disturbance to the land and existing vegetative cover shall not cause runoff and/or related environmental problems off the site.

C. Removal of, or disturbance to, existing vegetation on the site shall be minimized. The proposed impacts on existing vegetation shall be evaluated in terms of the potentially detrimental effects on slope stability, erosion potential, transpiration and recharge of stormwater, aesthetic and traditional characteristics of the landscape, and existing drainage patterns. Mitigation measures including, but not limited to, site redesign, slope stabilization and use of retaining walls may be required by the Township as it deems appropriate.

D. To the maximum extent practicable, important visual qualities of the site shall be preserved; in addition to vegetation, these may include hilltops or ridgelines, rock outcroppings, and the natural terrain.

E. Road construction shall follow the natural topography to the maximum extent practicable, with cuts and grading minimized.

F. Where development in steep slope areas is necessary, the use of innovative, imaginative building techniques that are well-suited to steep slope conditions and consistent with other applicable codes and regulations is encouraged. Examples include building foundation walls to the slope without alteration of natural grade beyond the building footprint or use of other foundation systems that

minimize the area of disturbance to natural grade.

7. *Application Procedures.* Before a permit is issued for any construction or land disturbance activity on land within or affecting steep slope areas, the following material, in full or in pertinent parts, shall be submitted for review by the Township Engineer:

A. An earthmoving plan of the property that 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 steep slope areas shall be shaded.

B. A site plan indicating existing and proposed structures, easements, 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 steep slope areas, as well as proposed landscape material(s) to be installed.

C. Architectural plans, elevations, and sections.

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

E. An erosion and sedimentation control and drainage plan, prepared by an engineer, 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 documenting how all on-site stormwater runoff will be retained, conveyed, and discharged.

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

G. A statement, signed by the owner or future occupant at the time of subdivision, land development, conditional use, special exception or building permit application, that there is a full understanding of any difficulties associated with access across steep slopes.

H. No approval or building permit shall be authorized by the Code Enforcement Officer without the Township Engineer's review of this material and his recommendation provided thereon.

8. *Burden of Proof.* In all proceedings before the Zoning Hearing Board under this Section, including application for special exception and variance from the provisions of this Section, the burden of proof shall be on the applicant to show that the use proposed will be in general conformity with the objectives of this Section, that proper safeguards will be observed and that the use will not be detrimental to the public health, safety, and welfare.

9. *Municipal Liability.* Any determination that a proposed use complies with this Chapter, or any approval of a subdivision or land development plan, or any issuance of a zoning, building, or use permit within or near steep or very steep slope areas shall not constitute a representation, guarantee, or warranty of any kind by the Township or by any official or employee thereof, of the practicability or safety of the proposed use and

shall create no liability upon the Township, its officials or employees. This Chapter does not imply that areas outside defined steep or very steep slope areas or land uses permitted within steep or very steep slope areas will always be totally free from the adverse effects of erosion, or other effects of nearby steep or very steep slopes.

(Ord. 162, 6/12/2002, §1502; as amended by Ord. 179, 12/1/2004)

**§27-1503. Conservation of Woodlands, Hedgerows and Specimen Vegetation.**

1. *Purpose.* This Section is intended to promote conservation of woodland, hedgerow and specimen vegetation throughout the Township through establishment of specific limitations to land development activities, replacement requirements, and management planning provisions.

2. *Applicability.*

A. Any land disturbance resulting from or in connection with any activity or use requiring any of the permits or approvals mentioned in the following subparagraphs (1), (2), (3) or (4) of this Section shall comply with the provisions of §22-429.2 of the East Vincent Subdivision and Land Development Ordinance ("Woodland Conservation Provisions") [Chapter 22] which are incorporated herein by this reference:

- (1) Building permit, except as provided in subsection .2.B. below.
- (2) Zoning variance, except as provided in subsection .2.C. below.
- (3) Special exception, except as provided in subsection .2.C. below.
- (4) Conditional use, except as provided in subsection .2.D below.

It is the intention of this Section that the provisions of §22-429.2 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22] shall apply independently under this Chapter only where the use or activity is one of those herein noted; and, the Subdivision and Land Development Ordinance [Chapter 22] does not otherwise apply to the proposed use or activity. Therefore, where any activity requiring any of the foregoing permits or approvals also is subject to subdivision or land development review, there shall be no requirement for additional review under this Chapter. Further, where and to the extent that modification(s) of any of the provisions of said §22-429.2 has/have been approved by the Board of Supervisors in connection with any subdivision or land development review, the said requirements shall not be independently enforced pursuant to this Chapter.

B. *Provision for Modification of Woodland Conservation Provisions as Applicable to a Building Permit Application.* On any lot of record at the time of enactment of this Section, the Code Enforcement Officer may issue a permit for building activity in accordance with applicable zoning district regulations where such building activity requires modification to the provisions of §22-429.2 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22], subject to grant of a special exception by the Zoning Hearing Board specifying approval of and conditions to any such modification, and conforming to the provisions of subsection .2.C below.

C. *Provision for Modification of Woodland Conservation Provisions as Applicable to Any Application Before the Zoning Hearing Board.* Where any

applicant for any activity requiring a zoning variance or special exception demonstrates to the satisfaction of the Zoning Hearing Board that strict adherence to the provisions of §22-429.2 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22] will render the lot or tract subject to Application unusable or unsuitable for development or use in accordance with applicable zoning district regulations, or demonstrates that alternative design provisions shall achieve similar conservation objectives, the Zoning Hearing Board may, as a specific condition of approval of such variance or special exception, modify by reducing strict reduce strict compliance as appropriate, subject to subsection .2.E below.

*D. Provision for Modification of Woodland Conservation Provisions as Applicable to Any Application Before the Board of Supervisors.* Where any applicant for any activity or use requiring conditional use approval demonstrates to the satisfaction of the Board of Supervisors that strict adherence to the provisions of §22-429.2 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22] will render the lot or tract subject to application unusable or unsuitable for development or use in accordance with applicable zoning district regulations, or demonstrates that alternative design provisions shall achieve similar conservation objectives, the Board of Supervisors may, as a specific condition of conditional use approval, reduce strict compliance as appropriate, subject to subsection .2.E below.

*E. Conditions of Approval of Modification(s) to Woodland Conservation Provisions.*

(1) In reducing strict compliance with woodland conservation provisions, the Zoning Hearing Board or Board of Supervisors, as applicable, may require that land disturbance be limited to the minimum practicable extent necessary to accommodate lawful use of the tract or lot and/or may require that alternative means to achieve woodland conservation objectives be incorporated into applicable plans.

(2) The Zoning Hearing Board or Board of Supervisors, as applicable, may agree to reduce applicable woodland replacement requirements, where satisfied that existing site conditions (i.e., a fully wooded lot), safety considerations, or other landscape or climatic considerations (i.e., sun versus shade) warrant such reduction.

(3) The Zoning Hearing Board or Board of Supervisors, as applicable, may condition approval of any modifications to woodland conservation provisions on the establishment of conservation easement(s) or deed restriction(s) in form acceptable to the Township.

(Ord. 162, 6/12/2002, §1503; as amended by Ord. 179, 12/1/2004)

#### **§27-1504. Conservation of Riparian Buffers Areas.**

1. *Purpose.* This Section is intended to address the multiple water resource protection benefits provided by riparian buffer areas, including the following:

A. Reduction of the amount of nutrients, sediment, organic matter, pesticides, and other harmful substances that reach watercourses through subsurface and surface flow pathways through scientifically proven natural processes including

filtration, deposition, absorption, adsorption, plant uptake, and denitrification, and by improving infiltration, sheet flow, and stabilizing concentrated flows. The consumption of nitrogen and denitrification in surface and groundwater and the trapping of phosphorus-laden sediment and other pollutants resulting from adjacent land uses, thereby protecting water quality are critical.

B. Provision of shade that moderates stream temperature and protects fish habitat by retaining more dissolved oxygen and encouraging the growth of diatoms, beneficial algae and aquatic insects.

C. Provision for stream bank stability that protects fish habitat and controls sediment and erosion. Tree roots consolidate the soils of floodplain and stream banks, reducing the potential for severe bank erosion.

D. Provision of organic matter through leaves which 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 dwelling creatures (such as insects, amphibians, crustaceans and small fish) which are critical to the aquatic food chain.

E. Conserves the natural features important to land or water resource (e.g., headwater areas, groundwater recharge zones, floodway, floodplain, springs, streams, woodlands, prime wildlife habitats) which exist on developed and undeveloped land.

## 2. *Applicability.*

A. Any land disturbance resulting from or in connection with any activity or use requiring any of the permits or approvals mentioned in the following subparagraphs (1), (2), (3) or (4) of this Section shall comply with the provisions of §22-429.3 of the East Vincent Subdivision and Land Development Ordinance ("Riparian Buffer Provisions") [Chapter 22] which are incorporated herein by this reference:

- (1) Building permit, except as provided in subsection .2.B below.
- (2) Zoning variance, except as provided in subsection .2.C below.
- (3) Special exception, except as provided in subsection .3.C below.
- (4) Conditional use, except as provided in subsection .2.C below.

It is the intention of this Section that the provisions of §22-429.3 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22] shall apply independently under this Chapter only where: the use or activity is one of those herein noted; and, the Subdivision and Land Development Ordinance [Chapter 22] does not otherwise apply to the proposed use or activity. Therefore, where any activity requiring any of the foregoing permits or approvals also is subject to subdivision or land development review, there shall be no requirement for additional review under this Chapter. Further, where and to the extent that modification(s) of any such riparian buffer provisions has/have been approved by the Board of Supervisors in connection with any subdivision or land development review, the said requirements shall not be independently enforced pursuant to this Chapter.

B. *Provision for Modification of Riparian Buffer Provisions as Applicable to a Building Permit Application.* On any lot of record at the time of enactment of this Section, the Code Enforcement Officer may issue a permit for building activity in



accordance with applicable zoning district regulations where such building activity requires modification to the riparian buffer provisions, subject to grant of a special exception by the Zoning Hearing Board, specifying approval of and conditions to any such modification, and conforming to the provisions of subsection .2.C below.

C. *Provision for Modification of Riparian Buffer Provisions as Applicable to Any Application Before the Zoning Hearing Board or Board of Supervisors.* Where any applicant for any activity requiring a permit or approval from the Zoning Hearing Board or the Board of Supervisors demonstrates to the satisfaction of the Zoning Hearing Board or Board of Supervisors, as applicable, that strict adherence to the riparian buffer provisions will render the lot or tract subject to the application unusable or unsuitable for development in accordance with applicable zoning district regulations, or demonstrates that alternative design provisions shall achieve similar conservation objectives, the Zoning Hearing Board or Board of Supervisors, as applicable, may, as a specific condition of approval, modify by reducing strict compliance as appropriate. In reducing strict compliance with riparian buffer provisions, the Board may require that land disturbance within the riparian buffer area be limited to the minimum practicable extent necessary to accommodate lawful use of the tract or lot and may require that alternative means to achieve the conservation objectives, above, be incorporated into applicable plans. Any request for such reduction of strict compliance hereunder to the Board of Supervisors shall be deemed to be and shall be processed as a conditional use application. Similarly, any such request before the Zoning Hearing Board shall be deemed to be and shall be processed as a special exception application. In approving any application for modification, The Zoning Hearing Board or Board of Supervisors, as applicable, may condition approval of any modifications to riparian buffer provisions on the establishment of conservation easement(s) or deed restriction(s) in form acceptable to the Township.

(Ord. 162, 6/12/2002, §1504; as amended by Ord. 179, 12/1/2004)

**§27-1505. Excavation of Clay, Sand, Gravel and Rock.**

The following shall apply in all districts. The excavation of clay, sand, gravel, rock and other minerals shall be permitted, and the material thus excavated may be sold and/or removed from the subject property (excluding topsoil) only under the following conditions:

- A. As a part of the construction of a building or the construction or alteration of a street.
- B. The surface of the lot shall not be graded to a level below that of adjoining streets.
- C. Excavation shall not be conducted in a way that will leave loose boulders exposed.
- D. A minimum of 4 inches of topsoil shall cover disturbed areas and be reseeded with an appropriate groundcover as required by the Chester County Conservation District (See Section 102, Department of Environmental Protection), but in no case, shall such preventive measures take place beyond 30 days of removal of excavated material. The Township Engineer may modify these minimum standards on a case by case basis for purposes of addressing unique

circumstances, such as planting during drought conditions, type of underlying bedrock, erosion and sedimentation objectives, etc.

E. Provision is made by the applicant for restoration of natural groundcover and control of erosion.

F. A final grading plan be submitted to the Township for approval prior to initiation of the work.

(*Ord. 162, 6/12/2002, §1505; as amended by Ord. 179, 12/1/2004*)

#### **§27-1506. Concurrent Submission Requirements.**

For any activity within East Vincent Township requiring the submission of a wetland delineation report, stream or wetland encroachment permit, or mitigation plan to the Pennsylvania Department of Environmental Protection and/or U.S. Army Corps of Engineers, copies of all such documentation shall be submitted to the Township Code Enforcement Officer within 10 days of submission to the requiring agency. The Code Enforcement Officer shall distribute that documentation to the Township Engineer, and to the Township Planning Commission, Zoning Hearing Board, or Board of Supervisors, at their next available meeting for review and comment, if determined by the Code Enforcement Officer, in coordination with the Planning Commission, Zoning Hearing Board, or Board of Supervisors, to be relevant to a pending conditional use, special exception, variance, or subdivision application before the Township.

(*Ord. 162, 6/12/2002, §1506; as amended by Ord. 179, 12/1/2004*)

#### **§27-1507. Stormwater Management and Erosion and Sedimentation Control.**

##### **1. Applicability.**

A. Subject to exemption or modification as provided hereinafter, the provisions of §22-307.3, "Conservation Plan," §22-307.4, "Stormwater Management Plan," and §22-426, "Stormwater Management," of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22] shall apply to any use or activity and to any change in use or activity involving any of the following:

(1) Any addition of impervious or semi-pervious cover or storage of impervious or semi-pervious materials exceeding 1,500 square feet or involving land disturbance exceeding 5,000 square feet.

(2) Any installation of stormwater management facilities or appurtenances thereto or any diversion or piping of any natural or man-made stream channel.

(3) Any situation where the Township Engineer determines that surface or subsurface drainage could impair public safety or cause physical damage to adjacent lands or public property.

(4) Any stormwater runoff entering into the Township's separate storm sewer system(s) from lands within the boundaries of the Township.

B. Where any applicable use, activity, or change in use or activity, as provided in subsection .1 above, requires approval of any building or zoning permit, zoning variance, special exception or conditional use, such approval or permit shall be conditioned upon compliance with applicable provisions of said §§22-307.3 and 22-426 of the East Vincent Township Subdivision and Land Development Ordinance

[Chapter 22].

C. It is the intention of this Section that the provisions of said §§22-307.3 and 22-426 of the Subdivision and Land Development Ordinance [Chapter 22] shall apply independently under this Chapter only where the Subdivision and Land Development Ordinance [Chapter 22] does not otherwise apply to the proposed use or activity. Therefore, where any use, activity, permit or approval is also subject to subdivision or land development review, there shall be no requirement for additional review under this Chapter. Further, where and to the extent that modification(s) of any of the provisions of said §§22-307.4 and 22-426 has/have been approved by the East Vincent Township Board of Supervisors in connection with any subdivision or land development review, the said requirements shall not be independently enforced pursuant to this Chapter.

2. *Exemptions.* Subject to the approval of the Township and to the extent applicable, the following activities may be exempted from some or all of the requirements of §§22-307.4 and 22-426 of the Subdivision and Land Development Ordinance [Chapter 22] where the Township is satisfied that stormwater runoff, erosion and sedimentation, and water quality issues are otherwise adequately addressed.

A. *Emergency Exemption.* Emergency maintenance work performed for the protection of public health, safety and welfare. A written description of the scope and extent of any emergency work performed shall be submitted to the Township within 2 calendar days of the commencement of the activity. If the Township finds that the work is not an emergency, then the work shall cease immediately and the requirements of this Chapter shall be addressed as applicable.

B. *Maintenance Exemption.* Any maintenance to an existing stormwater management system made in accordance with plans and specifications approved by the Township.

C. *Gardening.* Use of land for gardening for home consumption.

D. *Agricultural Activities.* Agriculture when operated in accordance with a conservation plan or erosion and sedimentation control plan approved by the Chester County Conservation District, including activities such as growing crops, rotating crops, tilling of soil and grazing animals. Installation of new or expansion of existing farmsteads, animal housing, waste storage and production areas having impervious surfaces that result in a new increase in impervious of greater than 1,500 square feet shall be subject to the provisions of this Chapter.

E. *Forest Management.* Forest management operations, which are consistent with a sound forest management, plan, as filed with the Township and which follow the Pennsylvania Department of Environmental Protection's management practices contained in its publication "Soil Erosion and Sedimentation Control Guidelines for Forestry."

3. *Modifications.*

A. For any use or activity subject to subdivision or land development review, modification(s) to the provisions of §§22-307.4 and 22-426 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22] may be requested, which modification(s) may be granted at the discretion of the Board of Supervisors pursuant to the provisions of that ordinance.

B. For any use or activity not subject to subdivision or land development review, but where the use or activity is subject to application for approval of a conditional use, special exception, or zoning variance, or where such prior approval failed to address stormwater management issues to the extent necessary to comply with the provisions of §§22-307.4 and 22-426 of the Subdivision and Land Development Ordinance [Chapter 22], modification(s) to the provisions of said §§22-307.4 and 22-426 may be requested as part of such application.

C. For any use or activity not otherwise subject to permit or approval as provided in paragraphs .A or .B above, modification(s) to the provisions of said §§22-307.4 and 22-426 may be requested in the form of an application for grant of a special exception to the East Vincent Township Zoning Hearing Board. Such applications shall be submitted to the East Vincent Township Planning Commission for review and comment prior to formal special exception application to the Zoning Hearing Board.

D. In approving any application pursuant to paragraphs .B or .C above, the Zoning Hearing Board or Board of Supervisors, as applicable, as a condition of approval of such application, may permit specific modification(s) to the provisions of said §§22-307.4 and 22-426 subject to the following:

(1) The Zoning Hearing Board or Board of Supervisors, as applicable, shall determine that the specific nature of the lawful use or activity, existing site conditions, or safety considerations warrant such modification(s).

(2) Permitted modifications shall be consistent with the purposes of said §§22-307.4 and 22-426.

4. *Compatibility with other Requirements.* Approvals issued and actions taken in accordance with this Section do not relieve any applicant of the responsibility to secure required permits or approvals for activities regulated by any other applicable code, law, regulation or ordinance, specifically including but not limited to the East Vincent Township Grading Ordinance, *Ord. 93*, 12/20/1989 [Chapter 9, Part 1]. To the extent that the requirements set forth herein are in conflict with or otherwise differ from any other applicable regulation, the more stringent provision(s) shall apply.

5. *Review and Approval.* The stormwater management plan and conservation plan shall be reviewed by the Township Engineer and approved where consistent with all applicable standards and requirements or conditionally approved subject to compliance with any applicable standards or requirements specified by the Township Engineer. Where the Township Engineer specifically disapproves the subject plan or plans, applicable subdivision or land development plans or building or zoning permit(s) shall not be approved. Plan review shall occur concurrently with review of applicable subdivision or land development plans or building or zoning permit application which they accompany. Notwithstanding any other stipulation of this Chapter or of the Subdivision and Land Development Ordinance [Chapter 22], the Township Engineer shall have a minimum of 30 days, commencing upon receipt of a complete submission, to review applicable plans and submit a report thereon to the Township Zoning Officer, Planning Commission and/or Board of Supervisors as applicable.

(*Ord. 162*, 6/12/2002, §1507; as amended by *Ord. 179*, 12/1/2004)

#### **§27-1508. Conservation of Water Resources.**

1. *Water Budget Impact Assessment and Mitigation.*

A. *Purpose.* The purpose of this Section is not to regulate the quantity of any groundwater withdrawal, but to support the efforts of the Sustainable Watershed Management Program undertaken on behalf of the Federation of Northern Chester County Communities to guarantee that water use and/or consumption does not exceed sustainable groundwater and surface water supplies or is subject to appropriate mitigation measures.

B. *Applicability.* Any use, subdivision or land development meeting one or more of the following criteria shall submit a water budget impact analysis to the township. The required water budget impact analysis shall be submitted at the time of preliminary subdivision or land development submission, conditional use application, or application for building permit or use and occupancy permit, as applicable.

(1) Any use resulting in spring or surface water collection for off-site consumption or any bottling operation.

(2) Any nonresidential use which requires or potentially requires use of water in excess of 2,500 gallons per day (gpd).

(3) Any use, subdivision or land development to be served by any sewage disposal system which is not a land-based best management practice as delineated in the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22] (e.g., "package" stream discharge systems).

(4) Any use, subdivision or land development on a lot or tract greater than 1 acre in area, and involving greater than 50 percent impervious coverage on the subject lot or tract.

(5) Any use, subdivision or land development involving stormwater management systems not capable of full groundwater recharge (infiltration) of all rainfall events up to the two-year storm, except those within the MR, HR, GC, PO, and GI Districts, and LR District when public utilities are proposed to serve the development. For the purposes of this Section, the volume of water comprising the 2-year storm shall be measured as the difference between the volume of stormwater runoff generated by the 2-year storm predevelopment and the volume generated postdevelopment on the subject lot or tract. Predevelopment calculations shall assume "meadow-good" coverage conditions regardless of actual coverage.

C. *Water Budget Impact Analysis.*

(1) The purpose of the water budget impact analysis is to determine if the consumptive water use ("water demand") of the proposed use in question exceeds the maximum allowable water budget reduction consistent with sustainable watershed management standards as applied to the site in question ("water supply"). Appropriate calculations shall be made as provided below and shall be submitted to the Township Engineer for review and confirmation. Confirmation of the results of the water budget impact analysis and, where required, conditional use approval of the water budget impact mitigation, as provided below, shall be prerequisite to issuance of subdivision/land development approval, conditional use approval, building permit or

use and occupancy permit, as applicable.

(2) The required water budget impact analysis shall include the following:

(a) The applicant shall submit calculations of "water demand," as follows:

1) The applicant shall estimate total average daily water use (gpd) for the proposed use, subdivision, or land development.

2) The applicant shall estimate total average daily water consumption, where water consumption equals total average daily water use downwardly adjusted by that quantity which is recycled through land-based wastewater treatment.

3) The applicant shall equate total average daily water consumption to "water demand" in gpd.

(b) The applicant shall calculate "water supply."

1) The applicant shall establish the total area in acres of the lot or tract upon which the subject use is located, excluding any area used to calculate the "water supply" for any other use.

2) The applicant shall refer to the appropriate sustainable watershed management program standards (numerical values) for the sub-basin within which the subject use is located, using the following maps appended to this Chapter:

a) "Map of Maximum Allowable Consumptive Loss Standards by Subbasin."

b) "Map of Q7-10 Low Stream Flow Values by Subbasin."

3) The applicant shall calculate "water supply" as the product of (area in acres) X (applicable maximum allowable consumptive loss percentage) X (applicable Q7-10 low stream flow value in gpd/acre) = "water supply" in gpd.

Where the lot or tract upon which the subject use is located is situated in more than one subbasin, the applicable numerical values referenced above may be prorated proportionally to the amount of land area in each subbasin.

(3) If "water demand" is greater than "water supply," the proposed use shall be classified as a special water use.

D. *Mitigation Requirements for Special Water Uses.* Special water uses shall be permitted subject to conditional use approval by the Board of Supervisors in accordance with the provisions of Part 19 and based upon approval of a water budget impact mitigation plan designed to mitigate the impacts of water budget exceedance, where "water demand" exceeds "water supply." The water budget impact mitigation plan shall demonstrate use of one or more methods to achieve adequate mitigation of water budget impact(s) including, but not limited to, the following:

(1) Reduction in water demand by reducing total water usage and/or reducing the consumptive fraction of that total water usage.

(2) Provision of additional land area within the same sub-basin restricted from further water consumption to an extent adequate to balance the

exceedance. Such provision may involve any type of permanent conveyance, restriction or reservation satisfactory to the Township, potentially including fee simple acquisition, establishment of conservation easements, and/or purchase of transferable development rights.

(3) Establishment of reforestation lands or other types of actions which will increase the water supply, calculated as provided herein.

(4) Satisfactory demonstration that the water supply will not in fact be exceeded over time due to specific water use restrictions which can be monitored and enforced (e.g., commitment to reduce and/or eliminate water usage during dry periods, etc.)

(*Ord. 162, 6/12/2002, §1508; as amended by Ord. 179, 12/1/2004*)





**Part 16****Supplemental Land Use Regulations****§27-1601. Purpose.**

The following regulations have been established to govern specific uses, structures, or buildings within East Vincent Township or are of general applicability and which shall apply in addition to any other applicable zoning district regulations.

(Ord. 162, 6/12/2002, §1600; as amended by Ord. 179, 12/1/2004)

**§27-1602. Accessory Uses, Buildings and Structures.****1. Permitted Accessory Uses, Buildings and Structures.**

A. Accessory uses include but are not limited to household pet animal shelters, garages, swimming pools, greenhouses, tennis courts, and enclosed storage sheds.

B. Uses designed to serve residents of a residential development, including areas for washing machines and dryers, lockers or indoor storage areas, recreational facilities, and lounges shall remain accessory and incidental to the development.

C. Farm buildings where accessory to a permitted agricultural use.

D. Accessory uses for commercial and industrial uses may include restaurants or cafeterias for use primarily by employees only, living quarters for watchmen, caretakers, or similar employees, and recreational uses designed primarily for employees of the use.

E. Structures such as fences and free-standing walls, which shall meet the following requirements:

(1) The maximum height shall be 4 feet in the front yard and 7 feet elsewhere.

(2) Any fence over 5 feet in height shall have effective apertures representing no less than 25 percent of the surface area in one plane, and no less than 40 percent of the surface area if surfaces are staggered.

(3) Any fence located in the side yard, yet which faces the front street, and is over 4 feet high, must be landscaped on the side facing the street. This provision does not apply to fences running parallel to or located on the side lot line.

(4) On a reverse frontage lot, any backyard fence over 5 feet in height shall be landscaped on the side toward the street.

(5) If a lot fronts on two or more streets, the 4-foot maximum height limitation shall apply along all of the streets.

(6) There shall be no fences located in drainage easements or drainage swales which are part of an approved stormwater management plan.

(7) Fences and walls shall be kept in good repair.

(8) Notwithstanding these provisions, specific swimming pool fencing

requirements are provided in §27-1604.

F. The following accessory uses are further subject to specific use regulations as follows:

- (1) Storage, in accordance with §27-1603.
- (2) Swimming pools, in accordance with §27-1604.
- (3) Home occupations, in accordance with §27-1605.
- (4) Antennae and communication towers, in accordance with §27-1606.
- (5) Microwave dish antennae, in accordance with §27-1607.
- (6) Residential conversion, in accordance with §27-1608.
- (7) Sale of agricultural products, in accordance with §27-1609.
- (8) Keeping of animals, in accordance with §27-1610.
- (9) Junkyard, in accordance with §27-1611.
- (10) Group homes, in accordance with §27-1612.
- (11) Gasoline service stations and quick service food stores, in accordance with §27-1613.
- (12) Campgrounds or recreational vehicle parks, in accordance with §27-1614.
- (13) Bus shelters, in accordance with §27-1615.

2. *Location.*

A. Accessory uses, buildings and structures shall be located to the side or rear of the principal building, except for fences and landscape walls, and as provided for in §§27-1609 and 27-1615. Accessory uses, as in the case of home occupations, shall also be permitted within the principal structure or building.

B. Except where otherwise provided in this Chapter, the presence of a permitted accessory use shall not alter the applicability of the area and bulk regulations otherwise applicable to the principal use.

C. Except where otherwise approved for development under the open space design option, accessory uses, buildings and structures shall be set back from side and rear lot lines for a minimum distance equal to the height of the accessory buildings and structures, provided such setback shall not be less than 10 feet from a lot line. Fences and landscape walls may be located on or near lot lines, subject to the requirements of this Section, provided that allowances are made for the ongoing maintenance of such fences or walls suitable to the Township Code Enforcement Officer. Where any Section of this Chapter provides for greater setbacks for accessory uses, buildings or structures, such setbacks shall apply. Except for fences and landscape walls, no accessory buildings or structures shall be located within any required buffer area, including any perimeter buffer required in accordance with §22-422 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22].

D. The minimum distance between any accessory building and any other accessory building or any principal building shall be 10 feet, unless such buildings are abutting and/or attached.

E. Accessory uses, buildings and structures proposed within a residential development established pursuant to the open space design option of Part 9 shall be subject to the residential area and bulk regulations of §27-904.5, and not those referenced above.

(Ord. 162, 6/12/2002, §1601; as amended by Ord. 179, 12/1/2004)

**§27-1603. Storage.**

1. As an accessory or principal use, storage shall comply with the following standards:

A. *General Provisions.*

(1) All rubbish, whether organic or inorganic, shall be stored in suitable vermin-proof containers and properly disposed of as soon as practical.

B. Storage of any materials or wastes shall comply with the requirements of §27-1716, "Performance Standards."

C. Outdoor storage facilities for fuel, raw materials and products shall be enclosed with an approved safety fence compatible with the architectural and landscaping theme existing or proposed on the lot.

D. No materials or wastes shall be deposited upon a lot in such form or manner that they may be transported off by natural causes or forces, nor shall water or surface water undesirable as a source of water supply or recreation, or which will destroy aquatic life, be allowed to enter any groundwater or surface water. Applicable Department of Environmental Protection regulations shall apply.

E. Outside storage shall occupy an area of less than one-half the existing building coverage when serving as an accessory use. Accessory uses requiring more land area of storage shall apply for a special exception by the Zoning Hearing Board. In no case shall more than 25 percent of the lot area be used for outdoor storage. This provision shall not apply to storage as a principal use such as lumber yards and car dealer lots.

F. Outside storage shall not occupy any part of street rights-of-way, pedestrian walkways, required parking spaces, required front yard areas, or required buffer areas, and shall not be located within 15 feet of any side or rear lot line.

G. Outdoor storage shall not exceed 15 feet in height.

H. All storage shall be completely screened from view in accordance with §27-1713 except materials and products on display for sale in which case the front yard need not be screened.

I. The restrictions on storage set forth in this Section are in addition to any other restrictions and limitations imposed on storage by this Chapter and/or other applicable regulation, including without limitation the regulations and restrictions applicable to junkyards.

2. *Outdoor Storage of Vehicles.* For purposes hereof, a vehicle shall be deemed to be stored outdoors unless it is located within a garage or other structure enclosed on at least three sides and having a roof.

A. In all districts, unless otherwise approved by East Vincent Township, no

trailer, travel trailer, motorized dwelling, tent trailer, boat trailer, recreational vehicle or similar vehicles shall be stored outdoors within any required front yard area nor within 15 feet of any side or rear lot line, except as provided in subsection .2.B below.

B. On any residential property, currently registered and operable vehicles owned by the resident(s) of the property may be stored (parked) without limitation, where not stored within any required minimum yard or setback area. No more than three currently registered and operable vehicles may be stored within required minimum yard areas.

C. No unlicensed or unregistered motor vehicle other than farm vehicles, and no inoperable farm vehicle, may be stored outdoors on any lot for a period in excess of six months. No more than two unlicensed and/or unregistered vehicles may be stored outdoors on any lot at any one time.

(*Ord. 162, 6/12/2002, §1602; as amended by Ord. 179, 12/1/2004*)

#### **§27-1604. Swimming Pools.**

1. Every swimming pool area or the entire property on which it is located shall be completely enclosed by a fence or wall so as to prevent uncontrolled access by children from the street or adjacent properties. All swimming pools shall comply with currently adopted Building Codes, as amended [Chapter 5].

2. A swimming pool shall not be located in any required setback area.

(*Ord. 162, 6/12/2002, §1603; as amended by Ord. 179, 12/1/2004*)

#### **§27-1605. Home Occupation.**

A home occupation shall be deemed either a minor home occupation or a major home occupation depending on compliance with the requirements and provisions of this Section. Except where approved as a conditional use as provided in §27-1403.3.B(2), minor home occupations shall be permitted by right, while major home occupations shall be permitted where approved as a special exception by the Zoning Hearing Board.

A. The following provisions shall apply to all minor and major home occupations:

(1) Both minor and major home occupations may include, but are not limited to, such uses and/or activities as:

(a) Professional practice of medicine, law, engineering, architecture, accounting, planning, real estate, and insurance.

(b) Personal services including dressmaking, millinery, barber and beauty shops.

(c) Cottage industries including crafts and homemade products.

(d) Teaching of not more than six pupils simultaneously, or in the case of musical instruction, not more than two pupils at a time.

(e) In-home day care use, provided no more than four children from outside the family occupying the dwelling are tended at any time.

(2) The operation of a medical clinic, boarding home, motor vehicle repair shop, stable, kennel or mortuary shall not be deemed a home occupation.

(3) All minor and major home occupations shall be clearly incidental and secondary to the principal residential use.

(4) The principal practitioner of any minor or major home occupation must be a resident of the property on which the home occupation is practiced.

(5) No minor or major home occupation shall involve alterations to the exterior of any principal or accessory structure except those customary to residential use of the property or necessary to comply with the provisions herein. The exterior of the principal residence and all accessory structures, if any, shall retain an appearance which is essentially no different than if there were no home occupation(s) conducted inside.

(6) Except for the raising of garden produce or as provided in §27-1403.3.B.(2)(b), no minor or major home occupation shall occupy an area greater than 25 percent of the total floor area of the principal dwelling unit, or 800 square feet of floor area, whichever is less. While this area limitation shall be calculated on the basis of the floor area of the principal dwelling unit, a home occupation may be conducted in an accessory structure, whether entirely or in part.

(7) Any dwelling unit in which a minor or major home occupation is conducted shall have its own direct access to ground level.

(8) No minor or major home occupation shall cause any offensive or disturbing noise, smoke, odor, glare or other objectionable effects noticeable at or beyond the lot line.

(9) There shall be no sale, nor storage for sale, of hazardous chemicals or biological agents on the premises.

B. *Additional Standards for Minor Home Occupations.* Minor home occupations, permitted by right, shall comply with the following additional standards. Home occupations exceeding the standards of this subsection shall be deemed major home occupations and shall be permitted only where authorized by the Zoning Hearing Board as a special exception and subject to the limitations of paragraph .C, below.

(1) No more than one person not residing on the premises may be employed at a maximum of 40 hours per week.

(2) There shall be no signs, advertising, or other indication showing evidence of the existence or conduct of a home occupation.

(3) No additional off-street parking area shall be provided to facilitate the conduct of any minor home occupation other than the off-street parking required or permitted for the particular residential use, nor shall the home occupation generate vehicular traffic such that there is a need for such additional parking.

(4) No retail sales shall be permitted on the premises.

(5) No business vehicle other than a pick-up truck or small van (i.e.,  $\frac{3}{4}$  ton) shall be regularly parked on the property.

C. *Additional Standards for Major Home Occupations (permitted when authorized as a special exception).*

(1) No more than two persons not residents of the premises may be employed by the principal practitioner of the major home occupation.

(2) In addition to the off-street parking spaces required for the residential use of the property, one off-street parking space shall be provided for each employee, plus one additional off-street parking space for each 400 square feet of space on the premises occupied by the home occupation; providing, however, that a total of no more than six off street parking spaces shall be permitted on one lot. Use of pervious concrete or asphalt and/or concrete or lattice block pavers for parking is required. All of street parking spaces shall be located at least 10 feet from any property line and shall be screened from view from neighboring residential properties.

(3) No more than two business vehicles used in the practice of a major home occupation may be parked on the property on a regular basis. All business vehicles shall be parked in an enclosed structure or in an area screened from view from neighboring properties and streets.

(4) There shall be no more than one sign, non-illuminated, and no larger than 4 square feet in aggregate area, identifying the name and occupation of the practitioner.

(5) No major home occupation shall be permitted in a mobile home within a mobile home park nor in a multi-family dwelling.

(6) Materials, products, or equipment incidental to the practice of a major home occupation may be stored outdoors only when screened from view from neighboring properties and streets in accordance with §27-1713.

(7) Where permitted in connection with the practice of a major home occupation, articles sold or offered for sale shall be produced on the premises, unless incidental to the principal service or use provided.

(*Ord. 162, 6/12/2002, §1604; as amended by Ord. 179, 12/1/2004*)

#### **§27-1606. Antennae and Telecommunications Facilities.**

All antennae and telecommunication facilities constructed in East Vincent Township shall comply with the following standards and regulations. No more than two antennae on a single lot attached to a building or buildings and not exceeding the peak of the roof by more than 10 feet at the highest point, may be permitted without regard to the provisions of this Section where in compliance with applicable regulation of the Federal Communications Commission (FCC). Where the provisions of §27-1607 in regard to microwave dish antennae apply, any conflicting provision(s) herein shall not apply:

A. *Purposes.* The purposes of these regulations shall be as follows:

(1) To accommodate the need for transmission and receiving of telecommunications and, in particular, provision for wireless telecommunication service as required by the Federal Telecommunications Act of 1996.

(2) To place reasonable limitations and requirements on the locations and design of telecommunications facilities in East Vincent Township, in order to minimize potentially adverse visual effects, to preserve neighborhood character, and to avoid potential damage or harm to adjacent properties.

(3) To encourage applicants to seek joint use of existing telecommunication facilities and tall structures and to require provision for joint use of structures used for telecommunications facilities as a condition of approval in order to reduce the number of such structures throughout East Vincent Township.

*B. Prerequisites and Conditions.*

(1) Telecommunications towers and/or antennae greater than 35 feet in height, whether free-standing or attached to another structure or building, and together with accessory facilities and/or equipment, shall be permitted when authorized by special exception in the PO and/or GI Districts. Such facilities may be permitted up to a height of 150 feet.

(2) Telecommunications facilities greater than 35 feet in height may be permitted in any district other than the PO or GI Districts, except the French Creek Scenic Corridor Overlay District, subject to conditional use approval and when attached to a tall building or structure devoted to an otherwise permitted principal or accessory use such as, but not limited to, electric transmission line tower, smoke stack, water tower, church steeple, silo, windmill, tall building or other similar tall structure. Such telecommunications facilities may be permitted up to a height of 65 feet or 20 feet higher than the building or structure to which they are attached, whichever is greater, but in no case shall exceed a height 35 feet higher than the building or structure to which they are attached nor shall exceed 150 feet.

(3) Any applicant for building permit, for approval of a special exception, or for land development approval (if applicable) for purposes of erecting a telecommunication tower in the PO or GI District, as applicable, shall demonstrate that they have contacted owners of tall buildings or other tall structures within a ¼ mile radius from the proposed site, requested permission to install its antenna (or other transmission and receiving device) on those structures and was denied permission for reasons other than economic ones.

(4) Any applicant for construction or installation of telecommunications facilities regulated hereunder shall demonstrate to the satisfaction of the Zoning Hearing Board and/or Board of Supervisors, as applicable, that relevant health, safety and welfare issues have been properly addressed.

(5) If a special exception is authorized or conditional use approved, as applicable, for the erection or installation of a telecommunications tower capable of collocation of additional telecommunications facilities, such authorization or approval may be subjected to the condition that the use of the tower will be made available to other users (even if they are in direct or indirect competition with the applicant) so long as the following apply:

- (a) There is space available on the tower.
- (b) The additional user(s) will not cause interference with the existing user(s).
- (c) The additional user(s) will not cause any health or safety problems or be hazardous to the surrounding area.
- (d) The tower has the structural capability to safely contain the

communication transmitting and receiving device(s) which may be installed by any additional user(s) on the tower.

(e) The additional user(s) has agreed to pay a fair and reasonable market rent for the use of the tower.

(f) Any additional user(s) obtains any applicable authorization or approval for installation of additional facilities and agrees to comply with all applicable Township ordinances.

C. *Standards and Regulations.*

(1) All telecommunications towers and/or antennae over 35 feet in height must meet American National Standards Institute (ANSI)/Electrical Industry Association (EIA)/Telecommunications Industry Association (TIA222E) tower specification requirements or its latest revision. Further, due to potentially adverse weather conditions, such facilities must be built to withstand 160 miles per hour (mph) sustained winds and meet the ANSI/EIA/TIA-222E ice loading requirements for the region in which East Vincent Township is located. An independent structural engineer registered in Pennsylvania shall attest to the ability of the proposed facilities to meet these requirements and certify proper construction and/or installation. In addition, all telecommunications facilities shall conform to all applicable rules and regulations of the Federal Communications Commission and the Federal Aviation Administration.

(2) Telecommunications facilities over 65 feet and up to 150 feet may be permitted so long as there are no structures intended for human habitation located within a distance equal to the height of the telecommunications facilities. As a condition of approval, the Zoning Hearing Board or Board of Supervisors, as applicable, may require that the applicant provide the Township with proof that easement(s) satisfactory to the Township have been obtained from landowner(s) of all lands located within a certain distance from the base of the telecommunications facilities. This distance shall be equivalent to the height of the proposed telecommunications facilities unless reduced at the discretion of the Township where a professional engineer experienced with such structures provides a certification satisfactory to the Township that the breakpoint would be such that a reduction in any easement area would be appropriate. The Township may require that such easement(s) prohibit erection of any structures and/or provide that the owner of the telecommunications facilities shall assume all liability for any damage or injury to person or property attributable to the subject telecommunications facilities within the easement area.

(3) Owners of all telecommunications facilities greater than 35 feet in height shall secure the property boundary or, at a minimum, the base of such facilities, including any accessory or support structures, to adequately prevent unauthorized access or use. In addition to boundary security, all telecommunications towers in excess of 35 feet in height shall have an integral security platform, or other means with locked access, to prevent unauthorized climbing of such facilities. Landscape plantings shall be provided around all fencing and accessory buildings and/or structures to screen them from public views and adjoining properties.



(4) Any accessory building and/or structure shall not be larger than what is absolutely necessary to house the equipment necessary to permit the telecommunications facilities to operate as intended.

(5) Except to the extent prohibited by applicable law, as a condition of approval, owners of all telecommunications facilities shall be required to provide the Township with documentation satisfactory to the Township demonstrating that the emission of radio waves emanating from the antennae will neither cause harm to an individual by its operation nor cause measurable radio interference to the reception or operation of AM radios, TV and FM reception, car or cellular or portable phones, heart pacemakers, garage door openers, remote control units for models, and other radio dependent or wireless communication devices in general use within East Vincent Township and is in compliance with all FCC regulations.

(6) If measurable radio interference does result from the installation and use of the telecommunications facilities, the owner of such facilities shall be required to cease operation immediately, until the problem is corrected, or, if the problem is not correctable, to abandon operation entirely and dismantle the facilities as required by paragraph .C(8) herein, subject to applicable FCC regulations.

(7) The owner of any telecommunications facilities greater than 35 feet in height shall be required to routinely submit to the Township proof of performance of an annual inspection and maintenance program for such facilities. Any structural faults thus noted will be immediately corrected by the owner. Failure to provide proof of certified inspection will result in notification to the owner to cease operation and dismantle the facilities as required by paragraph .C(8) herein.

(8) The owner of any telecommunications facilities regulated hereunder shall notify the Township immediately upon cessation or abandonment of the operation of subject facilities. The owner shall then have 90 days in which to dismantle and remove the subject facilities from the property. At the time of issuance of the permit for the erection or installation of telecommunications facilities, the owner shall provide a guarantee in form acceptable to the Township for securing the expense of dismantling and removing said facilities. The Township Zoning Hearing Board or Board of Supervisors, as applicable, may waive the dismantling and removal of the telecommunications facilities upon petition by the owner, where the opportunity for such waiver has been made a condition of the initial approval of the telecommunications facilities, and when it has been adequately proven to the Zoning Hearing Board that another legitimate party will own or lease the facilities subject to compliance with the provisions of this Section.

(9) In addition to the above standards, all other applicable performance standards applicable to the zoning district in which the telecommunications facilities are to be located, and/or applicable provisions of the East Vincent Subdivision and Land Development Ordinance [Chapter 22], shall apply to the telecommunications facilities and any associated support facilities or structures.

(10) For all telecommunications facilities, adequate insurance shall be maintained at all times. The owner of the facilities shall be required to provide a certificate of insurance to the Township providing evidence of liability insurance at levels acceptable to the Township and naming it as an additional insured on the policy or policies of the owner and/or lessee. Such insurance policy shall provide for a minimum of 30 days notice to the Township of intent to cancel. Failure to maintain and provide evidence of such insurance shall result in notification to the owner to cease operation and to dismantle the facilities as required by paragraph .C(8) herein.

(*Ord. 162, 6/12/2002, §1605; as amended by Ord. 179, 12/1/2004*)

#### **§27-1607. Microwave Dish Antennae.**

The following standards shall apply specifically to microwave dish antennae where permitted as an accessory use:

A. The dish antennae shall be located on the same lot or unit for which it is being used, and shall remain accessory to the principal use.

B. Free-standing dish antennae shall comply with the location and setback requirements for accessory structures provided in §27-1602.2.

C. The total height of a free-standing microwave antennae and supports shall not exceed 15 feet in height. Such an arrangement shall be screened, in accordance with §27-1713. Supporting materials shall comply with applicable building codes.

D. Except as provided in paragraph .E below, building mounted dish antennae shall be located on a portion of the roof sloping away from the front of the lot. No portion of a microwave dish antennae shall noticeably project above the ridge line of the roof. Mounting techniques shall comply with applicable building codes.

E. Microwave dish antennae of 24 inches in diameter or smaller may be mounted anywhere on a building, and in any number, subject to applicable Building Codes.

F. No more than one microwave dish antennae greater than 24 inches in diameter shall be permitted for each residence or principal use except where authorized by the Zoning Hearing Board as a special exception.

(*Ord. 162, 6/12/2002, §1606; as amended by Ord. 179, 12/1/2004*)

#### **§27-1608. Residential Conversion.**

The Zoning Hearing Board may authorize as a special exception, the conversion of single family dwellings existing at the effective date of this Chapter into a dwelling for not more than three families, where clearly necessary to permit reasonable use of the structure and subject to the following requirements:

A. Application to the Zoning Hearing Board for authorization of a special exception for residential conversion shall include the following:

(1) A floor plan indicating both exterior and interior modifications.

(2) A lot plan which identifies off street parking and other lot improvements.

(3) A certificate of approval by the Pennsylvania Department of Labor and Industry where two or more families are to be housed above the ground floor.

B. A single-family detached dwelling which is converted to a dwelling with a greater number of dwelling units shall maintain the facade and appearance of a single-family detached dwelling with a single front entrance. The dwelling units may share the single front entrance.

C. Additional entrances, when required, shall be placed on the side or rear of the building. Exterior stairways and fire escapes shall be located on the rear wall in preference to either side wall, and in no case be located on a front or side wall facing a street.

D. External alterations to any building subject to conversion shall be minimized.

E. The area and bulk regulations for the applicable zoning district shall be met in the same manner as applicable to a single-family dwelling.

F. The minimum floor area for an individual dwelling unit shall be 600 square feet.

G. Each dwelling unit shall be provided separate cooking and sanitary facilities in accordance with applicable building codes, and subject to Chester County Health Department and DEP regulations and approvals.

H. The number of off-street parking spaces shall be as required in §27-1709. Off street parking lots with five or more spaces shall be landscaped and screened from abutting lots with dwellings, in accordance with §§27-1712 and 27-1713 of this Chapter.

I. Twenty-five percent of the lot area shall be designed, reserved and maintained as common open space for residents of the dwelling units. The minimum dimension of any common open space area shall be 15 feet in any direction. Stormwater detention areas shall not be counted as common open space.

(Ord. 162, 6/12/2002, §1607; as amended by Ord. 179, 12/1/2004)

#### **§27-1609. Agricultural Controls.**

The following regulations shall apply in all districts in which agriculture is permitted:

A. *Standards.*

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

(2) No farm building or structure shall be constructed closer than 75 feet to a front property line nor closer than 50 feet to a side property line nor closer than 100 feet to a rear property line.

(3) No dwelling shall be constructed closer to any abutting property than permitted by the setbacks of the applicable zoning district.

(4) Silos and bulk bins shall be exempted from area and bulk requirements when attached to a building existing on the effective date of this Chapter.

(5) There shall be only one single-family dwelling unit per farm, except for one additional accessory dwelling unit for a caretaker.

(6) The storage or stock-piling of manure or other odor or dust producing substance shall not be permitted within 100 feet of any abutting property, including the location of any pit or lagoon.

(7) All grazing and pasture areas shall be contained by a fence a minimum of 4 feet in height.

(8) No slaughter area shall be established closer than 100 feet to any property line.

(9) Gardening, incidental to residential uses, shall be permitted without restriction in regard to lot size.

(10) The use of property for agricultural purposes shall not be adversely affected by the development of adjoining property.

**B. *Sale of Farm Products.***

(1) The display and sale of farm products shall be permitted provided that:

(a) At least 50 percent of such products shall have been grown or raised on the property on which they are offered for sale.

(b) Sale of farm products shall be conducted from a portable stand, dismounted at the end of the growing season, or from a permanent building under the following conditions:

1) Such building shall be located at least 75 feet from the street line.

2) parking spaces shall be located behind the street line at a rate of one parking space for every 100 square feet of sales space, but not less than three spaces shall be provided. In any case, there shall be sufficient parking spaces for the use intended, as determined by the Code Enforcement Officer.

(*Ord. 162, 6/12/2002, §1608; as amended by Ord. 179, 12/1/2004*)

**§27-1610. *Keeping of Animals.***

In any district, dogs, cats, fowl, rabbits, goats, sheep, cows, swine, ponies, horses and other animals of similar character and impact shall be kept only according to the following standards, except that in the Agricultural Preservation (AP) and Rural Conservation (RC) Districts, these standards shall apply only to non-commercial animal husbandry. Customary household pets (i.e., dogs, cats, and other small animals customarily kept in the home) shall be exempt from the acreage limitations of this Section but shall comply with the general standards for keeping of animals, as applicable. This Chapter has been designed to establish reasonable regulations governing the keeping of animals in order to protect human and animal health, prevent unsightly and erosion-prone land use conditions, prevent the contamination of ground and surface waters, and reduce the safety hazards of straying animals.

**A. *Permitted Number of Animals.*** A minimum of 3 acres shall be required to keep one horse, cow, beef cattle, or other animal of similar size. A minimum of 2

acres shall be required to keep one swine, sheep, or other animal of similar size, or to keep poultry. For each additional animal, additional acreage must be available in accordance with the following chart (Animals not referenced below shall be judged according to the requirement for animals of a similar size):

<b>Livestock, Poultry</b>	<b>Additional Acreage Required per Animal (beyond the initial 2 or 3 acres as applicable)</b>
Horse	1.50
Cow	1.50
Beef Cattle	1.50
Swine	0.15
Sheep	0.30
Poultry, Rabbits	0.02

**B. *General Standards for Keeping of Animals.***

(1) No animals of any kind shall be kept in any structure or enclosure or else where on a property which will result in unhealthy or unsanitary conditions for humans or animals or cause excessive noise, objectionable odors, or pollution of groundwater or stormwater runoff to neighboring properties.

(2) No person owning or having in his/her custody livestock or poultry shall permit the same to go at large to the injury or annoyance of others, nor shall such livestock or poultry be permitted upon the streets or other public ways of the Township. Such action is hereby declared to be a nuisance and dangerous to the public health and safety.

(3) All animals shall have appropriate and adequate facilities for food and water. Permanent shelter shall be provided for all animals not kept in the residence including dogs, rabbits, poultry, swine, and other small domestic animals. Horses, cattle, sheep, and goats shall have loafing sheds, covered feeding areas, or other appropriate facilities. All shelters shall comply with paragraph .C as applicable.

(4) Side and rear yard setbacks shall be maintained for all structures except that buildings for more than two cows, horses, sheep, or goats, or similar animals shall be constructed or placed at least 100 feet from any property line.

(5) All pasture and grazing areas shall be fenced. All pasturage must consist of well maintained grasses. Muddy, or dusty, ungrassed areas shall be stabilized to prevent erosion and unsightliness.

(6) A fenced or otherwise enclosed outside area shall be provided which is capable of containing the animals kept and is of sufficient size and properly located for good sanitation practices. Materials used for fencing shall be of sufficient sturdiness and properly designed, installed and maintained so as to prevent straying.

(7) The storage or stock-piling of manure or other odor or dust producing substance shall not be permitted within 75 feet of any abutting property or public right-of-way, closer than 100 feet to any wells, springs, sinkholes, on

slopes adjacent to any lakes, ponds and streams, or within any swale or drainageway.

*C. Specific Shelter Requirements.*

(1) Sheltered area(s) of sufficient size for good sanitation practices and adequate and sanitary drainage therefor shall be provided according to the following minimum requirements:

(a) A shelter area of 150 square feet shall be provided for each mature horse.

(b) A shelter area of 100 square feet shall be provided for each pony, mule, donkey, cow or other livestock animal of similar size.

(c) A shelter area of 75 square feet shall be provided for each swine or other livestock animal of a similar size.

(2) Any permanent building placed or constructed on a property shall be designed to serve only that number of animals which is permitted in accordance with this Section based on the available acreage.

(3) All shelters shall have a roof and at least three enclosed sides.

(4) All permanent shelters shall be designed for ease of manure removal and handling.

(*Ord. 162, 6/12/2002, §1609; as amended by Ord. 179, 12/1/2004*)

**§27-1611. Junkyard.**

The following regulations shall apply to junkyards where permitted:

A. Where a junkyard is located on a property which is adjacent to a residential district or use, all activity associated with the junkyard use shall be setback from the property boundary at least 100 feet and shall be completely screened from view in accordance with §§27-1712 and 27-1713.

B. The area where junk or any other material is stored outside shall be enclosed with 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. Use of chain-link fences with slats is not permitted. Additional use of landscaping materials and earthen berms are encouraged to achieve an effective screen.

C. Storage piles shall not exceed 8 feet in height and no more than two adjoining rows of junked cars shall be stored together.

D. 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.

E. Gasoline, oil, vehicle tires, and other flammable or toxic substances shall be removed from any junk or other items stored on the premises. Such liquids and vehicle tires shall be removed and disposed of in a proper manner and shall not be deposited on or into the ground.

F. No junk or other material shall be burned on the premises.

G. No garbage or other waste liable to give off a foul odor or attract vermin or insects shall be kept on the premises.

H. Positive surface drainage shall be provided and all junk shall be stored or arranged so as to prevent accumulation and/or ponding of surface water.

I. Weeds, wildflowers, grasses, etc., shall not exceed 12 inches in height.

J. The premises shall generally be maintained in a safe and sanitary condition at all times.

(*Ord. 162, 6/12/2002, §1610; as amended by Ord. 179, 12/1/2004*)

**§27-1612. Group Homes.**

The following standards shall apply to group homes:

A. Any form of group housing shall satisfy the definition of group homes as established in Part 2 herein.

B. The dwelling housing any form of group home shall comply with all applicable building code provisions. Area and bulk regulations shall apply in the same manner as otherwise applicable to the form of dwelling being used as a group home.

C. The dwelling housing any form of group home shall have no external alterations except as may be necessary for reasons of safety, including fire escapes. Such access shall be located to the rear of the building where practical.

D. Community living arrangements and half-way houses shall be provided with around-the-clock live-in supervision to insure clients receive proper professional care and that the home will function as a family unit.

E. Community living arrangements shall be licensed and comply with the guidelines established by the Pennsylvania Department of Health.

F. Upon the closing of a group home operation, all modifications to the dwelling associated with Pennsylvania Department of Labor and Industry and/or Township Building Code [Chapter 5] requirements shall be removed, and the dwelling brought back to its original status as a single-family dwelling. This includes the removal of handicap ramps, exit lights, panic bar doors and other institutional-oriented improvements.

(*Ord. 162, 6/12/2002, §1611; as amended by Ord. 179, 12/1/2004*)

**§27-1613. Gasoline Service Stations and Quick Service Food Stores.**

Where permitted, gasoline service stations and quick service food stores with accessory gasoline and diesel fuel sales shall be subject to the following supplemental regulations, in addition to those regulations of the zoning district where permitted:

A. Minimum lot width at street and building setback line shall be 150 feet.

B. Gasoline, oil pumps, or oiling or greasing mechanism or other service appliance installed in connection with any service station or quick service food store with accessory gasoline or diesel fuel sales may be placed within the required front yard, but in no case closer than 30 feet of any street line or property line.

C. The Township may specify screening to be provided in front of gasoline pumps, number and sizes of permitted signs, and permitted outdoor storage of materials and display of merchandise for sale.

(*Ord. 162, 6/12/2002, §1612; as amended by Ord. 179, 12/1/2004*)

**§27-1614. Campgrounds or Recreational Vehicle Parks.**

A campground or recreational vehicle park may be permitted only by special exception within the GC Zoning District subject to the provisions of §§27-1103 and 27-1104, and in accordance with the following supplemental regulations:

A. *Tract Size:* 5 acres minimum.

B. *Tract Density:* 15 campsites per acre maximum.

C. *Campsite Requirements:*

(1) There shall be a 2,000 square foot area provided for each campsite.

(2) No campsite shall be located closer than 40 feet to any property line.

(3) Each campsite shall contain a vehicular parking pad, a minimum of 10 feet wide and 20 feet long, surfaced with gravel, paving or other suitable stabilized material.

(4) No part of a recreational vehicle or other unit placed on a campsite shall be closer than 10 feet to a campsite boundary.

(5) Campsites shall abut the campground's internal streets to provide convenient vehicular ingress and egress. No individual campsite shall have direct vehicular access onto a public street.

D. *Accessory Uses.* Accessory uses such as management headquarters, recreational facilities, and other uses and structures customarily incidental to operation of a campground are permitted, provided:

(1) Such establishments and the parking areas primarily related to their operations shall not occupy more than 8 percent of the campground tract.

(2) Such establishments shall be restricted in their use to occupants of the campground.

(3) Such establishments shall present no visible evidence from any public street of their commercial character which would attract customers other than occupants of the campgrounds.

(4) The structure having such facilities shall not be located closer than 100 feet to any property line, and shall not be directly accessible from any public street, but shall be accessible only from a street within the campground.

E. *Vehicular Access.*

(1) All campgrounds shall be provided safe and convenient access from an improved public street. Streets within campgrounds shall be private, and street cartway width shall be a minimum of 14 feet for one-way circulation, and 20 feet for two-way circulation. No parking shall be permitted on the street cartway.

(2) Streets shall be constructed with a stabilized cartway and maintained in good repair.

(3) A campground shall be located so that no entrance or exit from a park shall discharge traffic onto any minor public streets.

(4) Entrances and exits to the campground shall be located not closer than 150 feet from the intersection of public streets.



F. *Parking.*

(1) At least 1½ parking spaces shall be provided in the campground for each campsite. At least one of those parking spaces shall be provided on each campsite. Other off-street parking may be provided in common parking areas.

G. *Other Regulations.*

(1) No permanent external appurtenances such as carports or patios may be attached to any recreational vehicle or other vehicle accommodation parked within a campground, and the removal of wheels and placement of the unit on a foundation in such campground is prohibited.

(2) The campground tract boundary shall be screened in accordance with §27-1713.

(3) Signage shall be in accordance with §27-1717.

(4) Lighting shall be in accordance with §27-1715.

(*Ord. 162, 6/12/2002, §1613; as amended by Ord. 179, 12/1/2004*)

**§27-1615. Bus Shelters.**

To provide refuge for public transit riders from adverse weather conditions, a bus shelter shall be permitted, provided all of the following requirements are satisfied:

A. Such bus shelters shall only be permitted if the entity installing the bus shelter has a written agreement with the Board of Supervisors. Such written agreement shall specify at a minimum that:

(1) The Board of Supervisors shall have the right to pre-approve the location(s) of the Bus Shelter(s).

(2) An acceptable process is established in advance to address liability issues, lighting, removal, and maintenance responsibilities.

B. A bus shelter regulated by this Section shall only be permitted abutting the Township's HR, GC, PO and GI Zoning Districts.

C. A bus shelter shall not be located directly abutting the lot line of an existing single-family detached dwelling.

D. The bus shelter shall be located to avoid interference with sight distances as specified in Township ordinances or any applicable standards of the Pennsylvania Department of Transportation (PennDOT), whichever is more restrictive. Bus shelters shall be permitted in the street right-of-way.

E. Such shelters shall be durably constructed. For security and safety purposes, the majority of the bus shelter shall be constructed of clear lexan, plexiglass, or clear tempered safety glass. In addition, the roof may be constructed of translucent plexiglass or another suitable material. Bus shelters shall not exceed 45 square feet and 9 feet in height.

F. All lighting of the shelter and the signs shall be installed in such a way that the source of the light is shielded from direct view of abutting properties and from foot traffic along the street(s), and so that noxious glare is not created. Illumination shall not exceed 0.5 foot candles and shall be shielded so as to minimize the off-site impact of the ill urination.

G. The only signs that shall be permitted shall be those that conform to the

provisions of §27-1717 and permitted by any written agreement, in addition to the maps and schedules providing information regarding the public transit service.

H. Advertising and signage in a bus shelter, except for route map and schedule information, shall be limited to one double-faced panel, or side, of the bus shelter, otherwise, all bus shelter panels, or sides, shall allow unobstructed views into the Shelter. Such advertising and signage shall conform to §27-1717.2. of this Chapter.

(*Ord. 162*, 6/12/2002, §1614; as amended by *Ord. 179*, 12/1/2004)

**Part 17****General Regulations and Design Standards****§27-1701. Purpose.**

The provisions of this Part represent certain supplementary regulations and standards that are common to all zoning districts unless stated as pertinent to a specific district herein.

(*Ord. 162, 6/12/2002, §1700; as amended by Ord. 179, 12/1/2004*)

**§27-1702. Vision Obstruction on Corner Lots.**

Any wall, fence, or other structure, object, hedge, tree, or other planting on a corner lot shall be designed in a manner that does not obscure the vision of traffic. No vision-obstructing object shall obscure vision above the height of 30 inches or below the height of 10 feet within the area bounded by the street lines of such corner lots and a line joining them 75 feet from their point of intersection. For example, trees shall be limbed to a height of 10 feet. Applications for subdivision or land development shall comply with the clear sight triangle requirements of the Subdivision and Land Development Ordinance [Chapter 22].

(*Ord. 162, 6/12/2002, §1701; as amended by Ord. 179, 12/1/2004*)

**§27-1703. Projections into Required Yards.**

Projections into required yard areas shall be permitted in all zoning districts in accordance with the following provisions:

- A. Open fire escapes, unroofed porches, decks and patios may project a maximum of 4 feet into any side or rear yard.
- B. Awnings or movable canopies may project into any yard a maximum of 12 feet, provided they extend no closer than 15 feet from the property line.
- C. Arbors, open trellises, and unroofed steps or terraces, and projecting flagpoles shall be permitted with no restrictions, except as provided in §27-1702, above.

(*Ord. 162, 6/12/2002, §1702; as amended by Ord. 179, 12/1/2004*)

**§27-1704. Reduction of Front Yard Requirement.**

The front yard of a proposed building in any LR, MR, or HR District may be decreased in depth to the average alignment of existing buildings within 100 feet on each side of the proposed building, provided such calculation is limited to the same block. Such reduction may occur when alignment of existing buildings is less than the front yard requirement for the applicable district.

(*Ord. 162, 6/12/2002, §1703; as amended by Ord. 179, 12/1/2004*)

**§27-1705. Exemptions to Height Restrictions.**

1. The height of telecommunication towers shall be governed by the provisions of

**§27-1606.**

2. Barns, silos, and bulk bins shall be exempt from the maximum building height limit within the Agricultural Preservation and Rural Conservation Districts when attached to an existing structure or located such that the distance from the base of the barn, silo, or bulk bin to both the nearest property line and the nearest street right-of-way line is no less than the height of said barn, silo, or bulk bin.

3. The height limitations of this Chapter shall also not apply to church spires, belfries, cupolas, monuments, observation towers, transmission towers, chimneys, smoke stacks, ventilators, HVAC, water towers, parapet walls less than 6 feet in height, elevators, flagpoles, masts or other appurtenances usually located above the roof of a building or structure and not intended for human occupancy. The total height of such structures shall be no greater than the smallest horizontal distance between any facade of the structure and the property line closest thereto. Where authorized by the Zoning Hearing Board as a special exception, an increase to this maximum height limit may be permitted where it is demonstrated that the structure incorporates safety features, which, in the event the structure is toppled, will prevent it from falling beyond the boundaries of the property. Additionally, the granting of such exception is contingent upon adherence to other applicable Township codes.

(*Ord. 162, 6/12/2002, §1704; as amended by Ord. 179, 12/1/2004*)

**§27-1706. Public Utility Corporations.**

The provisions of this Chapter shall apply to any existing or proposed building or use, or extension thereto; used or to be used by a public utility corporation, unless upon petition of the corporation, the Pennsylvania Public Utility Commission (PUC) shall decide that the present or proposed situation of the building or use in question is reasonably necessary for the convenience or welfare of the general public.

(*Ord. 162, 6/12/2002, §1705; as amended by Ord. 179, 12/1/2004*)

**§27-1707. Prohibited Uses.**

No use shall be permitted which is noxious or offensive by reason of odor, dust, smoke, gas, vibration, illumination or noise or which constitutes a public hazard whether by fire, explosion or otherwise. All uses shall comply with the specific performance standards of §27-1716 where applicable.

(*Ord. 162, 6/12/2002, §1706; as amended by Ord. 179, 12/1/2004*)

**§27-1708. Access, Highway Frontage and Interior Circulation.**

All uses shall minimize impacts to traffic congestion and hazard and provide for controlled street access, in conformance with all applicable provisions of the East Vincent Subdivision and Land Development Ordinance [Chapter 22].

(*Ord. 162, 6/12/2002, §1707; as amended by Ord. 179, 12/1/2004*)

**§27-1709. Parking Standards.**

No building or structure shall hereafter be constructed, enlarged, or modified and no use or activity shall be conducted or expanded unless provision is made for off-street parking facilities, either within a structure or in the open, and with proper and safe

access from a street, to adequately serve the uses within the district according to the provisions of this Section.

A. *Location.*

(1) All required parking shall be on the same lot as the principal buildings except when permitted by the Board of Supervisors, subject to the following conditions:

(a) The owners of two or more establishments shall submit for approval a single application for conditional use of shared parking facilities. A site plan shall also be submitted with their application for conditional use, showing joint use, recorded agreement (with deed and page number) demonstrating that the parking spaces shown on the site plan will be available for satisfying Township parking requirements for as long as the uses sharing the parking facilities exist, and location of a common off-street parking area.

(b) Some portion of the common off-street parking area shall lie within 200 feet of an entrance, regularly used by patrons, into the buildings served thereby.

(c) The total number of parking spaces provided equals or exceeds the sum of the individual requirements.

(2) Parking spaces shall not be located within required front yard areas, except for residential uses with parking spaces for fewer than five vehicles on a lot, or where authorized by the Zoning Hearing Board as a special exception.

(3) No parking lot for off street parking or for the storage or movement of motor vehicles shall directly abut a public street unless separated from the street line by a minimum 5 foot wide buffer planting strip.

B. *Size and Design.* All required parking shall comply with the provisions of §22-431 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22], as applicable.

C. *Minimum Off-Street Parking Space Requirements.* For all residential dwelling units there shall be provided two off street parking spaces per unit, except that for any group home there shall be provided one space per employee plus one space for each five beds. For all nonresidential uses there shall be sufficient parking spaces provided for each use so that there is a minimum of one space for each employee on shift of greatest employment, plus additional parking spaces to be provided by the application of the appropriate formula for each use as listed in this subsection. The Board of Supervisors or Zoning Hearing Board may authorize a reduction in the number of off-street parking spaces as provided for in paragraph .D

(1) *Golf Course.* Five parking spaces for each tee, plus one space per employee, plus 50 percent of parking spaces normally required for ancillary uses.

(2) *Park, Riding Academy, Hunting Club, or Other Outdoor Recreational Use.* Variable, depending upon proposed intensity of use, subject to approval of the Board of Supervisors.

(3) *Elementary School / Middle School.* One parking space per employee,

plus one space per two classrooms.

(4) *All Other Schools, Except Those Listed in Subparagraph (5) Below.* One parking space per two students of the maximum total student design capacity, plus one space per faculty member, employee, and volunteer.

(5) *Private Kindergarten, Child Nursery, Daycare, Preschool.* One parking space for each 600 square feet of floor area.

(6) *Business, Professional, Governmental, Financial And / or Institutional Offices.* One parking space for each 300 square feet of floor space.

(7) *Medical and Dental Offices and Clinics.* One parking space for each 300 square feet of floor space.

(8) *Laboratory or Research Facilities.* Sufficient parking to accommodate visitors and employees, subject to approval of the Board of Supervisors.

(9) *Wholesale Sales, Storage or Distribution.* One parking space for each 1,000 square feet of sales area.

(10) *Retail Stores, Art and Antique Shops, and Personal Service Establishments.* One parking space for each 200 square feet of customer service and sales area.

(11) *Restaurants, Except Fast-food Restaurants.* One parking space for each four seats.

(12) *Fast-food Restaurants and Quick Service Food Stores.* One parking space for each 100 square feet of floor space.

(13) *Hotels and Motels.* One parking space for each rental unit. If a restaurant, auditorium, conference center, or other related use in connection with such principal use is open to the public, the off street parking facility for such related uses shall not be less than those required individually for such uses.

(14) *Service Station, Automobile Sales and Service, Automobile Repair Shop, or Car Wash in Addition to Display and Storage Areas.* Two parking spaces for each 200 square feet of floor or ground area devoted to repairs, sales, or service facilities. In no case shall the spaces for permitted motor vehicle storage in conjunction with a service station be less than five.

(15) *Churches, Meeting Places, Entertainment, and Commercial Recreational Establishments.* One parking space for each four seats and/or 50 square feet of floor area.

(16) *Undertaking Establishments.* One parking space for each 100 square feet of floor area devoted to assembly room purposes.

(17) *Bowling Alley.* Three parking spaces for each alley.

(18) *Newspaper Publishing, Job Printing, and All Other Commercial and Industrial Uses.* One parking space for each 1,000 square feet of floor area.

(19) *Hospital, Nursing or Convalescent Home, Home for Handicapped Individuals.* One parking space for each five beds for patient use.

D. *Parking Reductions.* A reduction in the total number of required parking as stipulated in paragraph .C above may be granted, or required, by the Board of Supervisors, at the time of land development or conditional use approval, or by the

Zoning Hearing Board, at the time of special exception approval, on the basis of the following two options:

(1) *Shared Parking*. A reduction in the sum total of the required parking may be granted by the Township, in the case of a development plan in which there are efficiencies derived by shared parking for two or more contiguous uses with a common parking area, and which have complementary peak parking demands. The applicant shall submit shared parking data, based upon standard methodology, (such as that published by the Urban Land Institute or from actual parking studies within the region) sufficient for the Township to determine the appropriate reduction. In such cases, the required number of off street parking spaces shall not be reduced by more than 30 percent.

(2) *Reserve Parking*. At the discretion of the Township, up to 25 percent of the maximum required parking and any additional parking provided beyond the maximum required may be "reserved" but not constructed in order to create open space without unnecessarily requiring more paving than necessary. Reserve parking shall be designed, engineered, and shown as reserve parking on the sketch plan and/or land development plan, but need not be constructed until directed by the Township. The applicant shall submit a declaration, that shall be made part of any reduction approval, which commits the applicant or assigns to providing the reserved parking when requested by the Township.

E. *Special Exception or Conditional Use*. For any use permitted by special exception or conditional use, it shall be the burden of the applicant to present evidence of the parking needs of the proposed use. The Zoning Hearing Board, in granting a special exception, or the Board of Supervisors in granting conditional use approval, may attach specific parking requirements, which vary from the requirements of this Part where the Board of Supervisors makes a decision using the conditional use criteria set forth in §27-1901 or the Zoning Hearing Board uses the special exception criteria set forth in §27-2001.

(Ord. 162, 6/12/2002, §1708; as amended by Ord. 179, 12/1/2004)

**§27-1710. [Reserved].**

**§27-1711. Loading and Unloading.**

In connection with any building or structure which is erected or substantially altered and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided a sufficient number of off-street loading and unloading berths not less than the minimum requirements specified in this Section:

A. *Location*.

(1) All required loading areas shall be located on the same lot as the use to be served, and no portion of the vehicle shall project into any traffic lane. No loading area for vehicles of more than two-ton capacity shall be located less than 100 feet from any residential district. No permitted or required loading area shall be located within 50 feet of a property line that it faces.

(2) No loading facilities shall be constructed within any required yard

areas.

B. *Size.* A required off-street loading area shall be at least 14 feet in width by at least 66 feet in length, exclusive of the aisle and maneuvering space, and shall have vertical clearance of at least 16 feet.

C. *Access.* Each required off-street loading area shall be designed with appropriate means of vehicular access to an interior drive in a manner which will least interfere with traffic movements, and shall be subject to the approval of the Township. Such access shall have all-weather surfaces to provide safe and convenient access during all seasons.

D. *Surfacing.* All outside off street loading areas shall be improved with a compacted macadam base not less than 7 inches thick, or equal, and surfaced with not less than 2 inches of asphaltic-concrete or some comparable all-weather dustless material.

E. *Repair and Service.* No storage of any kind, or motor vehicle repair work of any kind, except emergency work, shall be permitted within any required loading area.

F. *Space Allowed.* Space allowed to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements of any off-street parking facilities or portions thereof Required off-street parking spaces shall not be used for loading and unloading purposes except during hours when business operations are suspended.

(Ord. 162, 6/12/2002, §1710; as amended by Ord. 179, 12/1/2004)

### **§27-1712. Screening.**

1. Screens or buffer plantings are required under the following circumstances:

A. Where any nonresidential use including any above-ground utility use abuts any residential use, or abuts any land in any residential zoning district.

B. Where any mobile home park abuts any other residential use, or any land in any residential zoning district.

C. Where any multiple family use abuts any other residential use or any land in any residential zoning district.

D. Where required by the Zoning Hearing Board or where stipulated as a condition of conditional use approval by Board of Supervisors.

E. Where otherwise required by this Chapter.

2. Required screens shall consist of vegetative plantings and/or berms, providing a year round visual screen, but in no case shall a screen interfere with motorists' visibility. Design of screens and selection of plant materials to be used shall be in accordance with §27-1713 and shall be subject to review and approval by the Board of Supervisors.

3. *Architectural Screening.*

A. All mechanical equipment not enclosed in a structure of residential appearance shall be fully and completely screened from view from any point in a manner compatible with the architectural and landscaping style of the remainder of the lot. Such screening shall be subject to site plan and architectural review by



the Township.

B. Water towers, storage tanks, processing equipment, fans, HVAC, skylights, cooling towers, vents and any other structures or equipment which rise above the crest of the roof line shall be architecturally compatible or effectively shielded from view from any public or private dedicated street by an architecturally sound method, such as a parapet wall not to exceed 6 feet in height, which shall be approved, in writing, by the Township before construction or erection of said structures or equipment.

(*Ord. 162*, 6/12/2002, §1711; as amended by *Ord. 179*, 12/1/2004)

### **§27-1713. Landscape Design, Installation, and Maintenance.**

1. *Applicability.* Any part or portion of a lot or tract which is not occupied by buildings nor used for loading and parking spaces and aisles, sidewalks and designated storage areas shall be left in its natural state or shall be landscaped. All required landscaping and screening shall be installed and maintained in accordance with the provisions of §22-422 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22] as applicable.

2. *Modifications.*

A. For any use or activity subject to subdivision or land development review, modification(s) to the provisions of §22-422 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22] may be requested, which modification(s) may be granted at the discretion of the Board of Supervisors pursuant to the provisions of that ordinance.

B. For any use or activity not subject to subdivision or land development review, where subject to application for approval of a conditional use, special exception, or zoning variance, modification(s) to the provisions of said §22-422 may be requested as part of such application.

C. For any use or activity not otherwise subject to permit or approval as provided in paragraphs .A or .B above, modification(s) to the provisions of said §22-422 may be requested in the form of an application for grant of a special exception by the Zoning Hearing Board.

D. In approving any application pursuant to paragraphs .A or .B above, the Zoning Hearing Board or Board of Supervisors, as applicable, as a condition of approval of such application, may permit specific modification(s) to the provisions of said §22-422 subject to the following:

(1) The Zoning Hearing Board or Board of Supervisors, as applicable, shall determine that the specific nature of the lawful use or activity, existing site conditions, and/or safety considerations warrant such modification(s).

(2) Permitted modifications shall be consistent with the purposes of said §22-422.

(*Ord. 162*, 6/12/2002, §1712; as amended by *Ord. 179*, 12/1/2004)

### **§27-1714. Minimum Habitable Floor Areas.**

The minimum habitable floor area of a principal dwelling unit shall be 1,000 square feet except for apartments, and in which case the minimum habitable floor area

required shall be 600 square feet.

(Ord. 162, 6/12/2002, §1713; as amended by Ord. 179, 12/1/2004)

**§27-1715. Lighting.**

1. *Applicability.* Outdoor lighting, in conformance with the provisions of §22-414 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22], shall be required for all uses where necessary to provide for public safety and personal security during hours of darkness where there is public assembly and traverse, including but not limited to the following uses: multi-family residential, commercial, industrial, public-recreational and institutional.

2. *Glare Control.* The glare-control requirements contained in §22-414.3.C of the East Vincent Subdivision and Land Development Ordinance [Chapter 22] shall apply to lighting in all abovementioned uses as well as, but not limited to, signs, architectural lighting, landscape lighting, and residential lighting.

3. *Maintenance of Lighting.* Lighting fixtures and ancillary equipment shall be maintained so as always to meet the performance requirements of §22-414 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22] and be in acceptable aesthetic condition.

4. *Lighting Plans.*

A. Where not otherwise submitted and approved in connection with a subdivision or land development application, lighting plans in conformance with §22-414.4 of the East Vincent Subdivision and Land Development Ordinance [Chapter 22] shall be submitted to the Township for review and approval with any conditional use, special exception, or variance application where applicable.

B. The Code Enforcement Officer also may require submission of lighting plans for review and approval by the Township, as stipulated above, with any building permit application other than single-family residential use.

5. *Nonconforming Lighting.* Any lighting fixture or lighting installation existing on the effective date of this Chapter that does not conform with the requirements of this Section shall be considered as a lawful nonconformance. Unless minor corrective action is deemed by the Township to be an acceptable alternative, a nonconforming lighting fixture or lighting installation shall be made to conform with the requirements of this Section or of the East Vincent Subdivision and Land Development Ordinance [Chapter 22], as applicable, when:

A. It is replaced, abandoned or relocated.

B. There is a change in use.

6. *Standards for Lighting in Connection with Recreational Uses.*

A. The use of outdoor recreational facilities during hours of darkness shall be permitted where approved by the Zoning Hearing Board as a special exception. Where the use of such facilities is permitted, necessary lighting shall comply with the following requirements:

(1) Lighting shall be accomplished only through the use of “cutoff” fixtures or as otherwise approved by the Zoning Hearing Board.

(2) Except as otherwise permitted by the Township, lighting of recre-

ational uses and facilities shall be extinguished by 10 p.m.

**B. *Mounting Heights for Outdoor Recreational Lighting.***

(1) Where permitted, maximum mounting heights for outdoor recreational lighting shall be generally in accordance with the following:

<b>Sport</b>	<b>Max. Mtg. Height</b>
Basketball	20'
Football and other field sports	50'
Organized Baseball and Softball	
200' Radius	60'
300' Radius	70'
Miniature Golf	20'
Tennis	30'

7. *Temporary Lighting.* Temporary lighting shall comply with the provisions of this Section and of the East Vincent Subdivision and Land Development Ordinance [Chapter 22], as applicable.

**8. *Modifications.***

A. For any use or activity subject to subdivision or land development review, modification(s) to the provisions of §22-414 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22] may be requested, which modification(s) may be granted at the discretion of the Board of Supervisors pursuant to the provisions of that ordinance.

B. For any use or activity not subject to subdivision or land development review, where subject to application for approval of a conditional use, special exception, or zoning variance, modification(s) to the provisions of said §22-414 may be requested as part of such application.

C. For any use or activity not otherwise subject to permit or approval as provided in paragraphs .A or .B above, modification(s) to the provisions of said §22-414 may be requested in the form of an application for grant of a special exception by the Zoning Hearing Board.

D. In approving any application pursuant to paragraphs .B or .C above, the Zoning Hearing Board or Board of Supervisors, as applicable, as a condition of approval of such application, may permit specific modification(s) to the provisions of said §22-414 subject to the following:

(1) The Zoning Hearing Board or Board of Supervisors, as applicable, shall determine that the specific nature of the lawful use or activity, existing site conditions, and/or safety considerations warrant such modification(s).

(2) Permitted modifications shall be consistent with the purposes of said §22-414.

(Ord. 162, 6/12/2002, §1714; as amended by Ord. 179, 12/1/2004)

**§27-1716. Physical Performance Requirements.**

The following standards shall apply to all uses in all districts in the Township:

A. *Air Quality.* There shall be no emission of smoke, ash, dust, fumes, vapors, gases, or other matter toxic or noxious to air which violates the Pennsylvania Air Pollution Control Laws, including the standards set forth in Chapter 123 (Standards for Contaminants) and Chapter 131 (Ambient Air Quality Standards), Article III, Title 25, Pennsylvania Department of Environmental Protection, Rules and Regulations. No user shall operate or maintain or be permitted to operate or maintain any equipment, installation or device which by reason of its operation or maintenance will discharge contaminants to the air in excess of the limits prescribed herein unless he shall install and maintain in conjunction therewith such control as will prevent the emission into the open air of any air contaminant in a quantity that will violate any provision of this Chapter.

B. *Fire and Explosive Hazards.* All activities and all storage of flammable and explosive material at any point shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate firefighting and fire-suppression equipment and devices as detailed and specified by the laws of the Commonwealth of Pennsylvania. All buildings and structures and activities within such buildings and structures shall conform to the Building Code [Chapter 5, Part 1], and other applicable Township Ordinances. Any explosive material shall conform to the requirements of Chapter 211, Title 25, Rules and Regulation, Pennsylvania Department of Environmental Protection, for Storing, Handling and Use of Explosive. [Ord. 185]

C. *Glare and Heat.* No direct or sky-reflected glare, whether from floodlights or high temperature processes such as combustion or welding or otherwise, so as to be visible at the lot line shall be permitted. These regulations shall not apply to signs or floodlighting of parking areas otherwise permitted by this Chapter. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.

D. *Liquid and Solid Waste.* There shall be no discharge at any point into any public or private sewerage system, or watercourse or into the ground, of any materials in such a way or such a nature, as will contaminate or otherwise cause the emission of hazardous materials in violation of the laws of East Vincent Township and the Commonwealth of Pennsylvania, and specifically Chapters 73, 75, 95 and 97, Title 25, Pennsylvania Department of Environmental Protection, Rules and Regulations.

E. *Noise.* Noise levels shall be maintained at a level which is not objectionable due to intermittence, frequency or intensity and shall not exceed the standards established by this Section. Farm operations, temporary activities involved in the construction or demolition of structures, and emergency alarm signals shall be excluded from this regulation. Sound levels measured at all the property lines housing the activity producing the sound by a sound level meter which conforms to the specifications published by the American Standards Association shall not exceed 65 decibels (dBA) at any time. Sound levels at property lines abutting residential uses shall not exceed 50 decibels (dBA) between the hours of 9 p.m. and 7 a.m.

F. *Odor.* No uses, except agricultural operations, shall emit odorous gases or

other odorous matter in such quantities to be offensive at any point on or beyond its lot lines. Odor thresholds shall be measured in accordance with ASTM d-1391-57, "Standard Method for Measurement of Odor in Atmospheres (Dilution Method)."

G. *Vibration*. No vibration shall be produced which is transmitted through the ground and is discernible at or at any point beyond the lot lines without the aid of instruments.

H. *Radioactivity or Electrical Disturbances*. There shall be no activities which emit radioactivity disturbance (except from domestic household appliances) or electromagnetic interference (EMI) adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.

I. *Public Health and Safety*. No use shall create any other objectionable condition in an adjoining area which will endanger public health and safety or be detrimental to the proper use of the surrounding area.

(Ord. 162, 6/12/2002, §1715; as amended by Ord. 179, 12/1/2004; and by Ord. 185, 8/2/2006)

#### **§27-1717. Signs.**

1. *Intent*. The intent of this Part is to provide for the regulation of signs in East Vincent Township, as a proper exercise of the municipal police power, to protect the public health, safety, and welfare in accordance with the following objectives:

A. To control the size, location, and illumination of signs in the Township in order to reduce hazards to pedestrian and vehicular traffic.

B. To encourage signs which are well-designed and pleasing in appearance, and to provide latitude for variety, in order to enhance the economic value as well as the visual character of properties within the Township.

C. To establish standards designed to encourage signs which are compatible with their surroundings, appropriate to the type of activity to which they pertain, expressive of the identity of individual proprietors, and legible in the circumstances in which they are seen; and to prohibit the erection of signs that do not meet these criteria.

D. To prohibit the construction of and require the removal of signs which constitute a hazard or a blighting influence.

2. *General Regulations*. The following regulations shall be observed in all districts:

A. No sign shall be erected within a street line, except traffic signs and similar regulatory notices of a duly constituted governmental body.

B. Illuminated signs shall be consistent with the lighting regulations of §27-1715, and the National Electric Code.

C. No sign which emits smoke, visible vapors, particles, sound, or odor shall be permitted.

D. No artificial light or reflecting device shall be used as a part of a sign where such light or device interferes with, competes for attention with, or may be mistaken for a traffic signal.

E. No sign shall be erected containing information on it which states or implies that a property may be used for any purpose not permitted in the zoning district in which the property is located.

F. Every sign shall be constructed of a durable material and kept in good condition, repair, and safe from collapse. Whenever a sign becomes structurally unsafe or endangers the safety of a building or premises, or the general public, written notice shall be given to the owner of the sign or the owner of the premises on which such sign is located, that such sign shall be made safe or removed within 5 days. A sign shall be considered unsafe upon the lapse of the insurance required by subsection .6 herein.

G. All distances provided for in this Part shall be measured along straight lines between signs, and from the near edge of a sign or sign structure. This paragraph shall apply in all cases, including locating new signs in relationship to current existing non-conforming signs.

H. No sign, other than official street signs shall be erected or maintained nearer to a street line than a distance equaling the height of the sign, unless attached flatly to a building. Along State Routes 724 and 23, the minimum setback for all free-standing signs shall be 15 feet measured from the street right-of-way. In the case of a pole sign, this measurement shall be taken from the edge of the sign board closest to the street.

I. No sign shall be erected in any district without a permit, unless so stated in subsection .3, "Exempt Signs."

J. No business sign may be located nearer to a residence or a residential district lot line than permitted for buildings on the lot. If located nearer than 30 feet and facing into a residence or a residential district, it shall be so designed as not to shine or reflect light upon such residence or district.

K. The gross sign area shall be the entire area within a single continuous perimeter enclosing the extreme limits of such sign, and in no case passing through or between adjacent elements of the same. Such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display. In the case of an open sign, made up of individual letters, figures or designs, the space between such letters, figures or designs shall be included. In computing the area of a double-face sign, only one side shall be considered, provided that both faces are identical. In V-type structures, the interior angle of which exceeds 45 degrees, both sides shall be considered in computing the sign area.

L. No sign shall be erected or maintained so as to prevent free ingress or egress from any door, window or fire escape. No signs shall be attached to a stand-pipe or fire escape. No roof signs shall be permitted, and no signs projecting above the roof-line shall be permitted.

M. Signs and their respective illumination existing at the time of the passage of this Part and which do not conform to the requirements of this Part shall be considered nonconforming signs subject to the regulation of §27-1806.

N. No person shall maintain or permit to be maintained on any premises owned or controlled by him a sign which has been abandoned. An "abandoned sign," for the purposes of this Part, is a sign erected on and/or related to the use of a

property which becomes vacant and unoccupied for a period of 6 months or more, or any sign which was erected for a prior occupant or business, or any sign which relates to a time, event, or purpose which is past. Any such abandoned sign shall be removed by the landowner or person controlling the property within 10 days of the abandonment as described above.

3. *Exempt Signs.* No permit shall be required for the following signs. These signs shall conform to all other regulations set forth in subsections .1 and .2, above:

A. Traffic signs or other directional, information, or public services signs such as those advertising the availability of restrooms, telephone, or similar public conveniences.

B. Signs advertising meeting times and places of non-profit service or charitable clubs and organizations, provided that such signs do not advertise any commercial establishment, activity, organization, product, goods, or service, excepting public utilities. Such signs shall be limited to one sign per use and shall not exceed 12 square feet.

C. Trespassing signs.

D. Real estate signs of 6 square feet or less.

E. Home occupation signs.

F. Agricultural signs.

G. Advertising signs displayed within a bus shelter, subject to the terms of a written agreement provided for by §27-1615 of this Chapter.

4. *Sign Classification, Size, and District Applicability.* Signs shall be classified, regulated, and permitted as follows:

A. *Real Estate Signs.* Signs which advertise the sale, rental, or lease of the property on which they are placed.

(1) Permitted in all districts.

(2) *Dimensional Requirements.* Not to exceed 6 square feet.

(3) No more than one such sign shall be permitted per street frontage on a single lot.

B. *Traffic Signs.* Signs regulating traffic, naming streets, or describing conditions, which are officially erected by the Commonwealth of Pennsylvania Department of Transportation or East Vincent Township.

(1) Permitted in all districts.

(2) *Dimensional Requirements.* As deemed appropriate by the Commonwealth of Pennsylvania or East Vincent Township.

C. *Identification Signs.* Signs which display the name of a particular non-commercial or non-industrial building or use, such as a church or school or development.

(1) Permitted in all districts.

(2) *Dimensional Requirements.* Not to exceed 12 square feet.

(3) No more than one such sign shall be permitted per street frontage on a single lot or tract, as applicable.

D. Non-commercial informational signs other than traffic signs pursuant to subsection .3.A above.

(1) Permitted in all districts.

(2) *Dimensional Requirements.* Not to exceed 2 square feet.

E. *Trespassing Signs.* Any sign indicating the private nature of property, a street, or driveway, or a sign restricting or prohibiting some particular activity.

(1) Permitted in all districts.

(2) *Dimensional Requirements.* Not to exceed 2 square feet.

F. *Agricultural Signs.* Signs advertising the sale of farm products grown on the premises.

(1) Permitted in all districts.

(2) *Dimensional Requirements.* Not to exceed 12 square feet.

(3) No more than one such sign shall be permitted per street frontage on a single lot or tract, as applicable.

G. *Temporary Professional Signs.* Signs of contractors, architects, mechanics, or artisans displayed on a temporary basis on the premises at which the services are being performed, pursuant to the provisions of subsection .5 below.

(1) Permitted in all districts.

(2) *Dimensional Requirements.* Not to exceed 6 square feet.

(3) No more than one such sign shall be permitted on a single lot or tract, as applicable.

H. *Temporary Nonprofessional Signs.* Signs noting a special event such as a fair, circus, yard sale, bingo party, or political activity, or a seasonal activity such as the sale of Christmas trees, pursuant to the provisions of subsection .5 below.

(1) Permitted in all districts.

(2) *Dimensional Requirements.* Not to exceed 12 square feet.

(3) No more than one such sign shall be permitted per street frontage on the property such event or activity shall take place.

I. *Home Occupation Signs.* Signs used to indicate a major home occupation pursuant to §27-1605.C. Signs used to indicate a minor home occupation are prohibited by the provisions of §27-1605.B.

(1) Permitted in all districts.

(2) *Dimensional Requirements.* Not to exceed 4 square feet, and subject to the provisions of §27-1605.C.

(3) No more than one such sign shall be permitted per major home occupation on the property where the use is located only.

J. *Business, Commercial, or Industrial Signs.* Signs used to attract attention to a permitted use on the same premises. Such signs normally include the identifying name, type of business, and trademark of the establishment.

(1) Permitted in the NC, GC, PO, and GI Districts.

(2) *Dimensional Requirements.*



(a) *Mounted Signs.* The total area of all signs mounted on any single building facade shall not exceed 5 percent of the wall area of the facade upon which the sign(s) is/are to be mounted or 12 square feet of signage for each individual business housed within the building, whichever is greater. Mounted signs shall be installed parallel to the supporting wall and project not more than 12 inches from the face of such wall. No more than one mounted sign shall be permitted per use.

(b) *Projecting Signs.* Signs projected from the face of a building shall extend no more than 42 inches, with a minimum height of 10 feet from ground level, and have a maximum area of 12 square feet. No more than one projecting sign shall be permitted per use.

(c) *Free-standing Signs.* No more than one free-standing sign shall be erected within the limits of the front yard of the property to which it pertains only, regardless of how many individual uses are located on the property. Free standing signs shall have a maximum sign area of 24 square feet, provided however that free standing signs advertising multiple use of a single property shall have a maximum area of 32 square feet except where a larger sign is approved as a conditional use, and provided further that signage applicable to any single use shall not exceed 12 square feet. Pole signs shall be setback a minimum of 15 feet from the public street right-of-way, measured from the edge of the sign closest to the street, and shall not exceed 15 feet in height; monument signs shall be setback a minimum of 5 feet from the public street right-of-way. A monument sign shall not exceed 6 feet in height.

(3) No sign provided for by this subsection may be located nearer to a residence or a residential district lot line than permitted for buildings on the lot. If located nearer than 30 feet and facing into a residence or a residential district, it shall be so designed as not to shine or reflect light upon such residence or district.

K. *Off-Premises Signs.* All outdoor off-premises advertising signs shall be consistent with all definitions and shall comply with all standards and regulations of this Chapter.

(1) *Location of Off-Premises Signs.* Permitted in the GI District along Route 724.

(2) *Area of Off-Premises Signs.* No sign may exceed 400 square feet in area, with a maximum length of 40 feet. The sign area is measured by finding the area of the minimum imaginary rectangle or square of vertical and horizontal lines which fully enclose all extremities of the sign, excluding supports, the base or apron unless such copy, message, announcement, or decoration appears on the base or apron. The allowable sign area of signs with equal size and shape for double-faced signs is measured by computing the area of only one side of the sign.

(3) *Height.* No off-premises sign may exceed 35 feet in height.

(4) *Construction Setbacks.* Setback Requirements:

(a) *Minimum Setback.* 50 feet from the street right-of-way.

(b) *Maximum Setback.* 200 feet from the street right-of-way.

(5) *Spacing of Signs.* Off-premises signs shall be located at least 300 feet apart.

(6) *Type.* Double-faced signs (back-to-back) are permitted.

5. *Temporary Sign Regulations.* Temporary signs shall be subject to the following:

A. Permits shall not be issued for a period in excess of 6 months per year.

B. Any free standing sign shall be located at least 5 feet from any lot line.

C. Signs shall be removed immediately upon expiration of the permit or cessation of the activity to which they pertain, whichever is sooner.

D. The site or building on which the sign was erected shall be restored to its original condition upon removal of the sign.

6. *Sign Permits and Bond.*

A. Applications for sign permits shall be filed on forms furnished by the Township and shall be accompanied by detailed plans and specifications and such other information deemed necessary by the Code Enforcement Officer to determine the location and details of sign construction.

B. All applications for sign permits shall be accompanied by the property owner's written consent, if the property owner is not the owner of the sign.

C. Permit fees shall be collected prior to the issuance of a permit. Permit fees shall be as designated by the Board of Supervisors.

D. Before any permit will be issued for any sign projecting over any public property or right-of-way, a liability insurance policy or an indemnity bond in an amount and form satisfactory to the Township, shall be posted and maintained for the life of the sign.

E. The Code Enforcement Officer is hereby authorized to revoke any sign permit upon failure of the holder thereof to comply with any provisions of this Chapter.

F. All signs for which a permit is required may be subject to annual inspection by the Code Enforcement Officer. The fees for annual inspection shall be as established by resolution by the Board of Supervisors, and the Code Enforcement Officer shall issue a certificate of inspection upon payment of the same.

(Ord. 162, 6/12/2002, §1716; as amended by Ord. 179, 12/1/2004)

#### **§27-1718. Sewer and Water Service.**

All uses within East Vincent Township shall be served by adequate water supply and sewage disposal in accordance with all applicable regulations, including but not limited to §22-423, "Sewage Treatment and Disposal," and §22-424, "Water Supply," of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22].

(Ord. 162, 6/12/2002, §1717; as amended by Ord. 179, 12/1/2004)

**Part 18****Nonconforming Uses, Structures, Lots and Signs****§27-1801. Applicability.**

All uses, structures, lots, and signs that do not conform to the regulations of the district in which they are located, but were in lawful existence prior to the effective date of this Chapter or any amendment thereto shall be known and regarded as nonconforming and the following regulations shall apply.

(Ord. 162, 6/12/2002, §1800)

**§27-1802. Continuation.**

The lawful use of a building, land or sign existing at the time of adoption of this Chapter or any amendment thereto (or at the time of a change in the Zoning Map), or authorized by a building permit issued prior thereto, may be continued in the form evident at the time of adoption of this Chapter although such use does not conform to the provisions of this Chapter, or to any subsequent amendment.

(Ord. 162, 6/12/2002, §1801)

**§27-1803. Nonconforming Use.**

1. *Change of Use.* A nonconforming use may be changed to another nonconforming use by grant of special exception only upon determination by the Zoning Hearing Board, after public hearing, that the proposed new use will be no more detrimental to its neighborhood and surroundings than is the use it is to replace. In determining relative detriment, the Zoning Hearing Board shall take into consideration, among other things: traffic generated; nuisance characteristics (such as emission of noise, dust, glare, and smoke); fire hazards; and hours and manner of operation.

Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

2. *Extension or Enlargement.* The nonconforming use of a building or of a lot shall not be extended or enlarged, so as to use other portions of the building or lot unless the Zoning Hearing Board shall, by special exception as hereinafter provided, authorize the extension or enlargement of such use or building. The Zoning Hearing Board, upon proper application, may grant such special exception provided that:

A. It is clear that such extension is not materially detrimental to the character of the surrounding area or the interest of the Township.

B. The total floor area of any structure(s) devoted to the nonconforming use shall in no case be increased by more than 50 percent beyond the floor area as it existed on the date when the use became nonconforming. This increase by 50 percent shall occur only once per nonconforming use, but may be measured cumulatively over time.

C. Any extension of a building having a nonconforming use shall conform to the area and bulk regulations of the district in which it is situated and to all other regulations applicable to such a use in the district or districts in which the use is

now permitted.

D. Any lawful nonconforming use of land exclusive of building and the use contained therein, may be extended upon the lot existing at the time of adoption of this Chapter or any amendment thereto, provided such extension shall conform to the area and bulk regulations of the district in which it is situated and to all other regulations applicable to such a use in the district or districts in which the use is now permitted. Such extension of a nonconforming use shall be limited to the lot that was in existence at the time of adoption of this Chapter and to those portions of such lot which may be reasonably viewed as having been held for future inclusion in the area(s) devoted to the non-conforming use at that time.

3. *Restoration.* A building containing a nonconforming use destroyed by fire, explosion, flood or other phenomenon, or legally condemned, may be reconstructed and used for the same nonconforming use, provided that reconstruction of the building shall be commenced within 1 year from the date the building was destroyed or condemned and shall be completed without interruption.

4. *Abandonment.* If a nonconforming use of a building or land is discontinued, razed, removed, or abandoned for 12 consecutive months, subsequent use of such building or land shall conform with the regulation of the district in which it is located, unless the same or another nonconforming use is approved by the Zoning Hearing Board and that permit application for such approved use be initiated within 60 days after the Zoning Hearing Board decision.

(Ord. 162, 6/12/2002, §1802)

#### **§27-1804. Nonconforming Structures.**

1. *Extension or Enlargement.*

A. Nonconforming structures may be altered, renovated, or enlarged provided that such alteration, renovation or enlargement does not enlarge the floor area of the nonconforming portion of the structure by more than 50 percent as it existed on the date when the structure became nonconforming, and further provided that such alteration, renovation or enlargement does not increase any existing nonconformity, and provided that the structure enlarged otherwise complies with all applicable regulations. In the case of a nonconforming structure which is occupied by a nonconforming use, such alteration, renovation or enlargement shall also meet the requirements of §27-1803.2 of this Part. In the case of a nonconforming structure which is located on a nonconforming lot, such alteration, renovation or enlargement shall also meet the requirements of §27-1805 herein.

B. Any structural alteration, extension or addition to existing buildings shall conform with all area, height, width, yard and coverage requirements for the district in which it is located as well as building code regulations currently in effect. This provision shall be interpreted to mean that a building which is non-conforming as to setback, for example, may be extended laterally so as to increase the floor area which is nonconforming (subject to subsection .1.A above) but shall not increase the dimensional degree to which it is nonconforming.

2. *Restoration.* Any lawful nonconforming building or other structure which has been involuntarily damaged or destroyed by fire, explosion, windstorm, or other active cause may be reconstructed in the same location provided that:

A. The reconstructed building or structure shall not exceed the height, area or volume of the original building except as provided in subsection .1.

B. Reconstruction shall begin within 12 months from the date of damage or destruction and shall be completed without interruption.

(Ord. 162, 6/12/2002, §1803)

**§27-1805. Nonconforming Lots.**

1. A building may be constructed on a nonconforming lot of record in existence at the effective date of adoption of this Chapter or any amendment thereto provided it meets the standards of the district it falls within, less and except the minimum lot size requirement or the minimum requirement for contiguous net lot area, where applicable. Where the contiguous net lot area requirement applies, and cannot be met, the granting of a building permit shall be conditioned upon demonstration of adequate sewage disposal to the Code Enforcement Officer and the Chester County Health Department. If any applicable setback and/or coverage requirement cannot be met, a variance must be obtained from the Zoning Hearing Board. Contiguous nonconforming lots under common ownership shall be considered one lot, unless there is a manifest intent by the owner to maintain such lots as separate lots.

2. No lot area shall be reduced so that the area or width of the lot or the applicable setback dimensions shall be smaller than herein prescribed.

(Ord. 162, 6/12/2002, §1804)

**§27-1806. Nonconforming Signs.**

Any existing nonconforming signs, signboards, billboards or advertising devices may be continued, subject to the following:

A. *Maintenance.* Nonconforming signs may be painted, repaired (including lighting) and altered in their working (mechanical or electrical components), including the change from one business name or logo to another, provided that such modifications do not exceed the dimensions of the existing signs.

B. *Alteration or Replacement.* No nonconforming sign shall be physically enlarged, altered beyond that permitted in paragraph .A above, relocated, or replaced. Nonconforming signs, once removed, may be replaced only by conforming signs.

C. *Discontinuance.* Whenever any nonconforming use of a building, structure, or land, or a combination of buildings, structures, and land ceases, all signs accessory to such use shall be deemed to be abandoned and shall be removed within 3 calendar months from the date such use terminates.

(Ord. 162, 6/12/2002, §1805)

**§27-1807. Lots Forming Part of Certain Pre-June 12, 1992 Lot Averaging/Cluster Subdivision Plans.**

1. The owner of any lot located in the HR - High-Density Residential District forming a part of a subdivision developed under Article 900, "Lot Averaging and Cluster Development," of the East Vincent Township Zoning Ordinance of 1984 ("the 1984 Zoning Ordinance"), which lot is shown on a subdivision plan which was recorded prior

to June 12, 2002 (the date of adoption of the East Vincent Township Zoning Ordinance of 2002), shall have the right to build upon such lot, including additions to existing structures, in accordance with the requirements of §903 of the 1984 Zoning Ordinance, as amended through June 12, 2002, relating to front, side and rear yards, and building area coverage of principal and accessory buildings, provided that on or before June 12, 2002:

A. A permanent residence had been erected or was under construction upon such lot.

B. The street or streets abutting such lot, as shown on the development plan, had been installed or were under construction.

2. The requirements of §903 of the 1984 Zoning Ordinance pertaining to front, side and rear yards and building area coverage in the R-4 High Density Residential District, are as follows:

Front Yard	30 feet
Rear Yard	25 feet
Side Yard	10 feet
Maximum Impervious Coverage	35 percent

(*Ord. 162*, 6/12/2002, §1806; as added by *Ord. 205*, 1/4/2010, §1)

**Part 19****Conditional Use Process****§27-1901. Procedures and Criteria.**

1. Nothing in this Part shall be construed to relieve the owner or his agent, the developer, or the applicant for a conditional use approval from obtaining approval in accordance with the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22], or other applicable ordinances.

2. The requirements of this Section and the standards for specific types of conditional uses found elsewhere in this Chapter shall be deemed an element of the definition under which a conditional use approval may be granted. The failure of the applicant to demonstrate compliance with these requirements, at the discretion of the Board of Supervisors, may be deemed either a basis for establishing conditions or limitations on an approval or the basis for a denial of a conditional use application.

3. *General Requirements.*

A. *Ownership.* The tract of land under application for conditional use approval 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 entire tract is held by more than one person or entity, the application shall identify and be filed on behalf of all of the said owners. Approval of the plan shall be conditioned upon agreement by the applicant or applicants that the tract shall be developed under single direction in accordance with the approved plan. No site preparation or construction shall be permitted other than in accordance with the approved plan. If ownership of all or any portion of the tract changes subsequent to approval of the plan, no site preparation or construction by such new owner or owners shall be permitted unless and until such owner or owners shall review the terms and obligations of the approved plan and agree in writing to be bound thereby with respect to development of the tract.

B. *Sewer and Water Facilities.* Applicant shall demonstrate evidence of adequate water supply and sewage disposal capability. All water supply and sewage disposal facilities shall be designed and constructed in compliance with §§22-423 and 22-424 of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22] and the East Vincent Township Sewage Facilities (Act 537) Plan.

C. *Development Stages and Permits.* Where applicable, the development of a tract carried out in either a single phase or in stages shall be executed in accordance with a development agreement, entered into by the owner and/or developer, and the Township. Such agreement shall embody all necessary details assuring compliance with any conditions of approval issued in accordance with this Part to the satisfaction of the Township. Such agreement also shall be of a binding nature on the overall tract and its development, regardless of succession in ownership, and shall be recorded with the final subdivision or land development plans.

D. *Stormwater Management.* Where applicable, the control of erosion and

sediment during construction, and the ongoing management of stormwater on the lot or tract where the subject conditional use is located, shall be accomplished in accordance with applicable provisions of the East Vincent Subdivision and Land Development Ordinance [Chapter 22].

E. *Covenants and Restrictions.* The language, terms and conditions of any proposed covenants or restrictions shall be subject to review and recommendation by the Township Solicitor.

4. *Application.*

A. Application for conditional use shall be filed with the Township Secretary on such forms as may be prescribed for said purpose. The application shall be accompanied by a fee as prescribed by the Board of Supervisors by resolution. The application shall state the following:

- (1) The name and address of the applicant.
- (2) The name and address of the owner of the real estate to be affected by the proposed conditional use application.
- (3) Evidence of authorization to act on behalf of the property owner(s) where applicant is other than a legal or equitable owner of the property.
- (4) A description and location of the real estate on which the conditional use is proposed, including applicable tax parcel number.
- (5) A statement of the present zoning classifications of the real estate in question, the improvements thereon, and the present use thereof.
- (6) A narrative description of the proposed use and a statement of the section(s) of this Chapter which authorize(s) the conditional use.

B. *Development Plan.* Any application for conditional use approval involving subdivision or land development, ultimately subject to submission and approval in accordance with the East Vincent Subdivision and Land Development Ordinance [Chapter 22], shall be accompanied by a unified, overall site plan covering the entire tract, regardless of any intended phasing of development, prepared at a graphic scale of at least 1 inch equals 100 feet. For the purposes of application for conditional use approval, such plan need not meet formal submission requirements under the Subdivision and Land Development Ordinance [Chapter 22], but shall be prepared with sufficient detail to adequately illustrate the proposed development uses and non-development uses of the tract, including (where appropriate), reserve areas for possible future expansion; coordinated internal and external vehicular and pedestrian circulation; well related, convenient and efficient parking and loading areas; agreeable surroundings that provide comfort, safety, and convenience for prospective residents, customers, and/or workers; and high quality design in terms of building relationship, facade treatment, signage, lighting, landscaped and planted buffers and screens, as well as other natural and constructed amenities in furtherance of the comprehensive planning objectives of East Vincent Township.

C. *Existing Features Analysis.*

- (1) Any application for conditional use approval involving subdivision or land development, ultimately subject to submission and approval in accordance with the East Vincent Subdivision and Land Development Ordinance [Chapter



22], shall be accompanied by an existing features plan in accordance with the provisions of §22-307.1 of the Subdivision and Land Development Ordinance [Chapter 22], prepared at the same scale as the development plan provided in accordance with subsection .4.B above.

(2) The applicant shall also submit a site analysis and impact narrative in accordance with the provisions of §22-307.2 indicating how any or all of the resources included on the existing features plan will be affected by the proposed development, and shall describe mitigating measures to be employed in addressing these impacts. The development impacts and the proposed mitigating measures shall be described, and their locations indicated on the existing features plan or on a separate site plan prepared at the same scale.

D. *Traffic Analysis.* Any application for conditional use approval involving a use or use(s) which can be expected to generate more than 50 trips during any peak hour, based on the most current version of the *Trip Generation Manual* published by the Institute of Transportation Engineers (ITE), shall be accompanied by traffic studies demonstrating feasible compliance with the objectives of this Chapter, the Subdivision and Land Development Ordinance [Chapter 22], and the East Vincent Township Comprehensive Plan, as applicable. Such studies shall estimate traffic volumes, turning movements, and levels of service at intersections, and potentially unsafe conditions existing prior to development as well as any that may be reasonably expected to occur after proposed development and shall suggest action(s) to mitigate any anticipated reduction of level of service or other negative impact to traffic conditions resulting from the development as proposed.

5. *Procedures.*

A. Upon receipt of a complete application for conditional use approval per subsection .4, above, the Township Secretary shall submit the application for recommendation to the Planning Commission. No formal hearing before the Planning Commission shall be required. Upon receipt of the application, the Planning Commission shall review the conditional use request at its next regularly scheduled meeting or at a special meeting at the discretion of the Planning Commission. In either case, such review shall take place prior to the time set by the Board of Supervisors for public hearing for consideration of the conditional use application in accordance with paragraph .B below. The Planning Commission shall submit any recommendation regarding the subject application to the Board of Supervisors at or prior to such public hearing. If the Planning Commission fails to submit any recommendations to the Board of Supervisors by the time set by the Board of Supervisors for public hearing, the Board of Supervisors shall proceed to consider such application without the recommendation of the Commission.

B. After review by the Planning Commission, the Board of Supervisors shall hold a public hearing on the conditional use application in accordance with the following procedures:

(1) Notice of the hearing shall be given to the public by publication in a newspaper of general circulation in the Township in accordance with the requirements for public notice established in the Municipalities Planning Code. Property owners within 500 feet of the application property shall be notified in the same manner as provided for zoning hearings under §27-2007.A and .C

no less than 10 days prior to the scheduled hearing. Additionally, like notice thereof shall be given to the applicant, the Code Enforcement Officer, and to any person who has made timely written request for same. Notice of the hearing shall be conspicuously posted on the affected tract of land at least 1 week prior to the date of the hearing. The failure of any person or entity to receive notice given pursuant to this Section shall not constitute grounds for any court to invalidate the actions of the Township for which the notice was given. The Board of Supervisors shall conduct its first hearing on the application within 60 days from the date the application is filed with the Township Secretary, unless extended by written authorization from the applicant. Should applicant submit new or revised plans for the use subject to conditional use application between the time of original submission and the time set by the Board of Supervisors for public hearing, the review period shall start anew and prior plans shall be deemed withdrawn.

(2) The parties to the hearing shall be the Township, the applicant, any person affected by the application who has made timely appearance of record before the Board of Supervisors and any other person, including civic or community organizations, permitted to appear by the Board of Supervisors. The Board of Supervisors shall have the power to require that all persons who wish to be considered parties submit written requests on such forms as the Board of Supervisors may provide for that purpose.

(3) The Chairman or Acting Chairman of the Board of Supervisors, or the Township Solicitor acting on the Board's behalf, 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.

(4) Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

(5) The Board of Supervisors shall keep a record of the hearing proceedings. Copies of the written or graphic material received in evidence may be made available to any party at cost, upon request.

(6) The hearing may be continued, or a new hearing may be scheduled, provided that any subsequent hearings shall be held within 45 days of any prior hearing, unless otherwise agreed to by the applicant.

(7) The Board of Supervisors shall render a written decision within 45 days after the last hearing before the Board of Supervisors, approving the application, approving the application subject to conditions, or denying the application. However, all hearings must be completed no later than 100 days after the completion of the applicant's case. Any aggrieved party may apply to the Court of Common Pleas for a time extension for good cause. If the Board of Supervisors fails to complete a hearing within this time period, the application shall be deemed approved. Where the application is contested or denied, the decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons for the final decision, as relevant.

(8) Appeals from a determination of the Board of Supervisors pursuant to any application for a conditional use shall be only as prescribed and within

such times permitted by the applicable provisions of Act 247, the Municipalities Planning Code, as amended, 53 P.S. §10101 *et seq.*

C. In granting conditional use approval, where such use is authorized under this Chapter, the Board of Supervisors may also attach such conditions and safeguards, in addition to those expressed in this Chapter, as it may deem necessary to implement the purpose of Act 247, the Municipalities Planning Code, as amended, 53 P.S. §10101 *et seq.* and this Chapter. Conditional uses shall be subject to compliance with particular standards contained in this Chapter and criteria defined in the application review process. The standards described shall be deemed additional and shall in no way impair any other applicable standard from this or any other Township ordinance.

D. The applicant shall have the burden to prove, by a preponderance of the evidence, that the proposed use will comply in all respects with this and other applicable Township ordinances, County, State or Federal regulations. The Board of Supervisors may retain such consultants as necessary to review and certify the accuracy of submitted plans and documents, reasonable and necessary charges therefor to be borne by the applicant. When the applicant does not provide information as required, then it shall be presumed that the proposed use is not in accordance with the requirements applicable for the granting of conditional use approval.

E. Any grant of conditional use approval shall be deemed null and void 12 months from the date of such approval if, within that period, no application is made for a building permit, a use and occupancy permit, or subdivision or land development approval, as appropriate, unless so extended by the Board of Supervisors. Any request to extend the 12-month expiration period shall be properly filed with the Township Secretary 30 days in advance of the expiration date. The request shall include the reason why the extension is required, a reasonable estimate of the time needed to obtain the necessary approvals, and a qualified statement that there has been no change in the conditional use application or the neighborhood in which the property is located. Failure to diligently pursue necessary approvals shall not be grounds for an extension.

6. *Criteria for Review of Conditional Use Applications.* The following criteria shall be used as a guide by the Board of Supervisors in evaluating a proposed conditional use. It shall be the burden of the applicant to demonstrate compliance with all applicable criteria:

A. Any applicant for conditional use approval shall have the burden of demonstrating to the satisfaction of the Board of Supervisors that provision is made to adequately reduce or minimize any noxious, offensive, dangerous, or hazardous feature or features thereof, as the case may be. Board of Supervisors may deny conditional use approval where applicant has failed to do so or where any use is otherwise deemed to be dangerous or potentially dangerous to the public health, welfare or safety, or which constitutes or may constitute a public hazard whether by fire, explosion, or otherwise.

B. The use(s) proposed shall be limited to those authorized as conditional uses within the district in which the lot or parcel is situated. The property subject to conditional use application shall be suitable for the use desired.

C. The size, scope, extent, and character of the conditional use desired shall be consistent with the spirit, purposes, and intent of the East Vincent Township Comprehensive Plan, Open Space Plan, and this Chapter.

D. The proposed use at the location set forth in the application shall be in the public interest and serve the public health, safety, and general welfare.

E. Consideration of the character and the type of development in the area surrounding the location for which the request is made, and a determination that the proposed use is appropriate in the area and will not injure or detract from the use or value of the surrounding properties or from the character of the neighborhood.

F. The development, if more than one building, will consist of a harmonious grouping of buildings or other structures.

G. There will be no adverse affect of the proposed conditional use upon the logical, efficient, and practicable extension of public services and facilities, such as public water, sewers, police and fire protection, recreational opportunities, and public schools. Where appropriate, adequate arrangements for expansion or improvement of such services and facilities may be required as condition(s) of approval.

H. The use of any new construction and proposed change in use of existing buildings will be compatible with the existing uses in the immediate vicinity and that the proposed use shall be compatible with the character of the neighborhood.

I. If the development is to be carried out in progressive stages, each stage shall be so planned that the conditions and intent of this Chapter shall be fully complied with at the completion of any stage.

J. The location and layout of the proposed use is suitable with respect to probable effects upon highway traffic, and assures adequate access arrangements in order to protect major streets and highways from undue congestion and hazard. The Board of Supervisors may require that the applicant demonstrate that the proposed use shall not result in a lowering of the level of service on adjacent road segments and intersections as defined by the most recent edition of the *Highway Capacity Manual* from the Transportation Research Board. As a policy, proposed projects should incorporate designs which assure safe and efficient access and maintain a level of service "C," as a minimum, on all adjacent road segments and intersections.

K. The interior traffic circulation shall provide safe and convenient circulation for all users, including pedestrian and vehicular modes of transit. applicant shall demonstrate that sufficient safeguards such as parking, traffic control, screening, and setbacks can be implemented to remove any potential adverse influences the use may have on adjoining uses. In addition, all emergency access design considerations shall be addressed and incorporated into the proposed plan.

L. The adequacy of sanitation and public safety provisions, where applicable, and the necessity to provide a certificate of adequacy of sewage and water facilities from a governmental health agency in any case where required or deemed necessary.

M. Sufficient land area shall be available to be able to effectively screen the

proposed conditional use from adjoining different uses if required by the Board of Supervisors.

N. Consideration of any other development impacts and/or proposed mitigation identified by the submitted site analyses.

O. The Board of Supervisors may consider additional standards and criteria set forth in §27-2009, "Standards for Review of Special Exception," to the degree the Board of Supervisors deems such standards to be applicable to review of the conditional use application.

P. Uses shall meet all applicable provisions and requirements of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22] and all other applicable ordinances and regulations whether or not propounded by East Vincent Township.

Q. The Board of Supervisors may impose such conditions, in addition to those required, as are necessary to assure that the intent of this Chapter is complied with, which conditions may include, but are not limited to, harmonious design of buildings, planting and its maintenance as a sight or sound screen, the minimizing of noise, glare, noxious, offensive or hazardous elements, adequate standards of parking and sanitation.

(*Ord. 162*, 6/12/2002, §1900; as amended by *Ord. 179*, 12/1/2004)



**Part 20****Zoning Hearing Board****§27-2001. Establishment and Membership.**

1. There shall be a Zoning Hearing Board consisting of three residents of the Township, appointed by the resolution of Board of Supervisors in accordance with Article IX of the Pennsylvania Municipalities Planning Code, 53 P.S. 10901 *et seq.*, as amended, hereinafter called "MPC." Their terms of office shall be 3 years and shall be so fixed that the term of office of one member shall expire each year. The Zoning Hearing Board shall promptly notify the Board of Supervisors of any vacancy which occurs. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall hold no other office in the Township.

2. The Board of Supervisors may, by resolution, appoint a resident of the Township to serve as an alternate member of the Zoning Hearing Board. The term of the alternate member shall be 3 years. The alternate member shall hold no other office in the Township. An alternate may participate in any proceeding or discussion of the Zoning Hearing Board, but shall not be entitled to vote as a member of the Zoning Hearing Board, or be compensated as a member as provided in §27-2004.2 unless seated as a member in accordance with the provisions of §27-2002.2.

3. Any member of the Zoning Hearing Board may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors. taken after the member has received 15 days advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

(Ord. 162, 6/12/2002, §2000)

**§27-2002. Organization of the Zoning Hearing Board.**

1. The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall not be less than a majority of all the members of the Zoning Hearing Board, but the Zoning Hearing Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Zoning Hearing Board, as provided in §27-2008.

2. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Zoning Hearing Board shall designate the alternate member to sit on the Zoning Hearing Board. The alternate member shall continue to serve on the Zoning Hearing Board in all proceedings involving the matter or case for which the alternate was initially appointed, until the Zoning Hearing Board has made a final determination of the matter or case.

3. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the municipality and laws of the Commonwealth. The Zoning Hearing Board shall keep full public records of its business and shall submit a report of its activities to the Board of Supervisors once a year.

(Ord. 162, 6/12/2002, §2001)

**§27-2003. Jurisdiction.**

The Zoning Hearing Board shall function in strict accordance with and pursuant to §909.1 of the Municipalities Planning Code (MPC), 53 P.S. §10909.1, and shall have all powers set forth therein, including but not limited to the following general summation:

A. To hear and decide appeals where it is alleged that the Township Code Enforcement Officer, or Township Engineer in the case of administering the Township's floodplain, sedimentation and erosion control, and stormwater management ordinances, has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of a valid rule or regulation governing the action of the Code Enforcement Officer or Township Engineer.

B. To hear and decide requests for special exceptions authorized by this Chapter in accordance with the standards for criteria set forth below. The Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of the Code and this Chapter.

C. To hear request for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. A variance may be granted only after the Zoning Hearing Board has made the findings required in §27-2010 of the Zoning Ordinance. In granting a variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary as prescribed in §27-2011 of this Chapter to implement the purposes of the MPC and this Chapter.

D. To conduct hearings and make such decisions and findings in connection with challenges to the validity of any provisions of this Chapter as authorized by §909.1 of the MPC, 53 P.S. §10909.1.

E. To exercise jurisdiction over all other proceedings over which the Zoning Hearing Board is given jurisdiction pursuant to the MPC.

(Ord. 162, 6/12/2002, §2002)

**§27-2004. Rules of Procedure; Expenditures; Fees.**

1. The Zoning Hearing Board may adopt rules of procedure in accordance with the several provisions of this Chapter as to the manner of filing appeals, applications for special exceptions or variances, and as to the conduct of the business of the Zoning Hearing Board. In all cases the rules of procedure shall be consistent with Article IX of the Municipalities Planning Code, 53 P.S. §10901 *et seq.*

2. Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ or contract for secretaries, clerks, legal counsel, consultants, stenographer, and other technical and clerical services. Members of the Zoning Hearing Board, including the alternate member when designated in accordance with §27-2002.2 of this Part, may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors. In no case, however, shall the amount of compensation exceed the rate authorized to be paid to the members of the Board of Supervisors.



3. Any applicant before the Zoning Hearing Board shall deposit with the Treasurer of the Township the appropriate filing fee, as established by resolution of the Board of Supervisors and in accordance with the terms of §27-2105.

4. The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary, court reporter, and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or experts witness costs.

(Ord. 162, 6/12/2002, §2003)

**§27-2005. Meetings.**

Meetings of the Zoning Hearing Board shall be held at the call of the Chairman, and at such other times as the Zoning Hearing Board may determine. All meetings of the Zoning Hearing Board shall be open to the public. The Zoning Hearing Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if a member is absent or fails to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the Township Secretary and shall be a public record.

(Ord. 162, 6/12/2002, §2004)

**§27-2006. Appeals and Requests to the Zoning Hearing Board.**

Appeals to the Zoning Hearing Board may be filed by the landowner affected, any officer or agency of the Township or any person aggrieved. Such appeal shall be taken within the time required by the MPC or as provided by the rules of the Zoning Hearing Board, by filing with the Township Secretary a notice of appeal specifying the grounds thereof. The Township Secretary shall forthwith transmit to the Zoning Hearing Board all the papers constituting the record upon which the action appealed from was taken. Requests for a variance or special exception may be filed by any landowner, or any tenant with permission of the landowner. The appropriate fee, established by the Township, shall be paid in advance for each appeal or application for a special exception or variance.

(Ord. 162, 6/12/2002, §2005)

**§27-2007. Notice of Hearing.**

Notice shall be given of any public hearing stating the location of the building or lot and the general nature of the question involved and shall be given as follows:

A. Public notice shall be provided as defined in Part 2 and consistent with the public notice requirements of the MPC, and including, but not necessarily limited to, the following information: name of the applicant and type of application being heard; brief description of the request; date, location and time of the hearing; location and times when the application can be reviewed by the public or copies of such application to be obtained at a reasonable cost; and Township contact person.

B. By mailing a notice thereof to the applicant, the Code Enforcement Officer, Township Secretary and any person who has made timely request for same or who

shall have registered their names and addresses for this purpose with the Zoning Hearing Board.

C. By mailing notice thereof to the owner, if his address is known, or to the occupant of every lot on the same street within 500 feet of the lot in question and of every lot not on the same street within 150 feet of said lot; provided, that failure to mail the notice required by this Section shall not invalidate any action taken by the Zoning Hearing Board.

D. By posting notice thereof conspicuously on the affected tract of land at least 1 week prior to the hearing.

E. The failure of any person or entity to receive notice given pursuant to this Section shall not constitute grounds for any court to invalidate the actions of the Township for which the notice was given.

(*Ord. 162, 6/12/2002, §2006*)

#### **§27-2008. Hearing Procedures.**

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

A. 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. The hearing may be continued, or a new hearing may be scheduled, provided that any subsequent hearings shall be held within 45 days of any prior hearing, unless otherwise agreed to by the applicant.

B. The hearings shall be conducted by the Zoning Hearing Board or the Zoning Hearing Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Township, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

C. The parties to the hearing shall be the Township, the applicant, 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. The chairman or acting chairman of the Zoning Hearing Board or the hearing officer 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. 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. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

G. 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 Zoning Hearing Board. The cost of the original transcript shall be paid by the Zoning Hearing Board if the transcript is ordered by the Zoning Hearing Board or hearing officer or shall be paid by the person appealing from the decision of the Zoning Hearing Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copies or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

H. The Zoning Hearing Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

I. All hearings must be completed no later than 100 days after the completion of the applicant's case. Any aggrieved party may apply to the Court of Common Pleas for a time extension for good cause. If the Zoning Hearing Board fails to complete a hearing within this time period, the application shall be deemed approved.

(*Ord. 162, 6/12/2002, §2007*)

**§27-2009. Standards for Review of Special Exception.**

In any instance where the Zoning Hearing Board is required to consider a request for a special exception, the Zoning Hearing Board must determine that the following standards and criteria are met before granting the request:

A. The size, scope, extent, and character of the special exception request is consistent with the Comprehensive Plan of the Township and promotes the harmonious and orderly development of the zoning district involved.

B. The proposed special exception is an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter, or detract from the use of surrounding property or of the character of the neighborhood in light of the zoning classification of the area affected; the effect on other properties in the area; the number, extent, and scope of nonconforming uses in the area; and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the condition or use for which applicant seeks approval.

C. The proposed special exception is suitable with respect to traffic and highways in the area and provides for adequate access and off-street parking arrangements in order to protect major streets and highways from undue congestion and hazard.

D. The proposed special exception is reasonable in terms of the logical, efficient, and economical extension of public services and facilities, such as public water, sewers, police, fire protection, and public schools, and ensures adequate arrangements for the extension of such services and facilities in specific instances.

E. Conditions are being imposed on the grant of the request necessary to ensure that the general purpose and intent of the property adjacent to the area included in the proposed special exception is adequately safeguarded with respect to harmonious design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping, hours of operation, lighting, numbers of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.

F. The proposed special exception does not materially and adversely affect the safety, health and general welfare of the Township.

(*Ord. 162, 6/12/2002, §2008*)

#### **§27-2010. Standards for Review of a Variance.**

The Board may grant a variance provided that the specifically enumerated criteria set forth in §910.2 of the MPC, 53 P.S. §10910.2, and spelled out as follows, are met:

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 this Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

C. That such unnecessary hardship has not been created by the 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 or 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.

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.

(*Ord. 162, 6/12/2002, §2009*)

#### **§27-2011. Burden of Proof; Conditions.**

To the maximum extent permitted by law, all burdens of proof and persuasion shall be upon the landowner in connection with any variance, special exception, or other application or appeal before the Zoning Hearing Board. In allowing a variance or special exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of the MPC and this Chapter.

(*Ord. 162, 6/12/2002, §2010*)

**§27-2012. Decision on Appeals and Requests.**

1. The Zoning Hearing Board or hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the subject appeal or request within 45 days after the last hearing before the Zoning Hearing Board or hearing officer. Where any appeal or request is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Zoning Hearing Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Zoning Hearing Board prior to final decision or entry of findings, and the Zoning Hearing Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Zoning Hearing Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Zoning Hearing Board to meet or render a decision as hereinabove provided, the Zoning Hearing Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in this Section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

2. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Zoning Hearing Board not later than the last day of the hearing, the Zoning Hearing Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

(Ord. 162, 6/12/2002, §2011)

**§27-2013. Appeals to Court.**

Appeals from decisions of the Zoning Hearing Board may be taken by any party aggrieved thereby as provided in the MPC.

(Ord. 162, 6/12/2002, §2012)

**§27-2014. Expiration of Special Exceptions and Variances.**

1. Any approval of a special exception or variance request shall be deemed null and void 12 months from the date of such approval if, within that period, no application is made for a building permit, use and occupancy permit, subdivision or land development approval, or any other approval or permit required by the Township to proceed with construction, occupancy, or use pursuant to the special exception or variance, unless so extended by the Zoning Hearing Board pursuant to subsection .2.

2. The 12-month expiration period may be extended by the Zoning Hearing Board, provided, that such request for an extension shall be properly filed with the Code Enforcement Officer or his/her designee at least 30 calendar days in advance of the expiration date. The request shall include the reason why the extension is required, a reasonable estimate of the time needed to obtain the necessary approvals, and a qualified statement that there has been no change in either the circumstances giving rise to the grant of relief or the neighborhood in which the property is located. Failure to diligently pursue necessary approvals shall not be grounds for an extension.

*(Ord. 162, 6/12/2002, §2013)*

**Part 21****Administration****§27-2101. Administration.**

For the administration of this Chapter, a Code Enforcement Officer, who shall not hold any elective office in the Township, shall be appointed by the Board of Supervisors. The Code Enforcement Officer, who may also hold the title of Building Inspector, shall meet qualifications established by the Township and shall be able to demonstrate to the satisfaction of the Township a working knowledge of municipal zoning. The Code Enforcement Officer shall administer this Chapter in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this Chapter. Code Enforcement Officers may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of their employment pursuant to §27-2302.

A. Duties of the Code Enforcement Officer shall be:

(1) To administer this Chapter's provisions contained herein, including the enforcement thereof.

(2) To examine all applications for building and use and occupancy permits to determine compliance with this Chapter.

(3) To record and file all applications for permits and accompanying plans and documents and keep them for public record.

(4) To permit uses and/or buildings by special exception and/or variance only after approval for such uses and/or buildings has been so ordered by the Zoning Hearing Board in accordance with the regulations of this Chapter, or by a court of appeals, subject to any stipulations contained in such order.

(5) To permit uses and/or buildings by conditional use only after approval for such uses and/or buildings has been so ordered by the Board of Supervisors in accordance with the regulations of this Chapter, or by a court of appeals, subject to any stipulations contained in such order.

(6) To inspect nonconforming uses, buildings and lots, and to keep a filed record of such nonconforming uses and buildings as a public record and to examine them periodically, if so directed by the Board of Supervisors.

(7) Upon the request of the Board of Supervisors or the Zoning Hearing Board, present to such bodies facts, records, and any similar information on specific requests to assist such bodies in reaching its decision.

(8) To be responsible for the keeping up-to-date of this Chapter and the Zoning Map, filed with the Township Secretary and to include any amendments thereto.

(9) To be responsible for the administration of the National Flood Insurance Program in East Vincent Township and specifically in those areas where records must be maintained relative to the types of land use permitted and occurring within the floodplain district, variances issued, base flood elevations, elevation of the lowest floor, including basement, of structures

within the floodplain district, the elevation to which the structure is flood-proofed and other administrative functions necessary for participation in the National Flood Insurance Program.

(Ord. 162, 6/12/2002, §2100)

**§27-2102. Procedures Involving the Code Enforcement Officer.**

1. *Sign Permits.* A sign permit shall be required prior to the erection of, alteration of, or enlargement of any sign, sign structure or any portion thereof. It shall be unlawful for any person to commence work for the erection of, or alteration of, or enlargement of any sign, sign structure or portion thereof, until a permit has been duly issued therefor; except, however, the signs listed in §27-1717.3. may be erected without a sign permit, provided that all requirements of §27-1717 are met.

A. *Application for Sign Permits.* An application for a sign permit shall be made to the Code Enforcement Officer and shall be accompanied by a plot plan drawn to scale showing size and location of all buildings and structures on the premises in question and the dimensions and location of the proposed sign.

B. *Issuance of Sign Permits.* It shall be the duty of the Code Enforcement Officer to either issue or deny issuance of a sign permit within 30 days of the filing of a completed application and payment of prescribed fees. The Code Enforcement Officer shall issue a permit only upon his determination that the application is in compliance with the terms of this Chapter. Sign permits need not be displayed, but should be maintained on the premises.

2. *Zoning Permits.* A zoning permit shall be required prior to a change in use of land or buildings or the erection, construction, or alteration of any building, structure or any portion thereof. No permit shall be required for repairs or maintenance of any building, structure, or grounds provided such repairs do not change the use or otherwise violate the provisions of this Chapter.

A. *Application for Zoning Permits.* Applications for a zoning permit shall be made to the Code Enforcement Officer in writing on such forms furnished by the Township. An application for zoning permit shall be accompanied by all required plans and fees and any additional information as may be required to enable the Code Enforcement Officer to ascertain compliance with this Chapter.

B. *Issuance of Zoning Permits.*

(1) It shall be the duty of the Code Enforcement Officer to either issue or deny zoning permits within 90 days, from the date of the complete application and payment of the prescribed fees. Issued permits shall expire after 6 months from the date of issuance; provided, that the same may be extended every 6 months for a period not to exceed an additional 2 years, upon request by the applicant which demonstrates good cause to the Code Enforcement Officer.

(2) No zoning permit shall be issued except in conformity with:

(a) All applicable regulations of this Chapter.

(b) Any conditions imposed upon the site by the Zoning Hearing Board or the Board of Supervisors.

(c) Any recorded subdivision or land development plan.

(3) No zoning permit shall be issued unless the applicant presents the



Code Enforcement Officer with proof that any applicable subdivision approval, land development approval, or both, has been granted, a sewage permit has been issued by the Township Sewage Enforcement Officer and/or the Chester County Health Department for the lot, a highway occupancy permit from the Department of Transportation has been issued, if applicable, and all other required Township, State, and Federal approvals and permits have been granted or issued. In addition, no zoning permit shall be issued for any property with an existing zoning violation.

C. In all instances in which the Code Enforcement Officer expresses a reasonable doubt as to the ability of the proposed use to meet all of the above-described requirements, it will be incumbent upon the applicant to furnish adequate evidence in support of his application. If such evidence is not presented, the zoning permit will be denied.

D. *Rights of Zoning Permit Holders.* The zoning permit shall be authorization to proceed with work as described on the approved application. The Code Enforcement Officer shall have the right to revoke any permit or approval issued under the provisions of this Chapter in any case where there has been a false statement or misrepresentation of fact in the application or where it is determined that the work being performed is not in compliance with this Chapter.

3. *Zoning Enforcement.* See Part 23 of this Chapter.

4. *Distribution of Concurrent Submissions.* For documents submitted to the Township in accordance with §27-1506 of this Chapter, the Code Enforcement Officer shall see that copies of those documents are transmitted to the Planning Commission at their next available meeting, with appropriate references to the relevant application(s) currently before the Planning Commission. The Code Enforcement Officer shall see that sufficient numbers of copies of such documents are provided by the applicant to supply each Commissioner with a copy, plus five extra for Township filing and distribution purposes.

(Ord. 162, 6/12/2002, §2101)

### **§27-2103. The Building Inspector.**

The duties of the Building Inspector, and/or Code Enforcement Officer, shall be: To examine all applications for permits to build, alter, or demolish.

A. To issue permits only for construction and uses that are in accordance with this Chapter and the East Vincent Township Building Code [Chapter 5, Part 1].

B. To issue use and occupancy permits after satisfactory inspection of the building or premises is completed.

C. To record and file all applications for permits and accompanying plans and documents and keep them for public record.

D. To enforce the Township Building Code [Chapter 5, Part 1] as adopted by the Township.

E. To administer those prescribed provisions of §27-1403, "Demolition of Historic Resources."

(Ord. 162, 6/12/2002, §2102)

**§27-2104. Procedures Involving the Building Inspector.**

1. *Building Permits.* A building permit shall be required prior to the erection, alteration, enlargement, or demolition of any building or other structure or portion thereof. It shall be unlawful for any person to commence work for the erection, alteration, enlargement or demolition of any building or structure or portion thereof until a permit has been duly issued therefore. See subsection .3 for demolition permits for historic resources.

A. *Application for Building Permits.* All applications for building permits shall be made to the Building Inspector in writing on such forms furnished by the Township. An application for building permit shall be accompanied by all required plans and fees and any additional information as may be required to enable the Building Inspector to ascertain compliance with the applicable Township codes.

B. *Issuance of Building Permits.* Except for demolition permits for historic resources governed by the provisions of §27-1403.4, it shall be the duty of the Building Inspector to either issue or deny issuance of buildings within 90 days of filing of a completed application and payment of prescribed fees. The Building Inspector shall issue a permit only upon his determination that the application is in compliance with the Township building codes. A building permit, when issued, shall be accompanied by a placard to be displayed conspicuously upon the premises during the period of construction.

C. *Building Permit Not Required.* A building permit shall not be required for repairs to existing buildings or structures provided that no structural changes or modifications are involved.

D. *Expiration of Building Permit.* A building permit shall expire 6 months from the date of issuance, provided that it may be extended in accordance with the adopted building codes. Work shall be considered to have started with the first placement of permanent construction or improvement on the site, such as the pouring of slabs, footings or any work beyond the stage of excavation. Permanent construction does not include land preparation or clearing, grading, filling, excavation or the erection of temporary forms, facilities or equipment.

E. *Rights of Permit Holders.* The building permit shall be authorization to proceed with work as described on the approved application. The Building Inspector shall have the right to revoke any permit or approval issued under the provisions of this Chapter in any case where there has been a false statement or misrepresentation of fact in the application or where it is determined that the work being performed is not in compliance with the adopted building codes or with the provisions of this or any other applicable ordinance.

F. *Compliance with this Chapter.* No building permit shall be issued if the proposed use or construction is not in compliance with all applicable provisions of this Chapter.

G. *Provisions of this Chapter Deemed Controlling.* The provisions hereof shall be deemed to be incorporated in and to supplement the provisions of any building codes as may be adopted by the Township. In the event of any direct conflict between the provisions set forth herein and those stated in any building codes as may be adopted, the provisions set forth herein shall be deemed controlling.

2. *Use and Occupancy Permits.* It shall be unlawful for any person to initially

occupy any building or structure until a use and occupancy permit has been duly issued therefor by the Building Inspector.

A. *When Required.* A use and occupancy permit shall be required prior to any of the following:

(1) New single family dwellings.

(2) Existing single-family dwellings which are renovated or restored to greater than 50 percent of their estimated value.

(3) Residential additions, garages, swimming pools and large accessory structures, e.g., detached pool house, horse and/or animal enclosures, hobby buildings, etc.

(4) New commercial, industrial, and institutional buildings and their accessory structures.

(5) A change in ownership or use of a nonresidential structure.

B. *Issuance of Occupancy Permits.*

(1) A use and occupancy permit for which application has been made shall not be issued until completion of the construction work authorized by the building permit. Upon notification by the applicant that the construction work has been completed, the Building Inspector shall conduct a final inspection and shall either issue or deny the use and occupancy permit within 30 days, as aforesaid.

(2) It shall be the duty of the applicant for a building permit to secure the issuance of the required use and occupancy permit, by giving notice of completion as aforesaid, notwithstanding the fact that the applicant may be constructing the building, structure, addition, or alteration for the use of another, and further to notify such proposed occupants of the requirements of this Section prior to the transfer of ownership or commencement of leasehold of the property.

3. *Demolition Permits for Historic Resources.* See §27-1403.7 through .10 of this Chapter.

(Ord. 162, 6/12/2002, §2103)

#### **§27-2105. Fees and Expenses.**

1. *Permit Applications.* Fees for application for building permits, grading permits, demolition permits, use and occupancy permits, sign permits, or similar permits shall be paid in accordance with a fee schedule adopted by resolution of the Board of Supervisors.

2. *Schedule of Fees.* The Board of Supervisors shall establish by resolution a schedule of fees, charges, and expenses for the above referenced permits and other actions enabled by the MPC pertaining to the administration of this Chapter. Said schedule of fees shall be available from the Township Secretary/Treasurer and Code Enforcement Officer and application for permits or hearings shall be considered incomplete until payment in accordance therewith has been made.

3. *Applications or Appeals Before the Board of Supervisors or Zoning Hearing Board.*

A. Upon submission of an application or appeal before the Board of Supervisors or the Zoning Hearing Board, the applicant shall deposit an amount of money in accordance with a fee schedule adopted by resolution of the Board of Supervisors. The Code Enforcement Officer shall determine in which category an application falls and, therefore, what amount is due.

B. If, at any time, the charges then made against the applicant's deposit shall render the balance insufficient to ensure payment of all expenses that may accrue in the disposition of the pending appeal or application, the Township Secretary shall obtain from the applicant additional deposits to assure adequate funds to pay such expenses as they may accrue. Prior to final disposition of the matter, the amount of the deposit shall not be less than 15 percent of the initial deposit amount. The failure of the Township Secretary to require and obtain additional deposits from time to time shall not relieve the applicant from liability for expenses in excess of deposits.

(*Ord. 162, 6/12/2002, §2104*)

**§27-2106. Municipal Liability.**

The granting of any permit under this Chapter shall create neither 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. 162, 6/12/2002, §2105*)

**Part 22****Amendments****§27-2201. Power of Amendment.**

The Board of Supervisors may from time to time amend, supplement, change, modify, or repeal this Chapter including the Zoning Map, by proceeding in accordance with the Municipalities Planning Code (MPC) as amended from time to time, 53 P.S. §10101 *et seq.*

(*Ord. 162, 6/12/2002, §2200*)

**§27-2202. Citizen's Petition.**

1. Whenever the owners of 50 percent or more of the area in any district shall present to the Board of Supervisors a petition, duly signed and acknowledged, requesting an amendment, supplement, change, modification or repeal of any of the regulations or restrictions prescribed by this Chapter for their district; or a change or modification of the Zoning Map with reference to such district, it shall be the duty of the Board of Supervisors to hold a public hearing thereon and cause notice to be given in the manner prescribed in the Municipalities Planning Code (MPC), 53 P.S. §10101 *et seq.*

2. Applicants to the Board of Supervisors for the amendment, supplement, change, or modification of the provisions of this Chapter shall, upon the filing of such application; pay the appropriate fees established by the Township for each application to cover the costs of advertising and aforesaid notice. The applicant shall pay the cost of stenographic service and any other expense incurred in connection with such application, provided, however, that if the total of the aforesaid costs and expenses does not exceed the amount provided, any difference shall be refunded to the applicant.

(*Ord. 162, 6/12/2002, §2201*)

**§27-2203. Planning Commission Referral.**

1. Any proposed amendment, other than one originated by the Township Planning Commission, shall be referred by the Board of Supervisors, at least 30 days prior to the hearing on the amendment, to the Township Planning Commission which shall consider, among other factors, whether or not such proposed change or amendment would be, in the view of the Commission, consistent with and desirable in furtherance of the Comprehensive Plan upon which this Chapter is based, as the same may be modified from time to time. The Commission shall transmit its conclusions on any proposed amendment, together with its reasons therefore, to the Board of Supervisors. The Board of Supervisors shall take such conclusions and recommendations into consideration but shall not be bound thereby.

2. All proposed amendments shall be submitted by the Board of Supervisors, at least 45 days prior to the hearing on the amendment, to the Chester County Planning Commission for review and comment, in accordance with the terms of Article VI of the MPC, 53 P.S. §10601 *et seq.* The Board of Supervisors shall not act upon the proposed amendment until a report is received from the County Planning Commission or the 45-

day time period for such a response has elapsed. The Board of Supervisors shall not be bound by the recommendations of the County Planning Commission.

3. Within 30 days after enactment, a copy of the amendment shall be forwarded to the Chester County Planning Commission.

*(Ord. 162, 6/12/2002, §2302)*

**Part 23****Enforcement****§27-2301. Violations.**

It shall be a violation of this Chapter to undertake any action which is contrary to the terms of this Chapter.

(*Ord. 162, 6/12/2002, §2300*)

**§27-2302. Enforcement Notice.**

1. If it appears to the Township that a violation of this Chapter has occurred, the Code Enforcement Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this Section. By means of the enforcement notice, the Code Enforcement Officer may order discontinuance of illegal use of land or structures; removal of illegal structures or additions, alterations, or structural changes thereto; or discontinuance of any illegal work being done. The Township Secretary, Solicitor, Chief of Police, members of the Township Police Department, and any other persons designated from time to time by the Board of Supervisors would also be authorized to enforce this Chapter.

2. The enforcement notice shall be sent via certified mail to the owner of record of the parcel on 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, at minimum, state the following:

A. The name of the owner of record and any other persons 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 which have not been met, citing in each instance the applicable provisions of this Chapter.

D. The date on which the steps for compliance must be commenced and the date on which the steps must be completed.

E. That the recipient of the notice has the right to appeal to the Zoning Hearing Board, in accordance with the procedures 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 the possibility of sanctions, as provided in §27-2304 of this Chapter.

(*Ord. 162, 6/12/2002, §2301*)

**§27-2303. Causes of Action.**

1. Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint with the Township. Such complaint shall be signed, shall state fully the causes and basis thereof, and shall be filed with the Code Enforcement Officer. The Code Enforcement Officer shall record properly such

complaint, investigate, and take action thereon.

2. Where any building, structure, hedge, tree, shrub or other growth, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained, or used in violation of this Chapter, the Board of Supervisors or the Code Enforcement Officer 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, hedge, tree, shrub or other growth, or use of land, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation.

3. Where any action authorized in subsection .2, above, 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 upon the Board of Supervisors. No such action may be maintained until such notice has been given.

(*Ord. 162, 6/12/2002, §2302*)

#### **§27-2304. Enforcement Remedies.**

1. Any person, partnership, or corporation who has received a notice of violation from the Code Enforcement Officer may either correct the violation within the allotted time period, or if believed to be wrongfully served, promptly file an appeal with the Zoning Hearing Board pursuant to §27-2006 of this Chapter.

2. Any person, partnership, or corporation who or which has violated or permitted the violation of the provisions of this Chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township 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 be payable until the date of the determination of a violation by the magisterial district judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the magisterial district judge 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 fifth day following the date of the determination of a violation by the magisterial district judge. Thereafter, each day that a violation continues shall constitute a separate violation. All judgments, costs, and reasonable attorney fees collected for the violation of this Chapter shall be paid over to the East Vincent Township. [*Ord. 185*]

3. In addition to the above remedies, the Board of Supervisors may take other appropriate legal action, which may include equitable and injunctive relief, to enforce the provisions of this Chapter.

(*Ord. 162, 6/12/2002, §2303; as amended by Ord. 185, 8/2/2006*)



**Part 24****Transferable Development Rights****§27-2401. Purpose.**

The primary purposes of transferable development rights (TDR) are to promote the health, safety, and general welfare of East Vincent Township residents by permanently preserving prime farmland, sensitive natural areas, and rural community character that would be lost if the land were developed. In addition, this Part is intended to protect property rights by allowing landowners whose land is intended for preservation to transfer their rights to develop to other areas of East Vincent Township deemed appropriate for higher density development based on the availability of community facilities and infrastructure.

(Ord. 162, 6/12/2002, §2401)

**§27-2402. Basic Concept.**

1. The provisions of this Chapter which permit transferable development rights allow landowners in areas of East Vincent Township proposed for conservation, called sending areas, to sell the right to develop all, or a portion of their land to landowners in areas of East Vincent Township proposed for additional development, called receiving areas. The transferable development rights provisions set forth below are specifically authorized under §§603(c)(2.2) and 619.1 of the Pennsylvania Municipalities Planning Code, 53 P.S. §§10603(c)(2.2), 10619.1, under the terms of which development rights are acknowledged to be severable and separately conveyable from a sending area to a receiving area.

2. When landowners in the sending area sell their right to develop all or a portion of their land, they must restrict that portion of land from which development rights are sold against any future development as provided in this Chapter, although the land may still be used for purposes that do not involve development, such as agriculture or forestry. When landowners in the receiving area buy the development rights from landowners in the sending area, they receive the right to build more homes on their land than they would have been allowed had they not purchased development rights.

3. Deed restrictions imposed in the sending area will not affect the landowner's ability to sell the land after the development rights have been severed, although such land cannot ever be used for development purposes. The deed restriction on the land from which the development rights have been severed shall run in favor of the Township or an approved conservation organization.

4. The owner of the tract in the sending area from which the development rights are severed or any subsequent purchaser or purchasers of the development rights may declare the development rights for sale, may hold the development rights or may resell the development rights. The only use which may be made of the development rights is the ultimate transfer to a developer with a tract in the receiving area. The Township shall have no obligation to purchase the development rights which have been severed from a tract in the sending area.

(Ord. 162, 6/12/2002, §2402)

**§27-2403. Sale of TDRS from Sending Area.**

1. Owners of tracts which meet the following requirements may sell their development rights:

*A. Sending Area Qualifications.*

(1) The sending area tract(s) of land shall be located within the AP or RC Zoning Districts.

(2) By the time of severance of development rights from the sending area tract, at least 80 percent of the sending area tract must be restricted from future development in accordance with subsections paragraphs .D and .E below.

(3) The land within the sending area tract to be restricted shall be contiguous, shall generally be of a regular configuration, and shall not extend less than 100 feet in the narrowest dimension at any point, except where infeasible due to the pre-existing configuration of the tract from which development rights may be sent.

(4) The portion of the sending area tract which will not be restricted shall be usable for the exercise of the retained development right(s) under the use, area, dimensional, performance, and other applicable standards of this Chapter.

*B. Calculation of Transferable Development Rights.*

(1) The total number of development rights available to be severed from a sending area tract shall be determined by multiplying the gross tract area, minus a percentage of any constrained lands as required in subparagraph (4) below, by 0.51, subtracting from such product the number of retained development rights. Products resulting in fractions may be rounded to the nearest whole number; fractions of one-half may be rounded up.

(2) Development rights previously severed or land previously restricted from development by covenant, easement or deed restriction shall not be eligible for severance or transfer under this Chapter and shall be subtracted from any applicable calculation of transferable development rights to the extent of the restriction(s) in force unless and until such time as said covenant, restriction or easement is dissolved or rescinded with agreement of all beneficiaries of such covenant, restriction or easement.

(3) Any sending area tract shall retain at least one development right, unless the tract is joined in a single deed with an adjacent tract or tracts with retained or remaining development right(s). All remaining development rights may be severed from the tract.

(4) When calculating eligible development rights for the sending area, a 50 percent reduction in development rights shall be made for any portion of that area consisting of the following constrained lands:

(a) Any area within the Floodplain District as established in §27-1501 of this Chapter.

(b) Any area comprising wetlands under the jurisdiction of the United States Army Corps of Engineers and/or the Pennsylvania Department of

Environmental Protection.

(c) Any area of steep slope, as defined herein and where the ratio of the change in elevation over the horizontal distance as measured between consecutive 2-foot contour intervals exceed 15 percent.

For the purpose of development right determination, areas of constrained lands identified in clauses (a), (b), and (c) above may be determined by an applicant or landowner utilizing current Township mapping, Chester County Soils Survey maps, and National Wetlands Inventory information, unless more accurate site data is available and found acceptable to the Township.

C. *Declaration of Transferable Development Rights and Certification by Township.* The owner of any tract(s) in the AP or RC Districts may elect to declare the development rights that may be severed from the owner's land and may request a written certification from the Township of the number of rights that may be severed, which certification shall not be unreasonably withheld, by meeting the requirements in paragraphs .A and .B above. The form and content of the certification shall be determined by resolution of the Board of Supervisors, but shall in any event state that any severance of transferable development rights shall be contingent upon satisfaction of the requirements of this Part except paragraphs .A and .B which already will have been satisfied.

D. *Severance of Transferable Development Rights.*

(1) Transferable development rights which have been severed shall be conveyed by a deed of transferable development rights duly recorded in the Office of the Chester County Recorder of Deeds. The deed of transferable development rights shall specify the tract or tracts of land within eligible receiving area(s) to which the rights shall be permanently attached or that the rights shall be transferred to the Township, retained by the owner of the sending tract, or another person in gross.

(2) The deed of transferable development rights which severs the development rights from the sending area tract(s) shall be accompanied by restrictive covenants or conservation easements suitable in form and substance to the Township Solicitor which shall permanently sever and eliminate the transferred development right from the sending area tract(s) as provided in paragraph .E below and which shall be recorded in the Office of the Recorder of Deeds at the same time as or prior to the deed of transferable development rights.

(3) All deeds of transferable development rights and restrictive covenants or conservation easements shall be endorsed by the Township prior to recording, which endorsement shall not be unreasonably withheld. Deeds submitted to the Township for endorsement shall be accompanied by a title search of the sending area tract(s) and a legal opinion of title affirming that the development rights being transferred by the deed have not been previously severed from or prohibited upon the sending area tract. A title report should be prepared within 10 days prior to submission of the deed and the legal opinion of title must meet the reasonable approval of the Township Solicitor.

(4) The severance of development rights from a sending area tract shall not affect the ability of the tract owner to develop the tract's existing historic

structures under the provisions for renovation and reuse of historic structures in Part 14 of this Chapter.

(5) The deeds and covenants or conservation easements shall be accompanied by a map or plan of the sending area tract, drawn to scale, the accuracy of which shall be satisfactory to the Township. Such plan shall include a notation of (a) the number of development rights applicable to the sending area tract, (b) the number of development rights retained and shall graphically represent the geographic extent and applicability of the conservation restrictions as well as the general future location(s) available for the use of any retained development rights.

(6) If less than all of the development rights eligible for transfer hereunder are to be transferred, the applicant shall indicate in the Deed the disposition of the remaining development rights.

*E. Sending Area Conservation Restrictions.* Any sending area tract from which development rights have been severed must be permanently restricted from future development by restrictive covenant(s) or by a conservation easement which meets the following requirements:

(1) Except to the extent that any development rights are retained, the restrictive covenant shall permanently restrict the land from future development for any purpose other than agricultural uses, public park land, conservation areas and similar uses.

(2) The restrictive covenant(s) or conservation easement(s) shall be approved by the Board of Supervisors of East Vincent Township, in consultation with the East Vincent Township Solicitor. Final plan approval for any plan utilizing transferred development rights shall be conditioned upon the recording of the deed of transferable development rights and the restrictive covenant(s) or conservation easement(s) at the Chester County Recorder of Deeds.

(3) The restrictive covenant(s) or conservation easement(s) shall designate East Vincent Township, a bona fide conservation organization acceptable to the Township or both, at the Township's sole discretion, as the beneficiary/grantee, and may, if the Township so elects, also designate (a) all future owners of all or a portion of the sending parcel, and (b) all future owners of any portion of the receiving parcel as having separate and independent enforcement rights with respect to the restrictive covenant(s) or conservation easement(s).

(4) The restrictive covenant(s) or conservation easement(s) shall apply to the sending area tract from which development rights are sold, and shall specify the number of development rights to be severed as well as any to be retained. No portion of the sending area tract used to calculate the number of development rights which shall be severed shall be used to satisfy minimum yard setbacks, lot area or any other area and bulk requirements for any development rights which are to be retained for any other development.

(5) Retained development rights may not exceed an average density of one dwelling unit per 20 acres. Notwithstanding the foregoing, sending area tracts existing at the time of adoption of this Part which are less than 20 acres in gross area may transfer development rights under this Chapter provided such

sending area tract retains only one development right.

(6) For each retained development right on parcels greater than 20 acres in gross area, traditional farm/estate building groupings may be developed with, in addition to one primary residence, customary accessory agricultural structures and one tenant residence which shall be less than 50 percent of the total habitable square footage of the primary residence. In order to be utilized, this option must be specified in the restrictive covenants and on the plan(s) submitted for the sending tract(s) in accordance with paragraph .D(5) above.

(7) All owners of the tract from which development rights are severed shall execute the deed and conservation easement. All lien holders of the tract from which development rights are severed shall execute a joinder and/or consent to the deed and conservation easement.

(Ord. 162, 6/12/2002, §2403)

#### **§27-2404. Receiving Area Qualifications and Calculations.**

Owners of tracts which meet the following requirements may use development rights that are purchased from sending area landowners:

A. *Receiving Area Qualifications.* The receiving tract of land shall be located in the LR, MR, HR, GC, GI, or PO Zoning Districts. Density and/or intensity of development on receiving tracts may be increased through the use of TDRs where approved as a conditional use in accordance with the provisions of paragraph .B, below, as applicable.

B. *Provision for Transfer of Development in Receiving Areas.*

(1) *Conventional Residential TDR Transfer.*

(a) *Increase in Permitted Density.* Under the open space design option (OSDO), subject to conditional use approval, the density multipliers stipulated in §27-904.2 may be increased through receipt of transferred development rights as follows:

- 1) In the LR District, the multiplier may be increased to 0.9.
- 2) In the MR or HR Districts where public sewer or water is not provided, the multiplier may be increased to 1.1.
- 3) In the MR or HR Districts where public sewer and water is provided, the multiplier may be increased to 2.0; except as provided in subclauses (4) and (5) below, as applicable.
- 4) In the MR or HR Districts where public sewer and water is provided, and where multi-family dwellings are provided, the multiplier may be increased to 4.0 on that portion of any tract devoted to multi-family dwellings.
- 5) In the HR District only, where public sewer and water is provided, and where a mobile home park is to be developed, the multiplier may be increased to 5.0 on that portion of any tract devoted to a mobile home park development.

(b) Where public sewer and water is provided, any applicable multiplier may be further increased up to 30 percent for that portion of

any development to be devoted to age-restricted housing. For example, if the otherwise applicable multiplier were 2.0, it could be increased to 2.6 for purposes of developing age-restricted housing. Calculation of permitted density shall otherwise comply with the provisions of §27-904.2.

(c) *Calculation of Received Development Rights.* The incremental increase in density above that provided for in the base zoning district must be fully accounted for through proof of purchase and transfer of development rights in accordance with the provisions of this Part. While development rights severed in the sending districts shall be calculated by multiplying gross acreage times 0.51, received development rights, used to account for the incremental increase in density above the base density calculated using the open space design option (OSDO) in the base zoning district, may be converted from sending rights as follows:

1) Received rights used for development of single-family detached dwellings may be converted from purchased sending rights at a rate of 1.25 received rights or dwelling units per development right purchased from the sending parcel(s), or at a rate of 1.50 dwelling units per development right purchased from the sending parcel(s) where all such dwelling units are age-restricted residences.

2) Received rights used for development of two-family dwellings may be converted from purchased sending rights at a rate of 1.5 received rights or dwelling units per development right purchased from the sending parcel(s), or at a rate of 1.75 dwelling units per development right purchased from the sending parcel(s) where all such dwelling units are age-restricted residences.

3) Received rights used for development of multi-family dwellings may be converted from purchased sending rights at a rate of 2.0 received rights or dwelling units per development right purchased from the sending parcel(s), or at a rate of 2.25 dwelling units per development right purchased from the sending parcel(s) where all such dwelling units are age-restricted residences.

4) Received rights used for development of mobile home units in a mobile home park may be converted from purchased sending rights at a rate of 2.5 mobile home units per development right purchased from the sending parcel(s), or at a rate of 2.75 mobile home units per development right purchased from the sending parcel(s) where all such mobile home units are age-restricted residences.

The ratios for conversion of sending rights to received rights shall not affect the maximum incremental density increase through use of TDRs stipulated in subsection .B(1)(a), above.

(d) *Minimum Required Open Space.* For each 10 percent increase in gross density over the base density permitted under the open space design option (OSDO), the applicable minimum open space requirement under the OSDO may be reduced 2.5 percent, measured as a percentage of gross tract area. In no case shall the minimum required open space be reduced below 25 percent of gross tract area.

(e) All residential development using transferable development rights must comply with all requirements and design standards applicable to the open space design option (OSDO) except as specifically provided in this Part.

(2) *Special Use TDR Transfer*. Subject to conditional use approval in the GC, GI or PO Districts, for any permitted use, maximum impervious cover and/or maximum height may be increased over that stipulated in the applicable base zoning district through receipt of transferable development rights as provided below. Eligibility for either increased impervious coverage or increased floor-area requiring an increase in the height limit, shall require that a minimum of five transferable development rights are secured. Calculation of either increased impervious coverage or increased floor area shall be independent one from the other, each requiring receipt of separate additional development rights.

(a) Impervious coverage may be increased 5,000 square feet for each development right received. The maximum increase in impervious coverage shall be limited to 35 percent of the available coverage under the applicable base zoning district provisions, and shall be subject to a preliminary soils report submitted by the applicant at the time of such impervious coverage increase request which adequately demonstrates to the Township that the development, including any proposed impervious coverage increases, will comply with stormwater management plan requirements of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22]. The Township reserves the right to request on-site testing to be performed by the applicant at his or her expense prior to granting an impervious coverage increase request to verify the preliminary soils report conclusions. Any development site where impervious coverage limitations have been increased through use of received development rights shall be ineligible for waivers of the stormwater management plan requirements of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22] based on the grant of such increased coverage.

(b) Maximum height may be increased such that any floor area dependent upon the increased height may be permitted at a rate of 2,500 square feet for each development right received. Increased height shall be limited such that the total height of any building shall not exceed three and one half stories or 50 feet.

(Ord. 162, 6/12/2002, §2404)

#### **§27-2405. Plan Submittal Process.**

1. All applicants for use of transferable development rights shall submit a conditional use application in accordance with the provisions of Part 19. In addition, applicants shall submit:

A. A deed (or deeds) of transferable development rights, along with accompanying documentation as required under §27-2403.D, or an agreement of sale for all development rights proposed to be purchased from the sending area

tract(s). The applicant must prove purchase of the appropriate number of development right(s), up to the maximum additional increment calculated as above.

B. A plan note or chart indicating the total extent of development proposed on the receiving area tract, the total extent of development that could be built not using TDRs, and the incremental difference between the two.

C. Where developments rights are proposed to be purchased and have been secured by agreement of sale, but where no deed (or deeds) of transferable development rights, nor accompanying documentation as required under §27-2403.D, have been recorded, applicant shall demonstrate to the satisfaction of the Township that the requirements of this Part can ultimately be met. Compliance with §27-2403.D prior to final subdivision or land development approval shall be a condition of conditional use approval.

D. A title search of the tract(s) from which the transferable development rights will be transferred sufficient to determine all owners of the tract and all lien holders. If the development rights have previously been severed from the tract in the sending area, a title search of the rights set forth in the deed (or deeds) of transferable development rights sufficient to determine all of the owners of the development rights and all lien holders shall be furnished to the Township.

2. In order to receive final plan approval, the applicant must provide documentation that appropriate restrictive covenants have been recorded for all sending area lands whose development rights are being used by the applicant. These restrictive covenants must meet the requirements of this Part. The restrictive covenant on the sending area land shall be recorded first, followed by a deed of transfer, in accordance with the provisions of the Pennsylvania Municipal Planning Code, as amended, 53 P.S. §10101 *et seq.*, which transfers the development rights from the sending area landowner to the receiving area landowner.

(*Ord. 162, 6/12/2002, §2405*)

#### **§27-2406. Public Acquisition.**

East Vincent Township may purchase development rights and may accept ownership of development rights through transfer by gift. All such development rights may be resold or retired by the Township. Any such purchase or gift shall be accompanied by restrictive covenants as specified above.

(*Ord. 162, 6/12/2002, §2406*)

#### **§27-2407. Amendment and/or Extinguishment.**

The Township reserves the right to amend this Part in the future, and the Township expressly reserves the right to change the manner in which the number of development rights shall be calculated for a tract in the sending area and the manner in which development rights can be conveyed. The Township further expressly reserves the right to terminate its transferable development rights program at any time. No owner of the land or owner of development rights shall have any claim against the Township for damages resulting from a change in this Part relating to the regulations governing the calculation, transfer and use of development rights or the abolition of the transferable development rights program. If the transferable development rights program is abolished by the Township, no developer may attach development rights to



any tract in the receiving area after the effective date of the ordinance abolishing the transferable development rights program unless an application in conformity with the provisions of this Part was filed prior to the effective date of such ordinance and thereafter is continuously processed to approval, and, following such approval, a complete subdivision and/or land development application complying such rights is thereafter filed within 6 months from the date of such approval.

(*Ord. 162, 6/12/2002, §2407*)



**Part 25****Unified Development Area Option ("UDA Option")****§27-2501. Purpose.**

1. To provide an opportunity for comprehensively planned integrated mixed use development according to a master development plan ("master development plan") consistent with the goals and objectives of the Township and the County..

2. To provide an opportunity for unified and harmonious development in order to establish continuity between uses in terms of character, scale, building massing, internal circulation patterns and open space.

3. To provide highest and best use of the land near planned or existing transportation facilities, which shall reduce the need for car trips, promote walking and pedestrian access both within and to a unified development project.

4. To protect natural resources, waterways and increase public access and enjoyment of such resources.

5. To provide for flexible lot sizes, heights and building setbacks allowing an opportunity for imaginative, innovative design, mix of uses, maximum coordination and integration between the new development and existing neighboring land uses.

6. To provide flexibility in design and use of larger tracts of land consistent with the goals and objectives of the Township Comprehensive Plan and the County Comprehensive Plan ("landscapes").

(*Ord.* 162, 6/12/2002, §2600; as added by *Ord.* 182, 12/1/2005, §3)

**§27-2502. Master Development Plan and Eligibility.**

1. *Master Plan.*

A. Upon conditional use approval by the Township Board of Supervisors of a master development plan ("master development plan"), the uses and design criteria proposed in the master development plan shall be the uses and design criteria permitted and required for the development of the subject tract. Any change in uses or design criteria shall require additional condition use approval.

B. Preliminary and final subdivision and land development plans submitted for the approved master development plan shall be in accordance with master plan design specifications submitted and approved as part of the unified development area project.

C. The master development plan tract may be subdivided for separate ownership or lease, but only if the subdivision does not interfere with the development or use of the master development plan tract in accordance with the approved master development plan.

2. *Building Permits.* No building permit for any improvement under the UDA option shall be issued prior to the restriction, committal in a manner satisfactory to the Township, or the offer for dedication or conveyance of the restricted open space and roads as provided in the master development plan.

3. *Eligibility.*<sup>1</sup> In order to be eligible for conditional use approval using the UDA option pursuant to this Part, all of the following eligibility criteria shall be met:

A. Use of the UDA option shall be permitted only in the Professional Office (PO) Zoning District when approved as a conditional use in accordance with the provisions of Part 19 of this Chapter, and where the applicant, to the satisfaction of the Board of Supervisors, can demonstrate compliance with all design standards and criteria of this Part.

B. The applicant shall own and include in the conditional use application a tract containing a contiguous lot area of not less than 100 acres, which shall constitute the master development plan tract.

C. If the master development plan tract is not held in single ownership, all of the owners of the tract must join in the application.

D. At least a minimum of 20 acres of the master development plan tract shall be devoted to "public school use" (as that term is hereinafter defined). For the purpose of this Section (and for the purpose of §27-2504 below), the term "public school use" shall mean "public school" as defined in §27-202 of this Chapter, with the additional requirements that if the public school is not already existing (1) the school district shall have adopted a resolution approving the parcel for construction of a public school, (2) the school district shall have entered into an agreement of sale with the legal owner of the property for the parcel, so that the school district is the equitable owner of the parcel during the conditional use proceedings, and (3) it shall be a condition of any conditional use approval for the master development plan tract that the parcel shall have been conveyed to, and be owned by, the Owen J. Roberts School District before any final subdivision or land development plan is approved for the master development plan tract.

E. The United States government (or agency or department thereof) shall have given written approval of a National Veterans Cemetery in East Vincent Township. In addition, before any final subdivision or land development plan is approved for the master development plan tract, there shall have been conveyed to the Federal government (or agency or department thereof) at least 20 additional acres of real property within East Vincent Township which acreage is noncontiguous to the master development plan tract but must be contiguous to lands already owned, controlled, transferred or otherwise under control of the Federal government (or agency or department thereof) for use as a national veterans cemetery. Evidence of compliance with the requirement of written approval by the United States government (or the agency or department thereof having jurisdiction) of a

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<sup>1</sup>Editor's Note: Section 5, "Severability," of *Ord. 182*, 12/1/2005, provides, with regard to this subsection:

"Notwithstanding any contrary provision of this zoning ordinance, or any presumption of law applicable to interpretation of statutes and ordinances, the provisions of §2601.C [§2502.3 as codified] set forth above are not severable from the remainder of this Ordinance. If any section, paragraph, subsection, clause or provision of §2601.C [§2502.3 as codified] shall be declared by a court of competent jurisdiction to be invalid, such decision shall invalidate this Ordinance in its entirety."

national veterans cemetery in East Vincent Township must be part of applicant's application for conditional use approval. The foregoing requirement of conveyance of additional acreage to the Federal government shall be a condition of any conditional use approval for the master development plan tract.

(*Ord.* 162, 6/12/2002, §2601; as added by *Ord.* 182, 12/1/2005, §3)

**§27-2503. Master Development Plan Approval.**

1. Upon conditional use approval by the Township Board of Supervisors of an application for a master development plan, the uses and design criteria proposed in the master development plan, herein referred to as the master plan design specifications, shall be the uses and design criteria permitted and required for development under the UDA option. Any change in uses or design criteria shall require new conditional use approval.

2. Preliminary and final subdivision and land development submitted for the approved master development plan shall be in accordance with master plan design specifications submitted and approved as part of the unified development area project.

3. The master development plan tract may be subdivided for separate ownership or lease, but only if the subdivision does not interfere with the development or use of the master development plan tract in accordance with the approved master development plan.

(*Ord.* 162, 6/12/2002, §2602; as added by *Ord.* 182, 12/1/2005, §3)

**§27-2504. Permitted Uses.**

Subject to the performance standards of §27-2505 below and the other requirements of this Part, any combination of (A) uses permitted as a use by right or by conditional use using the open space design option in the Moderate-Density (MR) Zoning District, and (B) any combination of uses permitted as uses by right in the Neighborhood Commercial (NC) Zoning District, shall be permitted uses and may be approved by the Township Board of Supervisors as a component of a master development plan.

(*Ord.* 162, 6/12/2002, §2603; as added by *Ord.* 182, 12/1/2005, §3)

**§27-2505. Performance Standards.**

1. *Restricted Open Space.* Not less than 45 percent of the gross tract area shall be designated as restricted open space. In addition to the general design standards for open space designation listed under §27-906.1, the designation and design of this open space shall be in conformance with the following criteria:

A. At least 50 percent of the restricted open space shall be utilized for landscaped parks and plazas designed as prominent features within the development project and be accessible to the general public.

B. Maximize the conservation of significant natural, historic and scenic resources on the site.

C. Provide linkages with adjacent open space and recreation areas and trail corridors.

D. Conform with Township, regional and County comprehensive plans and

open space and recreation plans.

2. *Land Use Mix.* At a minimum the master plan shall include:

A. At least two residential uses described in §27-2504 above with no more than 70 percent of the dwelling units consisting of one residential use type (e.g., single-family detached or townhouses).

B. One nonresidential use, in addition to the public school use. The public school use shall be in addition to and not count as the required nonresidential use. For the purpose of this Section, “nonresidential use” includes without limitation “municipal use.”

C. The areas designated for each proposed use shall not exceed the following percentages of the proposed developed areas of the project, where "developed areas" are defined as all areas not designated as restricted open space.

(1) Residential 75%

(2) Nonresidential 35% (including schools)

3. *Site Improvements.* Required site improvements include the following:

A. Sidewalks along all interior streets within the project.

B. Trails, sidewalks and streetscape improvements along adjacent streets are also required as proposed in any Township plans for such improvements. These plans may include, but not be limited to, the Township Comprehensive Plan, the Township Open Space and Recreation Plan and multi-municipal regional plans, such as may be prepared by the Phoenixville Regional Planning Commission.

C. Alleys shall be provided where feasible as an alternative to front loaded garages, particularly for proposed twin and multi-family townhouse structures. When alleys are not feasible for detached houses, garages shall be located in the rear yard, set back from the building facade a minimum of 20 feet, or situated perpendicular to the street either as conventional "side loaded" garages or side loaded garages attached to the front of the house.

D. *Interconnectivity.* Where practicable, the master plan shall accommodate direct vehicular and pedestrian linkages with all adjacent streets and land uses.

4. *Natural and Cultural Resources.* All natural and cultural resources shall be identified as required in Part 14, “Cultural Resource Conservation,” and Part 15, “Natural Resources Conservation.” A plan for the preservation of these resources should also be included.

5. *Area and Bulk Regulations, General Design Standards.*

A. The area and bulk regulations and general design standards specific to the proposed uses shall be those listed herein for the MR - Moderate Density Residential and the NC - Neighborhood Commercial Zoning Districts, as may be modified according to the requirements of Part 9, “Open Space Design Options,” and Part 24, “Transferable Development Rights.”

B. *Restricted Open Space.* The open space requirements for a UDA development shall be 45 percent of the gross tract area as required in subsection .1, and not as may be required in the MR, NC or other zoning districts referred to in this Section.

C. *Residential Density Multipliers.* When utilizing the open space design

option as provided for in Part 9, the number of permitted residential units shall be calculated by multiplying the net tract area of that portion of the tract designated for residential development, by 1.5. When utilizing transferable development rights (TDR) as provided for in Part 24, this multiplier may be increased to 3.0, regardless of dwelling unit type. Areas of required restricted open space included in the residential portion of the tract shall be included in these calculations.

D. *Gross Floor Area.* The gross floor area of any use permitted in the Neighborhood Commercial District shall not exceed 10,000 square feet per floor. (Ord. 162, 6/12/2002, §2604; as added by Ord. 182, 12/1/2005, §3)

#### **§27-2506. Plan Submission Requirements.**

*Master Development Plan.* The base site plan for the master development plan shall be drawn at a scale of not less than 1 inch equals 100 feet and shall contain information sufficient to assess the design and impact of future development of the tract including, but not limited to, the following:

A. *Planned Use Areas.* The boundaries of each planned use area within the entire tract including, but not limited to:

- (1) A conceptual depiction of the location and proposed use in each sub-area.
- (2) Schematic groupings of buildings and structures (including a schedule of gross floor areas and heights).
- (3) Total building area being proposed, represented by the total square footage of all nonresidential development and the number of dwelling units proposed for all residential development.
- (4) Amount of impervious coverage expressed as a total area and as a percentage of each planned use area.
- (5) A conceptual depiction of the proposed streetscapes and landscaped area.

B. *Circulation.* The general vehicular and non-vehicular circulation pattern for the entire tract, including points of access to the tract, and the location, dimensions, rights-of-way and ownership of the major road network.

C. *Water and Sewer.* The source of and general methods by which water shall be supplied and sewage shall be treated and disposed.

D. *Restricted Open Space.* The location and proposed use and disposition to be made of all restricted open space, including area proposed for landscaped parks, plazas and other public spaces.

E. Natural features and cultural resources shall be identified, along with a plan for their preservation and protection.

F. *Phasing Plan.* A phasing plan that identifies all proposed construction and associated public utilities and infrastructure needs for each phase.

G. *Plan Detail.* These submission requirements shall be indicated in sufficient detail to serve as a firm commitment by the applicant with regard to the future development of the tract and for the Township Board of Supervisors and the Planning Commission to evaluate the effect of the master development plan on the

health, safety and general welfare of the Township. Although a fixed and dimensional layout showing exact building locations, shapes, dimensions, landscape plans and sub-district requirements – such as is required for land development approval – shall not be required for master development plan approval, information and specifications shall be provided that clearly set forth design requirements for all subsequent preliminary and final land development plans prepared for the proposed UDA.

H. *Anticipated Waivers.* Unless otherwise stated in the master development plan submission, compliance with all provisions of the East Vincent Township Subdivision and Land Development Ordinance [Chapter 22] shall be required. All anticipated requests for waivers of the Subdivision and Land Development Ordinance [Chapter 22] requirements shall, to the extent feasible at this stage of the development project, be included with the master development plan submission.

I. The approved master site development plan shall be the basis for the preliminary and final land development plan submissions and shall be used to determine the design intent when there are discrepancies or omissions in the land development plan submissions.

(Ord. 162, 6/12/2002, §2605; as added by Ord. 182, 12/1/2005, §3)

#### **§27-2507. Procedures.**

The following procedures shall apply to the approval of a development under the UDA option and the underlying planning use areas:

A. *Application for Conditional Use.* The master development plan shall be submitted as part of the conditional use application together with such fees and such forms as may be prescribed by the Board of Supervisors.

B. *Criteria for Master Development Plan Application Review.* In addition to all other criteria and conditions for conditional use approval, decisions granting or denying conditional use approval shall be based on the following criteria:

(1) The extent to which the master development plan is consistent with the Township and County Comprehensive Plans.

(2) The extent to which the master development plan's general design and character is reasonably compatible with surrounding properties, including both the improved and natural environment, as well as the following design elements:

- (a) Anticipated building locations, bulk, and height.
- (b) Location and distribution of outdoor recreation space.
- (c) Location and design of streets, access, and parking.
- (d) Anticipated impacts to existing natural resources.
- (e) The mix of proposed land uses.

(3) The extent to which the master development plan adequately preserves significant natural features and historic resources.

(4) The extent to which the master development plan provides safe and adequate transportation systems that include both vehicular and pedestrian



access to and from the master development plan tract.

(5) The extent to which the master development plan is consistent with the public health, safety and welfare.

(6) The extent to which public facilities and services will be impacted by the development in the master development plan.

(7) The extent to which the master development plan creates significant negative impacts from stormwater runoff on natural drainage courses either on-site or downstream including, but not limited to, erosion, or transport of sediment due to increased peak flows or velocity.

C. *Authority to Attach Reasonable Conditions to Approval.* In approving the conditional use application, the Township Board of Supervisors may attach such reasonable conditions and safeguards as it may deem necessary to protect the health, safety and welfare of the Township residents.

D. *Submission of Subdivision and Land Development Plan.* Approval of the master development plan application shall not effect a subdivision or land development of any part of the master development plan tract. Conditional use approval of the master development plan application by the Township Board of Supervisors will be in lieu of any other zoning or use approval otherwise required with respect to uses approved as a part of the master development plan application.

E. *Building Permits.* The Zoning Officer shall not issue any building permits for any improvements within the UDA District until the restricted open space is restricted, committed in a manner satisfactory to the Township, or offered for dedication or conveyance as provided in the master development plan application and as required by §27-2504.1. [Ord. 185]

F. *Amendment of Master Development Plan Application.*

(1) Once the master development plan is approved, permits may be issued only pursuant to approved land development plans which are consistent with the approved master development plan.

(2) An approved master development plan may only be amended by a subsequent conditional use application requesting such amendment.

(Ord. 162, 6/12/2002, §2606; as added by Ord. 182, 12/1/2005, §3; as amended by Ord. 185, 8/2/2006)



### East Vincent Township, Residential Density Table

Zoning District	Minimum Lot Size	Applicable Density Multiplier w/o Open Space Design Option	Applicable Density Multiplier under Open Space Design Option w/o TDRs	Applicable Density Multiplier under Open Space Design Option with TDRs	
AP District	1 acre; subject to density multiplier	0.10 (gross)	0.51(n)	Not Eligible for TDR Receipt	
RC District	1 acre; subject to density multiplier	0.20 (gross)	0.51 (n)	Not Eligible for TDR Receipt	
LR, MR, HR Residential Districts w/o public sewer and water	LR = 1.5 acre MR = 1.0 acre HR = 1.0 acre	Refer to next category	LR = 0.70 (n) MR = 0.90 (n) HR = 0.90 (n)	LR = 0.90 (n) MR = 1.10 (n) HR = 1.10 (n)	
MR Residential District w/public water and sewer	25,000 sq. ft.	Refer to next category	1.50 (n)	2.00 (n)	
HR Residential District w/public water and sewer	sfd=20,000 sq. ft. sfa=15,000 sq. ft.	Refer to next category	1.75 (n)	2.00 (n)	Age Restricted 2.60 (n)
HR Residential District Developed w/multiple family and/or garden apartment units, mobile home park, and/or continuing care, retirement community w/public water and sewer	Refer to Open Space Design Option Category	Refer to next category	mf 3.0 (n) mh 4.0 (n)	mf 4.00 (n) mh 5.00 (n)	Age Restricted 5.20 (n) 6.50 (n)
sfd = single family detached sfa = single family attached mf = multiple family mh = mobile home (n) = net					



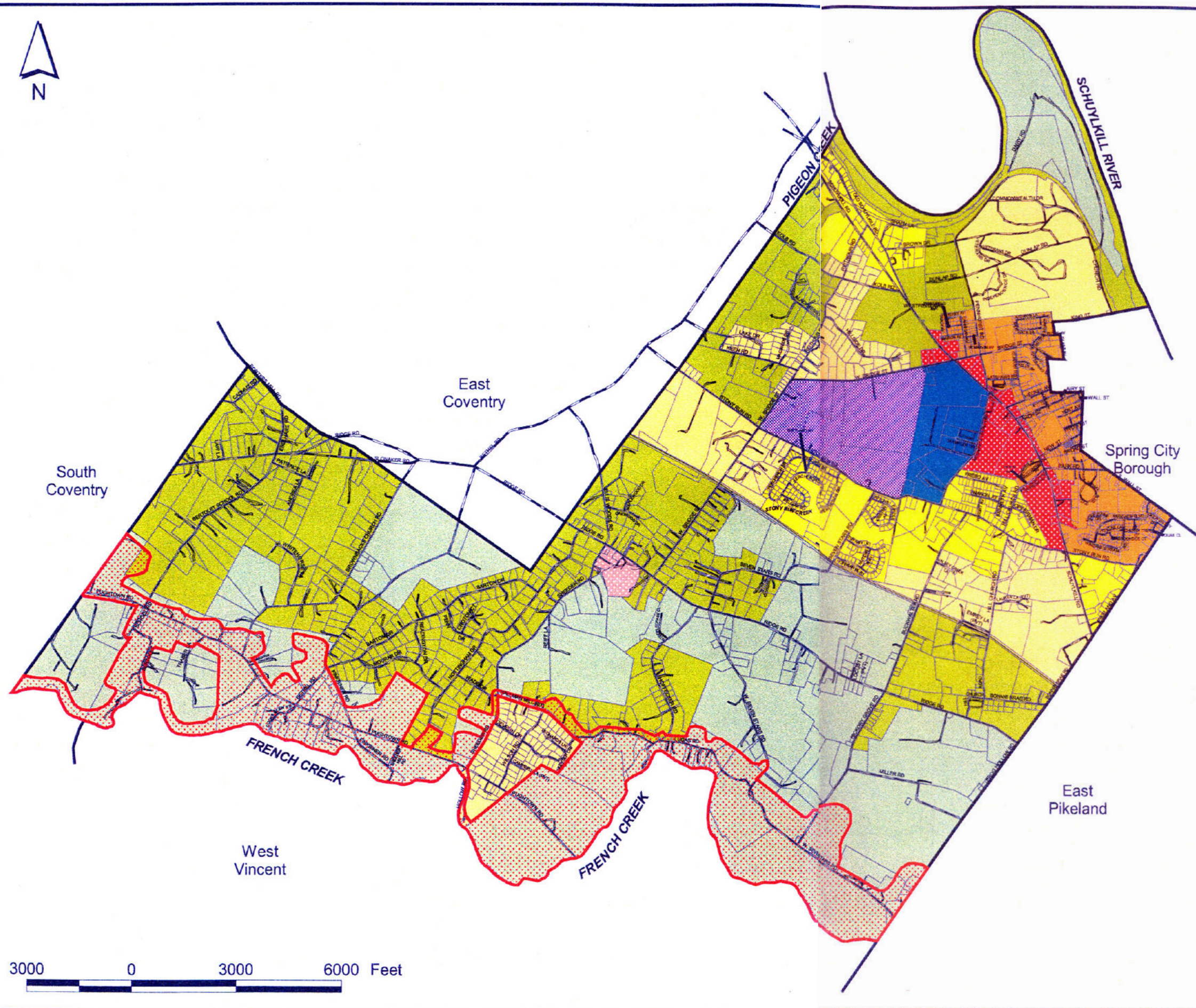




# Official Zoning Map East Vincent Township Chester County

## LEGEND

-  Township Boundary
-  Tax Parcels
-  Roads
-  Hydrology
-  French Creek Scenic Overlay District
- Proposed Zoning**
  -  Agricultural Preservation District (AP)
  -  Rural Conservation District (RC)
  -  Low-Density Residential District (LR)
  -  Moderate-Density Residential District (MR)
  -  High-Density Residential District (HR)
  -  Neighborhood Commercial District (NC)
  -  General Commercial District (GC)
  -  Professional Office/Research District (PO)
  -  General Industrial District (GI)



**Environmental Management Center  
BRANDYWINE CONSERVANCY**  
P.O. Box 141 Chadds Ford, Pennsylvania 19317 (610) 388-2700

Data Sources: Tax Parcels, Roads, and Hydrology  
obtained from Chester County Land Records System;  
GIS Data at Brandywine Conservancy Environmental  
Management Center, Chadds Ford, PA.

Plotted: June 12, 2002  
Ordinance Number: 162