

TOWNSHIP OF PLAINS, PENNSYLVANIA

CODE OF ORDINANCES

AMERICAN LEGAL PUBLISHING CORPORATION

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TOWNSHIP OF PLAINS

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Part 1

Preliminary Provisions

§1-101. Short Title.

The short title of this Code of Ordinances prepared and published for the Township of Plains shall be the "Township of Plains Code of Ordinances".

(A.O.)

§1-102. Citation of Code of Ordinances.

The Township of Plains Code of Ordinances may be cited by Section number. The approved short form is "Code". Thus, "Code, §27-101" refers to §101 of Chapter 27 of this Code of Ordinances.

(A.O.)

§1-103. Arrangement of Code.

1. This Code is divided into Chapters which are subdivided as follows:
 - A. Subchapters, identified by capital letters, beginning with a Chapter title and number.
 - B. Parts, identified by Arabic numerals, beginning with a Part title and number.
 - C. Subparts, identified by Arabic numerals, beginning with a title.
2. The Sections of the Code are subdivided as follows:
 - A. Subsections, identified by Arabic numerals.
 - B. Paragraphs, identified by capital letters.
 - C. Subparagraphs, identified by Arabic numerals enclosed within parentheses.
 - D. Clauses, identified by lower case letters enclosed within parentheses.
 - E. Subclauses, identified by Arabic numerals followed by a parenthesis.
 - F. Items, identified by lower case letters followed by a parenthesis.
 - G. Subitems, identified small Roman numerals.

(A.O.)

§1-104. Headings.

Chapter, Subchapter, Part, Subpart, Section, Subsection, Paragraph, Subparagraph, Clause, and Subclause headings contained in the Code may not be deemed to govern, limit, modify or affect the scope, meaning or intent of the Code. The headings of Sections, Subsections or other divisions of this Code are intended as mere captions to indicate the contents of the Section, Subsection or other division and shall not be deemed to be taken as titles of such Section, Subsection or other division, nor as any part of said Section, Subsection or other division unless expressly so provided.

(A.O.)

§1-105. Tenses, Gender and Number.

Except as may be otherwise stated in any provision of this Code, the present tense includes the past and future tenses, and the future the present; the masculine gender includes the feminine and neuter, the feminine includes the masculine and neuter, and the neuter includes the masculine and feminine; and the singular includes the plural, and the plural the singular.

(A.O.)

§1-106. Construction.

1. *General.* Except as may be otherwise specifically provided by any provision of this Code, the Statutory Construction Act of 1972, 1 Pa.C.S.A. §§1501 *et seq.*, shall be applied in construing this Code.

2. *Effect of repeal or expiration of Code Section.*

A. The repeal of a Code Section or ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued or any offense committed, any penalty or punishment incurred, or any proceeding commenced before the repeal took effect or the ordinance expired.

B. When any ordinance repealing a former Code Section, ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former Code Section, ordinance, clause or provision, unless it shall be expressly so provided.

3. *Saving clause.* The provisions of this Code, so far as they are the same as those ordinances and regulations in force immediately prior to the adoption of this Code, are intended as a continuation of such ordinances, resolutions and regulations and not as a new enactment. The provisions of this Code shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations. Except as specifically stated in this Code or in the ordinance adopting this consolidation, codification and revision of the ordinances and regulations, it is the intention of the Board of Commissioners that no ordinance or regulation of the Township be amended, revised or repealed by implication.

4. *Resolutions.* The provisions of this Code of Ordinances may contain resolutions, that is, actions of the Board of Commissioners (in written form and designated “resolution”) which did not require prior public notice in accordance with the provisions of the First Class Township Code, 53 P.S. §§55101 *et seq.*, at the time of their passage by the Board of Commissioners. Such “resolutions” are included herein for ease of reference and the Board of Commissioners does not intend by their inclusion herein to require prior public notice before amending, revising or repealing such resolution or resolutions as may have been included herein in the future. It is the intention of the Board of Commissioners that such actions of the Board of Commissioners that may be included in this Code and specifically cited and designated as a resolution shall not become an ordinance (requiring prior public notice before amendment, revision or repeal) by the simple fact of inclusion in this Code. (A.O.)

§1-107. Normal Numbering.

1. *Chapters.* Chapters are numbered sequentially in Arabic throughout this Code.

2. *Parts.* Parts are numbered sequentially in Arabic throughout this Code.

3. *Other divisions.* Whenever other divisions are necessary, Chapters shall be divided into Subchapters, Parts into Subparts and designated with the Chapter or Part number followed by a capital letter. For instance, Chapter 1 may be divided into Subchapters 1A and 1B.

4. *Sections.* Sections are numbered sequentially throughout a Chapter and a Part such that the first number or numbers is the Chapter number, followed by a hyphen, followed by the Part number, followed by the Section number within the Part. For example, “§1-101” designates Chapter 1, Part 1, Section 1. Similarly, “§27-305” designates Chapter 27, Part 3, Section 5.

5. *Internal divisions of Sections.* Whenever internal divisions are necessary, Sections shall be divided into Subsections, Subsections into Paragraphs, Paragraphs into Subparagraphs, Subparagraphs into Clauses, and Clauses into Subclauses, and Subclauses into Items, designated as follows:

1. Subsection.

A. Paragraph.

- (1) Subparagraph.
 - (a) Clause.
 - 1) Subclause.
 - a) Item.
 - i. Subitem.

(A.O.)

§1-108. Special Numbering Problems.

1. *Addition of new units between existing units.* If it becomes necessary to introduce a new Chapter, Part or Section between existing Chapters, Parts or Sections, the new Chapter, Part or Section shall be designated by the addition of a capital letter suffix to the preceding Chapter, Part or Section number. Thus, a Chapter introduced between Chapters 5 and 6 would be Chapter 5A and Sections in that Chapter would be numbered, for instance, “§5A-101”. If it becomes necessary to introduce a Part between existing Parts 5 and 6 the new Part would be Part 5A and Sections in that Part would be numbered, for instance, “§5-5A01”. A new Section introduced between existing Sections 5 and 6 would be “§5-105A”. When a number of new Parts or Sections have been introduced the Chapter or Part shall be renumbered.

2. *Subsection between Subsections.* If it becomes necessary to introduce a Subsection between Subsections, for instance, Subsections .5 and .6, the new Subsection would be numbered Subsection .5-A.

3. *Unit smaller than a Subsection.* If it becomes necessary to introduce a unit smaller than a Subsection between existing units, the entire Subsection shall be revised and renumbered.

4. *Vacated numbers.* Whenever a number is vacated by a revocation or repeal, the remaining elements in the overall unit shall retain their old numbers until the overall unit is completely revised. Prior to revision, the vacated number may be marked: “[Reserved]”.

(A.O.)

§1-109. Amending Code.

1. All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code shall be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed Chapters, Parts, Sections, Paragraphs, Clauses or other part or provision hereof, by subsequent ordinance, such repealed portions may be excluded from this Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code and subsequent ordinances omitted are readopted as a new Code by the Board of Commissioners.

2. Amendment to any provision of this Code shall be made by specific reference to the Chapter, Part, Section and/or Subsection number of this Code in the following language:

A. *Amendment or revision.* “Chapter _____, Part _____, Section _____, Subsection _____, is hereby amended (revised) to read as follows” The amended or revised provisions may then be set out in full as desired.

B. *Addition.* “Chapter _____, Part _____, Section _____, Subsection _____, is hereby amended by the addition of the following” The new provision shall then be set out in full as desired.

C. *Repeal.* “Chapter _____, Part _____, Section _____, Subsection _____, is hereby repealed in its entirety.”

3. It is the intention of the Board of Commissioners that the numbering scheme of this Code be adhered to in enacting future ordinances. In the event that any ordinance or other enactment be

adopted which does not conform to the numbering system of this Code, it is the intention of the Board of Commissioners that such enactment be renumbered in the process of supplementing, revising or updating this Code to conform to the numbering scheme of this Code. The Board of Commissioners hereby acknowledges and confirms that the numbering scheme herein is for ease of reference and that the renumbering of any enactment when added to this Code shall not in any manner affect the validity of said enactment.

(A.O.)

§1-110. Altering Code.

It shall be unlawful for any person to change or amend by addition or deletion any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever, except by ordinance or resolution or other official act of the Board of Commissioners.

(A.O.)

§1-111. Penalties.

1. *Penalty where no penalty provided.* Whenever in this Code or in any ordinance of the Township any act is prohibited or is declared to be unlawful, or whenever in this Code or other ordinance the doing of any act is declared to be unlawful, and no specific penalty is provided therefor:

A. *Violations of health, safety and welfare provisions.* For violations of ordinances adopting building, housing, property maintenance, health, fire or public safety codes; and for ordinances regulating water services, water pollution, air pollution and noise, the following penalty shall be provided:

“Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.”

B. *Other violations.* All other penalties, except for penalties in Chapter 15, “Motor Vehicles and Traffic” (based on the Vehicle Code, 75 Pa.C.S.A. §§101 *et seq.*), penalties and ordinances adopted under the authority of the Municipalities Planning Code, 53 P.S. §§10101 *et seq.*, earned income tax ordinances adopted under the Local Tax Enabling Act, 53 P.S. §§6924.101 *et seq.* and ordinances adopted under the authority of the Sewage Facilities Act, 35 P.S. §§750.1 *et seq.*, should provide, generally:

“Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.”

2. *Revocation of any license or permit.* The imposition of a penalty under the provisions of this Code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the laws of the Commonwealth of Pennsylvania and the United States of America. In addition, the Township may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Code. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

(A.O.)

Part 2**Board of Commissioners****A. Regular Meetings****§1-201. Monthly Meetings.**

Pursuant to the First Class Township Code, Act of June 24, 1931, (P.L. 1206, No. 331), reenacted and amended, May 27, 1949 (P.L. 1955, No. 569), as amended, §702, 53 P.S. §55702, the Plains Township Board of Commissioners does hereby fix and designate the second Thursday of each month at 7:30 p.m., at the Foxhill Firehouse, No. 2, Second Street, Plains, Luzerne County, Pennsylvania, as the time and place for its monthly meeting that is required by law. Public work sessions will be held on the Monday preceding each regular meeting at 7:30 p.m. at the aforementioned location. Special meetings may be called from time to time and formal notice of the same will be given in accordance with the Sunshine Act, 65 Pa.C.S.A. §§701 *et seq.* by the municipality.

(Ord. 1990-1, 1/25/1990)

Part 3**Boards and Commissioners****A. Parks and Recreation Board****§1-301. Name; Membership; Terms of Office; Filling of Vacancies; Compensation.**

1. The Board shall be known as the “Plains Township Parks and Recreation Board”.
2. The Board shall consist of seven members. [*Ord. 3/9/1978*]
3. Two members shall be appointed for a term of one year, two members shall be appointed for a term of two years, another for a term of three years, another for a term of four years and one for a term of five years. Members shall be appointed August 31, 1970, and the terms shall run from October 1, 1970. A new member shall be appointed annually from year to year.
4. The Board members shall serve without pay.
5. Any vacancies on such Board occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as original appointments. All appointments to the Board shall be made by resolution of the Plains Township Commissioners. The members of said Board shall elect their own Chairperson and Secretary and shall select all other necessary officers to serve for a period of one year.

(*Ord. 8/31/1970*; as amended by *Ord. 3/9/1978*)

§1-302. Powers and Duties.

1. The Board shall have the power to adopt rules and regulations for the conduct of all business within its jurisdiction.
2. The Board shall possess all power and be subject to all the responsibilities of the respective authorities as set forth by the Pennsylvania Legislature.

(*Ord. 8/31/1970*)

§1-303. Definitions.

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

Board—the Plains Township Parks and Recreation Board.

(*Ord. 8/31/1970*; as added by *Ord. 11/13/1975C*, 11/13/1975)

§1-304. Additional Powers and Duties.

1. The Board shall have the power to equip, operate and maintain parks and recreation areas and facilities.
2. The Board shall possess all the powers and be subject to all the responsibilities of the Commissioners under Article XXX of the First Class Township Code, 53 P.S. §§58001 *et seq.*
3. The Board shall exercise its powers and duties in establishing standards, qualifications and salary schedules. However, said powers and duties as enunciated aforesaid must be approved by the Plains Township Board of Commissioners.
4. The Board may develop a cooperative plan of recreation service with a township, borough, county, city or school district, and the Board shall have the power to adjust the personnel, standards, qualifications and salary schedules as established. However, the same as enunciated aforesaid must be approved by the Township Board of Commissioners to meet the terms of a joint operation that may be agreed upon.

§1-305. Board Checking Account.

1. The Board shall establish a separate checking account, said account to be specifically and unequivocally limited to the payment of matters that affect parks and recreation facilities within the Township of Plains.

2. The checking account as established shall not be used for the payment of salary-scheduled employees or any other classification of parks and recreation employees. The same shall be paid only by the Plains Township Board of Commissioners.

3. The checking account is to be established at the First Eastern Bank, NA., and the Board is further authorized by resolution to establish said account with said bank.

4. The account must contain the signatures of the President or Chairperson of the Board, Secretary and Treasurer of the Board and the President-Chairperson of the Plains Township Board of Commissioners.

5. The individual officers who are authorized to issue checks from said account must be bonded by a corporate bonding company in the amount of \$5,000, jointly and not severally.

(Ord. 8/31/1970; as added by Ord. 11/13/1975C, 11/13/1975)

§1-306. Authorization to Accept Gifts, Donations and Devises.

The Board is authorized to accept gifts, donations and devises as may occur for the purpose of enlarging and maintaining parks, recreation areas and facilities within the Township of Plains.

(Ord. 8/31/1970; as added by Ord. 11/13/1975C, 11/13/1975)

B. Office of Emergency Management**§1-311. Short Title.**

This Part shall be known and may be cited and referred to as the “Emergency Management Ordinance” of the Township of Plains, Luzerne County.

(Ord. 6/12/1986A, §1)

§1-312. Intent and Purpose.

1. It is the intent and purpose of this Part to establish an office that will ensure the complete and efficient utilization of all of the Plains Township facilities to combat disaster resulting from enemy actions or other disasters as defined herein.

2. The Plains Township Office of Emergency Management will be the coordinating agency for all activity in connection with emergency management; it will be the instrument through which the Township Board of Commissioners may exercise the authority and discharge the responsibilities vested in them by the “Federal Civil Defense Act of 1950”, P.L. 1920 and P.L. 93-288, as amended, and the Pennsylvania Emergency Management Act 1978-323, 35 Pa.C.S.A. §§7311 *et seq.*, and supporting statutes as amended and this Part.

3. This Part will not relieve the Township departments of the moral responsibilities or authority given to them in the state laws or by local ordinance, nor will it adversely affect the work of any volunteer agency organized for relief in disaster emergencies.

(Ord. 6/12/1986A, §2)

§1-313. Definitions.

The following definitions shall apply in the interpretation of this Part.

Coordinator—the Coordinator of Plains Township, Office of Emergency Management, appointed as prescribed in this Part.

Disaster—includes but is not limited to actual or threatened enemy attack. Any industrial, nuclear or transportation accident, fire, flood, storm, endangering or threatening to endanger the health, life or property of the citizens of the Township.

Emergency management—the judicious planning, assignment and coordination of all available resources in an integrated program of prevention, mitigation, preparedness, response and recovery for emergencies of any kind, whether from attack, human-made or natural sources.

Emergency management volunteer—any person duly registered, identified and appointed by the Coordinator of the Office of Emergency Management, and assigned to participate in the emergency management activity.

Emergency services—the preparation for and the carrying out of functions, to prevent, minimize and provide emergency repair of injury and damage resulting from disasters, together with all other activities necessary or incidental to the preparation for and carrying out of these functions. The functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, disaster warning services, communications, radiological, shelter, chemical and evacuation of persons from stricken areas, emergency welfare services, emergency transportation.

Regulations—shall include plans, programs and other emergency procedures deemed essential to emergency management.

Volunteer—contributing a service, equipment and facilities to the emergency management organization without remuneration.

(Ord. 6/12/1986A, §3)

§1-314. Organization and Appointments.

1. The Coordinator is hereby authorized and directed to create an organization for emergency management utilizing to the fullest extent the existing agencies within the Township of Plains. He or she shall be responsible for organizations, administration and operations. The Plains Township Board of Commissioners have overall responsibility for the emergency management organization.

2. The organization shall consist of the following:

A. An Office of Emergency Management within the executive department of the Township government and under the direction of the Township Board of Commissioners. There shall be an executive head of the Office of Emergency Management, who shall be known as the Coordinator of Plains Township, Office of Emergency Management, and such assistants and other employees as are deemed necessary for the proper functioning of the organization.

B. The employees, equipment and facilities of the Township departments will participate in the emergency management activity. Duties assigned to a Township department shall be the same or similar to the normal duties of the department.

C. Volunteer persons and agencies offering service to, and accepted by, the Township.

3. The Coordinator of the Office of Emergency Management shall be a person well versed and trained in planning operations involving the activities of many different agencies which will operate to protect the public health, safety and welfare in the event of danger from enemy action or disaster as defined in this Part.

4. The Emergency Management Coordinator shall recommend to the Township Board of Commissioners for appointment, Deputy Coordinators to assume the emergency duties of the Coordinator in the event of his or her absence or inability to act. The intent being that there will always and at all times be an Emergency Management Coordinator in charge in the Township.

5. A. There shall be an Emergency Management Council consisting of the following:

- (1) Plains Township Board of Commissioners.
- (2) Emergency Management Coordinator.
- (3) Emergency Management Deputy Coordinator.
- (4) Police Chief.
- (5) Deputy Police Chief.
- (6) Fire Chief.
- (7) Deputy Fire Chief.
- (8) Ambulance Association President.
- (9) Ambulance Association Vice-President.
- (10) Plains Township Solicitor as deemed necessary.

B. They will meet to conduct routine business including particularly the consideration of matters of basic policy. They shall meet from time to time as called by the Emergency Management Coordinator or the Plain Township Board of Commissioners.

(Ord. 6/12/1986A, §4)

§1-315. Emergency Powers and Duties.

The Emergency Management Coordinator:

1. The Emergency Management Coordinator shall be responsible for exercising the emergency power and authority as defined by the Plains Township Board of Commissioners. The judgment of the Plains Township Board of Commissioners and the Emergency Management Coordinator shall be the sole criteria necessary to invoke emergency powers as provided in federal, state and local laws. Nothing in this Part shall be construed as abridging or curtailing the powers of the Plains Township

Board of Commissioners or its agencies.

2. During any period when disaster threatens or when the Township has been struck by a disaster, within the definition of this Part, the Plains Township Board of Commissioners and the Emergency Management Coordinator may promulgate such regulations as they deem necessary to protect life and property and preserve critical resources. Such regulations may include, but not limited to, the following:

- A. Regulations prohibiting or restricting the movement of vehicles in order to facilitate the work of the Emergency Management forces, or to facilitate the mass movement of persons from critical areas within or without the Township of Plains.
- B. Regulations pertaining to the movement of persons from areas deemed to be hazardous or vulnerable to disaster.
- C. Such other regulations necessary to preserve public peace, health and safety.

3. The Emergency Management Coordinator shall order emergency management forces to the aid of other communities when required in accordance with state and county statutes, and he or she may request aid from the county when conditions are beyond the control of the Plains Township emergency management forces.

4. The Emergency Management Coordinator may obtain vital supplies, equipment and other properties found lacking and needed for the protection of health, life and property of the people of the Township as per the Pennsylvania Emergency Management Act, 32 Pa.C.S.A. §§7501 *et seq.*

5. The Emergency Management Coordinator will be responsible for the planning, coordination and operation of the Emergency Management Basic Disaster Plan. He or she shall maintain liaison with county, state and federal authorities and the authorities of other nearby political subdivisions as to ensure the most effective operation of the plan. (Ord. 6/12/1986A, §5)

§1-316. Basic Disaster Plan.

1. A comprehensive basic disaster plan shall be adopted and maintained by resolution of the Plains Township Board of Commissioners. In the preparation of this plan, as it pertains to Plains Township, it is the intent that the services, equipment, facilities and personnel of all existing paid and volunteer departments shall be utilized to the fullest extent. When approved, it shall be the duty of all Township departments to perform the functions assigned by the Plan and to maintain their portion of the Plan in a current state of readiness at all times. The basic disaster plan shall be considered supplementary to this Part and have the effect of law whenever a disaster, as defined in this Part has been proclaimed.

2. Each department head assigned responsibility in the plan shall be responsible for carrying out all duties and functions assigned to them. Duties will include the organization and training of assigned employees and volunteers. The department head will designate and keep on file with the Coordinator a current list of at least one person as a successor to his or her position. He or she should as nearly as possible designate a person best capable of carrying out all assigned duties and functions. Each department head will formulate the operational plan for his or her service which, when approved, shall be an annex to and a part of the basic plan.

3. Amendments to the basic plan will be submitted to the Coordinator who in turn will submit them to the Plains Township Board of Commissioners for approval. In the event an amendment is pending at the time that a disaster is proclaimed under the provisions of this Subpart, the amendment will be considered approved immediately and will remain effective unless specifically revoked by the Plains Township Board of Commissioners.

4. When a required competency or skill for a disaster function is not available with the Plains Township government, the Coordinator is authorized to seek assistance from persons outside of government. Such services from persons may be accepted by the Township of Plains on a volunteer

basis. Such citizens will be enrolled as emergency management volunteers.

(Ord. 6/12/1986A, §6)

§1-317. No Municipal or Private Liability.

1. This Part is an exercise by the Township of Plains of its governmental functions for the protection of the public peace, health and safety, and neither Plains Township nor agents and representatives of said Township of Plains, or any individual, receiver, firm, partnership, corporation, association or trustee, or any of the agents thereof, in good faith carrying out, complying with or attempting to comply with any order, rule or regulation promulgated pursuant to the provisions of this Part, shall be liable for any damage sustained to persons or property as the result of said activity.

2. Any person or organization owning or controlling real estate or other premises who voluntarily and without compensation, grants the Township of Plains the right to inspect, designate and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending or practice disaster shall not be civilly liable for the death of, or injury to, any persons on or about such real estate or premises under such license, privilege or other permission, or for loss of, or damage to, the property of such persons.

(Ord. 6/12/1986A, §7)

§1-318. Violation of Regulations.

It shall be unlawful for any person to violate any of the provisions of this Part or of the regulations or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the emergency management organization as herein defined in the enforcement of the provisions of this Part or any regulation or plan issued thereunder.

(Ord. 6/12/1986A, §8)

§1-319. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 6/12/1986A, §9; as amended by A.O.)

§1-320. Conflicting Ordinance, Orders, Rules and Regulations Suspended.

At all times when the orders, rules and regulations made and promulgated pursuant to this Part shall be in effect, they shall supersede all existing ordinances, orders, rules and regulations insofar as the latter may be inconsistent therewith.

(Ord. 6/12/1986A, §11)

C. Police Committee**§1-321. Police Committee.**

The Plains Township Board of Commissioners does hereby designate the Police Committee, which shall consist of five members duly appointed by the Plains Township Board of Commissioners, and which shall be vested with authority for the administration, supervision and operation of the Plains Township Police Department.

That, the Chief of Police and all members of the Plains Township Police Department, whether they be full- or part-time police officers, shall obey the orders of the Police Committee and its duly appointed Chairperson.

(Res. 1994-40, 8/11/1994)

D. Housing Board**§1-331. Membership.**

The Housing Board shall consist of five voting members and two additional non-voting members. The voting members shall be chosen as a result of their background of community service and more importantly, the professional discipline and diversity that each will add to the Board. The type of background for a voting member shall be from the real estate profession, government funding background, social service agency background, attorney, state agency social worker. These backgrounds are a way of example for membership and membership shall not be excluded or limited to these background areas. The non-voting members shall be the person holding the position of Superintendent of Schools for Wilkes-Barre Area, and the person holding the position of Township Manager in Plains Township.

(Ord. 1993-11, 12/30/1993)

§1-332. Term.

Voting Board members shall serve for four-year overlapping terms with the charter Board having an initial term of four years for three members and six years for the remaining two members. Specific term assignments will be done through a lottery at the organizational meeting.

(Ord. 1993-11, 12/30/1993)

§1-333. Support of Services.

The Board will have the support of the Plains Township administrative offices in secretarial and office needs.

(Ord. 1993-11, 12/30/1993)

§1-334. Funding.

Funding for specific needs for 1994 will come out of the General Fund with normal budget process admissions starting in 1995 at the discretion of the Board of Commissioners.

(Ord. 1993-11, 12/30/1993)

§1-335. Purpose.

The purpose of the Board will be to identify and recommend site availability suitable for good, affordable housing within the Township. Initially, the Board shall consider vacated or abandoned school district buildings as potential housing sites and work in consort with the school district in determining which of the four properties that are currently located in Plains Township will be available to the Board for the purposes specified above. The Board shall determine the feasibility of the use of the aforementioned school buildings for suitable housing or conversion thereto, based upon available architectural and engineering studies done by the school district. The Board shall further have the responsibility of deciding and recommending to the Plains Township Board of Commissioners whether or not to acquire the abandoned or vacated school buildings when they become available. Also, the Board shall have the ability to investigate and explore other available sites located within Plains Township for the purposes of developing suitable housing. The Board will further be responsible to develop a data bank of county, state and federal funding sources. Also, the Board shall have the ability to explore private sources or arrangements for consideration as a source of funding to develop housing in Plains Township.

(Ord. 1993-11, 12/30/1993)

§1-336. Powers.

The power of this Board shall be to make recommendations concerning matters involving the duties defined under this Part to the Board of Commissioners of Plains Township for whatever action the Plains Township Board of Commissioners deems appropriate under the circumstances.

(Ord. 1993-11, 12/30/1993)

Part 4**Appointed Officials****A. Township Manager****§1-401. Office Created.**

The office of Township Manager is hereby created by the Board of Commissioners of Plains Township, Luzerne County, Pennsylvania, subject to the right of the Board of Commissioners to abolish said offices at any time by ordinance.

(Ord. 1993-7, 9/9/1993, §201)

§1-402. Election Procedure.

As soon as practicable after the enactment of this Part, the Board of Commissioners shall elect by a majority of vote of all of its members, one person to fill the office of the Township Manager, who shall serve until December 31, 1996, after successful completion of a three-month probationary period, or until his or her successor is elected and qualified for office. The said office shall be filled every three years thereafter. In the event of a vacancy, the Board of Commissioners shall elect a replacement by a majority vote of all of its members, for the unexpired term. The Township Manager shall be subject to removal for cause at any time by a majority vote of all the Commissioners.

(Ord. 1993-7, 9/9/1993, §202)

§1-403. Qualifications.

The Township Manager shall be chosen solely on the basis of his or her executive, administrative and professional abilities, with special emphasis to his or her actual experience in, or knowledge of, accepted practices in respect to the duties of the office as herein provided. The Township Manager need not be a resident of the Township or of the State of Pennsylvania at the time of his or her appointment, but, within one year he or she shall become, and during his or her tenure as Manager shall remain, a resident of Plains Township.

(Ord. 1993-7, 9/9/1993, §203)

§1-404. Bond Required.

Before entering upon his or her duties, the Township Manager shall file a bond with the Township, with corporate surety, in the sum of \$5,000, conditioned for the faithful performance of his or her duties. The premium shall be paid by Plains Township. The bond of the Township Manager may be included in and covered for any comprehensive bond, now or hereafter in force and effect for the Township employees, in the amount of at least \$5,000.

(Ord. 1993-7, 9/9/1993, §204)

§1-405. Compensation.

The Township Manager shall receive compensation in the amount of \$32,000 per annum, plus fringe benefits, including, but not limited to, health care insurance, vacation days, sick leave, pension benefits and other benefits to be established by the Board of Commissioners by resolution. In addition, the Township Manager shall receive an annual salary increase equal to the cost of living adjustment (COLA), based upon the Consumer Price Index.

(Ord. 1993-7, 9/9/1993, §205)

§1-406. Chief Administrative Plains Officer.

The Manager shall be the chief administrative officer of Plains Township and he or she shall be

responsible to the Board of Commissioners as a whole for the proper and efficient administration of the affairs of the Township. His or her powers and duties shall relate to the general management of all Township business not expressly imposed or conferred upon Township officers by statute, ordinance or resolution. The Board of Commissioners is hereby authorized to delegate to the Township Manager, subject to recall by written notification at any time, any of its non-legislative and non-judicial powers and duties.

(Ord. 1993-7, 9/9/1993, §206)

§1-407. Duties.

Subject to recall by ordinance, the powers and duties of the Township Manager shall include the following:

- A. He or she shall supervise and be responsible for the activities of all Township departments, unless otherwise provided by the Board of Commissioners.
- B. He or she shall prepare and submit to the Board of Commissioners before the close of the fiscal year, or on such alternate date as the Board of Commissioners shall determine, a budget for the next fiscal year and an explanatory budget message. In preparing the budget he or she, or an officer designated by him or her, shall obtain from the head of such department, agency, board or officer, estimates of revenues and expenditures and other supporting data as he or she requires. The Manager shall review such estimates and may revise them before submitting the budget to the Commissioners.
- C. He or she shall be responsible for the administration of the budget after its adoption by the Board of Commissioners.
- D. He or she shall, under the direction of the Board of Commissioners, execute and enforce the laws of the Commonwealth, and the ordinances and resolutions of the Township.
- E. Unless otherwise directed, he or she shall attend all meetings of the Board of Commissioners and its committees. Furthermore, he or she shall have the right to take part in discussions, but shall not vote on any matters.
- F. He or she shall prepare the agenda for each meeting of the Board of Commissioners and supply facts pertinent thereto.
- G. He or she shall keep the Board of Commissioners informed as the conduct of Township affairs; submit periodic reports on the condition of the Township finances, and such other reports as the Board of Commissioners shall request; and make such recommendations to the Board of Commissioners as he or she deems necessary.
- H. He or she shall submit to the Board of Commissioners, no later than March 1 of the preceding year, a complete report on the financial and administrative activities of the Township for the preceding year.
- I. He or she shall see that the provisions of all franchises, leases, permits and privileges granted by the Township of Plains are observed.
- J. He or she may employ, by and with the approval of the Board of Commissioners, experts and consultants to perform work and to advise in connection with any of the functions of the Township.
- K. He or she shall attend to the letting of contracts in due form of law; and supervise the performance and faithful execution of the same except in so far as such duties are expressly imposed upon some other Township official by statute or ordinance.
- L. He or she, or an officer designated by him or her, shall collect and receive, account for and deposit into the Township Treasury, all fees, assessments or charges that are levied or established by the Township for specific general or specific purposes. A funds and fees collected shall be deposited into the Township Treasury not later than the first business day

following the day in which they are received.

M. He or she shall perform the duties of the Secretary of the Township in his or her absence in causing appropriate records to be made, preserved and certified, as required by law or other action of the Board of Commissioners.

N. He or she shall issue such administrative and personnel rules and regulations not in conflict with existing statutes or ordinances to properly carry out the duties contained in this Part. Such rules and regulations shall be subject to the approval by the Board of Commissioners, by majority vote of all its members at any regular public meeting.

O. He or she shall be the sole purchasing agent for the Township and he or she shall purchase, in accordance with the provisions of the First Class Township Code, 53 P.S. §§55101 *et seq.*, all supplies and equipment for the various agencies, boards, departments and other offices of the Township, as is authorized by the Board in approving the annual operating budget. He or she shall keep an account of all purchases and shall, from time to time or when directed by the Board, make a full written report thereof. He or she shall also issue rules and regulations, subject to the approval of the Board, governing the requisitioning and purchasing of all Township supplies and equipments.

P. He or she shall have the duty, through the proper department, to preserve order in the Township.

Q. He or she shall have the duty, through the proper departments or subordinates, to enforce the ordinances and regulations of the Township.

R. He or she shall have the duty to sign such papers, contracts, obligations and documents that are properly presented to him or her as required by law of this Part.

S. With the consent of the Board of Commissioners, he or she shall have the authority to represent the Township in deliberations with other governmental bodies or councils, subject to final ratification by the Board of Commissioners of any action taken.

T. He or she shall have the authority, with the consent of the Board of Commissioners, to negotiate intergovernmental cooperation agreements pursuant to the Constitution of the Commonwealth.

U. He or she shall administer the personnel system of the Township which includes recommending, hiring, suspending or terminating employees as the need arises in accordance with civil service or other rules and regulations as hereinafter may be established.

V. Review, analyze and recommend improvements in the administrative organization and procedures throughout the Township.

W. Develop and implant a viable public relations program.

X. Receive inquiries from the public, professional groups, and the press and furnish information or direct the inquiry to the proper source.

Y. Make application for grants and/or loans as determined by the Board of Commissioners.

Z. Perform such other duties and related work as may be directed by the Board of Commissioners.

(Ord. 1993-7, 9/9/1993, §207)

§1-408. Limitation on Board's Powers.

Neither the Board nor any of its committees or members shall interfere with the administering of the ordinances or resolutions passed granting authority to the manager, except for the purpose of inquiry in which case the Board may call personnel to attend the Board's executive meeting.

(Ord. 1993-7, 9/9/1993, §208)

§1-409. Disability or Absence.

If the Manager becomes ill or is absent from the Township for a period of more than two weeks, the Board shall designate the member or members of the staff to perform the duties of the Manager. Should the absence be two weeks or less, the Manager shall designate the staff members to perform his or her duties in his or her absence. In the event the Manager is unable to designate the staff member or members, then it shall become the duty of the Board.

(Ord. 1993-7, 9/9/1993, §209)

§1-410. Required Knowledge, Skills and Abilities.

1. Extensive knowledge of present day concepts in the field of public business administration.
2. Thorough knowledge of fiscal and monetary policies and procedures as they apply to municipal finance administration.
3. Thorough knowledge of supervisory methods and techniques.
4. Thorough knowledge of personnel principles.
5. Ability to plan, organize and direct the programs and activities of the Township administration and to supervise a staff of professional and nonprofessional personnel.
6. Ability to express ideas clearly and concisely both orally and in writing.
7. Ability to establish and maintain a solid working relationship with Township officials, employees and the general public.
8. Knowledge of laws, ordinances and regulations pertaining to local government.

(Ord. 1993-7, 9/9/1993, §210)

§1-411. Education, Qualifications and Experience.

1. *Required.* Bachelor's degree (preferably in public or business administration) from a four-year accredited college or university with at least five years of experience as a municipal manager or administrator or equivalent combination of the above.
2. *Preferred.* Master's degree in public or business administration with at least two years of experience in municipal/administration or equivalent combination of the above.

(Ord. 1993-7, 9/9/1993, §211)

Part 5**Municipal Authorities****A. Sewer Authority of the Township of Plains****§1-501. Intention and Desire to Organize.**

The Township of Plains hereby signifies its intention and desire to organize an Authority under the Municipality Authorities Act 53 Pa.C.S. §§ 5601 *et seq.* and its amendments thereto.
(Ord. 5/14/1965, §1)

§1-502. Articles of Incorporation.

The President and Secretary of said Board of Commissioners are hereby authorized and directed to execute on behalf of the Township of Plains Articles of Incorporation for said Authority in substantially the following form:

Articles of Incorporation

To the Secretary of the Commonwealth of Pennsylvania:

In compliance with the requirements of the Act of May 2, 1945, P.L. 382, as amended, the Board of Commissioners of the Township of Plains, a municipal corporation of the County of Luzerne and Commonwealth of Pennsylvania, desiring to organize an Authority thereunder, does hereby certify:

1. The name of the Authority is "Sewer Authority of the Township of Plains".
2. Said Authority is formed under the Act of May 2, 1945, P.L. 382, as amended.
3. No other Authority organized under said Act, or by any previous Act of Assembly authorizing and regulating municipal authorities, is in existence in or for the Township of Plains, with the exception of the following:
 - (a) *East Side Landfill Authority*. A joint authority incorporated by the City of Wilkes-Barre; the Townships of Plains and Hanover; and the Borough of Ashley.
 - (b) *Wyoming Valley Sanitary Authority*. A joint authority incorporated by the Cities of Wilkes-Barre, Pittston and Nanticoke; the Townships of Jenkins, Plains and Hanover; and the Boroughs of West Pittston, Exeter, Wyoming, Forty Fort, Swoyerville, Kingston, Edwardsville and Plymouth.
4. The names and addresses of the members of the Board of Commissioners of the Township of Plains are as follows:
 - (a) George Astolfi, 18 Hilldale Avenue.
 - (b) John Spak, 348 South River Street.
 - (c) Nellus Turner, 94 East Carey Street.
 - (d) Mario Rocconi, 7 Rose Avenue.
 - (e) Bernard Hodakowski, 10 West Stanton Street.
 - (f) Joseph Sobol, 45 Hudson Road.
 - (g) Camillo Centini, 44 Union Street.
 - (h) Clem Falchek, 27 Scott Street.
 - (i) Peter Patalak, 39 Cleveland Street.
5. The names, addresses and terms of office of the first members of the Board of said Authority are as follows:

Name	Address	Term Expiring
Daniel E. Rozanski	37 Cottage Avenue	December 31, 1966
Joseph S. Falcheck	12 Mill Street	December 31, 1967
Simon S. Russin	136 Maffett Street	December 31, 1968
James J. Sheehan	13 E. Carey Street	December 31, 1969
Frank J. Jagodzinski	36 Union Street	December 31, 1970

6. The project to be undertaken by said Authority shall be the financing, construction, improving, maintaining and operating sewers, sewer systems or parts thereof.

(Ord. 5/14/1965, §2)

Editor's note:

The Municipal Authorities Act of 1945 is referenced in these Articles. However, that Act was repealed in 2001 and replaced with the Municipality Authorities Act, P.L. 287, No. 22, 53 Pa.C.S. §§ 5601 et seq.

§1-503. Term Extension of the Sewer Authority.

1. That the Sewer Authority of the Township of Plains has submitted to the Township of Plains Resolution No. 11-11-02-A, which is incorporated herein by reference.
2. That the language of the amendment of the Articles of Incorporation of the Sewer Authority of the Township of Plains shall read in its entirety as follows: "That the term of existence of the Sewer Authority of the Township of Plains shall be the first day of June 2025."
3. That the Township of Plains adopts the amendment to the Articles of Incorporation of the Sewer Authority of the Township of Plains so as to increase its term of existence to the first day of June 2025.

§1-510. Wyoming Valley Sanitary Authority.

1. The “Intergovernmental Cooperation Agreement for the Creation and Implementation of the Wyoming Valley Regional Stormwater Management Program” (the “Agreement”), attached to the ordinance codified herein and the provisions of which are incorporated herein as if fully set forth at length, is hereby approved by the governing body of the Township of Plains and the proper municipal officials are hereby authorized to execute such Agreement to give it full force and legal effect.

2. Any amendment, modification, or termination of the Agreement shall not require passage of another ordinance, but shall be authorized and confirmed by the adoption of a resolution by the governing body of the Township of Plains and all parties to the Intergovernmental Cooperation Agreement.

3. The Governing Body of this Municipality adopts and approves the Articles of Amendment to the Articles of Incorporation of the Authority which read as set forth in Exhibit A attached to Ord. 2017-3, codified herein.

4. Proper officers of the Authority are hereby are authorized to execute, verify, and file appropriate Articles of Amendment with the Secretary of the Commonwealth of Pennsylvania and to take all other action and to do all other things which may be necessary in order to accomplish such amendment of the Articles of Incorporation of the Authority in the manner herein enacted and ordained.

(Ord. 2017-2, 7/13/2017; as amended by Ord. 2017-3, 7/13/2017)

Part 6**Library****§1-601. Establishment.**

Township of Plains hereby establishes a free, public, nonsectarian library for the use of the residents of the Township of Plains, pursuant to the Public Library Code, Act. No. 2012-210, 24 Pa.C.S.A. §§ 9301 *et seq.*, as amended.

(*Ord. 6/10/1966A*, §1)

§1-602. Reserved.**§1-603. Reserved.****§1-604. Appropriations.**

The Township of Plains shall make appropriations out of current revenue, and out of moneys raised by the levy of special taxes to establish and maintain said library.

(*Ord. 6/10/1966A*, §4)

Part 7

Tax Collector

A. Authorization to Charge Fees

§1-701. Authorization.

To provide for the Tax Collector of Plains Township who shall impose and collect a fee in an amount as established, from time to time, by resolution of the Board of Commissioners for duplicate, nonoriginal tax bills, data disk or copies of other information requested and sent on each parcel of property for which tax information is requested. In addition, Tax Collectors shall charge and impose on any taxpayer or agent actual bank charges imposes upon the Tax Collector for a returned check. (*Ord. 2002-5, 12/12/2002; as amended by Ord. 2005-7, 5/12/2005; and by A.O.*)

Chapter 2

Animals

Part 1 Wild or Sick Animals

- §2-101. Definitions
- §2-102. Diseased Animals, Injured or Sick Animals
- §2-103. Livestock Prohibited
- §2-104. Handling of Stray and Wild Animals
- §2-105. Penalties

Part 2 Carrier Pigeons

- §2-201. Definitions
- §2-202. Requirements for Issuance of Permit
- §2-203. Permit Issuance; Duration; Fee; Limitations on Number
- §2-204. Permit Suspension and Revocation
- §2-205. Penalty

Part 3 Prohibited Animals

- §2-301. Definitions
- §2-302. Permit Required
- §2-303. Permit Application; Fee; Duration
- §2-304. Standards
- §2-305. Revocation of Permit
- §2-306. Inspection of Premises
- §2-307. Penalty

Part 4 Dogs

A. Controlling Dogs

- §2-401. Dog Leash Requirements
- §2-402. Clean up and Disposal of Dog Waste
- §2-403. Penalty

B. Dog Nuisances

- §2-411. Noisy Dogs in Residential Districts
- §2-412. Dogs at Large
- §2-413. Penalties

C. Excessive Number of Cats and/or Dogs as a Nuisance

- §2-421. Maximum Number of Animals; Dogs and/or Cats
- §2-422. Business Exemption

§2-423. Disability Exemption

§2-424. Penalty

Statutory reference:

Authority to regulate animals, see 53 P.S. § 56530

Part 1**Wild or Sick Animals****§2-101. Definitions.**

Animal—living creature, domestic or non-domestic.

Cat—a domestic or feral feline of either sex.

Dog—a domestic canine of either sex.

Enclosure—pen, paddock, stall, stable or pasture with properly hung and marked fence.

Harboring of animal—an animal shall be deemed to be harbored if it is fed or sheltered seven days or more, unless the animal is being boarded for a fee.

Wild animal—any animal which can normally be found in the wild state, particularly those feral, exotic, dangerous or non-domestic animals which generally do not live in or about the habitation of humans, including, but not limited to, deer, raccoons, skunks and squirrels.

(Ord. 2011-1, 3/10/2011, §1)

§2-102. Diseased Animals, Injured or Sick Animals.

1. Every person owning or having any animal under his or her charge which he or she knows or suspects to be sick or injured shall isolate the animal from other animals and shall obtain or provide appropriate treatment for such animal within two business days or may have the animal humanely euthanised.

2. Any animal which comes into possession of the animal shelter which is terminally injured or sick may be humanely euthanised by the animal shelter personnel without waiting for the expiration of the period in which such animal may be reclaimed by its owner, or before the end of the period in which the animal may be placed for adoption; provided, however, that before such sick or injured animal is euthanised, the animal shelter personnel shall contact the owner, if known, of such animal to determine the disposition of such animal. If the owner indicated that the animal will be reclaimed but fails to reclaim the animal within two business days of such notification, or if the owner of such animal is not known, the sick or injured animal shall be euthanised by the animal shelter personnel. The animal shelter supervisor shall keep a record of such animal, to include breed and sex of the animal, when the animal came into possession of the animal shelter, the type of injury or sickness of such animals, the date the animal was destroyed and any other information relevant to the health, condition and description of such animal.

(Ord. 2011-1, 3/10/2011, §3)

§2-103. Livestock Prohibited.

It shall be unlawful for any resident of the Township of Plains to harbor any animals which are common to farms including, but not limited to, chickens, goats and the like within the Township limits of the Township of Plains. This prohibition only does not include or apply to domestic dogs, cats or birds.

(Ord. 2011-1, 3/10/2011, §4)

§2-104. Handling of Stray and Wild Animals.

1. It shall be unlawful for any person, without the consent of the owner or keeper, knowingly and intentionally to harbor, keep in possession by confinement or otherwise any animal that does not belong to him or her. Any person in possession of a stray animal shall contact the Code Enforcement

Officer, and SPCA within 72 hours to arrange for impoundment or provide notification of the stray animal's description and location and it shall be unlawful for any person, other than the owner or keeper of an animal, to remove the collar, license tag or rabies tag from around the neck of the animal.

2. It shall be unlawful for any person to lure or attract with food or other means or device any wild animals within the Township of Plains including, but not limited to, pigeons, birds, deer, raccoons, skunks and squirrels except as follows:

A. It shall be lawful for any person to maintain a bird feeder on their property, so long as any bird feeder shall be placed no closer than 25 feet from a neighboring property line. In the event the parcel is less than 50 feet wide then the bird feeders must be placed no less than a distance of one-half the footage of the parcel.

B. No person shall be allowed more than one bird feeder on his or her property unless the total square footage of the parcel of land exceeds 5,000 square feet. In that instance, the property may have no more than two bird feeders with each bird feeder being no closer than 25 feet from each other and shall be placed no closer than 25 feet from a neighboring property line.

(Ord. 2011-1, 3/10/2011, §5)

§2-105. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. Upon receiving a citation or notice of violation for violation of this Section, the owner or possessor of any such animal shall remove it from the Township within 30 days. Failure to remove such animal after such citation or notice of violation shall have been served shall subject the owner or possessor to a fine up to \$250 for each subsequent day of violation after such 30-day period, and the Code Enforcement Officer shall be authorized to obtain an administrative search warrant, to seize any such animal(s) and remove it or them from the Township or place it with an appropriate shelter. The owner or possessor shall be liable to the Township for reimbursement of any expenses incurred by the Township in enforcing this Section by causing such animal(s) to be removed from the Township.

(Ord. 2011-1, 3/10/2011, §6; as amended by A.O.)

Part 2**Carrier Pigeons****§2-201. Definitions.**

Board—the Board of Commissioners of the Township of Plains.

Carrier pigeon—shall include both homing and racing pigeons.

Loft—shall include any structure in which carrier pigeons are housed.

(Ord. 4/30/1968B, §1)

§2-202. Requirements for Issuance of Permit.

The Board shall issue a carrier pigeon permit to the owner of any carrier pigeon or pigeons who complies with the following requirements:

A. The name of the owner is stamped upon the wing or tail of all such carrier pigeons, or said pigeons are banded upon the leg with the name, initials or registration number of the owner. Any such registration number shall be recorded with the Secretary of the Board.

B. The loft is found on inspection to be in compliance with any regulations prescribed by the Board, and is maintained in a clean, orderly condition and kept in good repair.

C. The construction of the loft complies with the building code regulations and all zoning requirements of the Township of Plains as evidenced by a building permit.

(Ord. 4/30/1968B, §2)

§2-203. Permit Issuance; Duration; Fee; Limitations on Number.

1. When the Board has determined that the applicant has complied with the foregoing requirements, the Secretary of said Board shall issue a carrier pigeon permit for an annual fee in an amount as established, from time to time, by resolution of the Board of Commissioners. [A.O.]

2. The carrier pigeon permit shall expire on December 31 of the calendar year in which it was issued and shall be reissued for a fee in an amount as established, from time to time, by resolution of the Board of Commissioners upon request by the applicant; provided, however, that the applicant's present permit is not under suspension nor been revoked. [A.O.]

3. Every person to whom a permit has been issued shall be authorized to possess and fly for necessary exercise and training under proper restraint and control, not more than 25 pairs of carrier pigeons.

(Ord. 4/30/1968B, §3; as amended by A.O.)

§2-204. Permit Suspension and Revocation.

If at any time after the permit has been issued, the Board finds that any person possessing a permit fails to comply with the terms of this Part, said permit may be suspended until such violation is corrected, under the following conditions:

A. Written notice of violation is given by the Board to the person holding the permit.

B. The person holding the permit is given 15 days in which to comply with this Part. If the person holding the permit fails to comply with this Part within the time specified, the permit may be revoked.

(Ord. 4/30/1968B, §4)

§2-205. Penalty.

Any person possessing carrier pigeons without obtaining a permit shall, upon conviction thereof,

shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 4/30/1968B*, §5; as amended by A.O.)

Part 3**Prohibited Animals****§2-301. Definitions.**

Animals—all individual species of the bovine, equine and swine families.

Fly-proof—a state of being constructed so as to effectively prevent entry of flies.

Permit—the permit issued by the Secretary of the Board of Commissioners of the Township of Plains upon approval of said Board.

Person—any person, firm or corporation owning, stabling, keeping, maintaining or possessing any animals as above defined.

Rat-proof—a state of being constructed so as to effectively prevent entry of rats.

Sanitary—any condition of good order and cleanliness, which precludes the probability of disease transmission.

(Ord. 4/30/1968A, §1)

§2-302. Permit Required.

It shall be unlawful for any person to own, stable, keep, maintain or possess any animals, as defined in this Part, within the corporate limits of the Township of Plains, except that such animals may be kept under the conditions as hereinafter set forth provided a permit is obtained.

(Ord. 4/30/1968A, §2)

§2-303. Permit Application; Fee; Duration.

1. A permit may be obtained from the Secretary after an application for such permit has been filed with and approved by the Board of Commissioners. The Board shall approve such application only after determining that the applicant for such permit complies with the requirements for the keeping of such animals as hereinafter set forth.

2. The fee for the permit shall be in an amount as established, from time to time, by resolution of the Board of Commissioners per year or any fraction thereof, and all permits shall expire the thirty-first day of December each year. [A.O.]

(Ord. 4/30/1968A, §3; as amended by A.O.)

§2-304. Standards.

Every person seeking a permit shall comply with the following standards:

A. The animals shall be confined in an enclosure sufficient to prevent their running at large, and such enclosure shall be maintained in a clean, sanitary condition at all times and an efficacious insecticide shall be used as often as is deemed necessary for this purpose.

B. Said persons shall cause the manure and litter to be collected daily in a container or receptacle of such a type that when closed, it is rat-proof and fly-proof, and after each such collection shall cause such container or receptacle to be kept closed. At least twice a week, each such person shall cause all manure and litter so collected to be disposed of in a way as not to permit the presence of fly larva.

(Ord. 4/30/1968A, §4)

§2-305. Revocation of Permit.

The failure of any person to comply with the provisions of this Chapter shall be cause for the revocation of the permit by the Board of Commissioners.

(Ord. 4/30/1968A, §5)

§2-306. Inspection of Premises.

The premises shall be subject to inspection by the Board of Commissioners or any of its representatives at any reasonable hour of the day.

(Ord. 4/30/1968A, §6)

§2-307. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 4/30/1968A, §6; as amended by A.O.)

Part 4**Dogs****A. Controlling Dogs****§2-401. Dog Leash Requirements.**

No person shall permit any dog to run at large anywhere out of doors in the Township. This regulations shall apply to all public place and to all private property. No person shall permit any dog to be out of doors in any place except unless the dog is on a leash held by a person who is able to control the dog. Leaving an unattended dog fastened to a leash, chain or dog trolley shall not be deemed to complying with the requirements of this Section. However, a dog may be left unattended or unleashed out of doors on private property with adequate fencing to prevent the dog from leaving the yard. Failure to comply with this Section, may subject the dog owner to the penalties set forth in §2-403 whether or not witnessed by the enforcing officer.

(Ord. 2009-3, 5/14/2009, §1)

§2-402. Clean up and Disposal of Dog Waste.

Any dog owner who travels in any public place within the Township or any private property not his or her own, shall be required to clean up all solid dog waste promptly after it occurs and dispose of it properly. Failure to do so may subject that party to the penalties set forth in §2-403 whether or not witnessed by the enforcing officer.

(Ord. 2009-3, 5/14/2009, §2)

§2-403. Penalty.

Any person in violation of this Part shall be issued a warning ticket by either the Township Police, Fire Inspectors or Zoning Officer if this violation is the first known offense under this Part. If in the event this is a second or subsequent offense, then violation of this offense will include a fine of not less than \$25 and nor more than \$1,000 for each offense plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 2009-3, 5/14/2009, §3; as amended by A.O.)

B. Dog Nuisances**§2-411. Noisy Dogs in Residential Districts.**

Any person who resides in an area of the Township of Plains designated as a “residential district” by the Planning Commission of the Township of Plains and who owns or keeps or otherwise maintains a dog shall prevent any noise whatsoever created by the dog from interfering with or otherwise disturbing in any manner whatsoever the peace and quiet of any person residing within 200 feet of the boundaries of the lot of land upon which the owner or keeper of the dog resides.

(Ord. 3/13/1986, §101)

§2-412. Dogs at Large.

Any person who resides within an area of the Township of Plains designated as a “residential district” by the Planning Commission of the Township of Plains and who owns or keeps or otherwise maintains a dog shall prevent the dog from running at large and shall prevent the dog from causing any damage of whatsoever nature to public or private property within the residential district.

(Ord. 3/13/1986, §102)

§2-413. Penalties.

1. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. [A.O.]

2. The Plains Township Police Department shall enforce this Part.

(Ord. 3/13/1986, §103; as amended by A.O.)

C. Excessive Number of Cats and/or Dogs as a Nuisance**§2-421. Maximum Number of Animals; Dogs and/or Cats.**

1. No owner or caretaker of any residential building or residential structure in any zoning classification within the Township shall knowingly allow more than three animals of the dog or cat kind or combination of both, over the age of four months to be kept, harbored or maintained within any residential building or residential structure or any residential lot or parcel within the Township without a permit.

2. The number of dogs and/or cats permitted in Subsection 1. above may be increased to no more than six by obtaining a permit issued by the Code Enforcement Officer or Zoning Officer. Such permit shall specify any restrictions, limitations, conditions or prohibitions which the issuing officer deems reasonably necessary to protect any person or a neighboring use from unsanitary conditions, unreasonable noise or odors or annoyance or to protect the public health, safety or general welfare of the community. Such a permit may be modified from time to time or revoked by the issuing officer for failure to conform to such restrictions, limitations, conditions or prohibitions. Such modification or revocation shall be effective from and after ten days following the mailing of written notice thereof by certified mail, whether accepted by that person or not, who is keeping or maintaining such dogs and/or cats.

3. The fee for such permit shall be in an amount as established, from time to time, by resolution of the Board of Commissioners, which shall be paid at the time of the making of the application therefor. [A.O.]

(Ord. 2009-9, 9/10/2009, §1; as amended by A.O.)

§2-422. Business Exemption.

This Section shall not apply to any premises maintained by a licensed veterinarian, licensed pet shop operator or state licensed pet grooming business.

(Ord. 2009-9, 9/10/2009, §2)

§2-423. Disability Exemption.

Persons with defective eyesight, hearing or other disabilities who must rely upon a dog specifically trained for these purposes shall not be considered in determining the number of dogs or cats kept by the individual in any residential building or residential structure for determining compliance with this Section.

(Ord. 2009-9, 9/10/2009, §3)

§2-424. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 2009-9, 9/10/2009, §4; as amended by A.O.)

Chapter 3

[Reserved]

Chapter 4

[Reserved]

Chapter 5

Code Enforcement

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Part 1**Uniform Construction Code****A. Implementation****§5-101. Implementation of Uniform Construction Code.**

1. Plains Township hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§7210.101 *et seq.*, as amended from time to time, and its regulations.

2. The Uniform Construction Code, contained in 34 Pa.Code, Chapters 401–405, as amended from time to time, is hereby adopted and incorporated herein by reference as the Municipal Building Code of the Plains Township.

3. Administration and enforcement of the Code within Plains Township shall be undertaken in any of the following ways as determined by the Board of Commissioners of Plains Township from time to time by resolution:

A. By the designation of an employee of Plains Township to serve as the Township Code Official to act on behalf of the Township.

B. By the retention of one or more Construction Code Officials or third party agencies to act on behalf of the Township.

C. By agreement with one or more other municipalities for the joint administration and enforcement if this Act through an Intermunicipal Agreement.

D. By entering into a contract with another municipality for the administration and enforcement of this Act on behalf of Plains Township.

E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

4. A Board of Appeals shall be established by resolution of the Board of Commissioners of Plains Township in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

5. A. All building code ordinances or portions of ordinances which were adopted by Plains Township on or before July 1, 1999, and which equal or exceed the requirements of the Code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the Code, as amended from time to time.

B. All building code ordinances or portions of ordinances which are in effect as of the effective date of this ordinance and whose requirements are less than the minimum requirements of the Code are hereby amended to conform with the comparable provisions of the Code.

C. All relevant ordinances, regulations and policies of Plains Township not governed by the Code shall remain in full force and effect.

6. Fees assessable by Plains Township for the administration and enforcement undertaken pursuant to this Part 1A and the Code shall be established by the Board of Commissioners by resolution from time to time.

(Ord. 2004-4, 6/10/2004)

B. International Building Codes**§5-111. International Building and Maintenance Codes.**

1. A certain document, one copy of which are on file in the Office of the Building Code Official of the Township of Plains, being marked and designated as:
 - A. 2009 International Building Code; (excluding Chapters 1 and 30 and Appendix L).
 - B. 2009 International Residential Code (for one- and two-family dwellings).
 - C. 2009 International Fire Code.
 - D. 2009 International Plumbing Code.
 - E. 2009 International Mechanical Code.
 - F. 2009 International Fuel Gas Code.
 - G. 2009 International Energy Conservation Code.
 - H. 2009 International Existing Building Code.
 - I. 2009 International Property Maintenance Code.
 - J. 2008 NEC.
2. Including all revisions and Appendices (except as noted above) as published by the International Code Council and the National Electrical Code, be and is hereby adopted as codes of the Township of Plains, in the State of Pennsylvania for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and, the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such structures in the Township of Plains; providing, for the issuance of permits and collection of fees therefor.
3. Each and all of the regulations, provisions, penalties, conditions and terms of said codes on file in the office of the Township of Plains are hereby referred to, adopted, and made a part hereof, as if fully set out in this Part, with the additions, insertions, deletions and changes, if any, prescribed in this Part.

(Ord. 2010-2, 3/11/2010, §1)

C. UCC Board of Appeals

[Reserved]

Part 2**Office of Code Enforcement****A. Establishment of Office of Code Enforcement****§5-201. Creation of Office of Code Enforcement.**

There is hereby created by the Township Commissioners an office of the Township to be known as the “Office of Code Enforcement”. Said Office shall have the responsibility for administering and enforcing the provisions of this Part and of those other codes and/or ordinances of the Township (hereinafter referred to as the “applicable codes and ordinances”) which designate said Office of Code Enforcement as their Official Administration and Enforcement Agency.

(Ord. 12/5/1973A, §1.1)

§5-202. Appointment of Code Enforcement Officer.

There shall be appointed by the Township Commissioners, a Code Enforcement Officer who shall be in charge of the Office of Code Enforcement of the Township. The Code Enforcement Officer shall supervise such other employees or assistants as shall be necessary for the administration and execution of the responsibilities of said Office, as appointed and approved by the Township Commissioners. Said Code Enforcement Officer and other personnel may consist of employees directly hired and compensated by the Township and of/or employees designated by the Luzerne County Planning Department and/or the Redevelopment Authority of the County of Luzerne in accordance with the agreements provided for under §5-201 above. Any such Code Enforcement Officer and other personnel designated by said Department and/or Authority, pursuant to such agreements shall be deemed to have all of the duties and powers provided in this Part and in the applicable codes and ordinances of the Township and shall represent the Township to the same extent as if appointed directly by the Township. The Township Commissioners may also designate a Code Liaison Officer who shall coordinate all local activities and responsibilities of the Township related to code enforcement with the Luzerne County Planning Department and/or with the Redevelopment Authority of the County of Luzerne.

(Ord. 12/5/1973A, §1.2)

§5-203. Relief from Personal Liability.

The Code Enforcement Officer or other official or employee shall not, while acting for the Township, render himself or herself liable personally because of any act or omission as required or permitted in the discharge of his or her official duties. Any suit instituted against such Code Enforcement Officer, official or employee, because of any act performed by him or her in the lawful discharge of his or her duties, shall be defended by the Solicitor of the Township and in no case will said officer, official or employee be liable for costs in any action, suit or proceeding.

(Ord. 12/5/1973A, §1.3)

§5-204. Official Record.

An official record shall be kept of all business and activities of the Office of Code Enforcement and all such records shall be open to the public for inspection at all appropriate times, except that no individual, owner, operator, occupant or other person shall be subject to unwarranted invasion of privacy and except that all evidence or information obtained in the course of any inspection shall be considered privileged information and shall be kept confidential. Such evidence or information shall not be disclosed except as may be necessary in the judgment of the Code Enforcement Officer for the

proper and effective administration and enforcement of the provisions of this Part and shall not otherwise be made public without the consent of the owner, occupant, operator or other person in charge of the unit, structure or premises inspected.

(Ord. 12/5/1973A, §1.4)

B. Duties and Powers of Code Enforcement Officer**§5-211. Enforcement by Code Enforcement Officer.**

The Code Enforcement Officer shall enforce and administer all of the provisions of this Part and of those other applicable codes and ordinances which establish the Office of Code Enforcement as their official administration and enforcement agency.

(Ord. 12/5/1973A, §2.1)

§5-212. Duties of Code Enforcement Officer.

The duties of the Code Enforcement Officer shall include the receipt of applications, the issuance of permits, notices, certificates and orders, the making of inspections to determine conformance with applicable codes and ordinances, the undertaking of systematic inspection programs, the undertaking of research and investigations, the recommendation of appropriate administrative rules for review and adoption by the Code Hearing Board, the keeping of records, the issuance of written annual reports and such other activities as may be required.

(Ord. 12/5/1973A, §2.2)

§5-213. Right of Entry.

1. In the discharge of his or her duties the Code Enforcement Officer or his or her authorized representative, upon showing proper identification where requested, is hereby authorized to enter and inspect, at any reasonable hour, any structure or premises in the Township to enforce the provisions of this Part and of those other applicable codes and ordinances. The assistance and cooperation of all other municipality officials, including Police and Fire Department, shall be available to the Code Enforcement Officer to assist in the performance of his or her duties and in securing right-of-entry.

2. The Code Enforcement Officer and the owner, operator or occupant or other person in charge of any structure or premises subject to the provisions of this Part may agree to an inspection by appointment at a mutually convenient time.

3. The owner, operator or occupant or other person in charge of any structure or premises shall give the Code Enforcement Officer entry and free access thereto and to every part of the structure or to the premises surrounding the structure.

4. If any owner, operator or occupant or other person in charge fails or refuses to permit entry and free access to the structure or premises under his or her control, or to any part thereof, with respect to any authorized inspection, the Code Enforcement Officer may, upon showing that probable cause exists for the inspection may file a complaint and may petition for and obtain an order directing compliance with the inspection requirements of this Part from a court of competent jurisdiction. Any person who refuses to comply with such an order issued pursuant to this Section shall be subject to such penalties as may be authorized by law for violation of a court order.

(Ord. 12/5/1973A, §2.3)

C. Permits, Certificates and Fees**§5-221. Permit Required.**

An application for a permit shall be required in accordance with the provisions of those other applicable codes and ordinances which the Office of Code Enforcement has the responsibility to administer. Said application shall be submitted in such form as may be prescribed by the Code Enforcement Officer and shall be accompanied by any required fee.

(Ord. 12/5/1973A, §3.1)

§5-222. Action on Application.

The Code Enforcement Officer shall examine said application to determine compliance with those other applicable codes and ordinances of the Township and shall, within 15 days after filing, either approve or reject said application. If said application is rejected, the Code Enforcement Officer shall inform the applicant in writing, stating the reasons for such rejection.

(Ord. 12/5/1973A, §3.2)

§5-223. Required Fees.

Applicants for permits required by any of the applicable codes and ordinances shall pay, at the time of application, to the Code Enforcement Officer, for use by the Township, fees in accordance with the schedule as established and amended from time to time by resolution of the Board of Commissioners.

(Ord. 12/5/1973A, §3.3; as amended by Ord. 5/15/1974A, 5/15/1974; by Ord. 5/15/1974B, 5/15/1974; by Ord. 2/7/1980; by Ord. 1991-5, 12/12/1991; by Ord. 1993-3, 2/11/1993; and by A.O.)

§5-224. Certificates.

The following certificates shall be required in accordance with the provisions of those other applicable codes or ordinances which the Office of Code Enforcement has the responsibility to administer. Said certificates may be issued separately or combined in the form of a single certificate.

A. *Certificate of use and occupancy.* In accordance with §111 of the International Building Code, a certificate of use and occupancy shall be required, and no new building or portion of an existing building which is enlarged or altered, shall be used or occupied in whole or in part, until such a certificate of use and occupancy shall have been issued by the Code Enforcement Officer. [A.O.]

B. *Certificate of approval.* A certificate of approval shall be required for any electrical or plumbing work completed under the provisions of the applicable codes and ordinances. All applicants shall apply to the Office of Code Enforcement for such a certificate of approval within 30 days of the completion of the building, structure, work or premises.

C. *Other certificates.* Any other permits, certificates or licenses, as required by the applicable codes and ordinances shall be obtained by the applicant in accordance with the provisions of said applicable codes and ordinances. Application for such permits, certificates or licenses shall be made to the Code Enforcement Officer.

(Ord. 12/5/1973A, §3.4; as amended by A.O.)

D. Violations and Penalties**§5-231. Procedure in Case of Violations.**

Whenever the Code Enforcement Officer determines that there are reasonable grounds to believe that there has been a violation of any provision of this Part or of the other applicable codes and ordinances, or of any rules and regulations adopted pursuant thereto, he or she shall proceed as follows:

- A. Serve notice in writing of the alleged violation which shall be signed by the Code Enforcement Officer or his or her authorized representative. Said notice shall be served personally to the responsible owner, occupant, operator or other person in charge; or served by registered mail with a return receipt requested or where such responsible person in charge cannot be found, service may be made by posting a notice in or about the structure or premises or by publishing such notice in a newspaper of general circulation for a period of three consecutive days; or served by any other method authorized under the laws of the Commonwealth of Pennsylvania.
- B. Said notice shall include a statement of the reasons why the notice is being issued, the Sections of the Code and/or ordinances which have been violated, and the remedial actions required.
- C. Said notice shall allow a reasonable time, not to exceed 60 days, for the initiation and correction of the violation alleged or of the remedial actions required, except where emergency conditions exist which require immediate corrective action.
- D. Said notice shall contain a statement indicating that the notice will become an order if no request and approval for an extension of time is made to the Code Enforcement Officer or if no petition for an appeal or hearing is requested before the Code Hearing Board within 15 days from the receipt of said notice.
- E. The Code Enforcement Officer may grant a request for a reasonable extension of time where he or she has evidence to believe that the responsible person is attempting to remove the alleged violation. However, no such extension of time may exceed a period of 90 days unless authorized by the Code Hearing Board upon appeal of the responsible owner, operator, occupant or other person in charge.

(Ord. 12/5/1973A, §4.1)

§5-232. Penalties.

1. Any person who fails to correct a violation or take a remedial action as ordered by the Code Enforcement Officer or who violates a provision or fails to comply with any requirements of this Part or of any of the other applicable codes or ordinances shall be subject, for each violation, to a fine of not less than \$10 nor more than \$1,000 and costs of prosecution; and in default of payment of such fine and costs to imprisonment not exceeding 30 days and each days failure to comply with any such provision or requirement or any such order shall constitute a separate offense. [A.O.]

2. The imposition of the penalties, herein prescribed shall not preclude the Solicitor representing the Township from initiating, and he or she is hereby ordered to initiate, appropriate actions or proceedings at law, or in equity, to effect the purposes of this Part.

(Ord. 12/5/1973A, §4.2; as amended by Ord. 5/29/1975, §18-14; and by A.O.)

§5-233. Dangerous and Unsafe Conditions and Structures and Dwellings Unfit for Human Habitation.

Structures which contain dwellings which are unfit for human habitation, or structures which are dangerous or unsafe and structures which contain dangerous conditions or materials, as defined by the applicable codes and ordinances of the Township are hereby declared to be a public nuisance.

A. *General procedure.* The Code Enforcement Officer shall order the responsible owner, operator, occupant or person in charge of the structure or premises which are dangerous, unsafe or unfit for human habitation to vacate, repair and/or demolish said structure and to remove the public nuisance as provided for in this Part and in the applicable codes and ordinances of the Township in accordance with the laws of the Commonwealth of Pennsylvania.

B. *Failure to comply.* Whenever an order to vacate, repair and/or demolish a structure which is a public nuisance because it is unsafe, dangerous or unfit for human habitation has not been complied with, the Code Enforcement Officer may, in accordance with the laws of the Commonwealth of Pennsylvania, proceed to cause the structure to be vacated, repaired and/or demolished or take such other action as is necessary to abate the nuisance. Abatement under this Section shall not commence until at least ten days after the service of the order, except that the Code Enforcement Officer may determine that more immediate action is required because of the special emergency or dangerous conditions which exist.

C. *Recovery of expenses.* The expenses incurred pursuant to Subsection B. of this Section and of the other applicable codes and ordinances shall be paid by the responsible owner, operator or occupant or by the persons who caused or maintained such a public nuisance. The Code Enforcement Officer shall file on his or her records an affidavit stating with fairness and accuracy the items and date of the expenses incurred. The Township Commissioners may institute a suit to recover such expenses to be charged against the property as a lien.

(Ord. 12/5/1973A, §4.3)

E. Variances and Appeals**§5-241. Code Hearing Board.**

There is hereby established a Code Hearing Board, appointed by the Township Commissioners consisting of not less than three members nor more than five members who shall serve without compensation, but may be reimbursed for necessary and reasonable expenses. Their terms of office shall be for three years, except for those first appointed, so fixed that the term of office of at least one member shall expire each year. Appointments to fill vacancies shall be only for the unexpired portion of the term.

(Ord. 12/5/1973A, §5.1)

§5-242. Powers of the Code Hearing Board.

The Code Hearing Board shall have the following powers and duties:

- A. *Interpretation.* On appeal from a determination of the Code Enforcement Officer or on request of any Township Official, the Code Hearing Board shall decide any questions involving the interpretation of any provision of this Part or of those other applicable codes and ordinances.
- B. *Variances.* The Code Hearing Board may grant a variance from the strict application of this Part or of those other applicable codes. Such variances may be granted only in those cases which would result in practical difficulty or unnecessary hardship and where the public health and safety shall not be jeopardized.
- C. *Decide appeals.* The Code Hearing Board shall hear all appeals made to it and, depending on its findings, shall decide whether such appeals shall be granted.

(Ord. 12/5/1973A, §5.2)

§5-243. Requests for Appeals or Variances.

Any person requesting a variance or aggrieved by a decision of the Code Enforcement Officer or by any other employee or official charged with the administration and enforcement of this Part and of those other applicable codes or ordinances, may take an appeal to the Code Hearing Board. All appeals shall be made in writing stating the grounds upon which the appeal is based and shall be transmitted to the Office of Code Enforcement. An appeal must be taken within 15 days of the action or of the receipt of written notice of any decision or ruling which is being appealed.

(Ord. 12/5/1973A, §5.3)

§5-244. Appeals and Variance Procedure.

1. *Public hearing.* The Code Hearing Board shall meet and conduct a hearing within 30 days of the receipt of an appeal or a request for a variance. All hearings shall be public and all persons whose interest may be affected shall be given an opportunity to be heard. A record shall be kept of all evidence and testimony presented at the hearing.

2. *Decision of the Board.* All decisions of the Board shall be in writing and a copy of each decision shall be sent to the applicant and to the Code Enforcement Officer. The Code Hearing Board shall also retain in its files a copy of each decision, which files shall be available for inspection by the public. Each decision shall set forth fully the reasons for the decision of the Code Hearing Board and the findings of fact on which the decision was based. The Code Hearing Board shall make an order on its decision and the Code Enforcement Officer shall take immediate action to carry out said order.

(Ord. 12/5/1973A, §5.4)

§5-245. Appeals from the Decision of the Code Hearing Board.

Any person or persons aggrieved by any final order or decision of the Code Hearing Board may

appeal such order or decision within 30 days, to the Court of Common Pleas in accordance with, as far as practicable, the Rules of Civil Procedure of the Supreme Court regarding appeals from administrative agencies.

(Ord. 12/5/1973A, §5.5)

§5-246. Reports by the Code Hearing Board.

The Code Hearing Board shall report to the Township Commissioners periodically, at intervals of not later than 12 months. The report shall summarize all applications and appeals made to it since the last report and shall contain a summary of the Board's decision on each case. A copy of the report shall be filed with the Code Enforcement Officer. The Code Hearing Board may also submit to the Township Commissioners advisory reports recommending changes and modifications in this Part or in those other applicable codes or ordinances.

(Ord. 12/5/1973A, §5.6)

F. General Provisions**§5-251. Saving Clause.**

Nothing in this Part shall be construed to affect any suit or proceeding now pending in any court, or any actions recurred, or liability incurred, or any clause or clauses of action accrued or existing, under any act or ordinance repealed hereby. No right or remedy of any character shall be lost, impaired or affected by this Part.

(Ord. 12/5/1973A, §6.1)

§5-252. Short Title.

This Part shall be known and may be cited as the “Code Enforcement Ordinance of the Township”.

(Ord. 12/5/1973A, §6.4)

Part 3**Tradesmen Licensing****§5-301. Definitions.**

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

Electrician—a tradesmen who regularly engages in electrical work in either or both residential or commercial structures.

General building contractor—a tradesmen who engage in construction and remodeling of residential or commercial structures not including the provision of electrical, plumbing or HVAC services.

Heating ventilation and air conditioning (HVAC) tradesmen—a tradesmen who regularly engages in and works in the trade of providing climate control to residential or commercial structures.

Licensing officer—the Zoning Officer and/or Code Enforcement Officer.

Plumber—

Apprentice plumber—a apprentice plumber is a person who is learning the plumbing trade and is employed and supervised by a license master plumber.

Journeyman plumber—a journeyman plumber is a person who regularly engages in and works at the plumbing trade and is employed and supervised by a licensed master plumber.

Master plumber—a master plumber is a person who regularly engages in and works at the plumbing trade, who employees and directs journeyman plumbers and apprentice plumbers, and who is entitled to secure permits for the installation or repair of plumbing.

(Ord. 2009-5A, 6/11/2009, §1)

§5-302. License Required.

Any person, firm or corporation desiring to engage in the business or occupations of plumber, electrician, HVAC or general building contractor shall apply to the Licensing Officer for a license and registration as herein required.

(Ord. 2009-5A, 6/11/2009, §2)

§5-303. Evidence of Proficiency and Insurance.

1. All contractors, tradesmen, plumbers and electricians shall be licensed within the Township of Plains, but first shall be required to successfully take tests as administered by or on behalf of Plains Township; or supply evidence of licensing within Pennsylvania by a state or national testing organization evidencing knowledge of necessary and appropriate codes and proficiency in the aforementioned trades. The Licensing Officer or such person or agency appointed by the Township of Plains shall determine the adequacy and sufficiency of the credential and the testing jurisdiction, agency or organization. Deemed testing provided by applicant from outside the Township must have been completed within the last three years.

2. Furthermore, said applicant shall supply the Licensing Bureau with a copy of his or her public liability and property damage insurance policy or policies indicating coverage in the minimum amount of \$300,000 and \$500,000 for public liability and \$50,000 for property damage. In addition, applicant shall provide proof of adequate workers compensation insurance to be determined by the Licensing Officer.

(Ord. 2009-5A, 6/11/2009, §3)

§5-304. General Building Contractor License.

Individuals seeking a license as a general building contractor in the Township of Plains shall present himself or herself before the Licensing Officer or such person or agency appointed by the Township of Plains at a time and place fixed by the Township, wherein his or her qualifications and knowledge shall be inquired into. If the Licensing Officer or such outside party shall find, upon due examination, that the applicant presenting himself or herself has reasonable knowledge of construction codes and proper building techniques and skills and is possessed of skill and knowledge in matters pertaining to the construction of residential and/or commercial structures, then the Licensing Officer upon proof of the payment of the fee herein provided, and upon filing with the Licensing Officer a copy of his or her public liability and property damage insurance policy or policies indicating coverage in the minimum amount of \$300,000 and \$500,000 for public liability and \$50,000 for property damage; and such proper workers compensation insurance shall issue to said person a general building contractors license.

(Ord. 2009-5A, 6/11/2009, §4)

§5-305. Fees.

1. An applicant who cannot meet the requirements of §§5-303 or 5-304 shall be required to complete an application and submit payment of a fee in an amount as established, from time to time, by resolution of the Board of Commissioners in order to register for the next testing date. The applicant may continue to perform work in their field until the next testing date. [A.O.]

2. All licenses shall expire December 31 of the year issued.

(Ord. 2009-5A, 6/11/2009, §5; as amended by A.O.)

§5-306. Re-testing.

Any applicant who is unsuccessful in passing the examination prescribed by the Licensing Officer will be permitted to take a re-examination not less than 30 days after the date of the unsuccessful examination. If, after failing such test, the applicant shall not be able to continue work in their field until such time as they are re-examined and successfully complete the exam.

(Ord. 2009-5A, 6/11/2009, §6)

§5-307. Re-issuance.

Any licensee desiring to continue to practice the profession or trade for the year following the expiration of the current license shall, between the first and thirty-first day of December of each and every year, surrender the current license for the then current year to the Licensing Officer, which shall forthwith, upon proof of his or her proficiency and payment of the proper fee hereinafter provided, file of a copy of current required insurance policy or policies regarding public liability and property damage, and shall provide proof of adequate workers compensation insurance, issue to the applicant a license for the ensuing year.

(Ord. 2009-5A, 6/11/2009, §7)

§5-308. Appeals Procedure.

1. An appeal from any decision of the Licensing Officer may be taken to the Appeals Board. Such board shall be the same Board as established as an Appeals Board relating to the Uniform Construction Code. Such appeal shall be made in writing within ten days after such decision has been made, shall be verified by affidavit and filed with the Township Secretary. A hearing shall be scheduled by the Appeals Board within 30 days after the appeal has been filed. The appellant or his or her representative shall have the right to appear and be heard, if such right is requested in the written appeal. The decision on such appeal should be made by the Appeals Board within ten days after the hearing. The decision of the Appeals Board on such appeals shall be in writing, copies of which shall

be served on the Licensing Officer and the appellant.

2. A fee in an amount as established, from time to time, by resolution of the Board of Commissioners shall be payable in advance to the Township Treasurer for each appeal taken to the Appeals Board from a decision of the Licensing Officer to cover the cost of notices and hearing of the appeal. This fee shall be refundable to the appellant in such instances when the Appeals Board reverses the decision of the Licensing Officer. [A.O.]

(*Ord. 2009-5A, 6/11/2009, §8; as amended by A.O.*)

§5-309. Violations and Penalties.

Any person who shall perform any work as a tradesman subject to licensing of this provision, or who shall fail to comply with the lawful regulations, order and direction of the Licensing Officer, shall be liable, on conviction thereof, to a fine or penalty not exceeding \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days, or both; and, whenever such person shall have been notified by the Licensing Officer, or by service of summons in prosecution, or in any other way, that he or she is committing such violations of this Part, each day in which he or she shall continue such violations after such notification shall constitute a separate offense punishable by a like fine or penalty. Such fines or penalties shall be collected as like fines or penalties are now by law collected.

(*Ord. 2009-5A, 6/11/2009, §9; as amended by A.O.*)

Part 4**Posting of Occupancy Permits****§5-401. Posting of Occupancy.**

No place of assembly or public gathering place including, but not limited to, places which serve food and or drink shall be required to post signs indicating the number of persons who may legally occupy the space and/or establishment.

(Ord. 2008-3, 6/12/2008, §1)

§5-402. Requirements for Signs.

Said signs shall be at least eight inches wide and 12 inches high. Signs shall be framed under a transparent protective cover and permanently maintained in a location that is conspicuously visible to a person entering the space or establishment. Signs shall be lighted by certified illumination at all times during occupancy to maintain at least five footcandles on the surface of the sign.

(Ord. 2008-3, 6/12/2008, §2)

§5-403. Inspections.

All establishments, businesses or spaces not already complying with this Part shall be given 45 days to fully and completely comply with this posting requirement. The building inspection and/or fire operations are authorized to inspect for the proper posting of signs.

(Ord. 2008-3, 6/12/2008, §3)

§5-404. Penalties.

Any establishment found in violation of this order after the 45 days compliance period shall be subject to a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 2008-3, 6/12/2008, §5; as amended by A.O.)

§5-405. Additional Remedies.

In addition to any fines for violation of this Part, the building inspectors and or fire safety inspectors may order the establishment closed until such time as the owner complies with this Part. Failure to comply with this order shall allow either inspectors with the assistance of the Township Solicitor the right to seek further occupying any part of the building until such time as this Part is complied with.

(Ord. 2008-3, 6/12/2008, §6)

Part 5**International Property Maintenance Code****§5-501. Adoption.**

A certain document, three copies of which are on file in the office of the Secretary of Board of Commissioners of the Township of Plains, being marked and designated as the International Property Maintenance Code, 2009 edition, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the Township of Plains, in the State of Pennsylvania for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use, and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the Township of Plains are hereby referred to, adopted, and made a part hereof, as if fully set out in this Part, with the additions, insertions, deletions and changes, if any, prescribed in §5-502 of this Part.

(Ord. 2006-6, --/2006, §1)

§5-502. Amendments.

The following sections are hereby revised:

- A. *Section 101.1.* Insert: the Township of Plains.
- B. *Section 103.5.* Insert: Per unit fee schedule as established, from time to time, by resolution of the Board of Commissioners. [A.O.]
- C. *Section 302.4.* Insert: Eight inches (High weed) April 30–October 15.
- D. *Section 304.14.* Insert: May 15–Sept 15 (Screens required).
- E. *Section 602.3.* Insert: September 15–May 15 (An approved operational heat source).
- F. *Section 602.4.* Insert: Sept 15–May 15 (Occupiable workspace heating required).

(Ord. 2006-6, --/2006, §2; as amended by A.O.)

§5-503. Savings Clause.

Nothing in this Part or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this Part.

(Ord. 2006-6, --/2006, §5)

§5-504. Effective Date.

All subsequent versions of the International Property Maintenance Code shall be effective on December 15 of the calendar year in which said Code is published (every three years).

(Ord. 2006-6, --/2006, §7)

Chapter 6

Conduct

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Nighttime Curfew for Minors

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- §6-102. Curfew Established
- §6-103. Penalty

Part 2

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Part 1**Nighttime Curfew for Minors****§6-101. Purpose.**

The purpose of this Part is to promote the safety and good order of the community by helping to eradicate rowdiness, excessive noise, vandalism, harassment, graffiti, drug dealing and other behavior caused by juveniles that adds to disorder in the community; and to encourage school attendance and parental responsibility.

(Ord. 1997-3, 6/22/1997, §1)

§6-102. Curfew Established.**1. Evening curfew.**

A. It shall be unlawful for any child under the age of 18 years to remain in or upon any public street, alley, highway, park or other public place in the Township, between the hours of 10:00 p.m. and 6:00 a.m. and unlawful under the same conditions for children under the age of eight, between the hours of 8:00 p.m. Eastern Standard Time and 6:00 a.m.; and between the hours of 9:00 p.m. and 6:00 a.m. when Daylight Saving Time is in effect unless:

- (1) Such child shall be accompanied by a parent, guardian or other person, in parental relation, having the legal custody, control or charge of such child.
- (2) Such child shall be lawfully employed, in the course of which employment it is necessary to use such public street, alley, highway or other public place for such employment.
- (3) Such child is on lawful and necessary business for their parent, guardian or other person in parental relation having the legal custody, control or charge of such child.
- (4) Such child is returning from a school, religious, recreational or job activity.
- (5) Such child is exercising First Amendment rights protected by the Constitution.
- (6) Such child is on an emergency errand authorized by their parent, guardian or other person in parental relation having the legal custody, control or charge of such child.

B. It shall be unlawful for any parent, guardian or person in parental relation having control of any child under the age of 18 years to permit such child to be or remain in or upon any public street, alley, highway, park or other public place, in the Township between the hours of 10:00 p.m. and 6:00 a.m. and unlawful under the same conditions for children under the age of eight, between the hours of 8:00 p.m. Eastern Standard Time and 6:00 a.m.; and between the hours of 9:00 p.m. and 6:00 a.m. when Daylight Saving Time is in effect unless:

- (1) Such child shall be lawfully employed, in the course of which employment it is necessary to use such public street, alley, highway or other public place for such employment.
- (2) Such child is on lawful and necessary business for their parent, guardian or other person in parental relation having the legal custody, control or charge of such child.
- (3) Such child is returning from a school, religious, recreational or job activity.
- (4) Such child is exercising First Amendment rights protected by the Constitution.
- (5) Such child is on an emergency errand authorized by their parent, guardian or other person in parental relation having the legal custody, control or charge of such child.

2. Daytime curfew.

A. It shall be unlawful for any child of compulsory school age enrolled in any elementary or secondary school to be or remain in or upon any public street, alley, highway, park or other public place, in the Township between the hours of 9:00 a.m. and 2:30 p.m. on any day for which school is in session, unless such child is on a scheduled vacation or holiday observed by the school, or that the child has permission to be absent from school or to be in a public place from an authorized school official. In the case of a child educated through a home school program pursuant to the Pennsylvania Public School Code, §1327.1, "Home Education", 24 P.S. §13-1327.1, a parent shall be deemed an authorized official.

B. It shall be unlawful for any parent, guardian or person in parental relation, having control or charge of any child of compulsory school age to permit such child to be or remain in or upon any public street, alley, highway, park or public place in the Township between the hours of 9:00 a.m. and 2:30 p.m. on any day for which school is in session, unless such child is on a scheduled vacation or holiday observed by the school, or that the child has permission to be absent from the school or to be in a public place from an authorized school official. In the case of a child educated through a home school program pursuant to Pennsylvania Public School Code, §1327.1, "Home Education", 24 P.S. §13-1327.1, a parent shall be deemed an authorized official.

C. It shall be unlawful for any person to act as an accomplice in violating any provisions of this Part if with the intent of promoting or facilitating the commission of the offense they:

- (1) Solicit the child to commit it.
- (2) Aid, agree or attempt to aid such other person in planning or committing it.

(Ord. 1997-3, 6/22/1997, §2)

§6-103. Penalty.

1. Evening curfew violation.

A. Offense of child.

(1) Any child in violation of this Part shall be taken into custody by the Police Department and delivered to his or her parents, guardian or other person in parental relation having the legal custody, control or charge of such child, and shall be cited for a summary violation and a fine of not less than \$25 nor more than \$1,000 plus court costs shall be imposed for the first offense. In default of payment of said fine and costs it shall be referred by the magisterial district judge to the Juvenile Court pursuant to the Juvenile Act, 42 Pa.C.S.A. §§6301 *et seq.* In lieu of a fine a minimum of two and one-half hours of community service may be assigned.

(2) Any child who shall fail to comply with the provisions of this Part relating to the evening curfew for a second offense shall be sentenced on summary conviction to pay a fine of not less than \$100 nor more than \$1,000. In default of payment of said fine and costs, it shall be referred by the magisterial district judge to the Juvenile Court pursuant to the Juvenile Act, 42 Pa.C.S.A. §§6301 *et seq.* In lieu of a fine a minimum of ten hours of community service may be assigned.

(3) Any child who shall fail to comply with the provisions of this Part relating to the evening curfew on the third offense shall be sentenced upon summary conviction to pay a fine of not less than \$300 nor more than \$1,000. In default of payment of said fine and costs it shall be referred by the magisterial district judge pursuant to the Juvenile Act, 42 Pa.C.S.A. §§6301 *et seq.* In lieu of a fine a minimum of 30 hours of community service may be assigned.

[A.O.]

B. *Age determination.* In taking children into custody, the Police Department shall use its

discretionary judgment in determining age, and in doubtful cases may require proof thereof, and until such proof is established, the determination based on such officer's judgment shall prevail.

C. *Multiple offenses.* Any child, whether a resident or non-resident of the Township, who shall violate this Part four or more times shall be reported to the proper juvenile correctional authorities of the County of Luzerne for the appropriate action pursuant to the Juvenile Act, 42 Pa.C.S.A. §§6301 *et seq.*

D. *Offense of the parent.* Every parent, guardian or person in parental relation, having control or charge of any child who shall fail to comply with the provisions of this Part relating to evening curfew, shall upon summary conviction thereof, be sentenced to pay a fine of not less than \$50 and not more than \$1,000, for each offense, together with costs, and in default of payment of such fine and costs, shall be sentenced to imprisonment not to exceed 30 days. In lieu of a fine a minimum of five hours of community service may be assigned.
[A.O.]

2. *Daytime curfew violation.*

A. *Offense of child.*

(1) Any child in violation of this daytime curfew shall be taken into custody by the Police Department and his or her parents, guardian or other person in parental relation having the legal custody, control or charge of such child notified and the child transported to the school he or she is enrolled in and shall be cited for a summary violation and a fine of not less than \$25 nor more than \$1,000 plus court costs shall be imposed for the first offense. In default of payment of said fine and costs it shall be referred by the magisterial district judge to the Juvenile Court pursuant to the Juvenile Act, 42 Pa.C.S.A. §§6301 *et seq.* In lieu of a fine, a minimum of two and one-half hours of community service may be assigned.

(2) Any child who shall fail to comply with the provisions of this Part relating to the daytime curfew for a second offense shall be sentenced upon summary conviction to pay a fine of not less than \$100 nor more than \$1,000. In default of payment of said fine and costs it shall be referred by the magisterial district judge to Juvenile Court pursuant to the Juvenile Act, 42 Pa.C.S.A. §§6301 *et seq.* In lieu of a fine, a minimum of ten hours of community service may be assigned.

(3) Any child who shall fail to comply with the provisions of this Part relating to the daytime curfew on the third offense shall be sentenced upon summary conviction to pay a fine of not less than \$300 nor more than \$1,000. In default of payment of said fine and costs, it shall be referred by the magisterial district judge to the Juvenile Court pursuant to the Juvenile Act, 42 Pa C.S.A. §§6301 *et seq.* In lieu of a fine, a minimum of 30 hours of community service may be assigned.

[A.O.]

B. *Offense of the parent.* Every parent, guardian or person in parental relation having control or charge of any child of compulsory school age, who shall fail to comply with the provisions of this Part relating to daytime curfew, shall upon summary conviction thereof, be sentenced to pay a fine of not less than \$100 and not more than \$1,000 for each offense, plus court costs, and in default of payment of such fine and costs, shall be imprisonment not to exceed 30 days. In lieu of a fine a minimum of ten hours of community service may be assigned. [A.O.]

C. *Accomplices.* Any person found to be an accomplice shall upon summary conviction thereof, be sentenced to pay a fine, not less than \$100 and not more than \$1,000 for each offense, plus costs of prosecution, and in default of payment of such fine and costs, shall be imprisonment not to exceed 30 days. In cases of default of payment where the accomplice is determined to be a juvenile legally disenrolled from school, the accomplice shall be referred,

by the magisterial district judge, to the Juvenile Court pursuant to the Juvenile Act, 42 Pa.C.S.A. §§6301 *et seq.* In lieu of a fine, a minimum of ten hours of community service may be assigned. [A.O.]

(*Ord. 1997-3*, 6/22/1997, §4; as amended by A.O.)

Part 2**Discharge of Firearms****§6-201. Purpose.**

Whereas, recently the discharge of firearms and other weapons in or about the immediate area of the residents of Plains Township, including young children, as well as in the vicinity of residential homes and occupied office buildings, has become a safety problem and concern. Therefore, in order to deal with the discharge of firearms and other weapons in and near persons or property about the populated area of the Township, and in order to provide for the safety of children, adults, personal property and real property, the Board of Commissioners hereby adopts this Part for the safety of its residents, and real property located in the Township of Plains.

(Ord. 1996-7, 12/12/1996, §1)

§6-202. Use Restricted.

No person shall, fire or discharge any pistol, rifle, shotgun, bow and arrow or any firearm or weapon from which a shot, projectile or other object is fired or discharged within the Township of Plains, except as herein provided.

(Ord. 1996-7, 12/12/1996, §2)

§6-203. Exceptions.

1. A duly appointed law enforcement officer while in the performance of his or her official duties, in target practice or any other function of his or her employment.

2. When necessary in defense of person or property as provided in Chapter 5, "General Principles of Justification", of the Crimes Code, 18 Pa.C.S.A. §§501 *et seq.*

3. Any person licensed to hunt in this Commonwealth and lawfully engaged in hunting as defined and regulated by the Pennsylvania Game and Wildlife Code, 34 Pa. C.S.A. §§101 *et seq.*, as amended.

4. Any person over the age of 18 years using a firearm to control wildlife in the protection of cultivated crops, fruit trees, vegetables, life stock, poultry or other property; provided, however, that such use of the firearm shall comply with the requirements of the Pennsylvania Game and Wildlife Code, 34 Pa.C.S.A. §§101 *et seq.*

(Ord. 1996-7, 12/12/1996, §3)

§6-204. Violations and Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 1996-7, 12/12/1996, §4; as amended by A.O.)

Part 3**Littering****§6-301. Littering Prohibited.**

It shall be unlawful for any person, firm or corporation or any agent thereof to place, throw, store, accumulate or maintain, or cause to be placed, thrown, stored, accumulated or maintained any used cans, papers, paper boxes, used lumber, rubbish, debris, animal matter, garbage, empty bottles or other containers upon property located within the Township or on or near any alley, highway or stream located in said Township ordinance dealing with the collection of garbage, refuse, trash or solid waste.

(Ord. 6/1/1988, §1)

§6-302. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 6/1/1988, §§2, 4; as amended by A.O.)

§6-303. Dangerous Litter Prohibited.

No person or persons, firm or corporation shall place, cast, throw or permit to remain upon any of the sidewalks or tree lawns, streets or highways in the Township, or upon any recreational area owned by the Township or Township Authority, any piece of glass or of sharp or pointed metal or plastic or any skin of a banana or any other fruit or any other article or substance or matter which might be a source of danger and possible accident or injury to any person walking upon such sidewalks, tree lawn or area, streets or highways.

(Ord. 6/1/1988, §3)

Part 4**Open Containers****§6-401. Definition.**

As used in this Part, the following term has the following meaning.

Alcoholic liquor—any spirits, wine, beer, ale or other liquid containing more than one-half of one percent of alcohol by volume, which is fit for beverage purposes or intended for beverage purposes.

(Ord. 2009-1, 1/8/2009, §1)

§6-402. Consumption.

No person shall consume any alcoholic liquor while in or upon public streets, alleys, sidewalks, parking lots or any other public way.

(Ord. 2009-1, 1/8/2009, §2)

§6-403. Open Container.

No person shall be in possession of any glass, can or open container containing alcoholic liquor on any thoroughfare, street, sidewalk, alley, parking lots or any other public way.

(Ord. 2009-1, 1/8/2009, §3)

§6-404. License Not to Permit Removal of Open Container.

No person, firm or corporation licensed to sell alcoholic liquor, or his or her employees or agents of such person firm or corporation shall permit any person to remove from such premises, any alcoholic liquor in any open container.

(Ord. 2009-1, 1/8/2009, §4)

§6-405. Open Container in Motor Vehicles.

No person shall have in his or her possession an open container containing alcoholic liquor within or on a motor vehicle, including motorcycles, while parked or standing on a public street or public parking lot in the Township, or while such vehicle is in motion.

(Ord. 2009-1, 1/8/2009, §5)

§6-406. Sign Required.

All premises licensed for the sale of alcoholic liquid shall post a notice at each exit stating that “No Beer, Liquor or Wine May Be Carried in an Open Container out of this Building.”

(Ord. 2009-1, 1/8/2009, §6)

§6-407. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$25 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 2009-1, 1/8/2009, §7; as amended by A.O.)

Part 5**Obscene Materials****§6-501. Sale or Distribution of Obscene Materials.**

Any person who, with knowledge of the character and content, either sells, gives away, lends, distributes, exhibits, shows or transmutes, or offers either to sell, give away, lend, distribute, exhibit, show or transmute, or has in his or her possession with intent either to sell, give away, lend, distribute, exhibit, show or transmute to another, or who otherwise knowingly offers for gift, sale or distribution any obscene book, photograph, literature or mechanical device, or any obscene picture film, show or other presentation, which may or may not require mechanical or other means to be transmuted into auditory, visual or sensory representation of such character, shall be guilty of a summary offense; and upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 or undergo imprisonment for a period not exceeding 30 days, or both.

(Ord. 8/28/1975, §1; as amended by A.O.)

§6-502. Exhibitions.

No person shall knowingly exhibit or sell upon any private property or at or near any public street or highway or in any other place within the view of adults or minors passing on any public street or highway, any obscene books, photographs, literature, mechanical devices or any obscene motion picture film, show or other presentation which may or may not require mechanical or other means to be transmuted into auditory, visual or sensory representations of such character; and any person doing so shall be guilty of a summary offense; and upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000, or undergo imprisonment for a period not exceeding 30 days, or both.

(Ord. 8/28/1975, §2; as amended by A.O.)

§6-503. Shows or Presentations.

No person may, with knowledge of the character or content, exhibit or sell books, photographs, literature or mechanical devices, or show or project a motion picture film, show or other presentation, which in whole or in part depicts nudity, sexual conduct or sadomasochistic abuse, so that it may be viewed by minors or any other persons from public property or private property not under the control of the person selling, exhibiting, showing or projecting such books, photographs, literature, mechanical devices or motion picture film, show or other presentation.

(Ord. 8/28/1975, §3)

§6-504. Participation in Exhibition or Sale.

Whoever knowingly participates in, supports, or in any way aids in the exhibition or sale of any book, photograph, literature, mechanical device, whether the same shall be the owner, manager, employee, agent, servant or worker, shall be guilty of a summary offense; and upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 or undergo imprisonment for a period not exceeding 30 days, or both. Further, whoever knowingly participates in, supports, or in any way aids in the exhibition, showing or projection of an obscene motion picture film or other type motion picture film in violation of this Act, whether the same shall be a ticket seller, usher, manager, projectionist or other such employee, agent, servant or worker, shall be guilty of a summary offense; and upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 or undergo imprisonment for a period not exceeding 30 days, or both.

(Ord. 8/28/1975, §4; as amended by A.O.)

§6-505. Owner of Premises.

Whoever being the owner of any premises or having control thereof, knowingly permits the sale of any book, photograph, literature or mechanical device within or on said premises in violation of this Act, shall be guilty of a summary offense; and upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 and to undergo imprisonment for a period not exceeding 30 days, or both. Further, whoever being the owner of any premises or having control thereof, knowingly permits within or on said premises the exhibition, projection or showing of any motion picture film, show or presentation in violation of this Act, shall be guilty of a summary offense; and upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 and to undergo imprisonment for a period not exceeding 30 days, or both.

(Ord. 8/28/1975, §5; as amended by A.O.)

§6-506. Advertising.

Whoever knowingly advertises or accepts for advertisement, any book, photograph, literature, mechanical device or motion picture film, show or other presentation, the exhibition, selling, showing or projection of which would be in violation of this Part, shall be guilty of a summary offense; and upon conviction thereof, shall be sentenced to pay a fine not exceeding \$1,000 or undergo imprisonment for a period not exceeding 30 days, or both.

(Ord. 8/28/1975, §6; as amended by A.O.)

§6-507. Criteria to Establish Obscenity.

For the purposes of this Part all three of the following elements are required to establish obscenity:

- A. The average person applying contemporary community standards must find that the work taken as a whole appeals to the prurient interest.
- B. That the book, photograph, literature, mechanical device or film must depict or describe patently offensive representations or descriptions of sexual conduct such as ultimate sexual acts, normal or perverted, actual or simulated, real or animated, and/or patently offensive representations or descriptions of masturbation, excretory functions and/or lewd exhibition of the genitals; descriptions or representations of acts of fellatio, cunnilingus, whether the same involves persons real or animated, animals or combinations of individuals real, animated and/or animals.
- C. That the work taken as a whole lacks serious literary, artistic, political or scientific value.

(Ord. 8/28/1975, §7)

§6-508. Definitions.

As used in §6-503 of this Part:

Nudity—includes the showing and description of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing and description of a female breast with less than a fully opaque covering of any portion thereof below the top of the nipple or the depiction and description of covered male genitals in a discernibly turgid state.

Sadomasochistic abuse—flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume or the condition of being fettered, bound or otherwise physically restrained on the part of the one so clothed.

Sexual conduct—in addition to the examples hereinbefore set forth, acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed

genitals, pubic area, buttocks, or, if such person be a female, breasts.

(Ord. 8/28/1975, §8)

§6-509. Validity.

Should any Section, clause or provision of this Part be declared by the court to be invalid, the same shall not affect the validity of the Part as a whole, other than the part thereto so declared to be invalid.

(Ord. 8/28/1975, §9)

Part 6**Graffiti****§6-601. Purpose and Intent.**

All graffiti or other inscribed material on public and private property is hereby found and determined to be obnoxious, offensive, annoying, displeasing, distasteful and disturbing. Such graffiti and other inscribed material on public and private property constitutes blight and is hereby determined to be a public nuisance. The Board of Commissioners of the Township of Plains hereby authorizes the prohibition of graffiti or other inscribed material with the Township of Plains, Luzerne County, Pennsylvania as set forth herein.

(Ord. 1996-4, --/1996, §I)

§6-602. Definition.

As used in this Part:

Graffiti or other inscribed material—includes any unauthorized inscription, word, figure or design that is marked, etched, scratched, drawn, painted or otherwise applied on any structural component of any building, structure or other facility regardless of the nature of the material of that structural component.

Unauthorized—the marking etching, scratching, drawing of any inscription, word, character, figure or design directly upon the surface of any public building, structure or facility without the express prior written approval of the public authority or, the marking, etching, scratching, drawing or painting of an inscription, word, character, figure or design directly upon the surface of a private building or structure without the express prior approval of the owner or person in possession of such private building or structure.

(Ord. 1996-4, --/1996, §II)

§6-603. Prohibition.

It is hereby prohibited and shall be unlawful for any person to paint, chalk, ink or otherwise apply graffiti or other inscribed material on public or privately owned real property within this Township. Said action shall be determined to be a nuisance and violation.

(Ord. 1996-4, --/1996, §III)

§6-604. Penalty.

Any person violating any of the provisions of this Part shall upon summary conviction thereof in a summary proceeding before a magisterial district judge of Luzerne County, be sentenced to pay a fine not to exceed \$1,000 and all court costs and related costs to the effective restoration of the defaced property and in addition to the fine and costs levied violators are subject to a term of imprisonment not to exceed 30 days. Further, the Township of Plains requests that a minimum of 25 hours but not

more than 100 hours of community service be directed by the judicial officer presiding over the case.

(Ord. 1996-4, --/1996, §IV; as amended by A.O.)

§6-605. Recovery of Costs.

If the person against whom any civil action is commenced is a minor as of the date of commencement of the civil action, the parent or guardian having custody and control of such shall be made a party to the action as being jointly and severally liable consistent with the provisions of the

laws of the Commonwealth of Pennsylvania.

(*Ord. 1996-4, --/1996, §V*)

Part 7

Smoking Prohibited

§6-701. Smoking Prohibited.

No person shall at any time smoke or chew any tobacco, tobacco related product, filler or any other plant or weed in any of the following places owned or operated by the Township:

A. Inside any Township vehicle.

(Ord. 2007-1, 5/10/2007, §2)

§6-702. Township Employees Disciplined.

Any Township employee violating this Part shall be subject to appropriate discipline, including reprimand, suspension, termination or other disciplining action.

(Ord. 2007-1, 5/10/2007, §3)

§6-703. Penalty.

Any person found in violation of this Part shall be fined no less than \$50 dollars and nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. Said Part may be enforced by citation issued by Plains Township Police Department, Fire Inspector or Code Enforcement Officer.

(Ord. 2007-1, 5/10/2007, §4; as amended by A.O.)

Chapter 7

Emergency Management

Part 1 Open Burning

- §7-101. Definitions
- §7-102. Relation to Other Laws
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Part 4 Fire Control Measures and Regulations

- §7-401. Adoption of Fire Control Measures and Regulations
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- §7-412. Blocking Fire Hydrants and Fire Department Connections
- §7-413. Hydrant Use Approval
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- §7-415. Yard Systems
- §7-416. Maintenance of Fire Suppression Equipment
- §7-417. Sale of Defective Fire Extinguishers
- §7-418. Street Obstructions

Part 1

Open Burning

§7-101. Definitions.

As used in this Part:

Agricultural waste—any matter generated by crop, horticultural or livestock production practices, and includes such items as woody debris and plant matter from stream flooding, bags, cartons, structural materials and landscape wastes that are generated in agricultural activities, but does not include land clearing waste, buildings, garbage, dead animals, motor vehicles and parts thereof, nor economic poisons and containers, thereof, unless the manufacturer has identified open burning as safe disposal procedure.

DEP—Department of Environmental Protection Director or agencies delegated authorities by the Director of the Department of Environmental Protection or the Chief of any Department of Environmental Protection District Office.

Economic poisons—include, but are not restricted to, pesticides such as insecticides, fungicides, rodenticides, miticides, nematocides and fumigants, seed disinfectants and defoliants.

Garbage/refuse—all putrescible and non-putrescible waste (except body waste) and including, but not limited to, garbage, rubbish, street cleaning, dead animals, abandoned automobiles and solid market and individual waste.

Land clearing waste—plant matter which is removed from land, including plant matter removed from stream banks during projects involving more than one property owner, for the purpose of rendering the land useful for residential, commercial or industrial development.

Landscape waste—any plant matter, except garbage, including tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, yard trimmings and crop residues.

Open burning—the burning of any materials wherein smoke, ash or embers are emitted into the air without passing through a screened stack or chimney. Open burning does not include the legal smoking of tobacco products.

Plant life—vegetation including, but not limited to, trees, tree branches, leaves, yard trimmings, shrubbery, grass and weeds.

Residential waste—any matter, including landscape wastes, generated on a one or multi-family residence as a result of residential activities, but not including garbage.

Restricted area—the area within the boundary of Plains Township a municipal corporation established in accordance with the provisions of state and local law and its local Zoning and Planning Ordinance [Chapter 27], zone extending 1,000 feet beyond the boundaries of such municipal corporation.

(Ord. 2009-6, 7/9/2009, §1; Ord. 2015-1, 5/14/2015, §1)

§7-102. Relation to Other Laws.

1. Notwithstanding any provision in this Part, no open burning shall be conducted in an area where an air alert, warning or emergency under local, state or federal is in effect.

2. No provisions to this Part permitting open burning, and no permission to open burn granted by DEP, shall exempt any person from compliance with any section of federal law, or any regulation of any state department, or any local ordinance or regulation dealing with open burning.

3. No person shall start kindle, cause, allow or maintain any form of open burning on private or public property, except as specifically authorized by this Part or except as permitted in writing by

the Plains Township Fire Department.

(Ord. 2009-6, 7/9/2009, §1; Ord. 2015-1, 5/14/2015, §1)

§7-103. Open Burning in Restricted Area.

1. No person or property shall start, kindle, cause or maintain any form of open burning on private or public property except as specifically authorized by this Part or except as permitted in writing by the Township of Plains Fire Department.
2. Provided that the burning complies with applicable state and federal statutes, regulations, or other law and that the size of the fire does not exceed one foot high, by two feet wide, by two feet long, the following types of open burning shall be allowed:
 - A. Burning of charcoal, clean untreated wood and other cooking fuels customarily used in an outdoor grill or traditional food cooking device.
 - B. Burning of clean untreated wood in a commercially manufactured outdoor fireplace or other reasonable safe outdoor fireplace with the following restrictions:
 - (1) Fire is wholly contained within the fireplace.
 - (2) Fireplace is covered by a screen to control the emissions of ash and embers.
 - (3) Fire does not create a nuisance.
 - (4) Fire is not within 15 feet of combustible materials or adjacent property lines.
 - (5) Fire must be attended at all times.
 - (6) Fire is not located on a lot containing more than two dwelling units or at a fraternity, sorority or similar housing.
 - C. Hours: it shall be unlawful for any person to start, kindle, cause or maintain any form of open burning between the hours of 12:00 a.m. and 9:00 a.m. except as specifically authorized in writing by the Plains Township Fire Department.
 - D. Even if burning would otherwise be allowed under this Part, no open burning shall occur if in the discretion of the Plains Township Fire Department, said open burning constitutes a nuisance by representing a danger to the public, health, safety or welfare.
3. Open burning shall be allowed for the following purposes with prior notification to the Plains Township Fire Department in accordance with §7-105 of this Part.
 - A. Prevention or control of disease or pests, with written or verbal verification to the Plains Township Fire Department from the local health department, Department of Agriculture or United States Department of Agriculture, that open burning is the only appropriate disposal method.
 - B. Ceremonial fires provided the following conditions are met:
 - (1) The ceremonial fires shall be less than five feet by five feet in dimension and shall burn no longer than three hours.
 - (2) The ceremonial fires shall not be used for waste disposal purposes.
 - (3) The fuel shall be chosen so as to minimize the generation and emission of air contaminants.
 - C. Disposal of agricultural waste generated on the premises if the following conditions are observed:
 - (1) The fire is set only when atmospheric conditions will readily dissipate contaminants.
 - (2) The fire does not create a visibility hazard on the road or railroad tracks or air fields.
 - (3) The fire is located at a point on the premises no less than 1,000 feet from any in-

habited building not located on said premises.

(4) The wastes are stacked and dried to provide the best practicable condition for efficient burning.

(5) No materials are burned which contain rubber, grease, asphalt or liquid petroleum products.

D. Open burning shall be allowed for the following purposes upon receipt of written permission from the Plains Township Fire Department, in accordance with §7-105 of this Part, provided that any conditions specified in the permission are followed:

(1) Disposal of ignitable or explosive material where the Plains Township Fire Department determines that there is no practical alternate method of disposal.

(2) Instruction in methods of firefighting or for research in the control of fires.

(3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Plains Township Fire Department.

(4) Recognized horticultural, silvicultural, range or wildlife management practices.

(5) Fires and/or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television.

(*Ord. 2009-6, 7/9/2009, §1; Ord. 2015-1, 5/14/2015, §1*)

§7-104. Permission.

1. An application for permission to open burn shall be submitted in writing at least ten days before the fire is to be set. It shall be in such form and contain such information as required by the Plains Township Fire Department.

2. Such applications shall contain, as a minimum, information regarding:

A. The purpose of the proposed burning.

B. The nature and quantities of material to be burned.

C. The dates or dates when such burning will take place.

D. The location of the burning site, including a map showing distances to residences populated areas, roadways, air fields and other pertinent landmarks.

E. The methods or actions which will be taken to reduce the emissions of air contaminants if required by the Plains Township Fire Department.

3. Permission to open burn shall not be granted unless the applicant demonstrates to the satisfaction of the Plains Township Fire Department that open burning is necessary to the public interest; will be conducted in a time, place and manner as to minimize the emission of air contaminants; and will have no serious detrimental effect upon adjacent properties or the occupants thereof. The Plains Township Department may impose such conditions as may be necessary to accomplish the purpose of this Part.

4. Except as provided in this Section, permission to open burn must be obtained for each specific project. In emergencies where public health or environmental quality will be seriously threatened by delay while written permission is sought, the fire may be set with oral permission of the Plains Township Fire Department.

5. Violations of any of the conditions set forth by the Plains Township Fire Department in granting permission to open burn shall be grounds for revocation of such permission and refusal to grant future permission, as well as for the imposition, of other sanctions provided by law.

(*Ord. 2009-6, 7/9/2009, §1; Ord. 2015-1, 5/14/2015, §1*)

§7-105. Notification.

1. Notification shall be submitted in writing at least ten days before the fire is to be set. It shall be in such form and contain such information as shall be required by Plains Township Fire Department.

2. Such notification shall in form the Plains Township Fire Department regarding:

- A. The purpose of the proposed burning.
- B. The nature and quantities of materials to be burned.
- C. The date or dates when such burning will take place.
- D. The location of the burning site.

3. The Plains Township Fire Department, after receiving notification, may determine that the open burning is not allowed under this Part and the Plains Township Fire Department shall notify the applicant to this effect.

(*Ord. 2009-6, 7/9/2009, §1; Ord. 2015-1, 5/14/2015, §1*)

§7-106. Penalty.

Whoever violates any of the provisions of this Part is guilty of a summary offence subject to a fine not less than \$100 nor more than \$1,000 for each violation. A separate offense shall be deemed committed each day during or on which violation occurs continues. In addition, the offender shall be required to pay the cost of proper disposal of the material burned. The cost of proper disposal of the material burned shall be the amount it would have cost to dispose of the materials in a manner that is consist with the air, water and solid waste laws, ordinances and regulations of the Township and state.

(*Ord. 2009-6, 7/9/2009, §1; as amended by A.O.; Ord. 2015-1, 5/14/2015, §1*)

Part 2**Reimbursement for Abatement of Hazardous Material****§7-201. Authorization.**

1. Plains Township hereby authorize the Plains Township Fire Company to recover the reasonable costs in responding to calls which include, but are not limited to, costs of equipment, personal hours, hazardous abatement materials, environmental incident or safety and rescue incident or operation including vehicular accidents as well as the cost of any equipment damaged or destroyed.

2. Costs as outlined above may be recovered directly by submitting such claims by the Chief of the Fire Department to the Board of Commissioners who shall authorize the submission of claims for collection directly or through any authorized agent for collection of these costs.

3. In addition to the aforementioned reasonable costs, the fire company and the Board of Commissioners shall be authorized to collect directly through the authorized agent, reasonable interest, as well as reasonable administrative fee for collection, some and any and all additional fees as may be authorized by any statute, case law or common law.

(Ord. 2000-7, 10/12/2000)

Part 3**Fire Insurance Proceeds Escrow****§7-301. Use of Fire Insurance Proceeds.**

1. No insurance company, association of exchange (hereinafter “insurer”) doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Township of Plains, Luzerne County, Pennsylvania where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500, unless the insurer is furnished by the Treasurer of the Township of Plains with a certificate pursuant to §508(b) of the Insurance Company Law of 1921, as amended by Act 98 of 1992 and Act 93 of 1994, 40 P.S. § 638 (collectively the “Act”), and unless there is compliance with the procedures set forth in §§508(c) and 508(d) of the Act, 40 P.S. §638(c) and (d).

2. A. Where there are delinquent taxes, assessments, penalties or user charges against the property (“municipal claims”), or there are expenses which the Township has incurred as costs for removal, repair or securing of a building or other structure on the property (collectively “municipal expenses”), the Secretary of the Township shall immediately render a bill for such work, if not already done. Upon written request of the named insured specifying the description of the property, the name and address of the insurer and the date of receipt by the insurer of a loss report of the claim, the Treasurer of the Township shall furnish a certificate within 14 days after the request to the insurer either:

(1) Stating that there are no unpaid municipal claims or municipal expenses against the property.

(2) Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.

B. Taxes, assessments, penalties and user charges shall be deemed delinquent for this purpose if a lien could have been filed for such claims under applicable law. Upon receipt of a certificate and bill pursuant to Subsection A. of this Section, the insurer shall transfer to the Secretary of the Township an amount from the insurance proceeds sufficient to pay said sums prior to making payment to the named insured, subject to the provisions of Subsection 3. hereof.

3. When all municipal claims and municipal expenses have been paid pursuant to Subsection 2. of this Section or when the Township Treasurer has issued a certificate described in Subsection 2. Paragraph A. indicating that there are no municipal claims or municipal expenses against the property, the insurer shall pay the claim of the named insured; provided, however, that if the loss agreed upon by the named insured and the insurer equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures must be followed:

A. The insurer shall transfer from the insurance proceeds to the Township Treasurer, in aggregate, \$2,000 for each \$15,000 of such claim or fraction thereof.

B. If at the time a loss report is submitted by the insured, such insured has submitted to the insurer, with a copy to the Township, a contractor’s signed estimate of the cost of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurer shall transfer to the Secretary of the Township of Plains from the insurance proceeds the amount specified in the estimate. If there is more than one insurer, the transfer of proceeds shall be on a prorated basis by all insurers insuring the building or other structure.

C. Upon receipt of the above described portion of the insurance proceeds the Secretary of

the Township of Plains, Luzerne County, Pennsylvania, shall do the following:

- (1) Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Township to be required in removing, repairing or securing the building or structure as required by this Part. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Township in connection with such removal, repair or securing or any proceedings related thereto.
- (2) Mail to the named insured at the address received from the insurer a notice that the proceeds have been received by the Township and that the procedures under this Subsection 3.C. shall be followed.
- (3) After the transfer, the named insured may submit to the Township of Plains a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Township Secretary shall, if such estimates deemed by the Board of Commissioners to be reasonable, return to the insured the amount of the funds transferred to the Township of Plains in excess of that amount required to pay the municipal expenses; provided, however, that the Township has not commenced to remove, repair or secure the building or other structure in which case the Township will complete the work.
- (4) Pay to the Secretary of the Township for reimbursement to the Township General Fund, the amount of the municipal expenses paid by the Township.
- (5) Pay the remaining balance in the fund without interest to the named insured upon receipt of a certificate issued by the Township Secretary or Code Enforcement Officer that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable codes and regulations of the Township.
- (6) Nothing in this Section shall be construed to limit the ability of the Township to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this Part, or to insurance proceeds, by an action at law or in equity to enforce the Township codes or to enter into agreement with the named insured with regard to such other disposition of the proceeds as the Township may deem responsible.

(Ord. 2007-3, 7/19/2007, §1)

§7-302. Limits of Liability.

Nothing in this Part shall be construed to make an insurance company, association or exchange liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this Part or to make the Township or any public official of the Township an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this Part.

(Ord. 2007-3, 7/19/2007, §2)

§7-303. Insurance Company Rights Reserved.

An insurance company, associated or exchange making payment of policy proceeds under this Part for delinquent taxes or structural removal liens or removal expenses incurred by the Township of Plains shall have full benefit of such payment including all rights of subrogation and of assignment.

(Ord. 2007-3, 7/19/2007, §3)

§7-304. Construction.

This Part shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration.

(Ord. 2007-3, 7/19/2007, §4)

§7-305. Notification of Pennsylvania Department of Community and Economic Development.

The Secretary of the Township of Plains shall transmit a certified copy of this Part promptly to the Pennsylvania Department of Community and Economic Development.

(Ord. 2007-3, 7/19/2007, §5)

§7-306. Penalty.

Any owner of property, any named insured or insurer who violates the provisions of this Part or who shall fail to comply with any of the requirements hereof shall be sentenced upon conviction thereof to pay a fine not greater than \$1,000 plus costs and in default of payment of said fine and costs to a term of imprisonment not to exceed 30 days. Each day in which an offense shall continue shall be deemed a separate offense.

(Ord. 2007-3, 7/19/2007, §6)

Part 4**Fire Control Measures and Regulations****§7-401. Adoption of Fire Control Measures and Regulations.**

There is hereby adopted by the Plains Township Fire Department the fire control measures and regulations as herein set forth for the purposes of controlling conditions which could impede or interfere with fire suppression forces.

(Ord. 1996-3, 8/8/1996, §1)

§7-402. Authority at Fires and Other Emergencies.

The fire prevention code official or duly authorized representatives, as may be in charge at the scene of a fire or other emergency involving the protection of life and/or property, is empowered to direct such operations as may be necessary to extinguish or control any suspected or reported fires, gas leaks or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. The fire prevention code official may prohibit any person, vehicle or object from approaching the scene and may remove or cause to be removed from the scene any person, vehicle or object which may impede or interfere with the operation of the Fire Department. The fire prevention code official may remove or cause to be removed any person, vehicle or object from the hazardous areas. All persons ordered to leave a hazardous area shall do so immediately and shall not re-enter the area until authorized to do so by the fire prevention code official.

(Ord. 1996-3, 8/8/1996, §2)

§7-403. Interference with Fire Department Operations.

It shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of, or block the path of travel of any Fire Department emergency vehicle in any way, or to interfere with, attempt to interfere with, conspire to interfere with, obstruct or hamper any Fire Department operation.

(Ord. 1996-3, 8/8/1996, §3)

§7-404. Compliance with Orders.

A person shall not willfully fail or refuse to comply with any lawful order or direction of the fire prevention code official or to interfere with the compliance attempts of another individual.

(Ord. 1996-3, 8/8/1996, §4)

§7-405. Vehicles Crossing Fire Hose.

A vehicle shall not be driven or propelled over any unprotected fire hose of the Fire Department when laid down on any street, alleyway, private drive or any other vehicular roadway without the consent of the fire prevention code official in command of said operation.

(Ord. 1996-3, 8/8/1996, §5)

§7-406. Definition of Authorized Emergency Vehicle.

Authorized emergency vehicles shall be restricted to those which are defined and authorized under the laws of the State of Pennsylvania.

(Ord. 1996-3, 8/8/1996, §6)

§7-407. Operation of Vehicles on Approach of Authorized Emergency Vehicles.

Upon the approach of any authorized emergency vehicle, giving audible and visual signal, the operator of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right-hand edge or curb of the street or roadway, clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle or vehicles shall have passed, unless otherwise directed by the fire prevention code official or a police officer.

(Ord. 1996-3, 8/8/1996, §7)

§7-408. Vehicles Following Fire Apparatus.

It shall be unlawful for the operator of any vehicle, other than one on official business, to follow closer than 300 feet from any fire apparatus traveling in response to a fire alarm, or to drive any vehicle within the block or immediate area where the fire apparatus has stopped in answer to a fire alarm.

(Ord. 1996-3, 8/8/1996, §8)

§7-409. Unlawful Boarding or Tampering with Fire Department Emergency Equipment.

A person shall not without proper authorization from the fire prevention code official in charge of said Fire Department emergency equipment, cling to, attach himself or herself to, climb upon or into, board or swing upon any Fire Department emergency vehicle, whether the same is in motion or at rest, or sound the siren, horn, bell or other sound-producing device thereon, or to manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps or any equipment or protective clothing on, or a part of, any Fire Department emergency vehicle.

(Ord. 1996-3, 8/8/1996, §9)

§7-410. Damage, Injury-Fire Department-Equipment, Personnel.

It shall be unlawful for any person to damage or deface, or attempt or conspire to injure, Fire Department personnel while performing departmental duties.

(Ord. 1996-3, 8/8/1996, §10)

§7-411. Emergency Vehicle Operation.

The driver of any emergency vehicle, as defined in §7-406 of this Part, shall not sound the siren thereon or have the front red lights on or disobey any existing traffic regulation, except when said vehicle is responding to an emergency call or when responding to, but not upon returning from, a fire. Tactical strategies such as, but not restricted to, “move-ups” do not constitute an emergency call. The driver of an emergency vehicle may:

- A. Park or stand irrespective of the provisions of existing traffic regulations.
- B. Proceed past a red or stop signal or other sign, but only after slowing down as may be necessary for safe operation.
- C. Exceed the prima facie speed limit so long as the action does not endanger life or property.
- D. Disregard regulations governing direction of movement or turning in specified directions.
- E. The exemptions herein granted to an emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren or exhaust whistles as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle.

(Ord. 1996-3, 8/8/1996, §11)

§7-412. Blocking Fire Hydrants and Fire Department Connections.

It shall be unlawful to obscure from view, damage, deface, obstruct or restrict the access to any fire hydrant or any Fire Department connection for the pressurization of fire suppression systems, including fire hydrants and Fire Department connections that are located on public or private streets and access lanes, or private property. If, upon the expiration of the time mentioned in a notice of violation, obstructions or encroachments are not removed, the fire prevention code official shall proceed to remove the same. Cost incurred in the performance of necessary work shall be paid from the municipal treasury on certificate of the fire prevention code official and with the approval of the chief administrative official; and the legal authority of the municipality shall institute appropriate action for the recovery of such costs.

(Ord. 1996-3, 8/8/1996, §12)

§7-413. Hydrant Use Approval.

A person shall not use or operate any fire hydrant intended for use of the Fire Department for fire suppression purposes unless such person first secures a permit for use from the fire prevention code official and the water company having jurisdiction. This Section shall not apply to the use of such hydrants by a person employed by, and authorized to make such use by, the water company having jurisdiction.

(Ord. 1996-3, 8/8/1996, §13)

§7-414. Public Water Supply.

The fire prevention code official shall recommend to the chief administrative official of the municipality the location or relocation of new or existing fire hydrants and the placement or replacement of inadequate water mains located upon public property and deemed necessary to provide an adequate fire flow and distribution pattern. A fire hydrant shall not be placed into or removed from service until approved by the fire prevention code official.

(Ord. 1996-3, 8/8/1996, §14)

§7-415. Yard Systems.

All new and existing ship yards, oil storage plants, lumber yards, amusement or exhibition parks, and educational or institutional complexes and similar occupancies and uses involving high fire or life hazards, and which are located more than 150 feet from a public street or which require quantities of water beyond the capabilities of the public water distribution system shall be provided with properly placed fire hydrants. Such fire hydrants shall be capable of supplying fire flows as required by the fire prevention code official and shall be connected to a water system in accordance with accepted engineering practices. The fire prevention code official may require the installation of sufficient fire hose and equipment housed in accordance with the approved rules and may require the establishment of a trained fire brigade when the hazard involved requires such measures. Private hydrants shall not be placed into or removed from service until approved by the fire prevention code official.

(Ord. 1996-3, 8/8/1996, §15)

§7-416. Maintenance of Fire Suppression Equipment.

A person shall not obstruct, remove, tamper with or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of the Fire Prevention Code except for the purpose of extinguishing fire, training or testing purposes, recharging or making necessary repairs, or when permitted by the fire prevention code official. Whenever a fire appliance is removed as herein permitted, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. Defective and nonapproved fire appliances or equipment shall be replaced or repaired as directed by the fire prevention code official.

(Ord. 1996-3, 8/8/1996, §16)

§7-417. Sale of Defective Fire Extinguishers.

A person shall not sell, trade, loan or give away any form, type or kind of fire extinguisher which is not approved by the fire prevention code official, or which is not in proper working condition, or the contents of which do not meet the requirements of the fire prevention code official. The requirements of this Section shall not apply to the sale, trade or exchange of obsolete or damaged equipment for junk when said units are permanently disfigured or marked with a permanent sign identifying the unit as junk.

(Ord. 1996-3, 8/8/1996, §17)

§7-418. Street Obstructions.

A person or persons shall not erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes, wood or metal horses or any other type of obstruction in or on any street, within the boundaries of the municipality. The word “street” as used in this Part, shall mean any roadway accessible to the public for vehicular traffic, including, but not limited to, private streets or access lanes, as well as all public streets and highways within the boundaries of the municipality.

(Ord. 1996-3, 8/8/1996, §18)

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[Reserved]

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Part 1**Outdoor Solid Fuel Furnaces****§10-101. Purpose.**

1. The Constitution of the Commonwealth of Pennsylvania, Article 1, §27, provides, in pertinent part, that “the people shall have a right to clean air”.

2. In response to the enactment by Congress of the United States of the Clean Air Act, 42 U.S.C. §§7401 *et seq.*, and in recognition of the mandate of the Constitution of the Commonwealth of Pennsylvania, the Legislature of the Commonwealth of Pennsylvania has enacted the Air Pollution Control Act, Act 1992-95, §14, as amended, 35 P.S. §§4011 *et seq.*, which, at §4012 thereof, provides that a Township may enact an ordinance in respect to air pollution so long as the provisions of such ordinance “will not be less stringent than the provisions of the Air Pollution Control Act”.

3. The Board of Commissioners of the Township of Plains has considered with care certain publications, studies, reports and advisories prepared by international, national and state research and regulatory agencies and organizations inquiring into the effects and impact of the types of fuel used in and the scale and durations of the emissions produced by outdoor solid fuel furnaces. Upon that basis, the Board of Commissioners, while recognizing the economical alternatives to conventional heating systems provided by outdoor solid fuel furnaces, has determined that such appliances may create uncontrolled offensive emissions of smoke, fumes and odors into the ambient air, which can be potentially detrimental to the health and safety of the residents of the Township and can deprive neighboring residents of the rightful use and enjoyment of their property. Accordingly, the Board of Commissioners of the Township of Plains, upon the enactment of this Part, does hereby establish and impose various restrictions upon the installation, maintenance, use and operation of outdoor solid fuel furnaces within the Township of Plains so that such appliances do not create a private or public nuisance and, further, for the purpose of securing and promoting the health and comfort, convenience, safety and welfare of the person and property of the residents of the Township.

(Ord. 2009-2, 1/8/2009, §1)

§10-102. Definitions.

The following words or phrases, as the same are used herein or as the same appear in the context hereof, unless otherwise indicated, shall have the following meanings ascribed to them in this Part.

Appliance—an outdoor solid fuel furnace and all appurtenances thereto, including, but not limited to, all equipment and all components necessary to and used in connections with the installation, maintenance and use of the outdoor solid fuel furnace.

Existing appliance—an appliance that has been constructed, installed, maintained and used on or before the effective date of this Part.

New appliance—an appliance that has been constructed, installed, maintained and used after the effective date of this Part.

Outdoor solid fuel furnace—any equipment, structure, device or associated apparatus and related appurtenances, which is installed, affixed or situated outdoors for the primary purpose of the combustion of approved solid fuels to produce heat or energy by the distribution, through pipes, of a fluid heated device and used as the primary or secondary or supplementary heating system, which provides heat for interior space and/or domestic water within a structure located on residential premises and is not located within the structure to be heated or to be provided with hot water.

Person—any individual, partnership, corporation, firm, association, institution, governmental agency or entity, enterprise or any other legal entity whatsoever, which is recognized by law

as the subject of rights and duties.

Setback—the minimum horizontal distances between the front right-of-way or rear or side lines of any lot or parcel of land. When two or more lots under one ownership are used, the exterior property line so grouped shall be used in determining a setback.

Structure—a building constructed and used from human habitation, housing of farm animals or storage of equipment or material of whatever nature.

(Ord. 2009-2, 1/8/2009, §2)

§10-103. Requirements for Installation, Maintenance and Use of Outdoor Solid Fuel Furnaces.

1. All existing appliances shall be inspected within 90 days of the effective date of this Part to determine compliance with its manufacturer's installation specifications and use instructions in respect to its electrical and plumbing equipment and components only. If the existing appliance is determined as being maintained and used in compliance with such manufacturer's electrical and plumbing installation specifications and use instructions, then the existing appliance shall be registered and recorded in a registry permanently maintained by the Township of Plains. Such registry shall duly and accurately note the appliance's owner(s), street location, placement of the appliance on the lot of the owner(s), manufacturer, date of installation, date of inspection and date of the registration of the appliance. Such registry shall be available for public inspection upon request.

2. Any new appliance shall be inspected to determine compliance with its complete manufacturer's installation specifications and use instructions within 30 days of the completion of its installation. If the installation and use of the new appliance are determined to be in full compliance with such complete manufacturer's installation and use instructions, the owner of the new appliance shall be granted a permit as provided in §10-105 of this Part.

3. The location of all new appliances shall be in such place on a parcel or lot of land as in recommended in its manufacturer's installation specifications and use instructions in respect to setbacks from the lots lines of adjoining property owners, but in no event shall any new appliance be located less than 25 feet from the lot lines of adjoining property owners.

4. The only fuels permitted to be burned in an existing appliance or new appliance shall be those fuels recommended in its manufacturer's installation specifications and use instructions.

5. The residue of the spent fuel used in any outdoor solid fuel furnace shall not be disposed of in any manner that would constitute a violation of the rules and regulations of the Pennsylvania Department of Environmental Protection or the ordinance of the Township of Plains. The residue of spent fuel and any fuel debris shall not be accumulated on the premises for a period in excess of 90 days.

6. All appliances shall be operated only between September 1 and May 31, annually, unless the appliance is used as the sole source of residential interior heat and/or domestic hot water service.

(Ord. 2009-2, 1/8/2009, §3)

§10-104. Emissions from Outdoor Solid Fuel Furnaces as a Public Nuisance.

1. Notwithstanding full compliance with all of the terms and provisions of this Part or the grant of a permit for the installation, maintenance and use of an existing or new appliance or full compliance with all air quality control and management provisions of any federal, state, regional or local statutes, ordinances, rules or regulations of the Township of Plains may suspend a permit and declare the existence of a public nuisance created by emissions from any appliance upon the grounds that it is necessary to so act to protect the public health, safety and welfare of the residents of the Township of Plains and their property if any of the following conditions occur:

A. Malodorous air emissions from the appliance are detectable by persons or the public generally beyond the property of the owner(s) on whose premises the appliance is located.

B. The emissions from the appliance interfere with the rightful use and enjoyment of life

and property of another, causes severe annoyance or discomfort, is offensive or objectionable, or all of the foregoing conditions to any person who lives within the range of the emissions from the appliance into the ambient air.

C. The emissions from the appliance cause damage to vegetation or the property of another person.

D. The emissions from the appliance are or may be harmful to the health of any person or to the public generally.

2. Nothing contained in this Part shall be construed to authorize any installation, maintenance or use of any appliance that is or becomes a public or private nuisance regardless of compliance with the terms and provisions of this Part.

3. This Part shall not be a defense to any civil claims.

(Ord. 2009-2, 1/8/2009, §4)

§10-105. Permits and Permit Fees.

1. No person or entity shall cause, allow or maintain the installation or use of an appliance without first having it registered as an existing appliance or inspected and having obtained a permit issued by the Township of Plains as a new appliance within the periods of time stated in §10-103 of this Part.

2. An application for the registration of an existing appliance or for a permit for a new appliance or for a permit for any modified or suspended appliance shall be made to the Township of Plains Zoning and Code Enforcement Officer on forms furnished by the Township of Plains. The applicant shall furnish the following information on the application:

A. Name and address of the applicant (owner of appliance) and the property owner. If the appliance is installed, maintained and used on premises owned by a person other than the owner of the appliance.

B. Legal description of the property.

C. A sketch or drawing of the dimensions of the applicant's complete premises, including, locations of all structures thereon and of the appliance's proposed locations relative to adjoining property lines and the front street line and the distances from all adjoining property lines measured from the proposed location of the appliance.

D. A copy of the appliance manufacturer's installation specifications and use instructions.

3. Prior to the registration of an existing appliance or the issuance of a permit for a new, modified or suspended appliance, the Township of Plains Zoning and Code Enforcement Officer shall inspect the appliance and all associated equipment and appurtenances thereto to determine compliance with its manufacturer's installation specifications and use instructions, as provided in §10-103 and Paragraphs 4. and 5. of this Section of this Part. Prior to the registration of an existing appliance or the grant of a permit for a new, modified or suspended appliance, the Township of Plains Zoning and Code Enforcement Officer shall issue a written report of such inspection, the original of which shall be maintained as a permanent record of the Township of Plains and a copy of which shall be delivered to the owner of such appliance.

4. In the event that the maintenance and use of an appliance is suspended for any reason whatsoever for a period of 18 consecutive months, such appliance must be inspected by the Township of Plains to determine full compliance with all of the manufacturer's installation specifications and use instructions in the manner provided for new appliances in §10-103 of this Part. Should such full compliance be determined, a new permit shall be issued in the manner herein provided. A suspended appliance shall be considered as a new appliance hereunder.

5. In the event that an appliance is modified in any way or for any reason whatsoever, such appliance must be inspected by the Township of Plains to determine full compliance with all of the manufacturer's installation specifications and use instructions; provided, however, if it is an existing

appliance, which as not been relocated on the premises, the manufacturer's installation specifications and use instructions as to setbacks will not apply. Should such compliance be determined, a permit shall be issued in the manner herein provided.

6. All appliances, associated equipment and materials, and fuel used shall be subject to inspection by the Township of Plains Zoning and Code Enforcement Officer at any reasonable time to assure compliance with the terms and provisions of this Part. The Township of Plains Zoning and Code Enforcement Officer is authorized to enforce all provisions of this Part. In furtherance of his or her duty and right to such enforcement, he or she may enter upon and inspect any parcel of land for the purpose of ascertaining compliance with the provisions of this Part upon the presentation of his or her credentials to the occupant of such parcel of land.

7. A. registration of a permit may be suspended at any time for a violation by the owner/operator of the appliance and the owner of the premises to comply with all of the terms and provisions of this Part or to protect the public health, safety and welfare of the residents of the Township of Plains.

8. A suspended registration or a permit may be reinstated when the Township of Plains Zoning and Code Enforcement Officer determines that the condition(s) which resulted in the suspension is/are remedied and written reasonable assurances of the owner/operator of the appliance and the owner of the premises are given that such condition(s) shall not occur again. Recurrence of a condition, which had previously resulted in the suspension of a registration or a permit, shall be considered as a violation of this Part and shall be subject to the penalties provided herein.

9. The fee for the issuance of permits hereunder shall be the sum in an amount as established, from time to time, by resolution of the Board of Commissioners upon the enactment of this Part and shall be subject to subsequent amendment from time to time by an ordinance of the Township of Plains. [A.O.]

(Ord. 2009-2, 1/8/2009, §5; as amended by A.O.)

§10-106. Effect of Other Regulations.

Nothing contained herein shall authorize or allow burning within and emissions from or burning or combustion associate with or generated by appliances, which acts and conditions are or may in the future be prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Agency, Pennsylvania Department of Environmental Protection, or any other federal, state, regional or local agency authorized to exercise jurisdiction over air quality control management. All new appliances, and all electrical, plumbing or associated equipment or appurtenances used in connection with existing appliances, shall be installed, operated and maintained in strict conformity with the manufacturer's installation specifications and use instructions and any and all local, state and federal ordinances, codes, laws, rules and regulations.

(Ord. 2009-2, 1/8/2009, §6)

§10-107. Enforcement.

Before commencing any action in the nature of a violation of this Part, the Township of Plains Zoning and Code Enforcement Officer shall first give notice to the person charged with violating this Part. Such notice shall be in writing and shall be served personally upon such person or by posting a copy of such written notice on the premises or attaching a copy of the written notice shall be sent by United States Postal Service, certified mail, return receipt requested, to the owner of the land, building, structure or premises in or on which the appliance is located at the owner's last known address. The notice shall specify that failure to remedy the violation within ten days of the date of personal service of 12 days from the date of mailing may result in penalties to be levied against the owner of the premises if the specified violations are not remedied.

(Ord. 2009-2, 1/8/2009, §7)

§10-108. Violations and Penalties.

1. A violation of any provision of this Part shall constitute a summary offense and shall be enforced by the commencement of an action before a magisterial district judge in the same manner provided for enforcement of summary offenses under the applicable provisions of the Pennsylvania Rules of Civil Procedure. The Solicitor of the Township of Plains may assume charge of the prosecution of such violations in a manner consistent with the Pennsylvania Rules of Criminal Procedure relating to trial of summary cases, as the same may be amended from time to time. [A.O.]

2. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. [A.O.]

3. In addition to all other remedies provided herein for violations of this Part, the Township of Plains shall have the right to proceed in any court of competent jurisdiction for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with the provisions of this Part.

(Ord. 2009-2, 1/8/2009, §8; as amended by A.O.)

Part 2**Brush, Grass and Weeds****§10-201. Cutting and Removal of Noxious Vegetation Required.**

It shall be unlawful for any person owning or occupying any property within the Township of Plains to permit any grass or weeds or any vegetation whatsoever not edible or planted for some useful or ornamental purpose to grow or remain upon such premises so as to exceed a height of eight inches, or to throw off any unpleasant or noxious odor, or to conceal any filthy deposit or to create or produce pollen, provided that the cutting of such grass, weeds or other vegetation twice a month in the months of May, June, July, August and September and the removal of the grass, weeds or other vegetation so cut shall be deemed evidence that no violation of this Section shall have been created.

(Ord. 5/29/1975, §12-1)

§10-202. Duty of Owner or Occupant of Premises.

The owner of any vacant premises or premises occupied by the owner, and the occupant thereof in the case of premises occupied by other than the owner thereof, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of any of the provisions of §10-201 of this Part.

(Ord. 5/29/1975, §12-2)

§10-203. Notice to Owner or Occupant; Noncompliance.

The Board of Commissioners, or any officer of the Township designated thereby for the purpose, is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any premises whereon grass, weeds or other vegetation is growing or remaining in violation of any of the provisions of §10-201 of this Part, directing and requiring such owner or occupant to remove, trim or cut such grass, weeds or other vegetation so as to conform to the requirements of this Part within five days after the issuance of such notice. In case any person shall neglect, fail or refuse to comply with such notice within the period of time stated therein, the Township may cause such grass, weeds or other vegetation to be removed, trimmed or cut, and the cost thereof, with an additional charge of ten percent, shall be collected by the Township from such person in default, in the manner provided by law.

(Ord. 5/29/1975, §12-3)

Part 3**Alarm Devices****§10-301. Definition.**

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

Year or current year—the 12-month period commencing January 1 and ending December 31.
(Ord. 10/15/1969)

§10-302. Fee for Systems Connected to Fire or Police Department.

Each and every individual, establishment, partnership, corporation, entity or concern utilizing any direct communication, burglar or fire alarm system connected into the Departments of Fire or Police of the Township of Plains shall pay annually the amount as established, from time to time, by resolution of the Board of Commissioners to the Township of Plains for the benefits and advantages received through the use of such systems from the Departments of Fire and Police.

(Ord. 10/15/1969; as amended by A.O.)

§10-303. Time of Payment.

Said fee shall be payable by such individual, establishment, partnership, corporation, entity or concern before January 15 of each year to the Treasurer of the Township of Plains.

(Ord. 10/15/1969)

§10-304. Suspension of Service for Nonpayment.

Any individual, establishment, partnership, corporation, entity or concern who fails to pay said sum within 15 days following the above-mentioned date shall have his or her alarm connection service with the Township suspended until such time as the aforesaid fee for the current year is remitted to the Township Treasurer as aforesaid.

(Ord. 10/15/1969)

§10-305. Proration of Fee.

Any individual, establishment, partnership, corporation, entity or concern who shall initiate employment of such service during the year shall pay, on a prorated basis, an amount equal to that fractional portion of the year for which he or she is receiving said service.

(Ord. 10/15/1969)

§10-306. Inspections.

The Township shall, if it deems necessary, have the right to inspect the connection, operation and maintenance of the system and to make reasonable charges for such inspections.

(Ord. 10/15/1969)

Part 4**Disabled, Inoperable Vehicle and/or Unattended Vehicle****§10-401. Purpose.**

1. No owner or responsible person shall leave parked upon a township street, or highway or alley, on either public or private property a disabled, inoperable vehicle, and/or a vehicle that has been left parked or unattended for a period of not more than 60 days.

2. For the purpose of this Part, a disabled, inoperable vehicle shall be a vehicle that is not capable of being moved under its own power, or a vehicle with deflated tire or tires; or is partially disabled, wrecked or junked; or is not displaying current registration plate(s) or inspection stickers. A left unattended vehicle is a vehicle that can be moved under its own power but is left parked in one location over 60 days. The vehicle(s) described in this Part is one that is designed for the purpose of transporting people or property and it may be motorized or designed to be drawn by a motorized vehicle. This Part does not exclude that type of vehicle used in construction or farming activities.

3. No vehicle shall be deemed to have been moved unless the vehicle is a minimum of 500 feet from its original parked position at the time of issuance of a ticket.

(*Ord. 1996-1, 6/13/1996, §1; Ord. 2017-4, 8/10/2017*)

§10-402. Notice to Remove a Disabled, Inoperable Vehicle and/or an Unattended Vehicle.

A Plains Township Police Department parking ticket shall be issued and placed on the vehicle in violation or handed to the owner or responsible person. The parking ticket will be noted with the violation of this Part. This parking ticket will allow the owner or responsible person seven days to respond by removing the vehicle and paying the ticket penalty. The officer will indicate on this parking ticket "Vehicle Must Be Moved". The Police Department may allow additional time for the removal of a vehicle on violation of this Part if the owner or responsible person can show just cause for doing so.

(*Ord. 1996-1, 6/13/1996, §2*)

§10-403. Removal of Vehicle in Violation of this Part.

1. When the owner or responsible person fails to remove any vehicle that is in violation of this Part and after receiving notice by the issuance of a Police Department parking ticket, the Plains Township Police Department shall then cause the said vehicle to be removed and stored.

2. The said vehicle may be removed immediately when it constitutes a hazard to pedestrian or vehicular traffic or is a health, safety or fire hazard.

(*Ord. 1996-1, 6/13/1996, §3*)

§10-404. Cost of Removal and Storage.

The owner or responsible person of the vehicle in violation that has been removed or directed to be removed by the Police Department pursuant to §10-403 of this Part shall be responsible for all costs of removal and storage of the said vehicle.

(*Ord. 1996-1, 6/13/1996, §4*)

§10-405. Exceptions.

The provisions of this Part shall not apply to such a vehicle that is enclosed or stored in a building, or to a vehicle on the premises of a business enterprise when it is necessary to the operation of the business or to a vehicle in an appropriate storage place or depository unless such storage constitutes or contributes to a safety, health or fire hazard, or has become a public nuisance.

(Ord. 1996-1, 6/13/1996, §5)

§10-406. Mechanical Repairs Prohibited.

No owner or responsible person shall perform or permit another person to perform mechanical repairs upon any vehicle while it is parked or left standing on any Township streets, highways or alleys.

A. Major repairs are those that require the changing of a motor transmission, drive shafts, exhaust systems, the changing of vehicle fluids or the changing of body parts.

B. Exception: this Section does not apply to emergency repairs such as the changing of a flat tire, or to the duties of tow truck drivers and operators in order to prepare a vehicle to be moved or towed to a place of repair.

C. No vehicle shall leak fluids upon Township streets, highways, alleys or public or private properties:

(1) The owner or responsible person shall clean the roadway in the event of vehicular leakage in order to deter health and safety hazards or public nuisances. Fluids shall include gasoline, diesel fuels, transmission oils, motor oils, anti-freeze and differential fluids.

(2) Cleaning shall consist of the washing down of the roadway for some fluids and the use of sand, sawdust or other absorbent material to collect any oily based fluids and the proper disposal of the material.

(Ord. 1996-1, 6/13/1996, §6)

§10-407. Permitting Violation Prohibited.

No person or responsible person shall allow any violation of this Part to occur on his or her property. Whoever violates any of the provisions of this Part shall, upon conviction, pay all fines and costs set forth within this Part.

(Ord. 1996-1, 6/13/1996, §7)

§10-408. Penalties.

The owner or responsible person that has received a parking ticket for any of the aforementioned violations in this Part shall pay a fine of \$100 if paid within seven days. Failure to pay the parking ticket in the required time shall result in the filing of a non-traffic citation and then, upon conviction, the owner or responsible person shall pay a fine of not less than \$300 nor more than \$1,000, plus the costs of prosecution and/or up to 30-days' imprisonment. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 1996-1, 6/13/1996, §8; as amended by A.O.; Ord. 2017-4, 8/10/2017)

§10-409. Conflict.

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this Part are hereby repealed to the extent of such inconsistency or conflict.

(Ord. 1996-1, 6/13/1996, §10)

Part 5**Nuisances****§10-501. Definition.**

For the purposes of this Part:

Nuisance—as any person doing an unlawful act, or omitting to perform a duty, or suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either:

- (1) Injures or endangers the comfort, repose, health or safety of others; or
- (2) Offends decency; or
- (3) Is offensive to the senses; or
- (4) Unlawfully interferes with, obstructs or tends to obstruct or renders dangerous for passage any public or private street, highway, sidewalk, stream, ditch or drainage; or
- (5) In any way renders other persons insecure in life or the use of property; or
- (6) Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of others.

(Ord. 1996-2, 6/13/1996, §1; Ord. 2014-1, 1/9/2014, §1)

§10-502. Illustrative Enumeration of Nuisances.

The maintaining, using, placing, depositing, leaving or permitting to be or remain on any public or private property of any of the following items, conditions or actions are hereby declared to be and constitute a nuisance; provided, however, this enumeration shall not be deemed or construed to be conclusive, limiting or restrictive:

- A. Weeds, grass or other rank vegetation to a height greater than eight inches on average.
- B. Accumulation of dead weeds, grass or brush.
- C. Poison ivy, ragweed or other poisonous plants, or plants detrimental to health growing on any lot in such a manner that any part of such vegetation shall extend upon, overhang or border any neighboring property or such as to allow seed, pollen or other poisonous particles or emanations therefrom to be carried through the air into any public place.
- D. Trees, shrubs, plants or vegetation which overhangs any sidewalk or street, or which grown thereon in a manner as or obstruct or impair the free and full use of the sidewalk or street by the public, including the interruption or interference with the clear vision of pedestrians or persons operating vehicles thereon. Such obstruction impairment or interference with clear vision shall be determined at the sole discretion by the Township Official called to inspect any such condition.
- E. Trees, shrubs, plants or vegetation which interferes with electrical poles, wires, pipes or fixtures, or the roots of which interfere with or cause the surface of the street, sidewalk or curb to be up heaved or disturbed.
- F. Accumulation of rubbish, trash, refuse, junk and other abandoned materials, metals, lumber or other things.
- G. Any condition which provides harborage for rats, mice, snakes and other vermin.
- H. Any building or other structure which is in such a dilapidated condition that it is unfit for human habitation, or kept in such an unsanitary condition that it is a menace to the health of people residing in the vicinity thereof, or presents a more than ordinarily dangerous fire hazard in the vicinity where it is located.

- I. All unnecessary or unauthorized noises and annoying vibrations, including animal noises.
- J. All disagreeable or obnoxious odors and stench, as well as the conditions, substances or other causes which give rise to the emission or generation of such odors and stench.
- K. The carcasses of animals or fowl not disposed of within a reasonable time after death.
- L. The pollution of any public well or cistern, stream, lake, canal or body of water by sewage, dead animals, creamery, industrial wastes or other substances.
- M. Any building, structure or other place or location where any activity which is in violation of local, state or federal law is conducted, performed or maintained.
- N. Any accumulation of stagnant water permitted or maintained on any lot or piece of ground.
- O. Dense smoke, noxious fumes, gas, soot or cinders, in unreasonable quantities.

(*Ord. 1996-2, 6/13/1996, §2; Ord. 2014-1, 1/9/2014, §2; Ord. 2014-5, 8/14/2014, §1*)

§10-503. Nuisance Prohibition.

It shall be unlawful for any person to cause, permit, maintain or allow the creation or maintenance of nuisance.

(*Ord. 1996-2, 6/13/1996, §3; Ord. 2014-1, 1/9/2014, §3*)

§10-504. Notice to Abate.

Whenever a nuisance is found to exist within the Township, the Township Code Enforcement Officer, Fire Chief, Police Chief or some other duly designated officer of the Township shall give seven days written notice to the owner and/or occupant of the property upon which such nuisance exists or upon the causing or maintaining the nuisance. If the nuisance is not abated within seven days of the notice the party providing notice of the nuisance may file a citation with the local magistrate for assessment of any penalties, fines or costs incurred by the Township.

(*Ord. 1996-2, 6/13/1996, §4; Ord. 2014-1, 1/9/2014, §4; Ord. 2014-5, 8/14/2014, §1*)

§10-505. Contents of Notice to Abate.

The notice to abate a nuisance issued under the provisions of this Part shall contain:

- A. An order to abate the nuisance or to request a hearing within a stated time, which shall be reasonable under the circumstances; such hearing shall take place before the Plains Township Board of Commissioners within ten days of the date of a written request for this hearing. All requests for hearings must be put in writing and delivered to the Township Official who provided the notice to abate the nuisance.
- B. The location of the nuisance, if the same is stationary.
- C. A description of what constitutes the nuisance.
- D. A statement of acts necessary to abate the nuisance.
- E. A statement that if the nuisance is not abated as directed and no request for hearing is made within the prescribed time, the Township will abate such nuisance and assess the cost thereof against such person.

(*Ord. 1996-2, 6/13/1996, §5; Ord. 2014-1, 1/9/2014, §5*)

§10-506. Service of Notice.

Proper service of the notice of abatement under this Part shall be by personal service or registered mail with return receipt requested upon the person responsible for the nuisance and the owner of the property it employees, agent or representative. If in the event the owner and/or person responsible whereabouts are unknown or refuse acceptance of service the notice of abatement may be

posted at the property so it is clearly visible to anyone entering the premises.

(*Ord. 1996-2, 6/13/1996, §6; Ord. 2014-1, 1/9/2014, §6; Ord. 2014-5, 8/14/2014, §1*)

§10-507. Abatement by Township.

Upon the failure of the person upon whom notice to abate a nuisance was served pursuant to the provisions of this Chapter to abate the same, the Township Chief of Police or other duly designated officer of the Township shall proceed to abate such nuisance and shall prepare a statement of costs incurred in the abatement thereof.

(*Ord. 1996-2, 6/13/1996, §7; Ord. 2014-1, 1/9/2014, §7*)

§10-508. Emergency Abatement by Township.

When, in the opinion of the Township Code Enforcement Officer, Fire Chief, Police Chief or other duly designated officer, there is actual and immediate danger to the public or occupants of a particular premises caused by a nuisance on such premises, the Township Code Enforcement Officer, Fire Chief, Police Chief or other duly designated officer is hereby authorized and empowered, without any notice or hearing to order and require such premises to be vacated. The Township Code Enforcement Officer, Fire Chief, Police Chief or other duly designated officer shall immediately post the premises, warning of the dangerous condition, and shall then abate such nuisance and prepare a statement of costs incurred in the abatement thereof.

(*Ord. 1996-2, 6/13/1996, §8; Ord. 2014-1, 1/9/2014, §8*)

§10-509. Township's Costs Declared Lien.

Any and all costs, fines or penalties assessed against the owner of any property for which a citation under this Part is issued shall constitute a lien against the property if these costs are not paid within 45 days of assessment by Court assessing such fees. Such lien may be filed and collected as the Township deems proper and as provided by law.

(*Ord. 1996-2, 6/13/1996, §9; Ord. 2014-1, 1/9/2014, §9; Ord. 2014-5, 8/14/2014, §1*)

§10-510. Additional Remedies.

The Township may pursue the additional remedies under this Chapter as authorized by the First Class Township Code, 53 P.S. §§55101 *et seq.*, as reenacted, revised and amended by the institution of proceedings in courts of equity.

(*Ord. 1996-2, 6/13/1996, §10; Ord. 2014-1, 1/9/2014, §10*)

§10-511. Enabling Authority.

This Part is enacted pursuant to the authority granted in the First Class Township Code, 53 P.S. §§55101 *et seq.*

(*Ord. 1996-2, 6/13/1996, §11; Ord. 2014-1, 1/9/2014, §11*)

§10-512. Penalty.

Any person or persons, firm or corporation violating any of the provisions of this Part shall upon summary conviction thereof in a summary proceeding before the Magistrate of the Township be sentenced to pay a fine not less than \$100 nor more than \$300 and costs, and in default of the payment of such fine and costs, be imprisoned in the county jail for a period not exceeding 90 days. Each and every day upon which any person or persons, firm or corporation violates or continues to violate the provisions of this Part, shall constitutes a separate offense.

(*Ord. 1996-2, 6/13/1996, §12; as amended by A.O.; Ord. 2014-1, 1/9/2014, §12; Ord. 2014-5, 8/14/2014, §1*)

Part 6

Knox Boxes

§10-601. Required for New Commercial Buildings.

All new commercial buildings shall be required to install a Knox Box, of a Underwriters Laboratory (UL) type and size approved by the Township Fire Inspector in a location approved and specified by the Township Fire Inspector prior to the issuance of an occupying permit.
(Ord. 2017-5, 8/10/2017)

§10-602. Required for Existing Commercial Buildings with Improvements.

All existing commercial buildings constructing improvements that require the Township Planning Commission or Board of Commissioners approval, shall install a Knox Box of a Underwriters Laboratory (UL) type and size as approved by the Township Fire Inspector, in a location approved and specified by the Township Fire Inspector prior to the issuance of any construction permit.
(Ord. 2017-5, 8/10/2017)

§10-603. Knox Boxes for Existing Commercial Buildings.

All existing commercial buildings may voluntarily install a Knox Box of a Underwriters Laboratory (UL) type and size, but should first seek approval of the type, size and location of the Knox Box from the Township Inspector.
(Ord. 2017-5, 8/10/2017)

§10-604. Contents.

All Knox Boxes should contain labeled keys that are easily identifiable and provide access into all properties/buildings and any locked areas within said building as the Township Fire Department may direct.
(Ord. 2017-5, 8/10/2017)

§10-605. Locked Gates or Driveways.

Any locked gates or driveways that, when unlocked, provide access to the commercial property/building, are required to place a Fire Department access lock at the access point of the gate or driveway to allow immediate emergency access to the commercial property. All locks on gates and driveways not already existing, need to be approved by the Township Fire Inspector.
(Ord. 2017-5, 8/10/2017)

§10-606. Penalties.

Any firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$300, nor more than \$1,000, plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.
(Ord. 2017-5, 8/10/2017)

Chapter 11

Housing

Part 1

Landlord/Tenant Regulations, Licensing and Occupancy

- §11-101. Short Title
- §11-102. Definitions
- §11-103. Inspection Required
- §11-104. Frequency of Inspections
- §11-105. Inspection Certificate Housing Statistical Report Required Procedure
- §11-106. Inspection Procedure
- §11-107. Inspection of Dwelling for Lease or Rent
- §11-108. Contents of Housing Report
- §11-109. Request for Inspection
- §11-110. Housing Report
- §11-111. Issuance or Denial of Occupancy
- §11-112. Certificate Review Prior to Tenant Occupancy
- §11-113. Option of Review by Occupant/Tenant
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- §11-121. Owners Duties
- §11-122. Occupant Duties
- §11-123. Occupancy Certificate and Inspection
- §11-124. Inspection Before or After Sale of Premises
- §11-125. Grounds for Non-Renewal Suspension or Revocation of License
- §11-126. Violations and Penalties
- §11-127. Remedies
- §11-128. Nuisance Injunction
- §11-129. Applications

Part 1**Landlord/Tenant Regulations, Licensing and Occupancy****§11-101. Short Title.**

This Part shall be known and may be cited as the “Plains Township Landlord/Tenant Regulations, Licensing and Occupancy Ordinance”.

(Ord. 2013-1, 1/10/2013, §1)

§11-102. Definitions.

As used in this Part, the following terms shall have the following meanings; unless the context clearly indicates that a different meaning is intended:

Dwelling unit—a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Renters report—this is a form which will be submitted to the Plains Township Code Enforcement Office within 30 days of the execution of any rental agreement of the date which the possession of the rental unit is transferred to the occupant or tenant. This document shall contain the property location, the contact information of the owner, manager (if applicable), occupant and tenant and the start date for the term of the rental agreement.

Rooming unit—any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(Ord. 2013-1, 1/10/2013, §2)

§11-103. Inspection Required.

1. All two-family and single-family dwellings, multi-family dwellings, boarding houses, rooming houses, lodging houses, tourist houses, hotels that rent to permanent residents and dormitories shall be inspected systematically for compliance with this Part and all other applicable laws.

2. The provisions of this Section shall not apply to:

A. Dwellings, buildings, structures and uses owned and operated by any governmental agency, hospitals and nursing homes.

B. Dwelling, buildings, structures and uses licensed and inspected by the state.

C. Hotels that do not rent to permanent residents.

D. Residential units occupied by members of a group home under an IRC §501(c)(3) recognized entity.

3. Where a nonresidential business or activity, or a state-licensed and inspected use occupies a portion of a building and premises which would be otherwise subject to this Part, the provisions of this Part shall be applicable to the residential and common or public areas of such building and premises.

(Ord. 2013-1, 1/10/2013, §3)

§11-104. Frequency of Inspections.

1. All rental dwellings subject to the Section shall be inspected upon entering into a lease agreement, written or otherwise, for any new tenant occupying a dwelling.

2. Neither the common areas nor the dwelling or rooming units in structures newly constructed shall be further inspected after the completion and issuance of certificate of occupancy for a period of three years from the date of said certificate, unless a complaint is made thereof. Thereafter, said areas

and units shall be inspected in accordance with the requirements of this Part.

3. Nothing in this Section shall preclude the inspection of said dwellings before occupying by a new tenant upon written complaint by tenant occupying any residential or commercial unit.

4. Residential rental units occupied by immediate members of the owner's family provided that not more than two unrelated individuals, in addition to the immediate members of the owner's family, occupy the dwelling unit at any time.

(Ord. 2013-1, 1/10/2013, §4)

§11-105. Inspection Certificate Housing Statistical Report Required Procedure.

No person shall rent, let or let for occupancy any dwelling subject to this Part without having a valid, current certificate of inspection for that dwelling housing report.

(Ord. 2013-1, 1/10/2013, §5)

§11-106. Inspection Procedure.

1. If, upon completion of the inspection, the premises are found to be in compliance with all applicable Township codes and ordinance and the appropriate fee has been paid, the Township shall issue a certificate of inspection for the premises.

2. If, upon completion of the inspection, the premises are found to be in violation of one or more provisions of applicable Township codes and ordinances, the Township shall provide written notice of such violations and shall set a re-inspection date before which such violation shall be corrected. If such violations have been corrected within that period, the Township shall issue a certificate of inspection for the premises. If such violations have not been corrected within that period, the Township shall not issue the certificate of inspection and may take any action necessary to enforce compliance with applicable Township codes and ordinances. If such uncorrected violations do not pose an immediate threat to the health, safety, and welfare of the occupants, the Township Code Enforcement Officer or the Township Code Enforcement Officer's designee may authorize the occupancy of the premises for a period not to exceed 90 days.

3. The Code Enforcement Officer shall review the information contained within the renter's report to determine the issuance or denial of an occupancy as provided in §11-102 of this Part.

(Ord. 2013-1, 1/10/2013, §6)

§11-107. Inspection of Dwelling for Lease or Rent.

It shall be the obligation of every owner, landlord and manager of a dwelling unit, as defined in §11-102 of this Part, to notify the Code Enforcement Officer upon listing, advertising or offering said dwelling unit(s) for lease or rent. The Code Enforcement Officer shall provide a "housing report" for said rental unit(s) based upon physical inspection of said rental units. Housing reports shall be valid for so long as that tenant or tenants remain at that dwelling unit.

(Ord. 2013-1, 1/10/2013, §7)

§11-108. Contents of Housing Report.

The housing report furnished by the Code Enforcement Officer to the owner, landlord and/or manger will contain the following:

- A. The street address or other appropriate description of subject dwelling unit(s).
- B. A statement of zoning classification applicable to the subject dwelling unit(s).
- C. A statement concerning the conformity or nonconformity of existing uses maintained within the dwelling unit(s) and violations of the Zoning Ordinance [Chapter 27], if any, existing at the time of inspection.
- D. A statement concerning variances and/or use permits issued to date which affect said dwelling unit(s).
- E. A statement of housing code violations, if any, existing at the time of inspection in

conformance with this Part.

(Ord. 2013-1, 1/10/2013, §8)

§11-109. Request for Inspection.

The owner of any dwelling subject to this division may request inspections of said dwelling at any time subject to the fee schedule in §11-116.

(Ord. 2013-1, 1/10/2013, §9)

§11-110. Housing Report.

The Code Enforcement Officer when preparing a housing report shall inspect the following items for conformance with the Township building codes and shall determine whether a minor or major infraction exists for each and any item listed. If said infraction shall be considered a hazard of the safety, health and welfare of the occupants or the public and declared unfit for human habitation then no occupancy permit shall be issued until such time as these infractions are corrected. Said information shall include, but are not limited to, the following:

A. *Basic equipment and facilities.*

- (1) Kitchen sink not provided.
- (2) Lavatory basin not provided.
- (3) Toilet not provided.
- (4) Tub or shower not provided.
- (5) Bathroom or toilet not properly enclosed.
- (6) Hot and cold water not provided to kitchen sink, lavatory basin, tub or shower.
- (7) Water heating facilities not provided.

B. *Light, ventilation and heating.*

- (1) Ventilation not adequate for bathroom.
- (2) Two electrical outlets, or one outlet and one light fixture, not provided for each habitable room.
- (3) Heating facilities inadequate or of unapproved type.
- (4) Fire sensor/alarm.

C. *Structural.*

- (1) Porch defective.
- (2) Outside steps defective.
- (3) Exterior wall structurally not weather tight.
- (4) Exterior wall structurally unsafe.
- (5) Roof not weather tight.
- (6) Chimney in need of repairs.
- (7) Exterior openings not weather tight.
- (8) Exterior openings not in working condition.
- (9) Foundation not watertight or rodent-proof.
- (10) Inside stairs not safe.
- (11) Handrails not provided on exterior nor interior stairs.
- (12) Floors are defective.
- (13) Joists are defective.
- (14) Patch plastering needed lack of adequate fire escape.
- (15) Plumbing fixture or pipes leaking or obstructed.

- (16) Plumbing fixture or pipes not properly installed.
- (17) Plumbing fixtures not maintained in sanitary conditions.
- (18) Bathroom or lavatory floor not impervious.
- (19) Bathroom or lavatory floor not maintained in sanitary condition.
- (20) Heating facilities not maintained in safe, working condition.
- (21) Drainage system defective.
- (22) Kitchen range defective.
- (23) Defective wiring.
- (24) Lighting fixtures broken, defective or improperly installed.
- (25) Flexible cords used for branch wiring.
- (26) Sockets, switches or receptacles broken.
- (27) Cover-plates broken or missing from switches, receptacles or outlet boxes.
- (28) Any such requirements under the UCC or IMPC adapted by the Township.
- (29) Range hood for open flame gas stove tops.

(Ord. 2013-1, 1/10/2013, §10)

§11-111. Issuance or Denial of Occupancy.

1. Code Enforcement Officer shall review the information contained within the “housing report”. Based upon said review the Code Enforcement Officer may issue an occupancy license, and deliver said occupancy certificate the owner/landlord and/or agent who lists, advertises or offers a rental unit(s) for lease or rent.
2. The Code Enforcement Officer shall deliver the occupancy certificate to the owner/landlord and/or agent of said rental unit(s). The occupancy certificate shall be transferred and delivered by the owner/landlord and/or manager to the occupant and tenant(s) of said rental unit(s) upon execution of the rental agreement and/or at the time the occupant and tenant(s) may take-possession, whichever is earlier.
3. The Code Enforcement Officer shall provide and deliver to the owner/landlord and/or manager written notice and explanation for the denial of a occupancy certificate for any rental unit listed, advertised or offered for lease or rent.
4. In the event the Code Enforcement Officer denies the occupancy certificate the owner/landlord and/or manager shall be permitted to apply for an inspection of the failed rental unit(s). In the event the occupancy certificate is denied three times within a one-year period, the owner/landlord and/or manager shall not be permitted to apply for an inspection for at least 90 days from the date of the third failed inspection in order to provide adequate time for the correction of any and all outstanding problems as listed by the Code Enforcement Officer. No owner/landlord and/or agent shall permit any occupants or tenants to occupy the rental unit until the occupancy license is issued. Failure to adhere to this Section shall cause the owner/landlord and/or agent to be subject to the same penalties set forth in §11-127 governing penalties.
5. Should the rental unit be occupied at the time of an inspection and said inspection fails, the tenant shall be permitted to remain for 30 days to provide ample time for the corrections, repairs or upgrades to be made by the owner, landlord, manager or tenant. A re-inspection shall be held no later than 35 days from the failed inspection. If the second inspection fails and owner, landlord, manager or tenant cannot provide good cause for why the repairs, corrections or upgrades have not been made and there is no hazard to health, safety or welfare of the tenant or any other individual as determined by the Code Enforcement Officer, the tenant shall be permitted to remain for an additional 30 days. At no time shall a Code Enforcement Officer be permitted to allow any tenant to remain in a rental unit which has failed an inspection for more than 60 days, after a failed second inspection.

(Ord. 2013-1, 1/10/2013, §11)

§11-112. Certificate Review Prior to Tenant Occupancy.

It shall be the obligation of every owner, landlord and manager to allow the occupant(s) and tenant(s) to review the occupancy certificate or written notice denying the occupancy as provided in §11-111 to the occupant(s) and tenant(s) prior to the execution of any rental agreement for the dwelling(s), prior to the transfer of possession of the dwelling(s) and prior to the exchange of any monetary sum relative to the lease of the rental unit(s).

(Ord. 2013-1, 1/10/2013, §12)

§11-113. Option of Review by Occupant/Tenant.

1. The occupant(s) and tenant(s) shall have the right to review the information contained within the housing report or to waive the right to review the housing report prior to entering into a rental agreement.

2. The Code Enforcement Officer shall deliver to the owner, landlord and manager a “renter report” as defined in §11-102. Said form shall be delivered to the owner, landlord and manager at the time when the Code Enforcement Officer delivers the occupancy certificate or written notice denying the occupancy certificate. It shall be the obligation of every owner, landlord and manager to deliver the “renter report” to the occupant(s) and/or tenant(s) prior to execution of the rental agreement for the dwelling(s), prior to the transfer of possession of the rental unit(s) and prior to the exchange of any monetary sum relative to the lease of the dwelling(s), should a rental agreement not be utilized.

3. Should the occupant(s) and tenant(s) wish to review the housing report, the Code Enforcement Officer will make arrangements for such and such occupant(s) and tenant(s) shall sign such report acknowledging they have reviewed the report.

(Ord. 2013-1, 1/10/2013, §13)

§11-114. Period of Notice.

1. Six months from date of inspection, if a rental unit(s) has not been rented or leased, the conclusiveness of the housing report must be either endorsed, as described in §11-110, or altered, by a new inspection to indicate appropriate changes. The housing report will only indicate violations and conditions as of the date of inspection. Said housing report does not indicate violations and/or corrections of such occurring between the date of inspection and the date of a rental agreement for a dwelling(s), or transfer of possession of the rental unit(s) when a rental agreement is not utilized, and of exchange of a monetary sum relative to the lease of a rental unit(s).

2. However, upon the request of owner/landlord and/or manager, prior to the expiration of the six-month period referred to in Subsection 1. above, the Code Enforcement Officer may request and additional inspection extending its conclusiveness for up to two additional three-month periods, showing any change to the information shown on the original housing report. Each re-inspection however, shall extend the conclusiveness of the housing report for only three months.

(Ord. 2013-1, 1/10/2013, §14)

§11-115. Notice to Plains Township Zoning Officer.

1. After the occupancy license has been issued, and within 30 days of the execution of any rental agreement, or upon transfer of possession of the regulated rental unit(s) to any occupant(s) and/or tenant(s), whichever is earlier, the owner/landlord and/or manager must file a renter’s report with the Plains Township Zoning Officer which shall list the following:

- A. Name, address and contact number of owner/landlord and/or manager.
- B. Name of the occupants and tenants.
- C. Location, including street address and apartment number, of rental unit(s).

D. Term of rental agreement.

E. Date term shall commence.

2. Forms for obtaining this information shall be made available at the Plains Township Municipal Building during regular business hours.

3. It shall be the intent of this Section to maintain the proper information on record for such needs of the Township, including, but limited to, tax collection, census counting and head counting used in obtaining state and/or federal aid or grants.

(*Ord. 2013-1, 1/10/2013, §15*)

§11-116. Fees.

1. Fees for each inspection required by this Part shall be established from time to time by resolution of the Board of Commissioners. [A.O.]

2. Fees for each re-inspection required by this Part shall be established from time to time by resolution of the Board of Commissioners. [A.O.]

3. The units enumerated above shall include units used or occupied by the owner or the owner's representative.

4. For purposes of this Section, the term "unit" shall mean either residential or commercial unit.

(*Ord. 2013-1, 1/10/2013, §16; as amended by A.O.*)

§11-117. Exceptions.

The housing report set forth in §11-110 shall not be required for rental unit(s) should any of the following conditions be applicable:

A. Where such rental unit(s) is intended to be demolished and a valid demolition permit has been obtained from the Township of Plains.

B. Where such rental unit(s) is given as a gift inter-family, i.e., husband and wife, parents and children and spouses of children.

(*Ord. 2013-1, 1/10/2013, §17*)

§11-118. Disclaimer Waiver.

Notwithstanding any other law or ordinance, the provisions of this Part may not be waived or disclaimed by an oral or written agreement executed by any owner/landlord and/or manager or occupant or tenant.

(*Ord. 2013-1, 1/10/2013, §18*)

§11-119. Liability of the Township.

The housing report shall be compiled from the records of the Township of Plains and from an inspection of the rental unit(s). Neither the enactment of this Part nor the preparation and delivery of any housing report required hereunder shall impose any liability upon the Township of Plains, or officers or employees thereof, for any errors or omissions contained in such housing report nor shall the Township of Plains bear any liability not otherwise imposed by law.

(*Ord. 2013-1, 1/10/2013, §19*)

§11-120. Filing of Appeal.

1. Appeals from the findings set forth in the housing report must be filed in writing with the Board of Commissioners of Plains Township within seven business days after issuance of said housing report, who will refer the appeal to the Board or Boards as follows:

A. Code Enforcement Board of Appeals, where the conditions reported constitute violations of the applicable codes of the Township of Plains or deal with the suitable of any rental

unit or structure, with regard to the health, safety and welfare of our citizens for continued occupancy.

B. The Zoning Hearing Board, where the findings set forth in the housing report relate to matters concerning the classification and the use of property under the Zoning Ordinance [Chapter 27] of the Township of Plains.

2. Any party(s) may appeal decisions of the Code Enforcement Board of Appeals or the Zoning Hearing Board to any court of competent jurisdiction. Said appeal should be taken within 30 days of the date of the written decision.

A. All appeals under this Section must be made in writing to the Appeal Board and directed to the care of the Municipal Secretary addressed to the municipal building. Said appeal must specify the decision that is being appealed and state the reason or reasons thereof and facts in support of said appeal. Further any said appeal must be accompanied by a fee in an amount as established from time to time by resolution of Board of Supervisors payable to the Township which should be applied to cover the costs of this hearing. This fee should be refunded to the appellant if the Board hearing the appeal reversed the decision of the Code Enforcement Officer. [A.O.]

B. The Board whom the appeal is to be heard should schedule a hearing within 30 days of receipt of this appeal. A stenographer record shall be made by the hearing board as to any testimony concerning the appeal. A written decision shall be made by the hearing board and its solicitor within 20 days of the date of the completion of any testimony provided at the appeal. Said decision shall be served upon the appellant and the Code Enforcement Officer.

(Ord. 2013-1, 1/10/2013, §20; as amended by A.O.)

§11-121. Owner's Duties.

1. *General.*

A. It shall be the duty of every owner to keep and maintain all rental units in compliance with all applicable codes and provisions of all other applicable state laws and regulations and local ordinances, and to keep such property in good and safe condition.

B. As provided for in this Part, every owner shall be responsible for regulating the proper and lawful use and maintenance of every rental unit which he, she or it owns. As provided for in this Part, every owner shall also be responsible for regulating the conduct and activities of the occupants of every rental unit which he, she or it owns in the Township, which conduct or activity takes place at such rental unit or its premises.

C. In order to achieve those ends, every owner of a rental unit shall regulate the conduct and activity of the occupants thereof both contractually and through enforcement, as more fully set forth below.

D. This Section shall not be construed as diminishing or relieving, in any way, the responsibility of occupants or their guest for their conduct or activity, nor shall it be construed as an assignment, transfer or projection over or onto any owner of any responsibility or liability which occupants or their guests may have as a result of their conduct or activity under any private cause of action, shall this Section be construed so as to require an owner to indemnify or defend occupants or their guests when any such action or proceeding is brought against the occupant based upon the occupant's conduct or activity. Nothing herein is intended to impose any additional civil/criminal responsibility upon owners other than that which is imposed by existing law.

E. This Part is not intended to, nor shall its effect be, to limit any other enforcement remedies which may be available to the Township against an owner, occupant or guest thereof.

2. *Designation of manager.* Every owner who is not a full-time resident of the Township of Plains, or elsewhere in an area that is not within a 20-mile radius of the Township of Plains, shall designate a manager who shall reside in an area that is within a 20-mile radius of the Township of Plains. If the owner is a corporation, a manager shall be required if an officer of the corporation does not reside within the aforesaid area. If an officer does reside in the area, the officer shall preform the same function as a manager. If the owner is a partnership, a manager shall be required if all partners do not reside within the aforesaid area. Any partner that does reside in the area shall perform the same function as a manager. The manager shall be the agent of the owner for service of process and receiving of notices and demands, as well as for performing the obligations of the owner under this Part and under rental agreements with occupants. The identity, address and telephone number(s) of a person who is designated as manager hereunder shall be provided by owner or manager to the Township, and such information shall be kept current and updated as it changes.

3. *Disclosure.*

A. Owner or manager shall disclose to the occupant in writing on or before the commencement of the tenancy:

- (1) The name, address and telephone number of the manager, if applicable.
- (2) The name, address and telephone number of the owner of the premises.

B. Before an occupant initially enters into or renews a rental agreement for a regulated rental unit, the owner or manager shall furnish the occupant with the most recent inspection housing report relating to the rental unit.

4. *Maintenance of premises.*

A. The owner shall maintain the premises in compliance with the applicable codes of the Township and shall regularly perform all routine maintenance, including lawn mowing and ice and snow removal, and shall promptly make any and all repairs necessary to fulfill his or her obligation.

B. The owner and occupant may agree that the occupant is to perform specified repairs, maintenance tasks, alterations or remodeling. In such case, however, such agreement between the owner and occupant must be in writing. Such an agreement may be entered into between the owner and occupant only if:

- (1) The agreement of the parties is entered into as good faith and not for the purpose of evading the obligations of the owner or occupant.
- (2) The agreement does not diminish or affect the obligation of the owner to other occupants in the premises.

C. In no case shall the existence of my agreement between owner and occupant relieve an owner of any responsibility under this Part or other ordinances or codes for maintenance of premises.

5. *Complaints.* The owner or manager shall reply promptly to reasonable complaints and inquiries from occupants.

6. *Landlord/Tenant Act.* The owner shall comply with all provisions of the Landlord/Tenant Act of the Commonwealth of Pennsylvania, 68 P.S. §§250.101 *et seq.*

7. *Common area.* Where an owner does not regulate the use of common areas and the behavior of occupants and guests in the common areas, the owner shall be directly responsible for the behavior of occupants and guests in the common area as if the owner were and occupant.

8. *Enforcement.* In the event that the same occupant is convicted of a third disruptive conduct violation within a license year, the Code Enforcement Officer shall direct the owner to take all action necessary to evict the occupant who violated this Part and not to permit the occupant to occupy the premises during any subsequent licensing.

9. *Code violations.* Upon receiving notice of any code violations from the Code Enforcement Officer, the owner shall promptly take action, or cause the necessary action to be taken to abate the offending condition and eliminate the violation.

10. *Township can make repairs.* In case the owner of premises shall neglect, fail or refuse to comply with any notice from the Township or its Code Enforcement Officer to correct a violation relating to maintenance and repair of the premises under any code within the period of time stated in such notice, the Township may cause the violation to be corrected. There shall be imposed upon the owner a charge of the actual costs involved, plus ten percent of said costs for each time the Township shall cause a violation to be corrected; and the owner of the premises shall be billed after same has been completed. Any such bill which remains unpaid and outstanding after the time specified therein for payment shall be grounds for the imposition of a municipal lien upon the premises as provided by law. Such a lien may be reduced to judgment and enforced and collected as provided by this Subsection 10. are not exclusive and the Township and its Code Enforcement Officer may invoke such other remedies available under this Part or other applicable codes, ordinances or statutes, including where appropriate, condemnation proceedings or declaration of premises as unfit for habitation, or suspension, revocation or non-renewal of the occupancy certificate issued hereunder. (Ord. 2013-1, 1/10/2013, §21)

§11-122. Occupant Duties.

1. *Health and safety regulations.*

A. The maximum number of persons permitted to reside in any rental unit shall not exceed four unless they are related by blood, marriage or legal adoption, then it shall not exceed six.

B. The occupant shall dispose from his or her rental unit all rubbish, garbage and other waste in a clean and safe manner, and separate and place for collection all recyclable materials in compliance with the recycling schedule and garbage collection set forth by the Township.

2. *Peaceful enjoyment.* The occupant shall conduct himself or herself and require other persons, including, but not limited to, guests on the premises and within his or her rental unit with his or her consent, to conduct themselves in a manner compliant with the ordinances and regulations of the Township of Plains that will not disturb the peaceful enjoyment of adjacent or nearby dwellings by the persons occupying same.

3. *Residential use.* The occupant shall, unless otherwise permitted by applicable law or ordinance, occupy or use his or her rental unit for no other purpose than as a residence.

4. *Illegal activities.* The occupant shall not engage in, nor tolerate nor permit others on the premises to engage in, any conduct declared illegal under any federal criminal statute, and/or under the Pennsylvania Crimes Code, 18 Pa.C.S.A. §§101 *et seq.*, or Liquor Code, 47 P.S. §§1-101 *et seq.*, or the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §§780-A01 *et seq.*. Any misdemeanor or felony arrests shall be considered the basis for immediate occupant eviction proceedings by owner.

5. *Disruptive conduct.*

A. The occupant shall not engage in, nor tolerate nor permit others on the premises to engage in, disruptive conduct or other violations of this Part.

B. When police investigate an alleged incident of disruptive conduct, he or she shall complete a disruptive conduct reported upon a finding that the report incident did, in his or her judgment constitute “disruptive conduct” as defined herein and shall provide the same to the Code Enforcement Officer of the Township of Plains. The information filled in on said report shall include, if possible, the identity or identities of the alleged perpetrator(s) of the disruptive conduct and all other obtainable information including the factual basis for the disruptive conduct requested on the prescribed form. Where the police make such investiga-

tion, said police officer shall then submit the completed disruptive conduct report to the Code Enforcement Officer. In all cases, the Code Enforcement Officer shall mail a copy of the disruptive conduct report to the owner or manager within five working days of the occurrence of the alleged disruptive conduct.

6. *Damage to premises.* The occupant shall not intentionally cause, nor permit nor tolerate others to cause, damage to the premises. Any conduct which results in damages in excess of \$500 shall be considered a violation of this Part.

7. *Inspection of premises.* The occupant shall permit inspections by the Code Enforcement Officer of the premises at reasonable times, upon reasonable notice (24-hour notice, either written or oral, by the Code Enforcement Officer).

(Ord. 2013-1, 1/10/2013, §22)

§11-123. Occupancy Certificate and Inspection.

1. *License requirement.*

A. As a prerequisite to entering into a rental agreement or permitting the occupancy of any rental unit (except as provided in Subsection 3. below), the owner of every such rental unit shall be required to apply for and obtain an occupancy license for each rental unit.

B. An occupancy certificate shall be required for all rental units except those excluded under §11-103.

C. An occupancy certificate shall not be required for multi-unit dwellings, although an occupancy license shall be required for each rental unit within the structure. The foregoing notwithstanding, all other provisions of this Part shall apply to the common areas of the structure.

D. The application for the occupancy certificate shall be in a form as determined by the Township.

E. The owner shall maintain a current list of occupants in each rental unit which shall include their names, permanent address and permanent telephone number. The owner shall furnish the list to the Township upon request and shall notify the Township of any changes in the number of occupants so that revisions can be made to the license.

2. *Inspection.*

A. All premises shall be subject to periodic inspection by the Code Enforcement Officer or another duly authorized agent of the Township. Such inspection may take place when an application is submitted for an occupancy certificate or at any time during the year when a property becomes subject to this

Part. The fees for inspections are contained in §11-116 of this Part.

B. The Code Enforcement Officer is hereby designated as the official authorized to enforce this Part and to take appropriate measures to abate violations hereof, for and on behalf of the Township of Plains.

C. This Section shall not be construed so as to limit or restrict the Code Enforcement Officer's authority to conduct inspections of premises, whether or not subject to the permitting and inspection requirements of this Part, pursuant to any other ordinance or code.

3. *Search warrant.* Upon a showing of probable cause that a violation of this Part or any other ordinance of the Township of Plains has occurred the Code Enforcement Officer may apply to the magisterial district judge having jurisdiction in the Township of Plains for a search warrant to enter and inspect the premises. [A.O.]

4. *Posting of contact information.* Any multi-unit regulated rental unit shall be required to conspicuously post the contact name and address of the owner, landlord and manager for the benefit of all tenants and residents. Said information shall be posted in the common area of the multi-unit rental unit.

(Ord. 2013-1, 1/10/2013, §23; as amended by A.O.)

§11-124. Inspection Before or After Sale of Premises.**1. Generally.**

A. If a rental inspection has occurred within three months before the sale of the premises (the date is defined as the date of settlement) the specific unit, but not the entire premises, is exempt from the inspection prior to sale. Verification of the inspection must be shown to the Code Enforcement Officer prior to the inspection for sale.

B. If an inspection was conducted for the sale of a property and the inspection for a sale has occurred three months prior to the need for an inspection (i.e., a change in a tenant), the Code Enforcement Officer may waive the need for an inspection provided there is not circumstances which would necessitate a re-inspection (i.e., drug activity, criminal activity, probable cause to believe there is a nuisance or that the rental unit(s) are not up to code). Such decision as to whether an inspection is necessary within three months after the inspection for sale is at the sole discretion of the Code Enforcement Officer.

2. *Sale of premises.* It shall be unlawful for any owner of any premises within the Township of Plains which has one or more rental units unless the inspections herein are conducted or lawfully exempt, to sell the premises until the inspections have been completed as set forth herein.

(Ord. 2013-1, 1/10/2013, §24)

§11-125. Grounds for Non-Renewal Suspension or Revocation of License.

1. *General.* The Code Enforcement Officer may initiate action against an owner that may result in a formal warning, non-renewal, suspension or revocation of the owner's license, for violating any provision of this Part that imposes a duty upon the owner and/or for failing to regulate the breach of duties by occupants as provided for herein.

2. Definitions of options to the Code Enforcement Officer.

A. *Formal warning.* Formal written notification of at least one violation of this Part. Upon satisfaction of compliance with this Part and any conditions imposed by the Code Enforcement Officer and/or the Township of Plains the formal warning shall be removed when the owner applies for certificate renewal at a time set by the Code Enforcement Officer or by the Township of Plains.

B. *Non-renewal.* The denial of the privilege to apply for occupancy certificate renewal after expiration of the occupancy term. The Township will permit the owner to maintain occupants in the premises until the end of the occupancy term but will not accept applications for renewal of the occupancy certificate until a time set by the Code Enforcement Officer or by the Township of Plains such time not to exceed one year from the renewal date.

C. *Suspension.* The immediate loss of the privilege to rent the rental units for a period of time set by the Code Enforcement Officer or the Township of Plains. The owner, suspension period apply for occupancy renewal without the need to show cause why the owner's privilege to apply for a occupancy certificate should be reinstated. Upon suspension, the owner shall take immediate steps to evict the occupants.

D. *Revocation.* The immediate loss of the privilege to rent the rental units for a period of time set by the Code Enforcement Officer or the Township of Plains and the loss of the privilege to apply for renewal of the license at the expiration of the time period as determined by the Code Enforcement Officer from the date of revocation. Upon the loss of the privilege to rent, the owner shall take immediate steps to evict the occupants.

E. *Reinstatement.* A rental registration shall be reinstated if the owner or operator of a rental unit corrects the reason for the revocation of the residential rental registration and has paid the residential rental registration reinstatement fee.

3. *Criteria for applying sanctions.* The Code Enforcement Officer, when recommending

sanctions, and the Township of Plains, when applying sanctions, shall consider the following:

- A. The effect of the violation on the health, safety and welfare of the occupants of the rental unit and of the residents of the premises.
- B. The effect of the violation on the neighborhood.
- C. Whether the owner has prior violations of this Part and other ordinances of the Township or has received notices of the violations as provided for in this Part.
- D. Whether the owner has been subject to sanctions under this Part.
- E. The effect of sanctions against the owner and the occupants.
- F. The action taken by the owner to remedy the violations and to prevent future violations, including any written plan submitted by the owner.
- G. The policies and lease language employed by the owner to manage the rental unit to enable the owner to comply with the provisions of this Part.
- H. In addition to enforcing sanctions as set forth above, the Code Enforcement Officer may recommend and Township of Plains may impose upon the existing or subsequent license reasonable conditions related to fulfilling the purpose of this Part.

4. *Grounds for imposing sanctions.* Any of the following may subject an owner to sanctions as provided for in this Part:

- A. Failure to abate a violation of the Township codes and ordinances that apply to the premises within and directed by the Code Enforcement Officer.
- B. Refusal to permit inspection of the premises by the Code Enforcement Officer.
- C. Failure to take steps to remedy and percent violations of this Part by occupants of rental unit.
- D. Failure to evict occupants after having been directed to do so by the Code Enforcement Officer.
- E. Three violations of this Part or other ordinances of the Township that apply to the premises within a license term. For purposes of this Part, there need be no criminal conviction before a violation can be found to exist. Before a prior violation can be considered under this Section, the owner must have received notice in writing of this violation within 30 days after the Code Enforcement Officer received notice of the violation.

5. *Procedure for non-renewal, suspension or revocation of license and appeal.* Notification, following a determination that grounds for non-renewal, suspension or revocation of a license exist, the Code Enforcement Officer shall notify the owner of the action to be taken and the reason therefore. Such notification shall be in writing, addressed to the owner in question, and shall contain the following information:

- A. The address of the premises in question and identification of the particular rental units affected.
- B. A description of the violation which has been found to exist.
- C. A statement that the license for said rental unit(s) shall be either suspended or revoked, or will not be renewed for the next license or that the owner will receive a formal warning. In the case of a suspension or revocation, the notice shall state the date upon which such suspension or revocation will commence, and in the case of a suspension shall also state the duration of said suspension.
- D. A statement that, due to the non-renewal, suspension or revocation (as the case may be), the owner or any person acting on his, her or its behalf is prohibited from renting, letting or permitting occupancy of the rental unit(s) by more than two unrelated individuals subject to said enforcement action, from and during said action is in effect.

E. Any person affected by a decision of the Code Enforcement Officer or a notice or order issued by the Code Enforcement Officer shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within ten days after the day the decision, notice or order was served. All application for appeal may be made when it is claimed that the true intent of the codes or rules legally adopted thereunder has been incorrectly interpreted, the provisions of this code do not fully apply, or an equally good or better method can be used. See International Property Maintenance Code, §PM 111.0, "Means of Appeal" [Chapter 5, Part 5]. See also the Codified Ordinances of the Township of Plains. [A.O.]

6. *Delivery of notification.*

A. All notices shall be sent to the owner and manager, if applicable, by certified mail. In the event that the notice is returned by the postal authorities marked "unclaimed" or "refused" then the Code Enforcement Officer or other agent of the Township shall attempt delivery by personal service on the owner or manager if applicable. The Code Enforcement Officer or other agent of the Township also post the notice at a conspicuous place on the premises.

B. If personal service cannot be accomplished after a reasonable attempt to do so, then the notice may be sent to the owner or manager at the address stated on the most current occupancy certificate application for the premises in question, by regular first class mail, postage prepaid. If such notice is not returned by the postal authorities within five days of its deposit in the U.S. mail, then it shall be deemed to have been delivered to and received by the addressee on the fifth day following its deposit in the U.S. mail.

(Ord. 2013-1, 1/10/2013, §25; as amended by A.O.)

§11-126. Violations and Penalties.

1. *Basis for violation.* It shall be unlawful for any person as either owner or manager of a rental unit for which a license is required, to operate without a valid, current license issued by the Township authorizing such operation. It shall also be unlawful for any person, either owner or manager, to allow the number of occupants of a regulated rental unit to exceed the maximum limit as set forth on the license, or to violate any other provision of this Part. It shall be unlawful for any occupant to violate this Part.

2. A. *Penalties.* Any person who shall violate a provision of this Part or shall fail to comply with any of the requirements hereof, or the building code of the Township, or shall in violation of an approved plan or directive of the Code Enforcement Officer shall, upon conviction thereof, before the magisterial district judge of the Township of Plains, Pennsylvania, be liable to pay the following penalties: [A.O.]

(1) *First violation.* A fine of \$500, or 30 days imprisonment, or both.

(2) *Second violation.* A fine of \$750, or 30 days imprisonment, or both. [A.O.]

(3) *Third and each subsequent violation.* A fine of \$1,000, or 30 days imprisonment, or both. [A.O.]

B. Upon conviction of a third offense, the owner of the property will be required to begin eviction of the tenants/occupants of the property. A separate offense shall be deemed committed each day for which a violation occurs or continues.

(Ord. 2013-1, 1/10/2013, §26; as amended by A.O.)

§11-127. Remedies.

1. *Non-exclusive remedies.* The penalties provisions of this Part and the license non-renewal, suspension and revocation procedure provided in this Part shall be independent, non-mutually exclusive separate remedies, all of which shall be available to the Township as may be deemed appropriate for carrying out the purposes of this Part. The

remedies and procedures provided in this Part for violation hereof are not intended to supplant or replace, to any degree, the remedies and procedures available to the Township in the case of a violation of any other code or ordinance of the Township, whether or not such other code or ordinance is cited in this ordinance.

- A. For purposes of this Part, any notice required hereunder to be given to a manager shall be deemed as notice given to the owner.
- B. There shall be a rebuttable presumption that any notice required to be given to the owner under this Part shall have been received by such owner if the notice was given to the owner in the manner provided by this Part.
- C. A claimed lack of knowledge by the owner of any violation hereunder cited shall be no defense to license non-renewal, suspension or revocation proceedings as long as all notices prerequisite to institution of such proceedings have been given and deemed received in accordance with the applicable provisions of this Part.

2. *Changes in ownership/occupancy.* It shall be the duty of each owner of a rental unit to notify the Code Enforcement Officer in writing within five days of any change in ownership of the premises or of the number of rental units on the premises. It shall also be the duty of the owner to notify the Code Enforcement Officer in writing within five days of any increase in the number of occupants in any regulated rental unit or of the changing of a rental unit from owner occupied to non-owner-occupied, which thereby transforms the rental unit into a rental unit for purposes of this Part. Failure to so notify the Code Enforcement Officer shall be considered a violation of this Part.

3. *Owners severally responsible.* If any rental unit is owned by more than one person, in any form of joint tenancy, as a partnership, or otherwise, each person shall be jointly and severally responsible for the duties imposed under the terms of this Part, and shall be severally subject to prosecution for the violation of this Part.

(Ord. 2013-1, 1/10/2013, §27)

§11-128. Nuisance Injunction.

Any violation of this Part is hereby declared to be a nuisance. In addition to any other relief provided by this Part, the Township Solicitor may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Part. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

(Ord. 2013-1, 1/10/2013, §28)

§11-129. Applications.

All dwelling units in the Township of Plains must be inspected in accordance with the guidelines and requirements herein no later than January 10, 2013. Additionally, any information which may be necessary and/ or must be provided by the owner, landlord or manager under this Part must be provided to the Office of Code Enforcement no later than April 30, 2007, regardless of whether an inspection is required.

(Ord. 2013-1, 1/10/2013, §30)

Chapter 12

[Reserved]

Chapter 13

Licenses, Permits and General Business Regulations

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- §13-102. Definitions
- §13-103. Registration Required
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- §13-105. Application for Certificate
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Part 1**Peddling and Soliciting****§13-101. Legislative Intent.**

This Part is adopted to regulate the distribution of certain materials, peddling, soliciting and related activities within the Township of Plains. The registration of persons engaged in the above-mentioned activities is required so that the identity of persons going door to door or distributing materials within the Township may be established, so that general regulations may be more effectively enforced for the protection and maintenance of the health, safety and welfare of the inhabitants of the Township and to prevent dishonest business practices and the dishonest solicitation of funds in the Township.

(Ord. 5/29/1975, §53-1)

§13-102. Definitions.

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

Distributor—any person who distributes or causes to be distributed on any street or public place within the Township any newspapers, periodicals, books, magazines, handbills, circulars, cards or pamphlets or printed material of any kind.

Merchandise—all goods, wares, food, meat, fish, ice cream, fruit, vegetables, magazines, periodicals, printed material, farm products, services, orders or contracts for services, home improvements or alterations and anything that may be sold or distributed by peddlers, solicitors or distributors, as defined herein.

Peddler—any person, whether a resident of the Township or not, who goes from house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other type of conveyance, carrying or transporting merchandise for the purpose of selling and delivering the merchandise to customers. The word “peddler” shall also include the words “hawker” and “huckster”.

Person—any individual, firm, partnership, corporation, organization, club, association or any principal or agent thereof.

Solicitor—any person, whether a resident of the Township or not, who goes from house to house, from place to place or from street to street, traveling by foot, automotive vehicle or any other type of conveyance, soliciting, taking or attempting to take orders for the sale of merchandise or services of any kind for future performance or delivery, whether or not such individual has, carries or exposes for sale a sample of the merchandise or services and whether or not he or she is collecting advance payments on such sales or orders or who engages in any of the foregoing activities from a stationary location on any street or other public place. The word “solicitor” shall also include the word “canvasser” or any person who goes from door to door, as described above, for the purpose of soliciting and/or who collects funds from a stationary location on any street or other public place.

Transient merchant—any person engaging in the activities commonly referred to as transient merchant or itinerant vendor, who merchandises or sells with the intent to close out or discontinue such business within a period of one year from the date of commencement and occupies a room, building, tent, lot or other premises for the purpose of selling merchandise.

(Ord. 5/29/1975, §53-2)

§13-103. Registration Required.

It shall be unlawful for any peddler, solicitor, distributor or transient merchant to sell, offer for sale or distribute merchandise, printed material or services within the Township without first registering with and filing an application for registration, paying a registration fee and obtaining a registration certificate from the Township of Plains.

(Ord. 5/29/1975, §53-3)

§13-104. Registration Certificate.

Upon obtaining a registration certificate as hereinafter provided, a peddler, solicitor, distributor or transient merchant may conduct his or her activities within the Township only as long as he or she adheres to the regulations set forth herein and carries the registration certificate upon his or her person at all times during the conduct of his or her activities. The registration certificate shall identify the person and the type of activity for which he or she has registered and shall be shown to any person or police officer upon request. All certificates shall expire on December 31 of the calendar year in which they are issued.

(Ord. 5/29/1975, §53-4)

§13-105. Application for Certificate.

Every applicant for a certificate under this Part shall file with the Township Secretary a sworn, written application on a form to be furnished by said Secretary, which shall give or be accompanied by the following information or documents:

- A. The name and description of the applicant.
- B. The permanent home address and full local address of the applicant.
- C. A brief statement of the nature of the business and a description of the merchandise or service to be sold.
- D. If employed, the name and address of the employer, together with credentials establishing the exact relationship.
- E. The length of time for which the certificate is desired.
- F. If a vehicle is to be used, a description of such vehicle and its license number.
- G. The place where the merchandise or services to be sold or offered for sale are manufactured or produced, where such goods or property is located at the time such application is filed and the proposed method of delivery.
- H. A photograph of the applicant taken within 60 days immediately prior to the date of the application, which photograph shall clearly show the head and shoulders of the applicant and shall measure two inches by two inches.
- I. Two business references located in the County of Luzerne, Commonwealth of Pennsylvania, or in lieu thereof, such other available evidence of the character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and responsibility.
- J. A statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.
- K. The fingerprints of the applicant.

(Ord. 5/29/1975, §53-5)

§13-106. Investigation of Applicants.

1. When the application is properly filled out and signed by the applicant, the original and duplicate thereof shall be filed with the Township Secretary, and the Secretary shall refer the original to the Chief of Police, who shall make or cause to be made within five days such investigation of the

applicant's business responsibility and character as he or she deems necessary for the protection of the public good.

2. If, as a result of such an investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his or her disapproval and his or her reasons therefor and shall return the said application to the Township Secretary. Any determination by the Chief of Police that an application is unsatisfactory shall be based on one or more of the following findings with respect to the applicant:

- A. Conviction of a crime involving moral turpitude.
- B. Prior violation of a peddling or soliciting ordinance.
- C. Previous fraudulent acts or conduct.
- D. Record of breaches or solicited contracts.
- E. Concrete evidence of bad character.

3. In the absence of any such finding, the Chief of Police shall find the application satisfactory, shall endorse his or her approval on the application and shall return the application to the Township Secretary.

(Ord. 5/29/1975, §53-6)

§13-107. Denial or Issuance of Certificate.

1. If an application is found unsatisfactory by the Chief of Police and he or she has endorsed his or her disapproval upon the application, the Township Secretary shall notify the applicant, by mail, that the application is disapproved and shall deny the applicant any registration certificate.

2. If an application is found satisfactory by the Chief of Police, the Township Secretary shall issue a registration certificate addressed to the applicant to conduct the business applied for upon the payment of the proper fee by the applicant. Such certificate shall contain the signature of the issuing officer and shall show the name, address and photograph of the applicant, the type of business (peddler, solicitor, distributor or transient merchant) the applicant has registered for, the kind of goods or services to be sold thereunder, the date of issue, the length of time the certificate shall be operative and the license number and other identifying description of any vehicle used in the activity licensed.

(Ord. 5/29/1975, §53-7)

§13-108. Fees.

1. At the time of the issuance of a registration certificate, a fee in an amount as established, from time to time, by resolution of the Board of Commissioners per day shall be paid by the applicant to cover the costs of investigation and the administration and enforcement of this Part. [A.O.]

2. Where an organization has several agents peddling, soliciting or distributing merchandise or printed material, each agent shall be registered separately and each shall pay the appropriate fee. Upon the expiration of a certificate, a new certificate will be issued upon compliance with all the provisions of this Part and the payment of fees and the posting of the bond, except that the investigation and waiting period therefor may be waived if approved by the Township Secretary and Chief of Police.

(Ord. 5/29/1975, §53-8, as amended by Ord. 12/1/1977; and by A.O.)

§13-109. Bonding Requirements.

1. Prior to the issuance of any certificate, the applicant shall file with the Township Secretary a bond running to the Township in the amount of \$1,500, with good and sufficient surety, in such form as shall be approved by the Township Solicitor or his or her designated representative. Said bond shall remain in force for the term of the certificate and shall be conditioned to indemnify and pay the Township for any penalties or costs incurred in the enforcement of any of the provisions of this Part and to indemnify or reimburse any purchaser of personal property from the holder of the

certificate in a sum equal to at least the amount of any payment such purchaser may have been induced to make through the misrepresentation as to the kind, quality or value of the personal property, whether the misrepresentations were made by the licensee or said licensee's agents, servants or employees either at the time of making the sale or through any advertisement printed or circulated with reference to such personal property or any parts thereof.

2. The aforesaid bond shall be declared forfeited upon proof of falsification in the application for a certificate.

3. Said bond shall be deemed forfeited upon proof of violation of any of the provisions of this Part by the applicant or his or her agents, servants or employees.

4. The Board of Commissioners may, by resolution, exempt persons from the bond requirement, provided that the applicant satisfies the Board that the nature of his or her activity does not jeopardize the position of the Township or the protection given herein to the residents.

(Ord. 5/29/1975, §53-9)

§13-110. Appeals from Denial of Certificate.

Any person aggrieved by the action of the Chief of Police or of the Township Secretary in the denial of a certificate, as provided in §13-107 of this Part, shall have the right of appeal to the Board of Commissioners. Such appeal shall be taken by filing with the Board of Commissioners, within 14 days after the notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for appeal. The Board of Commissioners shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given in the same manner as provided in §13-111 of this Part for notice of hearing on revocation. The decision of the Board of Commissioners on such appeal shall be final and conclusive.

(Ord. 5/29/1975, §53-10)

§13-111. Revocations of Certificates.

1. Certificates issued under the provisions of this Part may be revoked by the Board of Commissioners after notice and hearing for any of the following causes:

- A. Fraud, misrepresentation or a material incorrect statement contained in the application for a certificate.
- B. Fraud, misrepresentation or a material incorrect statement made in the course of carrying on his or her business as solicitor, peddler, distributor or transient merchant.
- C. Any violation of this Part.
- D. Conviction of any crime or misdemeanor.
- E. Conducting the business of peddler, solicitor, distributor or transient merchant in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

2. A notice of the hearing for the revocation of a certificate shall be given by the Township Secretary, in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be mailed, postage prepaid, to the holder of the certificate at the address given on the application at least five days prior to the date set for the hearing or shall be delivered by the agent of the Township in the same manner as a summons at least three days prior to the date set for the hearing.

3. Upon revocation, the certificate shall be surrendered to the Township Secretary.

(Ord. 5/29/1975, §53-11)

§13-112. General Regulations.

No person or certificate holder shall:

- A. Peddle, solicit or distribute merchandise except between the hours of 8:00 a.m. and 6:00 p.m., unless specifically having been invited into a house by the occupant or having made an appointment with a person previously.
- B. Attempt to peddle, solicit or distribute merchandise or printed material without first having identified himself or herself as a peddler, solicitor or distributor registered with the Township and displaying his or her certificate.
- C. Have the exclusive right to any location in the public streets or operate in any congested area where his or her operations might impede or inconvenience the public.
- D. Leave at a property or house or in any public place circulars, samples or other matter, except newspapers, which shall be defined as a periodical with a paid circulation of at least 90 percent of its total circulation, except when handed to a person or house occupant.
- E. Enter or attempt to enter the land of any resident in the Township without an express invitation from the occupant of the house.
- F. Conduct himself or herself in such a manner as to become objectionable to or annoy an occupant of any house.
- G. Shout, cry out, blow a horn, ring a bell or use any sound-making or amplifying device upon any of the streets, parks or public places of the Township or upon private premises where sound of sufficient volume is emitted or produced therefrom which is capable of being plainly heard upon the streets, avenues, parks or other public places of the Township or upon private premises, for the purpose of attracting attention to any merchandise or services.
- H. Distribute obscene merchandise or printed material or that which advocates unlawful conduct.
- I. Litter the streets, public places or properties within the Township with any merchandise or printed material.

(Ord. 5/29/1975, §53-12)

§13-113. Exemptions.

The following persons or organizations are exempt from the payment of a fee and, in the discretion of the Board of Commissioners, the application and/or investigation procedures, upon compliance with all the other provisions of this Part and the submission of applicable identification and documents to support the claim to exemption:

- A. Any charitable or religious society that shall conduct sales of personal property when the proceeds thereof shall be applied to the payment of the expenses thereof and to the charitable or religious object for which the society exists.
- B. Any person selling fruits and farm products grown by himself or herself, with or without the help of others.
- C. Any person engaged in the delivery of goods, wares or merchandise or other articles or things in the regular course of business to the premises of persons who had previously ordered the same or were entitled to receive the same by reason of a prior agreement.
- D. Any schools, political or civic organization, benevolent society, service club or organization not for profit which is located in or has a substantial membership from the Township.

(Ord. 5/29/1975, §53-13; as amended by A.O.)

Part 2**Regulations for Special Events, Concerts and Activities****§13-201. Definition.**

The term special event, concert or activities as worded in this Part shall be held to mean and include any temporary plays, musical event, carnival, circus, side shows, operating events or other similar temporary amusement enterprises which are open to the public and for admission to which a fee is charged.

(*Ord. 2009-7, 9/10/2009, §1*)

§13-202. License Required.

It will be unlawful to conduct or operate within the Township of Plains any special events, concerts or activities which are open to the public without first securing a license; such license will be purchased on an annual basis, by the applicant if they intend to hold any such activities. Such licenses may be purchased at any time and shall expire 12 months after securing the license and shall be applied for through the Plains Township Code Enforcement Officer.

(*Ord. 2009-7, 9/10/2009, §2; as amended by Ord. 2011-2, 3/11/2011, §2*)

§13-203. License Application/Procedure.

1. In addition to the license application, which shall be provided to application to Township, each applicant will be required to provide to the Township a completed application which sets forth the following:

- A. Name and address of the applicant.
- B. The date, time and place for the proposed special event, concert or activity, during the period of time this application is in effect. If the applicant wishes to hold any additional events, concert or activity not listed on its original application, the applicant may request permission for this additional event, concert or activity and submit it to the appointed Township official for approval.
- C. A description of what type of event, concert or activity is to take place.
- D. The measures proposed to ensure adequate traffic control, crowd protection and security for both the premises and the surrounding area where special event, concert or activity will take place.
- E. A statement by the applicant that it meets all appropriate Township ordinances and zoning requirements to conduct this special event, concert or activity.
- F. Such other information that may be requested in the application provided to the applicant.

2. Once received by the Township, a license will be issued within ten days of receipt of the application. If the applicant will not be granted a license to operate then a written notice shall be supplied to the applicant at the address provided by applicant. If the applicant fails to fully complete the application and provide all necessary information, the Township will notify applicant of its failure to complete and no

decision shall be issued until fully completed and submitted to the Township for review.

(*Ord. 2009-7, 9/10/2009, §3; as amended by Ord. 2011-2, 3/11/2011, §3*)

§13-204. License Fee.

1. Upon satisfactorily completing application and being approved by the Township, the Township shall issue a license to conduct any special events, concerts or activities to which a fee in

an amount as established, from time to time, by resolution of the Board of Commissioners shall be charged for each application. No additional fee will be charged for any additional application which may be filed during the period of the yearly application. Although the application fee shall be yearly, any additional fees in connection with additional applications such as, but not limited to, Zoning, inspection or municipal service fees, which may be applicable. [A.O.]

2. Further, no application fee will be charged for any special event, concert or activity where the same is sponsored by or given for the benefit of any religious, educational, charitable, social or fraternal organization.

(*Ord. 2009-7, 9/10/2009, §4; as amended by Ord. 2011-2, 3/11/2011, §4; and by A.O.*)

§13-205. Athletic Exhibitions.

It shall be unlawful to conduct, operate or exhibit any athletic event between person, animal, vehicle or any other athletic contest or exhibit to which a fee is charged without first securing a license therefore; provided that no license shall be required for any grade school, high school, college, university or club team or for the benefit of any religious, educational, charitable, social or fraternal organization.

(*Ord. 2009-7, 9/10/2009, §5; as amended by Ord. 2011-2, 3/11/2011, §5*)

§13-206. Insurance.

No license will be issued for conducting a special event, concert or activity until the applicant has placed on file with the Township, a certificate of insurance, indicating that there is in effect public liability insurance covering any damage arising in connection to/from any special event, concert or activity. Further, the Township will be named as an additional insured for which the limits of liability will be set by the Township of which shall be no less than \$1,000,000.

(*Ord. 2009-7, 9/10/2009, §6; as amended by Ord. 2011-2, 3/11/2011, §6*)

§13-207. Security and Fire Protection.

The applicant shall have at least three people on the premises for every special event, concert or activity, to provide security service on the premises during all hours of operation and whenever the event is open to the public until the event or activity concludes and the general public has left the venue or place of the event, concert or activity conducted. The Chief of Police, of Plains Township shall have the right to request additional security services as a condition of the issuance of a permit if the size, type or location of the special event, concert or activity at the discretion of the Police Chief requires additional security for protection of the patrons and nearby area. All security must be with off-duty law enforcement officer or personnel licensed under state law to provide security. Further, fire and panic regulations as set forth by the Plains Township Fire Department shall be provided to the applicant upon approval of the license, to protect the public.

(*Ord. 2009-7, 9/10/2009, §7; as amended by Ord. 2011-2, 3/11/2011, §7*)

§13-208. Access by Township Police Officers/Officials.

All police officers and fire officials of the Township of Plains and the Code Enforcement Officers as designated by the Township, shall have full access to any and all special events, concerts or other activities for which admission is being charged for the purpose of inspection and to enforce compliance with the provisions of this Part or any other ordinance, while the premises are open to the public. This shall include those times before, during or after any such special event, concert or activity as contemplated under this Part.

(*Ord. 2009-7, 9/10/2009, §8; as amended by Ord. 2011-2, 3/11/2011, §8*)

§13-209. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 2009-7*, 9/10/2009, §9; as amended by *Ord. 2011-2*, 3/11/2011, §9; and by A.O.)

Part 3**Mechanical Amusement Devices****§13-301. License Required; Fee.**

It shall be unlawful for any person, partnership, club, association or corporation to install, operate or maintain any mechanical amusement device without having first obtained a license therefor. The fee for such license shall be in an amount as established, from time to time, by resolution of the Board of Commissioners per year or any portion of a year beginning for the year of 1994 and subsequent years.

(Ord. 2/26/1976; as amended by Ord. 1/2/1984; by Ord. 1993-8, 10/14/1993; and by A.O.)

§13-302. Definition.

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

Mechanical amusement device—each machine which, upon the insertion of a coin, trade token or slug, operates or may be operated as a game or contest of skill, or amusement of any kind or description, and which contains no automatic payoff device for the return of money or trade token or slugs, or which makes no provisions whatever for the return of money to the player. A “mechanical amusement device” is hereby further defined as any machine, apparatus or contrivance which is used or which may be used as a game of skill and amusement wherein or whereby the player initiates, employs or directs any force generated by the machine.

(Ord. 2/26/1976)

§13-303. Application; Issuance of License.

Applications for all licenses required by this Part shall be made in writing to the Plains Township Tax Collector on forms to be furnished by the Township. The required annual fee must accompany each application. When issued, the license shall bear the signature of the Township Tax Collector. Upon receipt of any such application, the Township Tax Collector may submit such application to any Township employee for investigation and inspection of the premises.

(Ord. 2/26/1976)

§13-304. Violations and Penalties.

Any person, partnership, club, association or corporation violating any of the provisions of this Part shall, upon summary conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 2/26/1976; as amended by Ord. 1993-8, 10/14/1993)

Part 4**Alarm Devices****§13-401. Permit Fee.**

1. Any individual, establishment, partnership, cooperation, entity or concern installing a burglar/hold-up/panic and/or fire alarm and/or medical alert alarm system as hereinafter described in §13-402 shall first be required to obtain a permit from the Secretary/Clerk of the Township of Plains prior to the installation of any such burglar/hold-up/panic and/or fire alarm system. The initial cost of this permit shall be in an amount as established, from time to time, by resolution of the Board of Commissioners annually for such permit. Any violation of this Section shall result in the prosecution of the violator by any law enforcement officer of the Township and a fine imposed of not more than \$1,000 and costs, plus the appropriate yearly fee from the date of installation of such system. [A.O.]

2. Any burglar/hold-up/panic and/or fire alarm and/or medical alert system which has ten or more false alarms within a 12-month period as hereinafter provided, shall be subject to permit revocation. The Secretary/Clerk of the Township of Plains shall notify the individual, establishment, partnership, cooperation, entity or concern, as the case may be, by first class, postage prepaid, certified mail or personal service by a Plains Township Police Officer of such fact.

(Ord. 1998-2, 5/14/1998, §1)

§13-402. Non-Transferable License Fee.

Each and every owner or occupier of any premises, whether an individual, establishment, partnership, corporation, entity or concern, utilizing any direct/indirect electronic, electrical or mechanical communication burglar/hold-up/panic and/or fire alarm and/or medical alert alarm system connected into or answered within the Plains Township Police Department and/or the Plains Township Fire Department or any public or private answering/dispatching point servicing either Department shall pay a one time non-transferable license fee in an amount as established, from time to time, by resolution of the Board of Commissioners to the Township of Plains for the benefits and advantages received through the use of such system from the Plains Township Police and Plains Township Fire Departments, and to aid in defraying the cost of the maintenance and operation of such system within and upon the Township facilities and/or services.

(Ord. 1998-2, 5/14/1998, §2; as amended by A.O.)

§13-403. List of Names of the Owners or Occupiers of Premises.

Each and every individual, establishment, partnership, corporation, entity or concern engaged in the sale and/or installation of burglar/holdup/panic and/or fire alarm and/or medical alert alarm systems within the Township of Plains shall provide the Secretary/Clerk of the Township of Plains with a list of names of the owners or occupiers of premises and the location thereof, within the Township of Plains, upon or within which such a system shall have been installed, including any such system or

systems installed prior to the effective date of this Part, and, no such system shall be installed with the Township of Plains unless and until a permit as required by §13-401 hereof shall have first been obtained by the owner or occupier of any premises upon which such a system is to be installed. Any violation of this Section shall result in the prosecution of the violator by any law enforcement officer of the Township and a fine of not more than \$1,000 and costs for each and every such system in violation of this Section; and, in default of payment of said fine and costs to a term of imprisonment not to exceed 30 days.

(Ord. 1998-2, 5/14/1998, §3; as amended by A.O.)

§13-404. False Alarms.

1. Should any burglar and/or fire alarm and/or medical alert alarm system hereinbefore described cause more than three false alarms, whether by reason of malfunction of said system or other reason, to occur during any 12-month period, then a service charge shall be levied against the owner or occupier of the premises in or upon which such system is installed for each and every false alarm occurring more than three times during such 12-month period.
2. Should any hold-up/panic alarm system hereinbefore described cause more than one false alarm(s), whether by reason of malfunction of said system or other reason, to occur during any 12-month period, then a service charge shall be levied against the owner or occupier of the premises in or upon which such system is installed for each and every false alarm occurring more than one time during such 12-month period.
3. The service charge hereby imposed per occurrence shall be as established, from time to time, by resolution of the Board of Commissioners. [A.O.]
4. For the purpose of this Part, the following shall not be considered to be false alarms:
 - A. Alarms caused by the testing, failure or repair of telephone equipment or lines, provided that the testing and the like, is reported to the Plains Township Police Department and/or Plains Township Fire Department prior to testing.
 - B. Alarms caused by an act of God, such as earthquakes, floods, windstorm, thunder or lightening.
 - C. Alarms caused by an attempted illegal entry or any other crime of which there is visible or reasonable evidence of an attempted break-in, fire, smoke and the like.
 - D. Alarms followed by a call to the Police/Fire Departments with proper coded identification cancelling the alarms within five minutes of the activation or prior to the arrival of the Police and/or Fire Departments.

(*Ord. 1998-2, 5/14/1998, §4; as amended by Ord. 2004-2, 5/13/2004, §404; and by A.O.*)

§13-405. Responsibility of Fees or Charges.

1. Any fees or charges due or payable by reason of any of the provisions of this Part shall be the responsibility of and payable by the owner or occupier of the premises upon which such alarm system is installed, whether individual, establishment, partnership, corporation, entity or concern, within 30 days from the date of receipt of billing therefore by the Secretary/Clerk of the Township of Plains, and shall thereafter be collected by appropriate legal action as permitted by law.

2. In addition to any other appropriate legal action, the Township may revoke the permit of such individual, establishment, partnership, corporation, entity or concern for failing to pay any fees or charges due. The Secretary/Clerk of the Township of Plains shall notify the individual, establishment, partnership, corporation, entity or concern as the case may be, of such revocation, by first class, postage paid, certified mail or personal service by any Plains Township Police Officer, of such fact.

(*Ord. 1998-2, 5/14/1998, §5*)

§13-406. Fees Payable.

The installation permit fee imposed by §13-401 hereof shall be paid at or prior to the installation of the burglar/hold-up/panic or fire alarm and/or medical alert alarm systems hereinbefore described. The annual license fee imposed by this Part shall be payable on or before July 31 of each year to the Township of Plains and, from the date of installation to June 30 said license fee shall be paid on a prorated basis in an amount equal to that fractional portion of the year from the date of installation to the annual billing date of July 1. For the purposes of this Part, the license year shall be intended to mean the 12-month period commencing July 1 and ending the following June 30.

(Ord. 1998-2, 5/14/1998, §6)

§13-407. Rights and Privileges.

The Township of Plains through any police officer, firefighter, Code Enforcement Officer shall, if it deems necessary, have the right and privilege, upon prior notification to the owner or occupier of any premises upon which any such burglar/hold-up/panic or fire alarm and/or medical alert alarm system shall have been installed, to inspect the connection, operation and maintenance of the system in order to ensure the safe or proper operation thereof in order to avoid or minimize the malfunction of any such system.

(Ord. 1998-2, 5/14/1998, §7)

§13-408. Provisions.

1. The provisions of this Part shall not apply to any self-contained battery-operated fire or smoke or carbon monoxide alarm detector or burglar alarm detector installed by the owner or occupier of any premises located within the Township of Plains, which is not attached to or an integral part of a burglar/holdup/panic or fire alarm system.

2. That the provisions of §13-404 of this Part shall not apply to any premises owned, leased, rented or under the immediate control of the United States; to any premises owned, leased, rented or under the immediate control of the Commonwealth of Pennsylvania or its agencies; to any premises owned, leased, rented or under the immediate control of any political subdivision of the Commonwealth of Pennsylvania.

(Ord. 1998-2, 5/14/1998, §8)

Part 5**Liquor License Transfers****§13-501. Written Application.**

The Zoning Officer of the Township of Plains is hereby authorized to create a written application which is to be completed by any individual and/or entity seeking to transfer a liquor license into the Township of Plains in order to provide the necessary and complete information to effectuate the transfer of the liquor license into the Township of Plains.

(Ord. 2003-1, 1/9/2003, §1)

§13-502. Filing Fee.

The Township of Plains does hereby establish a filing fee in the amount as established, from time to time, by resolution of the Board of Commissioners, which shall be paid contemporaneously with the filing of the application, which application must be filed with the Zoning Officer of the Township of Plains prior to being processed and advertised for public hearing by the Solicitor of the Township of Plains. The filing fee is a nonrefundable fee to cover the cost of processing and advertising of the application and is wholly earned when paid to the Township of Plains irrespective of whether the application is approved.

(Ord. 2003-1, 1/9/2003, §2; as amended by A.O.)

Part 6**Regulation of Mining and Quarry Operations****§13-601. Scope.**

This Part shall apply to any and all mining operating, quarries or commercial businesses which may move or excavate any rock or other natural resource within any part of the Township. After the effective date of this Part, no person, firm or corporation shall operate in violation of these rules and regulations. Further nothing in this Part shall be construed to void or supersede any federal, state or local rules and regulations already in existence.

(Ord. 2008-4, 10/9/2008, §1)

§13-602. Mining and Excavation Operations.

1. *Smoke and Toxic Gases.* The emission of smoke shall be governed by regulations promulgated by and under the supervision of the Pennsylvania Department of Environmental Protection: 25 Pa.Code, Part 1, Subpart C: Protection of Natural Resources, Article III, Air Resources. [A.O.]

2. *Odor.* The emission of unpleasant odors shall be governed by regulations promulgated by and under the supervision of the Pennsylvania Department of Environmental Protection, 25 Pa.Code, Part 1, Subpart C: Protection of Natural Resources, Article III, Air Resources. [A.O.]

3. *Fly ash and soot.* The emission of fly ash and soot shall be governed by regulations promulgated by and under the supervision of the Pennsylvania Department of Environmental Protection: 25 Pa.Code, Part 1, Subpart C: Protection of Natural Resources, Article III, Air Resources. [A.O.]

4. *Dust control.*

A. *General rules.* All reasonable precautions shall be taken to prevent particulate matter from becoming airborne. In determining what is reasonable, consideration will be given to factors such as the proximity of particulate emitting operations to human habitations and/or activities and atmospheric conditions which might affect the movement of particulate matter. Some of the reasonable precautions may include, but are not limited to, the following:

(1) *Use of control equipment.* Adequate containment methods should be employed during mining, excavation, blasting or other operations.

(2) *Covering of trucks.* Covering open trucks transporting materials which may potentially release particulate matter must be covered.

B. *Removal of materials.* Prompt removal of earth or other stored material from streets.

(1) *Visible emissions.* No owner, occupant or tenant shall permit the discharge of any particulate matter into the atmosphere from any construction site, development site, unpaved parking lot, industrial yard, vacant lot or maneuvering area where the emission becomes a public nuisance, health hazard or safety hazard.

(2) *Evidence.* Prima facie evidence of a public nuisance, health hazard or safety hazard shall exist if the emission for a period or periods aggregating more than 30 seconds in any 60-minute period is greater than 50 percent opacity as determined by procedures specified in 40 C.F.R. §60, Appendix A, Method 9, Appendix A, Method 22, or a State of Pennsylvania approved equivalent method.

C. *Control methods.* Control methods may include, but are not limited to, the following:

(1) Use of water or other environmentally safe dust palliative for control of dust in the demolition of existing buildings or structures, construction operations, the grading of

roads or the clearing of land. The use of water resulting in mud on public streets will not be permitted. Any mud or spillage shall be immediately removed.

(2) Dust suppressants (such as water or other environmentally safe dust palliative) must be used to control the release of particulate matter when practicable.

(3) Paving: paving of roadways and their maintenance in a clean condition.

D. *Exceptions.* The provisions of this Section shall not apply to agricultural land as defined by Township ordinances.

5. *Vibration.* Any use creating intense earth-shaking vibration, except blasting, which is provided for below, shall be set back as far as possible from any resident property lines on all sides. All regulations for vibrations caused by blasting shall follow all federal and state guidelines required by the proper regulating agencies.

6. *Storage and waste disposal.* The storage of flammable or explosive liquids, solids or gases and the disposal of industrial wastes shall be governed by regulations promulgated by and under the supervision of the Pennsylvania Department of Environmental Protection including, but not limited to: 25 Pa.Code, Part 1, Subpart C: Protection of Natural Resources, Article 1, Land Resources (Chapter 17, Mining) and Article, III, Air Resources; and Subpart D: Environmental Health and Safety, Article IV, Occupational Health and Safety (Chapter 211, Storage, Handling and Use of Explosives). [A.O.]

7. *Noise.*

A. The sound level of any operation, including the operation of motor vehicles or other transportation facilities (excluding the operations involved in the construction or demolition of structures, emergency alarm signals or time signals), shall not exceed the decibel levels in the designated octave bands as stated below. The sound-pressure level shall be measured with a Sound Level Meter and Octave Band Analyzer that conform to specifications published by the American National Standards Institute. (American National Standards Institute, Inc., New York, and the American Standards Specification for an Octave, Half Octave and Third Octave Band Filter Sets, SI. 11-1966, R 1971, American National Standards Institute, Inc., New York, New York, shall be used.)

B. Sound-pressure levels shall be measured at the district line upon which the emission occurs. The maximum permissible sound-pressure levels for noise shall be as follows on the Decibel Measurement Table. (All of the decibel levels stated below shall apply in each case).

Maximum Permitted		
Sound-Pressure Level		
(Decibels)		
Frequency Band (Cycles Per Second)	Along Residence District Boundaries	Along Other District Boundaries
0 to 75	72	79
76 to 150	67	74
151 to 300	59	66
301 to 600	52	59
601 to 1200	46	53
1,201 to 2,400	40	47
2,401 to 4,800	34	41

above 4,800	32	39
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8. *Additional regulations.* All mining and quarry activities shall be subject to the following exceptional regulations:

A. *Buffer area.* No mining or processing of mined materials shall be conducted within 100 feet of any district boundary. All buffer areas shall be landscaped with trees and shrubbery, except for roadways crossing these buffer areas, and maintained in good condition with no littering allowed. No parking of vehicles or storage or equipment and supplies shall be allowed in the buffer area.

B. *Slopes and drainage.* Slopes at the edge of the excavated area of any mining operation shall be governed by regulations promulgated by and under the supervision of the Pennsylvania Department of Environmental Protection: 25 Pa.Code, Part 1, Subpart C: Protection of Natural Resources, Article 1, Land Resources (Chapter 77, Mining). [A.O.]

C. *Location of processing equipment.* To reduce airborne dust, dirt and noise, all structures for sorting, crushing, grinding, loading, weighing, washing, heating and other operations shall be governed by regulations promulgated by and under the supervision of the Pennsylvania Department of Environmental Protection: 25 Pa.Code, Part 1, Subpart C: Protection of Natural Resources, Article 1, Land Resources 9 (Chapter 77, Mining). [A.O.]

D. *Fencing.* For the protection of the safety of the public, all mining operations shall comply within 60 days from the adoption of this Part with the following fencing requirements. All operations shall erect a chain link fence of woven wire enclosing completely the perimeter of any proposed or existing excavation in the M Mining District. The specifications of the fence shall be six feet in height, number nine gauge, chain link woven wire fence with two-inch mesh, steel line posts outside diameter two and one-half inches, line posts set on ten-foot centers, one and five-eighths inches outside diameter steel top and steel center rails. The fence shall be equipped with a gate six feet high and constructed of the same materials and in the same manner as the fence, which gate shall be closed and locked at all times when mining activities are not in operation. There shall exist no gaps under the fence or gate more than three inches wide. The fence and gate shall be maintained to comply with these standards at all times.

E. *Blasting.* The use of explosives for mining purposes shall be in accordance with the regulations promulgated by and under the supervision of the Pennsylvania Department of Environmental Protection: 25 Pa.Code, Part 1, Subpart C: Protection of Natural Resources, Article 1, Land Resources 9 (Chapter 77, Mining). [A.O.]

F. *Time of operations.*

(1) No mining or aggregate quarry processing operations of any sort shall be allowed earlier than 7:00 a.m. or later than 7:00 p.m. during each day of the week except Sunday, when no mining activities shall be permitted.

(2) No asphalt processing and loading of mineral aggregate materials shall be allowed earlier than 6:30 a.m. or later than 7:00 p.m. during each day of the week except Sunday, when no processing or loading of such materials shall be permitted.

G. *Bonding and insurance.* Bonding and insurance requirements shall be governed by regulations promulgated by and under the supervision of the Pennsylvania Department of Environmental Protection: 25 Pa.Code, Part 1, Subpart C: Protection of Natural Resources, Article 1, Land Resources (Chapter 77, Mining). Verification of such bonding and insurance shall be supplied to the Township Board of Commissioners upon request. [A.O.]

(Ord. 2008-4, 10/9/2008, §3; as amended by A.O.)

§13-603. Local Ordinances.

Except with respect to ordinances adopted pursuant to the act of July 31, 1968 (P.L. 805, No. 247), known as the Pennsylvania Municipalities Planning Code, all local ordinances and enactments purporting to regulate surface mining are hereby superseded. The Commonwealth, by this enactment, hereby preempts the regulation of surface mining as herein defined.

Part 7**Regulation of Pawn Brokers****§13-701. Definitions.**

For the purpose of this Part, the following words, terms and phrases have the meaning indicated herein:

Pawnbroker—Any person within the Township who loans money on deposits of personal property or deals in the purchase or possession of personal property on condition of selling the same back again to the pledgor or depositor, or who loans or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property into his or her possession, is hereby declared to be a pawnbroker.

Secondhand Dealer or Antique Dealer—Individual, partnership, association, corporation or other business organization or entity which is regularly engaged in the business of purchasing or taking upon consignment precious metals, secondhand or used goods for resale or refining, or an individual who acts as agent for such individual, partnership, association, corporation or other business organization or entity.

(Ord. 2005-6, 5/12/2005, §1)

§13-702. License Required.

It shall be unlawful for any person to conduct or transact a pawnbroker business or pawnshop in the Township without first having procured a Township license therefor as hereinafter provided.

(Ord. 2005-6, 5/12/2005, §2)

§13-703. Application for License.

1. The application shall state the name of the person, and, in case of a firm or corporation, the names of all of the partners in such firm, or corporation, the names of all of the partners in such firm, or of the directors, officers and stockholders of such corporation; also the place, street and number where such business is to be carried on, and shall specify the amount of capital proposed to be used by the applicant in such business, and shall be signed by at least ten citizens of the Township, of good reputation, certifying to the good reputation and moral character of the applicant.

2. At the time of filing such petition, the applicant shall deposit an amount of money equal to at least one-half year's, and not more than one year's charge for the license applied for. This sum of money shall be refunded to the applicant, upon demand, in case the license petitioned for shall not be granted.

(Ord. 2005-6, 5/12/2005, §3)

§13-704. Issuance of Licenses.

No such license shall be issued to any person, corporation, copartnership or association other than the real and actual proprietor of the business and place of business for which it is issued.

(Ord. 2005-6, 5/12/2005, §4)

§13-705. Investigation by Chief of Police.

All applications for pawnbroker's licenses or renewals thereof shall be presented to the Township Board of Commissioners at a regular meeting thereof. No application shall be acted upon until a recommendation for or against the application is received from the Chief of Police, provided that the Township Board of Commissioners shall not be bound by the Chief's recommendation.

(Ord. 2005-6, 5/12/2005, §5)

§13-706. Bond.

The applicant shall file, with the application, a bond running to the Township, conditioned for the faithful, observance of all provisions of this Part respecting pawnbrokers, during the continuance of such license, and any renewal thereof, for not more than one year. This bond shall be in the sum of \$10,000, with a corporate surety or two or more individual sureties. To such bond shall be attached a justification to the effect that the sureties are residents within the county and each is worth the amount specified in such bond, over and above all just debts and liabilities, and exclusive of property exempt from execution.

(Ord. 2005-6, 5/12/2005, §6)

§13-707. License Requirements.

The license issued under this Part shall state the name of the person to whom issued, the place of business and street number where such business is located and the amount of capital employed. Such license shall entitle the person receiving it to do business at the place designated in such license.

(Ord. 2005-6, 5/12/2005, §7)

§13-708. Nonuse and Transfer of License.

If a pawnbroker shall not conduct said business for a period of 90 days, the license shall be null and void. Pawnbroker's licenses shall not be transferable to any other person, except by a majority vote of the Township Board of Commissioners, and the filing of an application and a new bond by the person to whom such license is, or may be, transferred or assigned. It shall be unlawful for any person to do business, or attempt to do business, under a license transferred to him or her without such approval of the Township Board of Commissioners.

(Ord. 2005-6, 5/12/2005, §8)

§13-709. Posting.

It shall be unlawful for any person to conduct or transact a pawnbroker business in the Township unless he or she shall keep posted in a conspicuous place in the place of business the license certificate therefor, and a copy of all ordinances relating to pawnbrokers.

(Ord. 2005-6, 5/12/2005, §9)

§13-710. Forfeiture or Pawn.

The pawnbroker shall retain in his or her possession every pledge or pawn 90 days after the maturity of the loan, or 90 days after the last payment of interest, or part of the principal, whichever is greater. If the pledgor shall fail or neglect for 90 days after maturity of the loan, or 90 days after the last payment of interest, or part of the principal, to redeem the pawned property, the pawnbroker may sell any such property held for redemption for a period of not less than 150 days from the date of pledge. After a loan is in default the pawnbroker may refuse to accept any payment less than the entire principal and interest due.

(Ord. 2005-6, 5/12/2005, §10)

§13-711. Pawn Ticket to Be Furnished.

1. Each pawnbroker shall furnish to the pledgor a printed receipt clearly showing the amount loaned with a specific, detailed description of the pledged property pawned or received, date of receipt thereof, time for redemption, the name of the pledgee. The reverse side of said receipt shall be marked in such a manner that the amounts of principal and interest and any other charged paid by the person securing the loan can be clearly designated thereon. Each payment shall be entered upon the

reverse side of said receipt and shall designate how much to interest, and how much to any other charge, with the date of said payments shown thereon. The pawnbroker shall affix to each article or thing a tag upon which shall be inscribed a number, of legible characters, which shall correspond to the number on the pawn ticket and be entered in the book required to be kept by §13-717 hereof. The pawnbroker shall furnish all information required by law to be given to borrowers by state law and federal law.

2. The following information shall be printed on the front or back of each pawn ticket required to be given the pledgor: "In the event of failure to pay the loan within 90 days after maturity, or within 90 days after payment of any monthly interest when due, whichever period of time is the greater, you shall thereby forfeit all right and title unto such pledged and pawned property to the pawnbroker who shall thereby acquire an absolute title to the same."

(Ord. 2005-6, 5/12/2005, §11)

§13-712. Memorandum of Entry.

Every pawnbroker shall, at the time of each loan, deliver to the person pawning or pledging any goods, articles or things, a memorandum or note signed by him or her, containing the substance of the entry required to be made by him or her in such record book, and an estimated value of the goods, articles or things pledged; and no charge shall be made or received by any pawnbroker for any such entry, memorandum or note.

(Ord. 2005-6, 5/12/2005, §12)

§13-713. Receipt for Payment to Be Furnished.

Upon redemption of any pledge, the pawnbroker shall furnish to the pledgor at the time of redemption a written signed receipt indicating the exact amount paid on principal and interest in order that said pledgor may have the benefit of said receipt for income tax purposes and other matters. Said written receipt shall be either printed or stamped with the name of the pawnbroker and the address, and shall be legibly written so that the figures thereon are clearly discernible.

(Ord. 2005-6, 5/12/2005, §13)

§13-714. Separate Pawn Ticket for Each Item.

Every pawnbroker shall prepare and deliver to the pledgor at the time of the pledge a separate pawn ticket for each and every item pledged.

(Ord. 2005-6, 5/12/2005, §14)

§13-715. Maximum Interest Rate.

1. It shall be unlawful for any pawnbroker to charge interest exceeding percent per month on any pledge. The amount of interest so tendered and received shall be recorded on the reverse side of the pawn ticket for each separate pledge, together with the initials of the person accepting such tender. Each and every pawn ticket shall provide, in addition to other required printing thereon as specified in this Part the following words:

"Maximum legal interest rate two and one-half percent per month plus \$1 service charge."

2. Pledgor shall sign ticket on a space provided thereunder.

(Ord. 2005-6, 5/12/2005, §15)

§13-716. Sign to Be Posted Showing Interest and Service Charged.

Each and every pawnbroker shall post and maintain, in a prominent location within the confined of said pawnshop and maintain, in a prominent location within the confines of said pawnshop, a

printed sign not less than 15 by 20 inches with clearly discernible red lettering on a white background in not less than two-inch size, the following words:

“Maximum legal interest two and one-half percent per month plus \$1 service charge.”

(*Ord. 2005-6, 5/12/2005, §16*)

§13-717. Records.

Every pawnbroker shall keep book in which shall be entered and legibly written in ink, at the time of each loan or receipt of personal property, an accurate account and description of the goods, articles or things pawned, or received, the amount of money loaned or advanced thereon, the number of the pawn ticket given to the pledgor, the time when redeemable, the time both day and hour, of pawning or receiving such goods, articles or things, and the name, residence, age, sex, race and description as near as possible of the person pawning or delivering the goods, articles or things. No entry made in such book shall be erased, obliterated or defaced by the Chief of Police or any officer directed by the Chief.

(Ord. 2005-6, 5/12/2005, §17)

§13-718. Daily Report.

Every pawnbroker or pawnshop keeper in the Township must, before the hour of 12 noon of every day except Sunday and days the pawnbroker is closed all day, make and deliver to the Chief of Police, at the police station, a full, true and detailed copy of all pawn tickets legibly written, setting forth an exact description of each article or thing pawned or received by such pawnbroker or pawnshop keeper during the period since the last such report. Said ticket shall be a full, detailed and correct copy of all entries in the book required to be kept in the immediately preceding Section. If no article or thing has been pawned or received, a report must be made to that effect.

(Ord. 2005-6, 5/12/2005, §18)

§13-719. Report Slip.

The Chief of Police shall cause such a number of blanks to be printed as may be necessary for the purpose of making the reports required by this Part. He or she shall from time to time cause such additional blanks to be printed as may be required. The blanks shall be so printed and subdivided that they shall have space for writing in all the matters required by this Part to be registered and reported. This report shall be written in the English language in a clear, legible manner. Such blanks shall bear a caption, providing spaces in which shall be filled in the date of the report, the name and residence of the person making the same and the hour of day when made, and all other matters required by this Part to be reported.

(Ord. 2005-6, 5/12/2005, §19)

§13-720. Filing of Reports; Inspection.

The Chief of Police shall deliver the blanks provided for in the immediately preceding Section to the person from whom these reports are required, from time to time, at the cost of the Police Department. He or she shall, upon receipt of such reports, file them in some secure place in his or her office, and they shall be open to inspection only by the Chief of Police or any officer directed by the Chief, or upon any order of court.

(Ord. 2005-6, 5/12/2005, §20)

§13-721. Persons from Whom Pawn May Not Be Taken.

It shall be unlawful for any pawnbroker, pawnshop keeper, his or her servant or employee to receive any goods, articles or things in pawn or pledge from a person who is intoxicated, under the influence of drugs, insane or a person under the age of 18 years.

(Ord. 2005-6, 5/12/2005, §21)

§13-722. Minors Not to Receive Pledge or Make Loans.

It shall be unlawful for any pawnbroker to employ any clerk or person under the age of 18 years to receive any pledge or make any loan.

(Ord. 2005-6, 5/12/2005, §22)

§13-723. Acts of Employees.

The holder of a pawnbroker's license shall be responsible for any and all acts of his or her employees, and for any violation by them of the provisions of this Part.

(Ord. 2005-6, 5/12/2005, §23)

§13-724. Goods Which May Not Be Taken for Pawn.

No licensed pawnbroker shall buy, sell, or take for pledge, pawn or security, any brass knuckles.

(Ord. 2005-6, 5/12/2005, §24)

§13-725. Safekeeping of Pledges.

Every pawnbroker licensed under the provisions hereof shall provide a safe place for the keeping of the pledges received by him or her and shall have sufficient insurance on the property held on pledges, for the benefit of the pledgors, in case of destruction by fire or loss by theft.

(Ord. 2005-6, 5/12/2005, §25)

§13-726. Charges.

It shall be unlawful for any pawnbroker to charge or receive any appraisal fee, storage fee or any fee or charge other than the amounts specified in this Part. No charges shall be made for restoring stolen property to its rightful owner.

(Ord. 2005-6, 5/12/2005, §26)

§13-727. Employee Registration.

Every employee of a pawnshop as hereinafter defined shall, within 30 days from the effective date of this Part, register his or her name and address with the Police Department of the Township and shall have had his or her thumbprints, fingerprints and photograph taken and filed with the Township and receive a certificate showing compliance therewith. For the purpose of this Section, an employee of a pawnshop shall include all persons working in a pawnbroker's shop and any owner, stockholder if the owner is a corporation, partner or any other person who receives income in any manner from the operation of said pawnshop. Every person seeking to be registered under the provisions of this Section shall first pay to the Township the sum as established from time to time by resolution of the Board of Commissioners as a condition precedent to having issued to him or her a certificate as provided herein.

(Ord. 2005-6, 5/12/2005, §27; as amended by A.O.)

§13-728. Revocation of License.

The Township Board of Commissioners may revoke any pawnbroker's license for repeated violations of the provisions of this Part. Any licensee shall have the opportunity for a hearing before such revocation.

(Ord. 2005-6, 5/12/2005, §28)

§13-729. Secondhand Dealers.

No pawnbroker shall engage in the business of buying and selling or trading secondhand merchandise without obtaining a secondhand dealer's license in addition to a pawnbroker's license.

(Ord. 2005-6, 5/12/2005, §29)

§13-730. Location.

No pawnbroker's license shall be issued in any location in which such business is not permitted by the Zoning Ordinance of the Township [Chapter 27].

(*Ord. 2005-6, 5/12/2005, §30*)

§13-731. Penalty.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$500 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 2005-6, 5/12/2005, §31; as amended by A.O.*)

Part 8**Restriction of Yard Sales****§13-801. Definitions.**

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

Goods—Any goods, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

Persons—Individuals, partnerships, voluntary associations and corporations.

Yard sales—all sales entitled “yard sale”, lawn sale, attic sale, “garage sale”, rummage sale, “flea market” or any other similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of the said, which includes having personal property placed in the open for the public to see and stop for purchase of this property.

(Ord. 2016-2, 6/9/2016, §1)

§13-802. Permits and Fees.

1. It shall be unlawful for any person to conduct a yard sale in the Township without first filing with the Township Zoning Officer the information hereinafter specified and obtaining from said Zoning Officer a permit to do so, to be known as a “yard sale permit”. No fee for said permit shall be charged by the Township. In the event of a multi-family yard sale, one person may acquire a permit but must list all homes participating in the yard sale.

2. Any sale conducted for more than one day shall not keep any property for sale outdoors.

(Ord. 2016-2, 6/9/2016, §2)

§13-803. Licensing.

Such permit shall be issued to any person four times within a 12-month period and no such permit shall be used for more than three consecutive calendar days. There shall be no more than four sales at any one location in a 12-month period.

(Ord. 2016-2, 6/9/2016, §3)

§13-804. Information to be Filed.

The information to be with the Secretary pursuant to this Part should include the following:

- A. Name of persons, firm, group, corporation, association or organization conducting the sale.
- B. Name of the owner of the property on which said sale is to be conducted and consent of the owner if applicant is other than the owner.
- C. Location at which sale is to be conducted.
- D. Date(s) of intended sale.
- E. How many sales this applicant has conducted in the last 12-month period and how many sales have been conducted at the location within the past 32-month period.
- F. Sworn statement of affirmation by the applicant signing that the information therein given is complete and truthful information known to the person applying.

(Ord. 2016-2, 6/9/2016, §4)

§13-805. Persons and Sale Excepted.

The provisions of this Part should not apply to or affect the following persons or sales:

- A. Persons selling goods pursuant to an order process of Court of the Commonwealth of Pennsylvania.
- B. Persons acting in accordance with their powers and duties as a public official.
- C. Any person selling or advertising for sale an item of personal property which are specifically names or described in the advertisement and which separate items do not exceed seven in number.

(Ord. 2016-2, 6/9/2016, §5)

§13-806. Fines and Fees.

Any person, association or corporation conducting such sale without being properly licensed therefore or who shall violate any of the other terms and regulations of this Part shall upon conviction be fined not less than \$100, no more than \$500 for each violation.

(Ord. 2016-2, 6/9/2016, §6)

Chapter 14

[Reserved]

Chapter 15

Motor Vehicles and Traffic

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Part 1**General Regulations****§15-101. General Rule.**

Except as provided, the provisions of this Chapter relating to the operation, parking and movement or restrictions of vehicles, pedalcycles and pedestrians, refer exclusively to the operation, parking and movement or restrictions of vehicles, pedalcycles and pedestrians upon highways and streets within the boundaries of Plains Township, except where a specific place is specifically referred to in a particular Section or provision of this Chapter.

(Ord. 1993-12, 12/30/1993, §101)

§15-102. Definitions and Interpretations.

1. Words and phrases, when used in this Chapter, except for Sections and Parts to which different or additional definitions apply, shall have the meanings ascribed to them in the Pennsylvania Vehicle Code, the Act of June 17, 1976, P.L. 162, No. 81, 75 Pa.C.S.A. §§101 *et seq.*, as amended, except that, in this Chapter, the word “street” may be used interchangeably with the word “highway” and “trafficway” and shall have the same meaning as the word “highway” and “trafficway” as defined in the Pennsylvania Vehicle Code.

Legal holiday—including, but not be limited to: New Years Day, Easter, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

2. In this Chapter, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine.

3. Although the streets in Plains Township run generally in a southeast-southwest and a northwest-northeast direction, for the purpose of this Chapter, Interstate 81 (I-81) and the streets running parallel or generally parallel to I-81 shall be deemed to run in a north-south direction, and the streets that are perpendicular or generally perpendicular to I-81 shall be deemed to run in an east-west direction.

(Ord. 1993-12, 12/30/1993, §102)

§15-103. Authority of Police Officers.

The police officers of Plains Township and the police officers of other jurisdictions, when requested, shall have the authority to direct traffic on the streets of Plains Township, at intersections, in public and other places and highways where the Pennsylvania Vehicle Code, the Act of June 17, 1976, P.L. 162, No. 81, 75 Pa.C.S.A. §§101 *et seq.*, as amended, or the First Class Township Code, 53 P.S. §§55101 *et seq.*, or this Chapter apply.

(Ord. 1993-12, 12/30/1993, §103)

§15-104. Official Traffic Signs, Signals and Markings.

All signs, signals and markings erected shall conform with the requirements set forth in the provisions of 67 Pa.Code, Chapter 212, “Official Traffic-Control Devices”, as published by the Commonwealth of Pennsylvania, Department of Transportation. In order to secure uniformity in the design, location and operation of all official traffic signs, signals and markings in the Commonwealth of Pennsylvania. This uniformity will correlate with and so far as possible conform to the system set forth in the most recent edition of the Manual on Uniform Traffic Control Devices for Streets and Highways and other standards issued and enforced by the Federal Highway Administration, United States Department of Transportation.

§15-105. Authorization of the Use of Mechanical, Electrical and Electronic Motor Vehicle Speed Timing Devices.

1. The police officers of Plains Township and the police officers of other jurisdictions when requested, are hereby authorized and empowered to use any and all mechanical, electrical and electronic devices (non-radar), or a combination thereof, on all highways, trafficways and streets, for determining the rate of speed of any vehicle and enforcing the maximum and minimum speed limits established by the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §§101 *et seq.*, and this Chapter and other Township ordinances.

2. The authority hereby granted shall relate to all highways, trafficways and streets within Plains Township.

3. The authority hereby granted shall pertain to all present speed timing devices as well as those to be developed and authorized for such use in the future.

4. All speed timing devices shall be of the type approved by the Pennsylvania Department of Transportation.

(Ord. 1993-12, 12/30/1993, §105)

§15-106. Prosecution under Local Ordinance Is Superseded by the Pennsylvania Vehicle Code.

In compliance with §6301 of the Pennsylvania Vehicle Code, the Act of June 17, 1976, P.L. 12, No. 81, 75 Pa.C.S.A. §6301, as amended, except for parking violations, when the same conduct is proscribed under the Pennsylvania Vehicle Code and this Chapter, the charges shall be brought under the Pennsylvania Vehicle Code and not this Chapter.

(Ord. 1993-12, 12/30/1993, §106)

§15-107. Manner of Adopting Permanent Traffic and Parking Regulations.

All traffic and parking regulations of a permanent nature shall be enacted as ordinances, parts of ordinances or as amendments to the ordinances of Plains Township only after completion of an engineering and traffic study, except where the laws of the Commonwealth specifically authorize less formal action.

(Ord. 1993-12, 12/30/1993, §107)

§15-108. Temporary and Emergency Regulations.

1. The Chief of Police or the Plains Township Board of Commissioners shall have the following powers to regulate traffic and parking temporarily and in time of emergency:

A. In the case of fire, flood, storm or other emergency, to establish temporary traffic and/or parking regulations.

B. In the case of emergency public works or public events of limited scope or duration, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than 72 hours.

2. These temporary and emergency regulations shall be enforced by the Police Department of Plains Township in the same manner as permanent regulations. Any person who drives, operates or parks a vehicle in violation of such regulation shall be guilty of a violation and upon conviction, shall be liable for the penalty set out in the law or elsewhere in this Chapter for a violation of that nature, and, in the case of a violation for which no specific penalty is set out in the law or elsewhere in the Chapter, to a fine of \$25 and costs.

(Ord. 1993-12, 12/30/1993, §108)

§15-109. Experimental Regulations.

The Plains Township Board of Commissioners may, from time to time, by resolution, designate places upon and along the streets and highways in Plains Township where, for a period of not more than 90 days, specific traffic and/or parking regulations, prohibitions and restrictions shall be in force and effect, and shall designate those locations by proper signs and markings. Those regulations, prohibitions and restrictions shall be effective just as if they had been specified in this Chapter. No person shall drive, operate or park a vehicle in violation of any such regulation, prohibition or restrictions, and no person shall move, remove, destroy or deface any sign or marking erected, posted or made by authority of this Section. Any person who violates any provision of this Section shall, upon conviction, be guilty of a summary offense, and be liable to the penalty set out in the law or elsewhere in this Chapter, to a fine of \$25 and costs; provided, the purpose of this Section is to allow for tests and experimental determination of the feasibility and desirability of permanent changes in the ordinance of Plains Township relative to traffic and parking.

(Ord. 1993-12, 12/30/1993, §109)

§15-110. Traffic on Streets Closed or Restricted for Construction, Maintenance or Special Events.

1. The Chief of Police or the Plains Township Board of Commissioners shall have the authority to close any street or specific part of a street to vehicular, pedalcycle and pedestrian traffic and to place barriers or station police officers, flaggers or other authorized and appropriately attired persons at each end of the closed street or portion thereof, while construction or maintenance work is underway or a special event is being conducted on the closed street or portion thereof. It is unlawful for any person to drive or operate a vehicle or pedalcycle upon any such closed street or portion thereof.

2. The Plains Township Board of Commissioners, or its designated representative, shall have the authority to establish a restricted traffic area upon any street where construction or maintenance work is underway and to station flaggers at each end of the restricted portion. It shall be unlawful for any person to drive or operate a vehicle upon any such restricted traffic area at any time when the flagger is displaying a sign directing that vehicle to stop, or is signaling that vehicle, by flag or other device, not to proceed.

3. Any person who violates any provision of this Section shall, upon conviction, be guilty of a summary offense and be sentenced to pay a fine of \$25 and costs.

(Ord. 1993-12, 12/30/1993, §110)

§15-111. Use of Streets by Processions and Assemblages.

1. For the purpose of this Section, the words “assemblage” and “procession” shall have the following meanings:

Assemblage—a gathering of people without vehicles, which interferes with the movement of pedestrian or vehicular traffic on any street.

Procession—a group of individuals, vehicles, animals and/or objects moving along a street in a way that interferes with the normal movement of traffic and/or pedestrians; provided, a procession shall not include a funeral caravan or military convoy.

2. It shall be unlawful for any person to hold or participate in any assemblage unless the person organizing or conducting the assemblage first obtains a permit from the Plains Township Board of Commissioners or its designee, which shall be issued without a fee. However, the person organizing or conducting the assemblage may be required to pay Plains Township the actual expenses incurred by the Township to provide the necessary police protection for the assemblage and detour of traffic. Application for the permit shall be made to the Chief of Police or the Township Manager at least four weeks in advance of the day on which the assemblage is proposed to be held, but in any case where a state designated highway is proposed to be used, the application shall be made at least

three days in advance of the proposed date. The application shall state the street and the date when the assemblage is to be held, the hour the assemblage is to convene and the hour by which it shall be completely dispersed. The application shall also contain the name of the person, estimated number of participants and the purpose of the assemblage. It shall be unlawful for any person to lead or participate in any assemblage unless the permit has been granted, or at any time or place other than that authorized by the permit.

3. It shall be unlawful for any person to hold or to participate in any procession unless the person organizing or conducting the procession first obtains a permit from the Township Manager or the Chief of Police, which shall be issued without a fee. However, the person organizing or conducting the procession may be required to pay to Plains Township the actual expenses incurred by the Township to provide the necessary escort, police protection and detour of other traffic for the procession. Application for the permit shall be made to the Township Manager or the Chief of Police at least 20 days in advance of the day when the procession is proposed to be held, but in any case where a state designated highway is proposed to be used, application shall be made at least 45 days in advance of the proposed date. The application shall state the date on which the procession is to be held, the route or routes to be followed by the procession, the hour when and the place where the participants may commence to assemble and form the before the procession is underway, time when the procession may commence to move along its route, the time by which the end of the procession shall have reached the end of the route of the procession and the person organizing or conducting the procession, and the number of estimated individuals, vehicles, animals and/or objects participating in the procession. It shall be unlawful for any person to hold or participate in any procession unless the permit shall have been granted, or under any conditions as to time, date or route are other than those stated in the permit.

4. It shall be unlawful for any person to continue to hold or to participate in any assemblage or procession in violation of Subsections 2. or 3. of this Section after having been given a lawful order by a police officer to desist.

5. Any person who violates any provisions of this Section shall, upon conviction, be guilty of a summary offense, and shall be sentenced as follows:

- A. Upon conviction of Subsections 2. or 3. of this Section, the person shall be sentenced to a fine of \$25 and costs.
- B. Upon conviction of Subsection 4. of this Section, the person shall be sentenced to a fine of not less than \$300 nor more than \$1,000 and/or to a term of imprisonment in the county prison or not less than 30 days or more than 90 days.

(*Ord. 1993-12, 12/30/1993, §111*)

Part 2**Traffic Regulations****§15-201. Maximum Speed Limits Established.**

1. Except when a special hazard exists that requires lower speed, the limits specified in this Section shall be the maximum lawful speeds established for all Plains Township streets, highways, trafficways, alleys and no person shall drive a vehicle at a speed in excess of the following maximum limits:

- A. Twenty-five miles per hour on any Township street/trafficway/highway.
- B. Fifteen miles per hour on any Township alley or school zone.
- C. Any other maximum speed limit established under this Section.

Street	Between	Maximum Speed Limit (MPH)
Bald Mt. Road	Entire Length	40
Foxhill Road	Entire Length	35
Jumper Road	Entire Length	40
Miner Street	Entire Length	35
North Main Street	Entire Length	35
North River Street	Enterprise Street to West Saylor Avenue	45
North River Street	West Carey Street to Enterprise Street	35
Oak Street	Stark Street to Miner Street	35
Ridgewood Road	Entire Length	35
Route 115	1425 feet North of Route 309	45
Route 115	1425 feet South of Route 309	50
Route 315	Entire Length	45
South River Street	Entire Length	35
Stark Street	Entire Length	35
Union Street	Entire Length	35
West Saylor Avenue	Entire Length	35
Westminister Road	Entire Length	40

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to a fine between a minimum of \$100 and a maximum \$500 and costs.

Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional penalty of \$2 per mile for each mile per hour in excess of five miles per hour over the maximum speed limit.

(Ord. 1993-12, 12/30/1993, §201; as amended by Res. 2009-26, 11/12/2009)

§15-202. Maximum Speed Limits Established on Certain Bridges and Elevated Structures.

1. Maximum speed limits are established as follows on certain bridges and elevated structures, and it shall be unlawful for any person to drive a vehicle over any bridge or elevated structure constituting a part of a highway at a speed greater than the maximum posted speed for that bridge or elevated structure:

Bridge or Elevated Structure	Location	Maximum Speed Limit (MPH)
[Reserved]		

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional penalty of \$2 per mile for each mile per hour in excess of five miles per hour over the maximum speed limit.

(Ord. 1993-12, 12/30/1993, §202)

§15-203. Maximum Speed Limits Established for Certain Vehicles on Hazardous Grades.

Street	Between	Direction of Travel	Maximum Gross Weight	Maximum Speed Limit (MPH)	Required to Stop Before Proceeding Downhill
Route 115	Township line	North	10-1/2 Tons	20	Yes

Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional penalty of \$2 per mile for each mile per hour in excess of five miles per hour over the maximum speed limit.

(Ord. 1993-12, 12/30/1993, §203)

§15-204. Maximum Speed Limits Established in Parks.

1. A speed limit of 15 miles per hour is established in the public parks maintained and operated by Plains Township. It shall be unlawful for any person to operate a vehicle in excess of the maximum speed limit.

Park	Street	Location	Maximum Speed Limit (MPH)
Hilldale Park		Parking Lot	15
Plains Municipal Park		Park entrance road and parking lots	15

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs. Any person exceeding the maximum speed limit by more than five miles per hour shall pay an additional penalty of \$2 per mile for each mile per hour in excess of five miles per hour over the maximum speed limit.

(Ord. 1993-12, 12/30/1993, §204)

§15-205. Operation of Certain Vehicles Prohibited in Parks.

1. It shall be unlawful for any person to drive or operate a motor vehicle, motorcycle, motorized pedalcycle, snowmobile or other motorized recreational vehicle in the public parks maintained or operated by Plains Township, except, motor vehicles which are titled and registered in this Commonwealth or another state according to the Vehicle Code of Pennsylvania. 75 Pa.C.S.A. §§101 *et seq.*, and operated by a person(s) licensed to operate such class of vehicle may be driven or operated only on the park streets and parking lot of the public parks maintained and operated by Plains Township, as listed below:

- A. Amesbury Park.
- B. Hilldale Park.
- C. Irishtown Park.
- D. Keystone Park.
- E. Plains Municipal Park.

2. Any person who violates any portion of this Section shall, upon conviction be guilty of a summary offense, and will be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs.

(Ord. 1993-12, 12/30/1993, §205)

§15-206. Traffic Signals at Certain Locations.

1. At the following locations, traffic signals as indicated below shall be erected or ratified (if previously erected), and traffic at these locations shall be directed by these signals.

Location	Type of Signal
Intersection of Abbott Street, South Main Street and Maffett Street [Res. 1996-11]	Traffic Signals
Intersection of East Mountain Boulevard and Baltimore Drive [Res. 2011-16A]	Traffic Signals
Intersection of East Mountain Boulevard and East Mountain Business Park drive [Res. 1993-27]	Traffic Control Signal
Intersection of East Mt. Drive and David Baltimore Drive	
Intersection of Fox Hill Road and Route 315	Traffic Control Signal
Intersection of Jumper Road (SR 2020) and East Mountain Boulevard [Res. 1994-18]	Traffic Control Signal
Intersection of Laird Street and the main entrance to the Woodlands [Res. 2006-18]	Traffic Signals
Intersection of Maffett Street, River Street, North Cross Valley Exp. and Route 309	Traffic Control Signal
Intersection of Main and Carey Streets	Traffic Control Signal
Intersection of Route 115 and East Mountain Boulevard [Res. 9/9/1993]	Traffic Control Signal
Intersection of Route 115 and East Mt. Drive	Traffic Control Signal
Intersection of Route 315 and Jumper Road (SR 2020) [Res. 1994-19]	Traffic Control Signal
Intersection of SR 315 and Laird Street/Woodlands Inn Driveway [Res. 2009-13]	Traffic Signal

Location	Type of Signal
Intersection of Route 315 and Laird Street and the main entrance to the Woodlands [Res. 2008-17]	Traffic Signals
Intersection of SR 315 and Mohegan Sun at Pocono Downs main entrance [Res. 2009-15]	Traffic Signal
Intersection of Route 315 and Motorworld Drive	Traffic Control Signal
Intersection of Route 315 and Motorworld Drive/Cross Creek Pointe [Res. 2009-12]	Traffic Signal
Intersection of Route 315 and Ramp AB [Res. 2006-16]	Traffic Signals
Intersection of Route 315 and Route 309 (North Cross Valley)	Traffic Control Signal
Intersection of Route 315 and Route 2020 (Jumper Road/East Main Street) [Res. 2009-14]	Traffic Control Signal
Intersection of Route 315 and Route 8045 Ramp AB, Ramp A Spur [Res. 2009-11]	Traffic Signal
Intersection of Route 315 and Scott Grocery Warehouse	Traffic Control Signal
Intersection of SR 315 and Sunshine Drive [Res. 2009-16]	Traffic Signal
Main Street (SR 2024) and Courtright Street (SR 2013) [Res. 2001-9]	Flashing Warning Devices
Main Street (SR 2022) at the Loree Associates Driveway to the Prospect Bank Project [Res. 1997-24]	Traffic Control Signal
River Street, SR 2004 Segment to Offset 2505 [Res. 1997-23]	Traffic Control Signal
River Street (SR 2004) and Waterfront Park/Cross Valley Centre [Res. 2009-21]	Traffic Signal
South River Street [Res. 2012-3]	Traffic Signal
SR 309 and River Street and Maffett Street [Res. 2008-19]	Traffic Signal
SR 315 and Jumper Road/East Main Street (SR 2020) [Res. 2012-6]	Traffic Signal
SR 315 and Laird Street/Woodlands Inn Driveway [Res. 2012-6]	Traffic Signal
SR 315 at the main entrance to the Pocono Downs [Res. 2008-15]	Traffic Signal
SR 315 at the main entrance to Motorworld and Cross Creek Point [Res. 2008-18]	Traffic Signal
SR 315 and Motorworld Drive [Res. 1993-18]	Traffic Control Signal
SR 315 and Richland Boulevard [Res. 2012-5]	Traffic Signals
SR 315 and Scott Grocery Drive [Res. 1997-6]	Traffic Control Signal
SR 2022, Main Street	Flashing Warning Devices

2. Any driver of a vehicle who disobeys the directions of any traffic control signal shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs. (*Ord. 1993-12*, 12/30/1993, §206; as amended by *Res. 1993-18*, 6/10/1993; by *Res. 9/9/1993*; by *Res. 1993-27*, 9/9/1993; by *Res. 1994-18*, 3/10/1994; by *Res. 1994-19*, 3/10/1994; by *Res. 1996-11*, 1/18/1996; by *Res. 1997-6*, --/1997; by *Res. 1997-22*, 8/14/1997; by *Res. 1997-23*, 8/14/1997; by *Res. 1997-24*, 9/11/1997; by *Res. 2001-9*, 9/13/2001; by *Res. 2006-16*, 5/11/2006; by *Res. 2006-17*, 5/11/2006; by *Res. 2006-18*, 5/11/2009; by *Res. 2006-19*, 5/11/2006; by *Res. 2008-15*, 5/8/2008; by *Res. 2008-16*, 5/8/2008; by *Res. 2008-17*, 5/8/2008; by *Res. 2008-18*, 5/8/2008; by *Res. 2008-19*, 6/12/2008; By *Res. 2009-11*, 8/13/2009; by *Res. 2009-12*, 8/13/2009; by *Res. 2009-13*, 8/13/2009; by *Res. 2009-14*, 8/13/2009; by *Res. 2009-15*, 8/13/2009; by *Res. 2009-16*, 8/13/2009; by *Res. 2009-21*, 9/10/2009; by *Res. 2011-16A*, 3/10/2011; by *Res. 2012-3*, 2/9/2012; by *Res. 2012-5*, 3/8/2012; and by *Res. 2012-6*, 3/8/2012)

§15-207. Intersections Where Turns Prohibited on Red Signal.

1. The following are established as intersections where drivers of vehicles headed in the direction or directions indicated are prohibited from making a right turn (or left turn from a one-way street into another one-way street) on a steady red signal.

Intersection	Vehicle Traveling On	Facing
Crossvalley Exp. and South River Street	Crossvalley Exp. Exit Ramp	West
Crossvalley Exp. and South River Street	South River Street	South
East Main Street and Route 315	East Main Street	East
Jumper Road and Route 315	Jumper Road	West
Main and Carey Streets	East Main Street	West
Main and Carey Streets	North Main Street	South
Main and Carey Streets	South Main Street	North
Main and Carey Streets	West Main Street	East

2. Any person who violates any portion of this Section shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs. (*Ord. 1993-12*, 12/30/1993, §207)

§15-208. One-Way Streets Established.

1. The Board of Commissioners, with respect to any highway, roadway, part of a roadway or specific lanes upon which vehicular traffic shall proceed in one direction at all times or such times as shall be indicated by official traffic-control devices.

Street	From	To	Direction of Travel
Abbott Street [<i>Res. 1997-20</i>]	East from its intersection with South Main Street	West side of the intersection of Gouge Street	West
Farrell Lane [<i>Res. 2006-12</i>]	South Main Street	Stadium Lane	East
Hancock Street [<i>Res. 2006-13</i>]	North River Street	St. Mary Street	East

Street	From	To	Direction of Travel
Hopkins Street [<i>Res. 1997-17</i>]	Mill Street North	East Carey Street and Hudson Road	South to North
Hopkins Street [<i>Ord. 2002-1</i>]	Mill Street	Hudson Road and Carey Street	North
O'Malley Street	South River Street	St. Mary Street	East
Sand Street [<i>Res. 2011-21</i>]	South of Cleveland Street	North of Cleveland Street	
Warner Street	Haines Street	Hollenback Street	South

2. Any person who violates any portion of this Section shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs.

(*Ord. 1993-12, 12/30/1993, §208; as amended by Res. 1997-17, 7/10/1997; by Res. 1997-20, 8/14/1997; by Ord. 2002-1, 9/12/2002, §208; by Res. 2006-12, 3/9/2006; by Res. 2006-13, 3/9/2006; by Res. 2011-18, 8/12/2011; and by Res. 2011-21, 8/12/2011*)

§15-209. Rotary Traffic Islands Established.

1. The following are established as rotary traffic islands, and every vehicle passing around a rotary traffic island shall be driven only to the right of the island.

2. Any person who drives a vehicle other than to the right of any rotary traffic island shall be guilty of a violation of this Section, and, upon conviction be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs.

(*Ord. 1993-12, 12/30/1993, §209*)

§15-210. Turning at Certain Intersections Prohibited or Restricted.

1. It shall be unlawful for a driver of any vehicle traveling on the first named street at any of the following intersections, in the direction or directions indicated in each case, to make a left turn and/or a right turn into the second named street, as indicated, at any time when such a turn is prohibited by this Section.

Vehicles Traveling On	Direction of Travel	Not to Make	Into	When	Type of Vehicle
South River Street	South	Left	Maffett Street	All times	All
South River Street	South	Right	Off ramp	All times	All

2. Any person who violates any portion of this Section shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs.

(*Ord. 1993-12, 12/30/1993, §210*)

§15-211. Movement Other than Right Turn at Intersections.

1. It shall be unlawful for any operator of any vehicle traveling on the first named street at any of the following intersections traveling in the direction indicated to make any movement other than a right turn without stopping the vehicle and yielding to oncoming traffic.

Street Traveled On	Direction of Travel	Not to Make Left or Straight Onto
Hudson Road	South	Straight onto Hopkins Street
Oak Street	North	Straight onto Oak Street
Oak Street	South	Left onto Stark Street
Oak Street	South	Straight onto South Oak Street
School Street	South	Left onto First Street

2. Any person who violates this Section shall be guilty of a summary offense and shall, upon conviction be sentenced to pay a fine of \$100 and costs.

(Ord. 1993-12, 12/30/1993, §211)

§15-212. Right Turn Only Permitted at Certain Intersections.

It shall be unlawful for the driver of any vehicle, traveling upon the first named street at any of the following intersections, in the direction or directions indicated in each case, to make other than a right turn, at any time stated, both left turns and straight across traffic being prohibited:

Vehicle Traveling On	Direction of Travel	Times	Not to Make Left Turn Into or Travel Straight Across
South River Street	South	All	Maffett Street

(Ord. 1993-12, 12/30/1993, §212)

§15-213. U-Turns Prohibited at Certain Locations.

1. It shall be unlawful for the driver of any vehicle, traveling upon any of the following portions of streets, in the direction or directions indicated for that street, to make a U-turn:

Street	Portion	Direction of Travel
South River Street	North Cross Valley Exp. (Route 309)	South

2. Any person who violates any portion of this Section shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs.

(Ord. 1993-12, 12/30/1993, §213)

§15-214. Passing Zones Established.

The following are established as passing zones, and it shall be lawful for the driver of any vehicle to overtake or pass another vehicle or to drive on the left side of the roadway in any passing zone:

Street	Direction of Travel	Between
[Reserved]		

(Ord. 1993-12, 12/30/1993, §214)

§15-215. Through Highways Established.

1. The following streets are established as through highways, thus authorizing stop or yield

signs to be erected facing traffic approaching every intersection with the through highway except for those intersections with traffic control signals, or with exceptions or modifications as indicated below. Every driver of a vehicle approaching a stop or yield sign authorized by this Section shall stop the vehicle or yield the right-of-way as required by §3323(b) or §3323(c) of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §3323(b), (c), as the case may be, and shall not proceed into or across the through highway until he or she has followed all applicable requirements of that section of the law:

Highway	Between
East Carey Street	Entire Length
East Mountain Drive	Entire Length
East and West Saylor Avenues	Entire Length
Foxhill Road	Entire Length
Hudson Road	Entire Length
Jumper Road	Entire Length
Maffett Street	Entire Length
Miner Street	Entire Length
North Main Street	Entire Length
North River Street	Entire Length
South Main Street	Entire Length
South River Street	Entire Length
Route 115	Entire Length
Route 315	Entire Length
Stark Street	Entire Length
West Carey Street	Entire Length

2. Any person who violates any portion of this Section shall, upon conviction, shall be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs.

(Ord. 1993-12, 12/30/1993, §215)

§15-216. Stop Intersections Established.

1. The following intersections are established as stop intersections, and official stop signs shall be erected (or are ratified if previously erected) in such a position as to face traffic approaching the second-named street (the intersection or through street) on the first-named street (the stop street) in the direction or directions indicated for that intersection. Every driver of a vehicle approaching the intersection on the first-named or stop street, in the direction indicated in each case, shall stop the vehicle as required by §3323(b) of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §3323(b), and shall not proceed into or across the second-named or intersecting or through street until he or she has followed all applicable requirements of that section of law.

Stop Street	Intersection or Through Street	Direction of Travel
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Stop Street	Intersection or Through Street	Direction of Travel
Abbott Street [<i>Res. 1999-10</i>]	Abbott Street and Bailey Streets and the exit driveway of the Leo E. Solomon Educational Complex, Plains Memorial K thru 8 School	Both Directions
Abbott Street [<i>Ord. 2002-1</i>]	Bailey Street (4-way stop)	
Abbott Street	South Main Street	West
Abbott Street [<i>Ord. 2002-1</i>]	Stocker Street (2-way stop)	
Abbott Street	Stocker Street	East
Abbott Street	Stocker Street	West
Amesbury Street	Maffett Street	East
Amesbury Street	Maffett Street	West
Amesbury Street	Poplar Street	South
Amesbury Street	South Main Street	East
Amesbury Street	Wyoming Street	North
Amesbury Street	Wyoming Street	South
Avon Street	Bear Creek Boulevard	South
Avon Street	Iroquois Street	East
Avon Street	Iroquois Street	West
Bailey Street	Abbott Street	South
Bailey Street	East Carey Street	North
Bank Street	Hudson Road	West
Birch Avenue	North Beech Street	West
Birch Avenue	South Beech Street	East
Blanchard Street	Cemetery Street	East
Blanchard Street	North Main Street	West
Brader Street	Powell Street	South
Briar Creek Road	Mill Creek Road	East
Burke Street [<i>Res. 2011-19</i>]	Powell Street	4-way
Burke Street	Powell Street	North
Burke Street	Powell Street	South
Catherine Street	Perkins Street	East
Cedar Road	South Beech Street	South

Stop Street	Intersection or Through Street	Direction of Travel
Cedar Road	Spruce Street	North
Cemetery Street	William Street	South
Center Street	North Street	East
Chamberlain Street	Clark Street	East
Chamberlain Street	Emily Street	East
Chamberlain Street	Emily Street	West
Chamberlain Street	North Main Street	West
Chamberlain Street	Penn Street	East
Chamberlain Street	Penn Street	West
Cheryl Street	Hill Street	West
Clark Lane	Driftwood Drive	North
Clark Lane	Elm Street	East
Clark Lane	Elm Street	West
Clark Lane	North Main Street	West
Clark Lane	South Beech Street	East
Clark Lane	South Beech Street	West
Cleveland Street	First Street	East
Cleveland Street	Miner Street	West
Conlon Lane	School Street	West
Conlon Lane	Union Street	North
Cook Street	Garden Drive	East
Cook Street	Garden Drive	West
Cook Street	Maffett Street	West
Cook Street	Oak Street	East
Cook Street	South Main Street	East
Cottage Avenue	Stocker Street	West
Cotton Avenue	Martin Street	South
Cotton Avenue	Miner Street	North
Cotton Avenue	Minter Street	South
Courtright Street	North Main Street	East
Courtright Street	North River Street	East

Stop Street	Intersection or Through Street	Direction of Travel
Courtright Street	North River Street	West
Crescent Street	Riverview Street	West
Crescent Street	Terrace Street	North
Crow Street	Hudson Road	West
Delaware Street	East Carey Street	South
Delaware Street [<i>Res. 2012-11</i>]	East Merritt Street	
Diana Street	Sarah Street	East
Diana Street	South River Street	West
Dingwall Street	Amesbury Street	North
Driftwood Drive	North Main Street	West
East Ann Street	Maffett Street	West
East Ann Street	South Main Street	East
East Bergh Street	Hill Street	West
East Bergh Street	School Street	West
East Bergh Street	Union Street	East
East Charles Street	South Main Street	East
East Charles Street	South Main Street	West
East Merritt Street	Delaware Street	East
East Merritt Street	Delaware Street	West
East Merritt Street	Hudson Road	East
East Merritt Street	North Main Street	West
East Mountain Drive	Jumper Road	North
East Mountain Drive	Route 115	South
East Saylor Avenue	North Main Street	West
East Stanton Street	Hill Street	East
East Stanton Street	Hill Street	West
East Stanton Street	School Street	West
East Stanton Street	Union Street	East
East Thomas Street	Second Street	East
Elizabeth Street	Hancock Street	South
Elm Road	Birch Avenue	North

Stop Street	Intersection or Through Street	Direction of Travel
Elm Road	Birch Avenue	South
Elm Road	Clarke Lane	North
Elm Road	Spruce Street	South
Emily Street	Hilldale Avenue	South
Farrell Lane	South Main Street	West
Farrell Street	William Street	East
Farrell Street	William Street	West
First Street	Cleveland Street	North
First Street	Cleveland Street	South
Foote Street	Cotton Avenue	West
Foote Street	School Street	East
Gail Drive	Saylor Avenue	North
Gallagher Road	South River Street	East
Garden Drive	Cook Street	North
Garden Drive	Cook Street	South
Garden Drive	Hudson Road	South
Garden Drive	New Street	North
Gouge Street	Abbott Street	North
Gouge Street	Farrell Lane	South
Grace Drive	Cotton Avenue	East
Grace Drive	New Street	South
Gibbons Street	Miner Street	North
Haines Street	Maffett Street	East
Haines Street	South River Street	West
Haines Street	Warner Street	East
Haines Street	Warner Street	West
Hancock Street	North River Street	West
Hancock Street	Rose Avenue	East
Hancock Street	Rose Avenue	West
Hancock Street	St. Mary Street	East
Hancock Street	St. Mary Street	West

Stop Street	Intersection or Through Street	Direction of Travel
Harriet Street	North Main Street	West
Helen Street	Maffett Street	East
Helen Street	South River Street	West
Hemlock Street	Mack Street	South
Hemlock Street	West Carey Street	North
Henry Street	Delaware Street	East
Henry Street	Delaware Street	West
Henry Street	Hudson Road	East
Henry Street	North Main Street	West
High Street	Parkview Drive	North
High Street	Price Street	South
Hill Street	East Bergh Street	North
Hill Street	East Bergh Street	South
Hill Street	Union Street	South
Hilldale Avenue	North Main Street	West
Hilldale Avenue	Penn Street	East
Hilldale Avenue	Penn Street	West
Hollenback Street	Maffett Street	East
Hollenback Street	South River Street	West
Hollywood Avenue	Courtright Street	South
Hopkins Street	East Carey Street	North
Hopkins Street	Mill Street	South
Jay Drive	Gail Drive	East
Jay Drive	West Saylor Avenue	North
Jones Street	Cotton Avenue	West
Jones Street	School Street	East
Jumper Road	Westminster Road	East
Juniper Street	Cook Street	South
Juniper Street	Kennedy Drive	South
Kelly Street	Bear Creek Boulevard	South
Kelly Street	Iroquois Street	North

Stop Street	Intersection or Through Street	Direction of Travel
Kelly Street	Iroquois Street	South
Kennedy Drive	Garden Drive	East
Kennedy Drive	Garden Drive	West
Laird Street	Route 315	East
Lan Creek Road	Briar Creek Road	West
Lan Creek Road	Mill Creek Road	East
Lathrop Street	Mercer Street	East
Lathrop Street	Warner Street	West
Laurel Street	Amesbury Street	West
Litchey Road	Route 115	South
Louis Street	Hill Street	West
Mack Street	Sarah Street	East
Mack Street	Sarah Street	West
Mack Street	South River Street	West
Maple Street	East Main Street	North
Margaret Street	Helen Street	South
Marlino Drive	Birch Street	West
Marlino Drive	Garden Drive	East
Martin Street	Oak Street	West
May Street	McCullough Street	North
McCullough Street	North River Street	East
McCullough Street [<i>Res. 2009-18</i>]	O'Neil Street	East
McCullough Street [<i>Res. 2009-18</i>]	O'Neil Street	West
Mercer Street	Maffett Street	South
Michele Street	Hill Street	West
Mill Creek Road	Jumper Road	South
Mill Street	East Carey Street	North
Mitchell Street	Reese Street	East
Mitchell Street	Reese Street	West
Mitchell Street	Robert Street	West

Stop Street	Intersection or Through Street	Direction of Travel
Napoli Street	Ridgewood Road	South
New Street	Cotton Avenue	East
New Street	Garden Drive	West
New Street	Oak Street	East
New Street	Oak Street	West
Nicholson Street	Burke Street	West
Nicholson Street	Slope Street	North
Ninotti Street	Hemlock Street	East
Ninotti Street	Sarah Street	West
North Beech Road	Birch Avenue	North
North Beech Road	Birch Avenue	South
North Beech Road	North Main Street	North
North Beech Road	Spruce Street	South
North Street	Cleveland Street	North
North Street	Cleveland Street	South
O'Donnell Street	Bear Creek Boulevard	
O'Malley Street	St. Mary Street	East
Oak Street	Miner Street	South
Oak Street	New Street	North
Oak Street	New Street	South
Parkview Drive	River Street	West
Pearl Street	Courtright Street	North
Penn Avenue	Farrell Lane	North
Pennsylvania Avenue	Center Drive	East
Penny Lane	East Saylor Avenue	South
Perkins Street	West Carey Street	South
Pine Road	South Beech Road	South
Pine Road	Spruce Street	North
Poplar Street	South River Street	West
Powell Street [<i>Res. 2011-19</i>]	Burke Street	4-way
Powell Street	North Main Street	East

Stop Street	Intersection or Through Street	Direction of Travel
Price Street	Amesbury Street	East
Price Street	South River Street	West
Railroad Street	Mill Street	East
Reese Street	Courtright Street	North
Reese Street	Mitchell Street	North
Reese Street	Mitchell Street	South
Ridgewood Road	Route 315	East
Ridgewood Road	Union Street	West
Riverview Drive	St. David Street	South
Riverview Drive	Terrace Street	North
Robert Street	Courtright Street	North
Rose Avenue	Hancock Street	North
Rose Avenue	Hancock Street	South
Rose Avenue	West Carey Street	South
Sandra Street	Hill Street	West
Sarah Street	Helen Street	South
Sarah Street	West Carey Street	North
School Street	Union Street	South
Scott Street	Cemetery Street	East
Scott Street	North Main Street	West
Second Street	East Main Street	North
Sheridan Street	Delaware Street	East
Sheridan Street	Delaware Street	West
Sheridan Street	Hudson Road	East
Shiffer Lane	Miner Street	South
Short Gouge Street	Gouge Street	East
Short Gouge Street	South Main Street	West
Skidmore Street	Cotton Avenue	West
Skidmore Street	School Street	East
Skyview Road	Clarke Street	East
Skyview Road	Driftwood Drive	North

Stop Street	Intersection or Through Street	Direction of Travel
Slope Street	Burke Street	West
Slope Street	North Main Street	East
South Beech Road	Birch Avenue	North
South Beech Road	Cedar Avenue	South
South Beech Road	Clarke Lane	North
South Beech Road	Pine Street	South
South Beech Road [<i>Res. 2010-8</i>]	Spruce Avenue	South
South Beech Road	Spruce Street	North
South Main Street	Maffett Street	North
South Oak Street	Stark Street	North
Spruce Street	Elm Street	North
Spruce Street	North Beech Road	West
Spruce Street	South Beech Avenue	East
St. James Street	Rose Avenue	East
St. James Street	St. Mary Street	West
St. John Street	Rose Avenue	East
St. John Street	St. Mary Street	West
St. Mary Street	Hancock Street	North
St. Mary Street	Hancock Street	South
St. Mary Street	West Carey Street	South
Stadium Alley	Abbott Street	North
Stadium Alley	Farrell Lane	North
Stadium Alley	Farrell Lane	South
Stocker Street	Abbott Street	South
Stocker Street	East Carey Street	North
Sunset Drive	Route 315	West
Tamarac Street	East Main Street	North
Terrace Avenue	Courtright Street	South
Terrace Street	North Main Street	East
Tulip Drive	Kennedy Drive	South
Tulip Drive	New Street	North

Stop Street	Intersection or Through Street	Direction of Travel
Union Street	Ridgewood Road	North
Union Street	School Street	West
Warner Street	Hollenback Street	South
Warner Street [<i>Res. 2010-4</i>]	West Ann Street (aka Penn State Alley)	All (4-way)
West Ann Street	Maffett Street	East
West Ann Street (aka Penn State Alley) [<i>Res. 2010-4</i>]	Warner Street	All (4-way)
West Bergh Street	Cotton Avenue	West
West Bergh Street	School Street	East
West Carey Street	River Street	West
West Charles Street	Maffett Street	East
West Charles Street	Maffett Street	West
West Merritt Street	North Main Street	East
West Merritt Street	Perkins Street	West
West Saylor Avenue	North Main Street	East
West Saylor Avenue	North River Street	West
West Stanton Street	Cotton Avenue	West
West Stanton Street	School Street	East
Wildflower Drive	East Mountain Drive	East
Wilcox Street	Cemetery Street	East
Wilcox Street	Garden Drive	East
Wilcox Street	North Main Street	West
William Street	Chamberlain Street	North
William Street	Chamberlain Street	South
William Street	Delaware Street	East
William Street	Delaware Street	West
William Street	Hilldale Avenue	South
William Street	Hudson Road	East
William Street	North Main Street	West
Wyoming Street	Amesbury Street	East
Wyoming Street	Amesbury Street	West

Stop Street	Intersection or Through Street	Direction of Travel
Wyoming Street	South River Street	West

2. Any person who violates any portion of this Section shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs.

(Ord. 1993-12, 12/30/1993, §216; as amended by Res. 1999-10, 8/15/1999; by Res. 1999-17, 10/14/1999; by Ord. 2002-1, 9/12/2002, §216; by Res. 2009-18, 8/13/2009; by Res. 2010-4, 2/11/2010; by Res. 2010-7, 5/14/2010; by Res. 2010-8, 5/14/2010; by Res. 2010-12, 8/12/2010; by Res. 2011-19, 8/12/2011; and by Res. 2012-11, 4/13/2012)

§15-217. Yield Intersections Established.

1. The following intersections are established as yield intersections, and official yield signs shall be erected (or are to be ratified if previously erected) to such position as to face traffic approaching the second-named street (the through street) on the first-named street (the yield street) in the direction or directions indicated for that intersection. Every driver of a vehicle approaching the intersection on the first-named street or yield street, in the direction indicated in each case, shall slow down or stop the vehicle as required by §3323(c) of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §3323(c), and then yield the right-of-way as required by that Subsection of the Pennsylvania Vehicle Code:

Yield Street	Through Street	Direction of Travel
[Reserved]		

2. Any person who violates any portion of this Section shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs.

(Ord. 1993-12, 12/30/1993, §217)

§15-218. Play Highways Established and Authorized.

1. The following areas upon the streets in Plains Township are established as play highways:

Street	Between	Days	Hours
[Reserved]			

2. The Plains Township Commissioners are authorized to designate as play highways, whenever it deems that action advisable, and for whatever period of time directed by them, any part of any Township-designated street in the Township, where sledding and coasting and community block parties shall be permitted. That play highway shall be set apart for the purpose under the direction of the Chief of Police or the Plains Township Road Department Supervisor. Notification of such closure shall be forwarded to the Chief of the Plains Township Fire Department.

3. Any person, or group of persons may request the Plains Township Board of Commissioners, to establish a “play highway”, for specified time period(s), by making such request in writing, no less than 30 calendar days prior to the established event.

4. No person shall drive any motor vehicle upon any play highway at any time when the street shall be designated as a play highway, except in the case of an emergency, with special permission from the Chief of Police or the Plains Township Road Department Supervisor, or the police officer in charge, who shall first clear that play highway of all persons using it for the purposes for which it was set aside. Any person who violates any provision of this Subsection 4. shall, upon conviction, be sentenced to pay a fine between

a minimum of \$100 and a maximum \$500 and costs.

(Ord. 1993-12, 12/30/1993, §218)

§15-219. Snowmobile and ATV Roads Designated.

1. The following roads and streets within the Township are designated as special snowmobile and ATV roads:

Street	Between	Used by Snowmo- biles Only When Closed to Vehicular Traffic	Shared With Vehicular Traffic
[Reserved]			

2. A. It shall be unlawful for any person to operate a snowmobile on any highway, street or road in the Township other than provided above.
- B. Nothing in this Section shall prohibit any person from operating a snowmobile or ATV on any other street in the Township:
 - (1) As authorized by §7721 of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §7721, for emergency and bridge crossings and for direct crossing of streets or two lane high-ways; or
 - (B) For special snowmobile or ATV events which are authorized in advance and the street is blocked off as provided in §7723 of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §7723.

3. No person shall operate a snowmobile or ATV on private property without the written consent of the owner of the property, said consent shall be maintained on the person at all times.

4. Any person who violates any provision of this Section shall be subject to the penalties prescribed in §7752(a) of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §7752(a).

(Ord. 1993-12, 12/30/1993, §219)

§15-220. Skates, Coasters, Sleds and Other Toy Vehicles.

1. It shall be unlawful for any person to ride a sled upon any sidewalk in the Township, or upon any roadway unless that roadway is on a portion of a street blocked off for sledding by authority of the §15-109 of Part 1 or of §15-217 of Part 2 of this Chapter; provided, nothing in this Subsection 1. shall prevent a pedestrian from pulling a sled, with or without a rider, upon a sidewalk.

2. It shall be unlawful for any person to engage in rollerskating or to ride upon or to propel any coaster or other toy vehicle upon:

- A. Any street in order to cross the roadway; or
- B. Any sidewalk located in a business district, except that nothing in this Subsection 2. Paragraph B. shall prevent a pedestrian from pulling a coaster or other toy vehicle, with or without a rider, upon a sidewalk.

3. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs.

(Ord. 1993-12, 12/30/1993, §220)

§15-221. Through Traffic Prohibited at Certain Locations.

1. It shall be unlawful for any driver of any vehicle, traveling on any of the following streets or portions of streets to use said streets or portions thereof as a direct travel or route, except to stop at or make deliveries along said street or portion thereof:

Street	Portion	Direction
[Reserved]		

2. Any person who violates any portion of this Section shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs.

(Ord. 1993-12, 12/30/1993, §221)

§15-222. Use of Private or Public Property to Avoid Traffic Control Device.

1. It shall be unlawful for any person to operate a motor vehicle on any private or public property to avoid a traffic control device placed in accordance with the provisions of this Chapter.

2. Any person violating this Section shall be guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine between a minimum of \$100 and a maximum \$500 and costs.

(Ord. 1993-12, 12/30/1993, §222)

Part 3**Restrictions on Size, Weight and Type of Vehicles and Loads****§15-301. General Rule.**

Chapter 49 of the Vehicle Code of Pennsylvania, 75 Pa.C.S.A. §§4901 *et seq.*, deals with size, weight and load of vehicles. The provisions of Chapter 49 of the Vehicle Code apply to all streets designated as Township streets in Part 2, §15-201, of this Chapter.

(Ord. 1993-12, 12/30/1993, §301)

§15-302. Vehicle Weight Limits Established on Certain Streets and Bridges.

1. By authority of §4902(a) of the Pennsylvania Vehicle Code, 53 P.S. §4902(a), a maximum gross weight of 60,000 pounds is established for any vehicle or combination of vehicles using the Township designated streets in Part 2, §15-201, of this Chapter. It shall be unlawful for any person or persons to drive any vehicle or combination of vehicles having a gross weight in excess of the maximum prescribed.

2. By authority of §4902(a) of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §4902(a), a maximum gross weight is established as follows for vehicles or combination of vehicles using the following named bridges. It shall be unlawful for any person or persons to drive any vehicle or combination of vehicles having a gross weight in excess of the maximum prescribed below for that bridge.

Bridge	Location	Maximum Gross Weight
[Reserved]		

3. Any person who violates any portion of this Section shall be prosecuted under §§4902(a) and 4902(g-i) of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §4902(a), (g-i), and upon conviction, shall be sentenced to pay a fine of \$150 plus \$150 for each 500 pounds, or part.

(Ord. 1993-12, 12/30/1993, §302)

§15-303. Truck Traffic Restricted on Certain Streets.

1. A. It shall be unlawful for any person to drive a vehicle other than a passenger vehicle, bus or Class 3 vehicle as described in §§1913 and 1916 of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §1913, 1916, on any of the following streets or portions of street:

Street	Between
Abbott Street	Mill Street and South Main Street
Birchwood Hills	Entire Development
First Street	Scott Street (Wilkes-Barre) to Miner Street
Helen Street	South River Street and Maffett Street
Hemlock Street [Res. 2011-20]	Except local deliveries
Hudson Gardens	Entire Development
Ninotti Street [Res. 2011-20]	Except local deliveries
Riverview Terrace	North Main Street and Rose Avenue

Street	Between
Sarah Street [Res. 2011-20]	Except local deliveries

B. Provided, nothing in this Section shall prohibit any person from driving an emergency vehicle on any of those streets or portions of streets, or from driving on any of those streets or portions of streets a truck or other commercial vehicle making local deliveries to or pickups from premises located along that street or portion of street.

2. Any person who violates any provision of this Section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

(Ord. 1993-12, 12/30/1993, §303; as amended by Res. 2011-20, 9/9/2011)

§15-304. Parking, Stopping, Standing of Certain Vehicles Prohibited.

1. It is unlawful for any person to park, stop or let stand any vehicle having a gross weight of 7,001 pounds or more, and being registered Class 3 and above, between the hours of 6:00 p.m. and 6:00 a.m. on any roadway in Plains Township.

2. Any person who violates this Section shall be guilty of a summary offense and, upon conviction, shall be sentenced to pay a fine of \$25 and costs.

(Ord. 1993-12, 12/30/1993, §304)

§15-305. Vehicle Size Restrictions.

1. Biscontini Distribution Centers, 175 South Main Street, Plains Township, Luzerne County, PA, is engaged in the business of storing, handling and transporting goods and merchandise.

2. It is necessary for Biscontini Distribution Centers to transport said merchandise to Biscontini Distribution Centers located at 175 South Main Street, Plains Township, Luzerne County, PA.

3. Both Biscontini Distribution Centers and its customers utilize trailers being 48 feet long by 102 inches wide and 53 feet long by 102 inches wide because these are now the common size trailers used in the trucking and distribution industry.

A. That the Plains Township Board of Commissioners do hereby grant to Biscontini Distribution Centers, 175 South Main Street, Plains Township, Luzerne County, PA, permission to use the above stated trailer types for ingress and egress to that certain section of South Main Street in Plains Township beginning with the border of Wilkes-Barre City and Plains Township up to the entrance to Biscontini Distribution Centers, 175 South Main Street, Plains Township, Luzerne County, PA, being a total distance of four-tenths of one mile.

B. That Plains Township Board of Commissioners thereby grant to Biscontini Distribution Centers, 175 South Main Street, Plains Township, Luzerne County, PA, permission to use the same sized trailers on Maffett Street beginning at the end of the Cross-Valley Expressway Exit Ramp (Exit 5) also known as Route 309-North and proceeding along Maffett Street to East Ann Street then along East Ann Street across South Main Street to Biscontini Distribution Centers being a total distance of eight-tenths of one mile.

(Res. 1996-34, 6/13/1996)

Part 4

Stopping, Standing and Parking

§15-401. Parking Prohibited at All Times in Certain Locations.

1. Parking shall be prohibited at all times in the following locations:
 - A. On any roadway or edge of any curb line.
 - B. On any sidewalk.
 - C. Within an intersection.
 - D. Within a crosswalk.
 - E. Alongside or opposite any street excavation.
 - F. At any place where official signs and/or markings prohibit parking.
 - G. At any place that would hinder the free flow of traffic.

Street	Side	Between
Abbott Street [<i>Res. 2010-6</i>]	North	From South Main Street to Mill Street
Abbott Street [<i>Res. 1997-20</i>]	South	From a point 20 feet west of the intersection of Abbott Street and Stadium Alley along the entire length of the front of the new elementary school
Amesbury Street	Both Sides	South Main to Maffett Street
Amesbury Street [<i>Ord. 1996-6</i>]	East	Wyoming Street to north corner of Township Park
Bailey Street	East	Entire Street
Bank Street [<i>Res. 2009-19</i>]	South	From Hudson Road to the alley behind SS Peter and Paul School
Bank Street	South	Entire Street
Bowl Complex Road [<i>Ord. 1998-3</i>]	Both	Beginning at the vehicle gate, south for the entire length of road.
Brader Street [<i>Res. 1997-4</i>]	North	
Brader Street [<i>Ord. 1997-2</i>]	West	North from intersection with Powell Street for 41 feet.
Center Street [<i>Res. 1997-3</i>]	North	West of the intersection with North Street for a distance of 20 feet from the intersection
Center Street [<i>Ord. 1997-2</i>]	North	West from intersection with North Street for 25 feet.
Clark Lane [<i>Res. 1997-21</i>]	Both	The entire length of the service road(s) south of the entrance gate for those fields and facilities located in the lower level (pit) of the park

Street	Side	Between
Clark Lane [<i>Res. 1997-21</i>]	Both	The main entrance road online from the rear of the Jescavage property, east to the paved pedestrian crosswalk
Clark Lane [<i>Ord. 1998-3</i>]	Both	Beginning at east side of intersection of Clark Lane and South Beech Road East to first pedestrian crosswalk inside Birchwood Municipal Park.
Cleveland Street [<i>Ord. 1996-6</i>]	South	Entire length fronting Township Park
Cook Street	North	Entire Street
Cottage Avenue	North	Entire Street
Courtright Street [<i>Res. 2009-7</i>]	South	The entrance of River Ridge Development-Hollywood Drive to house number 83-85-87 Courtright Street
Diana Street	South	Entire Street
Dingwall Street [<i>Res. 1997-3</i>]	West	South of the intersection with Amesbury Street for a distance of 20 feet from the intersection
Dingwall Street [<i>Ord. 1997-2</i>]	West	South from the intersection with Amesbury Street for 22 feet
Driftwood Street	South	Entire Street
East Ann Street [<i>Res. 1995-22</i>]	North	30 feet of the stop sign, 30 feet of South Main Street, 20 feet of the alley
East Ann Street [<i>Res. 1995-22</i>]	South	30 feet of the stop sign, 30 feet of Maffett Street, 20 feet of the alley
East Carey Street	South	Entire Street
East Charles Street	Both Sides	Entire Street
East Main Street	Both Sides	Entire Street
East Mountain Drive	Both Sides	Entire Street
Farrell Lane	North	Entire Street
Farrell Lane	South	Entire Street
Gouge Street	West	Entire Street
Harriet Street	North	Entire Street
Helen Street	South	Entire Street
Hudson Road [<i>Ord. 1996-6</i>]	West	William Street to Crow Alley
Jones Street	South	Entire Street
Laurel Street [<i>Res. 2001-10</i>]	North	

Street	Side	Between
Maffett Street	Both Sides	Mercer Street to Ann Street
Maffett Street	West	Entire Street
Main Street (SR 2024) [<i>Ord. 2009-10</i>]	North	Approximately 100 feet south of Main Street's intersection with West Carey Street
Main Street (SR 2024) [<i>Ord. 2009-10</i>]	North	Approximately 325 feet south of Main Street's intersection with West Carey Street
Main Street (SR 2024) [<i>Ord. 2009-10</i>]	South	Approximately 325 feet South of Main Street's intersection with West Carey Street
Martin Street	Both Sides	Entire Street
McCullough Street	North	Entire Street
Michelle Street [<i>Res. 2005-14</i>]	East	
Mill Street	East	Entire Street
Mill Street	West	Entire Street
Miner Street	South	Entire Street
New Street	North	Cotton to Tulip
New Street	South	Tulip to Garden
North Main Street	Both Sides	Carey Street to East Saylor Avenue
North Street [<i>Ord. 1997-2</i>]	East	South from the intersection with Cleveland Street for 172 feet
North Street [<i>Ord. 1997-2</i>]	West	North from intersection with Center Street for 20 feet.
Oak Street	Both Sides	Miner to Stark
Perkins Street	East	Entire Street
Poplar Street	Both Sides	Entire Street
Powell Street	East	100 feet
Powell Street [<i>Ord. 1997-2</i>]	North	West from intersection with Brader Street for 24 feet
Powell Street [<i>Res. 1997-4</i>]	West	
Railroad Street	Both Sides	Entire Street
Ridgewood Road	Both Sides	Entire Street
School Street	West	Entire Street
Short Gouge Street	North	Entire Street

Street	Side	Between
South Main Street	East	Entire Street
South Main Street	West	Entire Street
St. Mary Street	West	Entire Street
Stadium Alley	East	Entire Street
Stadium Alley	West	Entire Street
Stark Street	North	Entire Street
Stark Street [<i>Ord. 1996-6</i>]	South	15 feet East of driveway at 55 Stark Street to 15 feet West of driveway at 55 Stark Street
Stocker Street	West	Entire Street
Union Street [<i>Ord. 1996-6</i>]	Both sides	C&P Railroad tracks to Laflin Borough boundary
West Ann Street	North	Entire Street
Westminster Road (SR 2039) [<i>Ord. 2014-4</i>]*	North and West	From the PP&L right-of-way along Pennsylvania American Water land to the northerly side of Jumper Road (SR 2020) to lands of Michael J. Pasonick, Jr. a distance of 1,745 feet more or less
Westminster Road (SR 2039) [<i>Ord. 2014-4</i>]*	South	From the lands of Thomas Bowman a distance of 647 feet more or less along Westminster Road to a one lane tunnel
Westminster Road (SR 2039) [<i>Ord. 2014-4</i>]*	West	Along the south side of Jumper Road (SR 2020) to the lands of the Pennsylvania American Water driveway off of Jumper Road a distance of 1,304 feet more or less
Wyoming Street [<i>Ord. 1996-6</i>]	Both sides	Entire Street

2. Any person who violates any provision of this Section shall, upon conviction be sentenced to pay a fine of \$50 plus costs. [*Ord. 2009-10*]

3. *Any person who violates disobeys or refuses to comply with *Ord. 2014-4* shall be guilty of a summary offense and upon conviction shall be fined not less than \$50 or more than \$300. [*Ord. 2014-4*]

(*Ord. 1993-12*, 12/30/1993, §401; as amended by *Res. 1995-16*, 8/18/1995; by *Res. 1995-22*, 11/16/1995; by *Res. 1996-37*, 10/10/1996; by *Ord. 1996-6*, 11/14/1996, §1; by *Ord. 1997-2*, 6/12/1997, §1; by *Res. 1997-3*, 2/13/1997; by *Res. 1997-4*, 2/13/1997; by *Res. 1997-20*, 8/14/1997; by *Res. 1997-21*, 8/14/1997; by *Ord. 1998-3*, 5/14/1998, §1; by *Res. 2001-10*, 11/8/2001; by *Res. 2005-13*, --/2005; by *Res. 2005-14*, 12/8/2005; by *Res. 2009-7*, 5/14/2009; by *Res. 2009-19*, 8/13/2009; by *Ord. 2009-10*, 9/10/2009, Articles 1 and 2; and by *Res. 2010-6*, 5/14/2010; and by *Ord. 2014-4*, 8/4-2014)

§15-402. Parking Prohibited in Certain Locations Certain Days and Hours.

1. Parking shall be prohibited in the following locations at all times on the days and between the hours indicated in this Section, as follows:

Street	Side	Between	Days	Hours
Diana Street [Res. 2007-21]	North	Signs access from 13 Diana Street	not less than 60 days or more than 90 days	
12 East Carey Street [Res. 2007-17]		Along the curb line in front of 12 East Carey Street	not less than 60 days or more than 90 days	30 minutes
South Main Street [Res. 1997-14]		216 feet north (the north curblane of Abbott Street) of Abbott Street along the east curb		15 minute parking 9:00 a.m. to 5:00 p.m.
St. Marys Street [Res. 1998-9]	East	No parking here to corner, at the intersection with St. David Street, South, for a distance of 30 feet	not less than 30 days or more than 90 days	

2. Any person who violates, disobeys or refuses to comply with this Section shall be guilty of a summary offense and upon conviction shall be fined not less than \$25 nor more than \$300. [Ord. 2007-4]

(Ord. 1993-12, 12/30/1993, §402; as amended by Res. 1997-14, 5/8/1997; by Res. 1998-9, 5/14/1998; by Res. 2007-17, 4/12/2007; by Ord. 2007-4, 7/19/2007; and by Res. 2007-21, 8/9/2007)

§15-403. Standing and Parking.

No person shall park or stop any motor vehicle, tractor or semi-trailer in any of the following locations:

- A. In front of a public or private driveway.
- B. Within 15 feet of a fire hydrant.
- C. Within 20 feet of a crosswalk at an intersection.
- D. Within 30 feet upon the approach to any flashing signal, stop sign or traffic control device located at the site of a roadway.
- E. Within 20 feet of the driveway entrance to any fire station or the side of the street opposite the entrance of any fire station within 75 feet of said entrance.
- F. In a designated "Loading-Unloading" Zone, unless loading or unloading such vehicle, and loading or unloading such vehicle, then for a period not to exceed 45 minutes.
- G. No angle parking unless otherwise permitted by official signs or markings.
- H. At any place where official signs prohibit parking.
- I. At any place that would hinder the free flow of traffic.

(Ord. 1993-12, 12/30/1993, §403)

§15-404. Special Purpose Parking Zones Established; Parking Otherwise Prohibited.

1. *Handicapped person zones.* It shall be unlawful for any person to park, or allow to remain parked, any vehicle in any space reserved as a "Handicapped Parking Zone" unless said vehicle is displaying handicapped registration plates or severely disabled veteran handicapped parking placards as authorized by §1338 of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §1338. This Section shall apply to designated "Handicapped Parking Zones" on both public and private property, as authorized

by 75 Pa.C.S.A. §3354(D)(3), when so posted in accordance with PennDOT regulations after a traffic study has been completed.

2. *Fire lanes.* The Board of Commissioners and the Fire Chief, may require the owners of shopping centers, businesses or other commercial property owners to establish fire lanes around the buildings and structures on their property. Fire lanes shall be at least 20 feet in width, with the road edge closest to the structure at least ten feet from the structure. It shall be unlawful for any person to park or allow to remain parked, any vehicle in an area about any commercial establishment, or other buildings which have been designated as a “fire lane”. This Section shall apply to areas designated as a “fire lane” on both public and private property. The property owner will provide the required signs and pavement markings. All designated fire lane signs and markings shall be maintained in a clean and legible condition at all times and replaced when necessary to ensure adequate visibility. “Fire lane” signs required are to be 12 inches by 18 inches with a white background with red lettering “No Parking Fire Lane”. Pavement markings must be yellow in color. Any Plains Township law, ordinance or Code Enforcement Officer may enforce this provision. [Ord. 1998-4]

3. *Parking on private property or quasi-public property.* No person shall park or leave unattended any vehicle, tractor or semi-trailer on private property or quasi-public property without the proper consent of the owner or other person in control or possession of the property, or in any of the following locations on such property:

- A. Within any fire lane, where posted by official signs.
- B. Within any “trafficway”. A “trafficway” is the entire width between property lines or other boundary lines of every way or place of which any part is open to the public for the purpose of vehicular travel as a matter of right or custom.
- C. In a designated “Handicapped Parking Zone” unless the vehicle bears registration plates or an official placard issued to handicapped or disabled persons and is being operated by or for the transportation of the handicapped or disabled person.
- D. At any place where official signs and/or markings prohibit stopping, standing or parking.

E. In a designated "Loading-Unloading" zone unless loading or unloading such vehicle, and if loading or unloading, then for a period not to exceed 45 minutes.

4. *Citations.* The Fire Chief, Deputy Fire Chief and Fire Inspectors shall be allowed to issue citations for any if the following violations:

A. Parking or leaving unattended any vehicle within a fire lane legally posted or lawfully marked as such.

B. Parking or leaving unattended any vehicle within 25 feet of any fire stations unless lawfully marked or posted.

C. Parking or leaving unattended any vehicle within 15 feet of any fire hydrant.

[Ord. 2003-2]

(Ord. 1993-12, 12/30/1993, §404; as amended by Ord. 1998-4, 6/11/1998, §1; and by Ord. 2003-2, --/2003, §404)

§15-405. Vehicles to Be Parked in Marked Places.

Whenever a space is marked off on any street for the parking of an individual vehicle, every vehicle parked there shall be parked wholly within the lines bounding that space, and it shall be a violation of this Section for any person to park a vehicle or to allow it to remain parked otherwise.

Street	Side	Spaces	Locations
[Reserved]			

(Ord. 1993-12, 12/30/1993, §405)

§15-406. Angle Parking Required on Parts of Certain Streets.

1. *Restriction.* Only angle parking shall be permitted on the following portions of streets:

Street	Side	Between
[Reserved]		

2. *Exception.* on all streets where angle parking is required, every vehicle parked at the angle shall be parked with its front nearest to the curb.

(Ord. 1993-12, 12/30/1993, §406)

§15-407. Operation of Motor Vehicle on Sidewalks.

1. "Sidewalk" shall be defined as that portion of the property fronting, on the side of, or abutting private property, which is located between the trafficway and the front, side or abutting yard, and is open to the public for the purposes of pedestrian travel as a matter of right or custom.

2. No person shall operate a motor vehicle upon or across any sidewalk, except in order to gain access to or egress from a driveway or alley at such locations where the curb, if such sidewalk is curbed, shall have been properly cut down for the purpose.

(Ord. 1993-12, 12/30/1993, §407)

§15-408. Penalty for Violation of Part.

1. Any person who violates any provision of this Part 4 shall, upon conviction, be sentenced to pay a fine of not more than \$15 and costs. Each day that a violation of this Part continues shall be a separate offense, with the following exceptions:

A. Any person who violates the following parking regulations shall, upon conviction, be sentenced to pay a fine of not more than \$10:

- (1) Where signs prohibit parking.
- (2) On a sidewalk.
- (3) In a intersection.
- (4) On a crosswalk.
- (5) Double parking.
- (6) Left side to the curb.
- (7) Within 25 feet of curb line.

B. Any person who violates the following parking regulations shall, upon conviction, be sentenced to pay a fine of not more than \$15:

- (1) Within 25 feet of a fire station.
- (2) Within 15 feet of a fire hydrant.
- (3) Blocking free flow of traffic.
- (4) Within 30 feet of a stop sign.
- (5) Within 30 feet of a traffic signal.
- (6) In front of a private driveway.

C. Any person who violates the following parking regulation shall, upon conviction, be sentenced to pay a fine of not more than \$25.

- (1) In a handicapped parking area.
- (2) In a fire lane.

2. Provided, it shall be the duty of any police officer of Plains Township and the parking enforcement personnel of Plains Township to report to the Chief of Police all violations of the parking violation provision of this Part 4 or the Vehicle Code, indicating in each case the Section violated of this Part 4 or the Vehicle Code; the license number, make and color of the vehicle involved; the location where the violation took place; and any other facts that might be necessary to secure a clear understanding of the circumstances attending the violation. The police officer or other person making the report shall also attach to or place upon every such vehicle a notice stating that the vehicle was parked in violation of this Part 4 or the Vehicle Code, 75 Pa.C.S.A. §§101 *et seq.* The notice shall contain instructions to the owner or driver of the vehicle that if he or she will report to the Township business office and pay the indicated sum within 72 hours after the time of violation or notice or mail to Plains Township the sum of indicated in check or money order form, the act will save the violator from prosecution and from payment of the fine and costs prescribed in the first sentence of this Section. Failure to respond in 72 hours will result in the filing of a traffic citation against the last registered owner of record of the vehicle in question resulting in a fine of not less than \$15 nor more than \$25 and costs of prosecution.

(Ord. 1993-12, 12/30/1993, §408)

Part 5

Miscellaneous Provisions

§15-501. Pedestrians to Obey Traffic Control Signs.

At all locations in the Township where official traffic control signals are installed, pedestrians, except where directed otherwise by pedestrian control signals, shall obey the directions of those traffic control signals as follows:

- A. When facing a green signal, a pedestrian may proceed across the roadway within a crosswalk.
- B. When facing a steady yellow signal, a pedestrian shall not start to cross the roadway.
- C. When facing a steady red signal, a pedestrian shall not enter the roadway.

(Ord. 1993-12, 12/30/1993, §501)

§15-502. Pedestrians Crossing at Other than Marked Crossings.

1. Except when authorized by a police officer or other appropriately attired person authorized to direct, control or regulate traffic, it shall be unlawful for any pedestrian to cross the roadway at any of the following locations:

Intersection	Direction of Travel
Route 315 and East Main Street	All
South River Street and Route 309	All

2. Any pedestrian who violates any provision of this Part shall be guilty of a summary offense and, upon conviction, shall be sentenced to pay a fine of \$5 and costs.

(Ord. 1993-12, 12/30/1993, §502)

§15-503. Duties and Responsibilities of Pedacycle Riders.

1. Every person riding a pedacycle on a roadway shall be granted all the rights and shall be subject to all of the duties applicable to the driver of a vehicle except as to special provisions which by their nature do not apply, as provided for in Chapter 35 of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. §§3501 *et seq.*

2. Any person violating any provision of this Section is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$10 and costs.

(Ord. 1993-12, 12/30/1993, §503)

§15-504. Snow or Ice Emergency.

1. *Declaration of snow or ice emergency.* In order to facilitate the movement of traffic and to combat the hazards of snow or ice on the snow emergency routes named in this Section, the Board of Commissioners or its designated representative, may declare a snow or ice emergency. Information on the existence of a snow or ice emergency may be given by the Township through radio, newspaper or other available

media, and information on the termination of the emergency may be given in the same manner.

2. *Parking prohibited, driving motor vehicles restricted on snow or ice emergency routes during emergency.* After any snow or ice emergency is declared it shall be unlawful at any time during the continuance of the emergency for any person to:

- A. Park a motor vehicle or to allow that motor vehicle to remain parked anywhere on any snow or ice emergency route designated in this Section.
- B. Drive any motor vehicle on any such snow or ice emergency route, unless that vehicle is equipped with snow tires.

3. The following are designated snow or ice emergency routes:

Street
[Reserved]

4. If at any time during a period of snow or ice emergency under this Section, a person shall park a motor vehicle or allow a motor vehicle to remain parked anywhere upon a snow or ice emergency route, that person shall be guilty of a violation of this Section and, upon conviction, shall be sentenced to pay a fine of not more than \$15 and costs.

5. If at any time during a period of a snow or ice emergency declared under this Section, if a person shall drive a motor vehicle upon a snow or ice emergency route without having the vehicle equipped with snow tires, that person shall be guilty of a violation of this Section and, upon conviction shall be sentenced to pay a fine of \$25 and costs.

(Ord. 1993-12, 12/30/1993, §504)

§15-505. Depositing Snow on Roadway.

1. *General.* It shall be unlawful for any person, persons, firm or corporation owning and/or occupying any gasoline stations, parking lots, commercial, industrial or residential property abutting or bordering upon any street or highway in the Township, to throw, shovel or cause, allow or permit any person or persons to deposit, throw or shovel any snow or ice in or upon the traveled portion of any such street or highway, or immediately next to a fire hydrant or on any sidewalk, or any loading and unloading areas of a public transportation system.

2. *Parking prohibited.* After any snowfall of three inches or more, parking shall be restricted as hereinafter specified. It will be unlawful for any person to park a vehicle or motor vehicle, as defined under the Vehicle Code of Pennsylvania, 75 Pa. C.S.A. §§101 *et seq.*, contrary to the regulations hereinafter specified, on any Township street, road, highway or alley. On the first day after a snowfall of three inches or more, between the hours of 7:00 a.m. and 5:00 p.m., no vehicle or motor vehicle shall be parked on the even-numbered side of the street to facilitate cleaning up snow. The following day, vehicle or motor vehicle parking shall be prohibited on the odd-numbered side of the streets.

3. *Penalty.* Any person or persons, firm or corporation violating any portion of this Section is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine of \$25 and costs. Each day that a violation continues shall constitute a separate offense.

(Ord. 1993-12, 12/30/1993, §505; as amended by Ord. 1998-3, 5/14/1998, §3)

Part 6**Interpretation and Repeal****§15-601. Provisions to Be a Continuation of Existing Regulations.**

The provisions of this Chapter, so far as they are the same as those of ordinances and regulations in force immediately before the enactment of this Chapter are intended as a continuation of those earlier ordinances and regulations, and not as new enactments. Nothing in this Chapter shall affect any act done or liability incurred, or any suit or prosecution pending or to be instituted under any of those repealed or superseded ordinances or regulations.

(Ord. 1993-12, 12/30/1993, §602)

Part 7**Commercial Traffic Route Restriction and Weight Limits****§15-701. Weight Limits.**

Whenever signs are erected giving notice thereof it shall be unlawful for any person owning or operating any motor vehicle, commercial motor vehicle or truck-trailer combination, exceeding a maximum gross weight of 20,000 pounds, to drive or propel the same or to cause or permit the same to be driven or propelled at any time upon or across any of the hereinafter designated in Plains Township, as restricted streets.

(Ord. 2009-8, 9/10/2009, §1)

§15-702. Erection of Signs.

The Plains Township Road Department, upon instruction by the Board of Commissioners, is hereby authorized to post appropriate signs on any street in the Township which signs shall state and declare any restrictions or local limits for that right-of-way.

(Ord. 2009-8, 9/10/2009, §2)

§15-703. Determination of Weight.

Any police officer shall have authority to require any person driving or in control of any motor vehicle proceeding over a street to proceed to any public or private scale within a radius of ten miles for the purpose of weighing and determining whether the provisions of this Part have been complied with.

(Ord. 2009-8, 9/10/2009, §3)

§15-704. Exemption from this Part.

The provisions of this Part shall not apply to:

- A. Prohibit any vehicle making deliveries of any kind; provided there most direct route to complete such delivery is taken.
- B. Any vehicle operated by the Township or a private operator under contract with the Township.
- C. Any vehicle owned by a public utility while necessarily in use in the construction, installation or repair of any public utility.
- D. Emergency vehicles.
- E. School buses or Township/county transit vehicles.
- F. Other local transit vehicles owned by a municipality, county or school district when picking up and/or discharging passengers.

(Ord. 2009-8, 9/10/2009, §4)

§15-705. Description of Commercial Routes.

In accordance with the Township of Plains Traffic ordinances the following streets, or a portion of streets, are hereby designated and classified as restricted and the regulations prescribed shall appertain hereto:

Street

East Mountain Boulevard

(*Ord. 2009-8, 9/10/2009, §5*)

§15-706. Penalty.

Any person, firm or corporation violating any provision of this Part 5, shall be cited by the Plains Township Police Department and issued a fine which shall not be less than \$100 dollars and nor more than \$500 dollars for each offense.

(*Ord. 2009-8, 9/10/2009, §6*)

Part 8**Prohibition on the Use of Engine Brakes Commonly Known as
“Jake Brake”****§15-801. Operation of an Engine Brake.**

The operation of an engine brake commonly known as “jake brake” on a gasoline powered or diesel powered motor vehicle, including, but not limited to, commercial and interstate trucks, which create by definition excessive noise through the use of such engine brake, adversely affects the health, safety and welfare of the residents of the Township of Plains; and are hereby declared to be a nuisance in fact.

(*Ord. 2000-8, 10/12/2000, §1*)

§15-802. Excessive Noise.

No person shall operate a gasoline powered or diesel powered motor vehicle, including, but not limited to, commercial and interstate trucks, utilizing in such operation an engine brake commonly known as “jake brake”, thereby permitting excessive noise to be created by such motor vehicle to the detriment of the health, safety and welfare of the residents of the Township of Plains.

(*Ord. 2000-8, 10/12/2000, §2*)

§15-803. Limited to Locations.

The aforesaid prohibition as set forth in §15-801 shall be limited to the following locations within the Township of Plains:

- A. *Ridgewood Road (SR 2011)*. Between Route 315 (SR 315) and the intersection of Union Street and Ridgewood Road. [*Res. 2000-21*]
- B. *East Saylor Avenue (SR 2015)*. Between the Jenkins Township/Plains Township boundary line and the intersection of East Saylor Avenue and North Main Street (SR 2024). [*Res. 2000-21*]
- C. *South River Street (SR 2004)*. From Poplar Street to a location 80 feet east of the Mack Street intersection, a total distance of 1,915 feet. [*Ord. 2014-2*]
- D. *North River Street (SR 2004)*. From Courtright Street to a location south of the Hancock Street intersection, a total distance of 0.8 miles. [*Ord. 2015-5*]

(*Ord. 2000-8, 10/12/2000, §3; as amended by Res. 2000-21, 9/14/2000; as amended by Ord. 2014-2, 3/13/2014; as amended by Ord. 2015-5, 7/9/2015*)

§15-804. Sign.

The aforesaid locations shall be specified by a specific sign in the form and size as set forth on Exhibit “B” as notice to all motor vehicles traveling on the aforesaid road sections in the Township of Plains. Exhibit “B” is on file in the township offices and available for review.

(*Ord. 2000-8, 10/12/2000, §4*)

§15-805. Not Applied to Emergency Driving Situations.

This Part 8 shall not be applied to emergency driving situations requiring the utilization of an engine brake commonly known as “jake brake” where such use by the operator of a motor vehicle is required due to an emergency situation.

(*Ord. 2000-8, 10/12/2000, §5*)

§15-806. Penalties.

1. Any person violating the aforesaid Part shall be fined not less than \$25 and not more than \$300 plus costs; and in default thereof, shall be imprisoned for a period not to exceed 30 days. [*Ord. 2000-8*]

2. Any violation of §15-803C. or D. shall upon conviction be sentenced to pay a fine of not less than \$100 and not more than \$300 plus costs. [*Ord. 2014-2; Ord. 2015-5*]
(*Ord. 2000-8, 10/12/2000, §6; Ord. 2014-2, 3/13/2014, §2; Ord. 2015-5, 7/9/2015, §2*)

Part 9**Handicapped Parking****§15-901. Legislative Intent.**

The Township of Plains recognized the special needs of handicapped persons in the Township and hereby establishes a Reserved Parking Program which will facilitate access to and from the handicapped person's place of residence.

(Ord. 2000-4, 6/8/2000, §I)

§15-902. Definitions.

1. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

Handicapped person—an individual possessing a handicapped or severely disabled veteran registration plate.

Issuing authority—Plains Township Board of Commissioners.

Reserved parking signs—a sign issued by the Township of Plains reserved parking for one vehicle space and erected at a designated and agreed upon area for access for handicapped persons.

2. In this Part, the singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine.

(Ord. 2000-4, 6/8/2000, §II)

§15-903. Application Procedure.

1. *General.* The Township of Plains will promulgate and have available applications for reserved parking signs. Said applications can be obtained from the Secretaries at the Township Municipal Building on Main Street, Plains, Pennsylvania. Once the application has been completed, it will be submitted to the Plains Township Board of Commissioners. Said Board of Commissioners shall authorize the police to do a traffic study to determine if any traffic problems are created if said reserved parking space is approved. Any person who erects or utilizes a reserved parking sign or handicapped parking sign who has not followed the requirements of this Part 9 is subject to penalties set forth herein.

2. *Application fee.* Upon submission of an application the applicant shall pay a fee in an amount as established, from time to time, by resolution of the Board of Commissioners to the Township of Plains. [A.O.]

3. *Renewal.* All approved applicants shall be required to file a renewal application by February 15 of each succeeding year in which the reserved space is held. Renewal forms will be sent to the applicant each year in January. A renewal fee in an amount as established, from time to time, by resolution of the Board of Commissioners must accompany the application. A physician's signature is not required on the renewal of an applicant previously adjudged permanently disabled. [A.O.]

4. *Possession of registration plate.* Applicants must possess a handicapped or severely disabled veteran registration plate in order to obtain an application. (Owners of disabled veteran plates as distinguished from owners of severely handicapped veteran's plates are not eligible for handicapped parking signs).

5. *Application, generally.* Applications are to be completed in their entirety. Applications not completed in their entirety will not be considered.

6. *Physician statement.* Each applicant shall submit with the completed application a written statement from his or her physician describing the disability at the time of application, including but

not limited to the anticipated duration of the disability.

7. *Written approval or denial.* Written approval or denial of applications will be made within 60 days of the Plains Township Board of Commissioners (issuing authority).

8. *Signs.* Upon approval of an application and payment of requisite fees the Township of Plains will erect two reserved parking signs with the applicant's vehicle registration number for use by the applicant.

9. *Log.* The Secretary for the Township of Plains shall maintain a log of all applications for a reserved parking sign and shall periodically provide the Plains Township Police Department a copy thereof.

(Ord. 2000-4, 6/8/2000, §III; as amended by A.O.)

§15-904. General Provisions.

1. It shall be unlawful for any person or owner of realty to erect a reserved parking sign or handicapped parking sign upon the streets of the Township of Plains without first making application to the Plains Township Board of Commissioners. Any person who erects or utilized a reserved parking sign or a handicapped parking sign who has not followed the requirements of this Part 9 is subject to penalties set forth herein.

2. Any stipulations made at the time of application regarding the eligibility of an applicant may be updated periodically at the request of the issuing authority.

3. Reserved parking signs shall not supersede existing parking regulations, including, but not limited to, street sweeping, snow ban or snow removal regulations.

4. Reserved parking signs will remain the property of the Township of Plains.

5. The issuing authority shall be notified immediately if an eligible person no longer qualifies for a sign under this Part 9, for example, if an eligible person enjoys an improved health condition or moves from the premises wherein the sign is located. Failure to notify the issuing authority constitutes a violation of this Part 9.

6. The issuing authority will take the following factors into consideration when issuing reserved parking signs.

A. Overall availability of parking in the area wherein a sign is requested shall be taken into consideration.

B. The living arrangements of an individual applicant shall be taken into consideration; for example, a disabled person living alone and responsible for his or her own transportation.

C. Existing parking problems in the area where a sign is requested.

D. A traffic study completed by the Plains Township Police and submitted to issuing authority for its review.

7. The Plains Township Police Department reserves the right to remove any reserved parking signs or handicapped parking signs for cause shown.

8. No reserved parking sign will be placed in front of the home of a person other than the applicant unless that property owner signs a notarized statement stating that they have no objection to the placement of the sign.

9. The reserved parking area will be defined by the place of two reserved parking signs. Each reserved parking sign shall state the license plate number of the vehicle authorized to occupy the reserved parking space.

(Ord. 2000-4, 6/8/2000, §IV)

§15-905. Penalties.

1. Any person who parks in a reserved parking space who is not authorized to do so shall be

subject to immediate citation and the vehicle will be subject to immediate removal.

2. No person shall erect a reserved or handicapped parking sign upon the streets of the Township of Plains without issuing authority under this Part 9 from the Plains Township Board of Commissioners.

3. Any person violating any of the provisions of this Part shall, upon summary conviction thereof in a summary proceeding before a magisterial district judge of the Township of Plains, be sentenced to pay a fine of not less than \$25 and not more than \$300, and costs and/or to be imprisoned in the county jail for a period not exceeding 90 days. Each and every day upon which any person violates or continues to violate the provisions of this Part shall constitute a separate offense. [A.O.]

(Ord. 2000-4, 6/8/2000, §V; as amended by A.O.)

§15-906. Location.

1. *Birchwood Municipal Park*. Five handicap parking spaces.
 - A. Birchwood Municipal Park, parking lot west side of handicap play area: two temporary handicap parking spaces.
 - B. Birchwood Municipal Park, anywhere within the Municipal Park, where handicap parking may be necessary, as determined by the Plains Township Recreation Board, at various times, events and locations, to temporarily accommodate parking for handicapped persons, while attending such events, provided that, the required handicap parking signs are present.
 - C. For the purpose of the temporary handicap parking spaces only, portable sign standards may used to designate such parking spaces, provided, the signs comply with the current signing requirements established for handicap parking spaces.
 2. *North Main Street*. Front 126 North Main Street (West side-Southbound).
 3. *South Main Street*. Front 88 South Main Street (West side-Southbound).
 4. *Henry Street*. Front 79 Henry Street (South side-Eastbound).
 5. *Henry Street*. Front 82 Henry Street (North side-Westbound).
 6. *Miner Street*. Front 34 Miner Street (North side-Westbound).
 7. *Helen Street*. Front 78 Helen Street (North side-Westbound).
 8. *Helen Street*. Front 66 Helen Street (North side-Westbound).
 9. *Helen Street*. Front 58 Helen Street (North side-Westbound).
 10. *Mack Street*. Front 34 Mack Street (North side Westbound).
 11. *Perkins Street*. Front 62 Perkins Street (East side-Northbound).
 12. *Clark Lane*. Five handicapped parking spaces on the West side of the handicap play area, for a period of 90 days. [Res. 1997-21]
 13. *Jones Street*. Front 33 Jones Street. [Res. 1997-8]
 14. *Helen Street*. Front 68 Helen Street. [Res. 1997-8]
 15. *Perkins Street*. Front 62 Perkins Street. [Res. 1997-8]
 16. *Cleveland Street*. Along the curb line, in front of 61 Cleveland Street for a period of not less than 60 days or more than 90 days. [Res. 2000-14]
 17. *East Carey Street*. In front of 134 East Carey Street. [Res. 1999-14]
- (Ord. 1998-3, 5/14/1998, §2; as amended by Res. 1997-8, 3/13/1997; by Res. 1997-21, 8/14/1997; by Res. 1999-14, 9/10/1999; and by Res. 2000-14, 3/9/2000)

Chapter 16

Parks and Recreation

Part 1

Park Rules and Regulations

- §16-101. Definitions
- §16-102. Park Hours
- §16-103. Animals Prohibited
- §16-104. Certain Vehicles Prohibited
- §16-105. Enforcement
- §16-106. Penalties

Part 1**Park Rules and Regulations****§16-101. Definitions.**

As used in this Part 1, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

Park or parks—unless specifically limited, shall be deemed to include all parks, playgrounds, recreation areas, tennis courts, beaches, recreation structures and facilities, and also entrances and approaches thereto, and all other land or property or structures under the jurisdiction of the Plains Township Parks and Recreation Board, now or hereafter owned or acquired by Plains Township for park or recreational purposes.

Person—any natural person, corporation, organization of persons, company, association or partnership.

(Ord. 1996-5, 12/9/1996, §1)

§16-102. Park Hours.

All parks shall be opened daily to the public from sunrise to sunset and in no event shall any person be permitted to be in attendance in any park at any other time, unless special permission be granted by the Plains Township Parks and Recreation Board.

(Ord. 1996-5, 12/9/1996, §2)

§16-103. Animals Prohibited.

No person shall bring, permit or allow into any park any animal including, but not limited to, dogs, cats and any and all animals whatsoever. However, the provisions of this Section shall not apply to a guide dog accompanying any blind persons, or to a dog used to assist any other physically handicapped person.

(Ord. 1996-5, 12/9/1996, §3)

§16-104. Certain Vehicles Prohibited.

No person shall operate in any park a snowmobile, minibike, motorcycle, all-terrain vehicle or other recreational type vehicle at any time.

(Ord. 1996-5, 12/9/1996, §4)

§16-105. Enforcement.

The police officers of Plains Township are charged with enforcement of the provisions of this Part.

(Ord. 1996-5, 12/9/1996, §5)

§16-106. Penalties.

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part 1 continues shall constitute a separate offense.

(Ord. 1996-5, 12/9/1996, §6; as amended by A.O.)

Chapter 17

[Reserved]

Chapter 18

Sewers and Sewage Disposal

Part 1 On-Lot Disposal Systems

A. Conventional Systems

- §18-101. Administration
- §18-102. Issuance of Permits
- §18-103. Permit Fee

B. Holding Tanks

- §18-111. Purpose
- §18-112. Definitions
- §18-113. Rights and Privileges Granted
- §18-114. Rules and Regulations
- §18-115. Rules and Regulations to Be in Conformity with Applicable Law
- §18-116. Rates and Charges
- §18-117. Exclusiveness of Rights and Privileges
- §18-118. Duties of Improved Property Owner
- §18-119. Violations
- §18-120. Abatement of Nuisances

Part 2 Mandatory Sewer Connection

- §18-201. Definitions
- §18-202. Connections Required
- §18-203. Discontinuance of Private Sewer System
- §18-204. Erecting, Constructing, Using or Maintaining a Privy, Cesspool, Sinkhole or Septic Tank
- §18-205. Connection Fee; Permit
- §18-206. Failure to Comply; Performance of Work by Township
- §18-207. Penalties
- §18-208. Granting to the Authority

Part 3 Uniform Requirements for Direct and Indirect Contributors to the Waste Water Collection and Treatment System

A. General Provisions

- §18-301. Purpose and Policy
- §18-302. Definitions

B. Regulations

- §18-311. General Prohibitions
- §18-312. National Categorical Limits Override
- §18-313. Prohibition on Pass Through and Interference

- §18-314. Local Limits and Local Equivalent Categorical Limits
- §18-315. State Requirements
- §18-316. Township's Right of Revision
- §18-317. Excessive Dilution
- §18-318. Prohibition on Discharge of Stormwater and Cooling Water

C. Fees

- §18-321. Purpose
- §18-322. Charges and Fees
- §18-323. Surcharges

D. Pretreatment Requirements for Industrial Users

- §18-331. Pretreatment Requirement
- §18-332. WWSA Approval for Pretreatment
- §18-333. Permit Requirement
- §18-334. Industrial Wastewater Discharge Permit Provisions
- §18-335. Permit Application Process
- §18-336. Modification of Permit
- §18-337. Classifications of Dischargers
- §18-338. Grease and Sediment Traps for Class IV Users
- §18-339. Standard Designs
- §18-340. Inspection
- §18-341. Operation and Maintenance of Pretreatment Facilities
- §18-342. Flow Measurement
- §18-343. WWSA Monitoring
- §18-344. User Self-Monitoring
- §18-345. User Reporting and Recordkeeping
- §18-346. Reporting of Hazardous Waste Discharge
- §18-347. Signatory Responsibility
- §18-348. Monitoring Location
- §18-349. Classified Information
- §18-350. Accidental Discharges
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E. Violations and Enforcement

- §18-351. Notification of Violation
- §18-352. Show Cause Hearing
- §18-353. Other Legal Action
- §18-354. Revocation or Suspension of Permit
- §18-355. Suspension of Sewer Service
- §18-356. Civil Penalties
- §18-357. Right of Appeal
- §18-358. Public Notification

F. Cooperation

- §18-361. Cooperation

Part 4 Sludge

§18-401. Short Title
§18-402. Prohibition
§18-403. Definitions
§18-404. Closure of Landfill Site
§18-405. Closure Plan
§18-406. Notice Required
§18-407. Violation and Penalties
§18-408. Exemption

Part 1**On-Lot Disposal Systems****A. Conventional Systems****§18-101. Administration.**

The Zoning Officer of the Township of Plains is hereby designated as the proper official to administer the provisions of the Pennsylvania Sewage Facilities Act, 35 P.S. §§750.1 *et seq.*, and to issue permits for on-site disposal systems.

(Ord. 5/15/1970, §1)

§18-102. Issuance of Permits.

Permits shall be issued only in accordance with said Act and the rules and regulations applicable thereto, as promulgated by the Pennsylvania Department of Health.

(Ord. 5/15/1970, §2)

§18-103. Permit Fee.

The fee for said permit shall be in an amount as established, from time to time, by resolution of the Board of Commissioners which shall be collected by the Zoning Officer at the time the application for permit is made and paid into the Treasury of the Township.

(Ord. 5/15/1970, §3; as amended by A.O.)

B. Holding Tanks**§18-111. Purpose.**

The purpose of this Part 1B is to establish procedures for the use and maintenance of holding tanks designed to receive and retain sewage whether from residential or commercial uses and it is hereby declared that the enactment of this Part 1B is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this Township.

(Ord. 5/30/1974, §1)

§18-112. Definitions.

Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Part 1B shall be as follows:

Holding tank—a watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. Holding tanks include, but are not limited to, the following:

Chemical toilet—a toilet using chemicals that discharge to a holding tank.

Retention tank—a holding tank where sewage is conveyed to it by a water carrying system.

Vault pit privy—a holding tank designed to receive sewage where water under pressure is not available.

Improved property—any property within the Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sewage shall or may be discharged.

Owner—any person vested with ownership, legal or equitable, sole or partial, of any property located in the Township.

Person—any individual, partnership, company, association, corporation or other group or entity.

Sewage—any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substance being harmful or inimical to the public health, or to animal or aquatic life or to the use of water for domestic water supply or for recreation.

Township—Plains Township, Luzerne County, Pennsylvania.

(Ord. 5/30/1974, §2)

§18-113. Rights and Privileges Granted.

The Township hereby undertakes within the Township the control and methods of holding tank sewage disposal and the collection and transportation thereof.

(Ord. 5/30/1974, §3)

§18-114. Rules and Regulations.

The Township may adopt such rules and regulations concerning sewage which it may deem necessary from time to time to effect the purposes herein.

(Ord. 5/30/1974, §4)

§18-115. Rules and Regulations to Be in Conformity with Applicable Law.

All such rules and regulations adopted by the Township shall be in conformity with the provisions herein, all other ordinances of the Township, and all applicable laws, and applicable rules

and regulations of administrative agencies of the Commonwealth of Pennsylvania.

(Ord. 5/30/1974, §5)

§18-116. Rates and Charges.

The Township shall have the right and power to fix, alter, charge and collect rates, assessments, and other charges in the area served by its facilities at reasonable and uniform rates as authorized by applicable law.

(Ord. 5/30/1974, §6)

§18-117. Exclusiveness of Rights and Privileges.

The collection and transportation of all sewage from any improved property utilizing a holding tank shall be done solely by or under the direction and control of the Township, and the disposal thereof shall be made only at such site or sites as may be approved by the Department of Environmental Protection of the Commonwealth of Pennsylvania.

(Ord. 5/30/1974, §7; as amended by A.O.)

§18-118. Duties of Improved Property Owner.

The owner of an improved property that utilizes a holding tank shall:

A. Maintain the holding tank in conformance with this or any ordinance of this Township, the provisions of any applicable law, and the rules and regulations of the Township and any administrative agency of the Commonwealth of Pennsylvania.

B. Permit only the Township or its authorized agent acting under the direction of the Township to collect, transport and dispose of the contents therein.

(Ord. 5/30/1974, §8)

§18-119. Violations.

Any person, firm or corporation who shall violate any provision of §18-118, upon conviction thereof, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part 1 continues shall constitute a separate offense.

(Ord. 5/30/1974, §9; as amended by A.O.)

§18-120. Abatement of Nuisances.

In addition to any other remedies provided in this Part 1, any violation of §18-118 above shall constitute a nuisance and may be abated by the Township by either seeking appropriate equitable or legal relief from a court of competent jurisdiction.

(Ord. 5/30/1974, §10)

Part 2**Mandatory Sewer Connection****§18-201. Definitions.**

Authority—the Sewer Authority of the Township of Plains as originally organized and as presently or hereafter constituted, which has been created by the Township Commissioners of Plains Township and to which has been referred by the Township Commissioners of Plains Township the specific project of sewers.

Occupied building—each single dwelling unit, household unit, flat or apartment unit, store, shop, office, business or industrial unit or family unit contained within any structure and intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage is, or may be, discharged. [Ord. 4/2/1981]

Person—an individual, firm, company, association, society, corporation or group.

Property accessible to the sewer system—improved property which adjoins, abuts on or is adjacent to the sewer system.

Sanitary sewage—the normal water carried household and toilet wastes from residences, business buildings, institutions and industrial establishments.

Sewer system—refers to the public sanitary sewer collection system, together with appurtenant facilities about to be acquired and constructed for a portion of the Township and any improvements, additions or extensions that hereafter may be made thereto by the Authority or the Township to any part or parts of any or all thereof.

Township—Plains Township, Luzerne County, Pennsylvania, or the duly constituted and elected Township officials therefor.

(Ord. —/—/1976, §1; as amended by Ord. 4/2/1981)

§18-202. Connections Required.

1. All persons owning any occupied building now erected upon property in the Township accessible to the sewer system shall, at their own expense, connect such building with the sewer system within 60 days after written notice to such persons from the Township.

2. All persons owning any property in the Township accessible to the sewer system upon which an occupied building is hereafter erected shall, at the time of the erection of such building and at their own expense, connect the same with the sewer system.

3. All persons owning an occupied building upon property in the Township which hereafter becomes accessible to the sewer system shall, at their own expense, connect such building with the sewer system within 60 days after notice to do so from the Township.

4. Where more than one occupied building, as hereinbefore defined, is contained in a separate structure, a single common connection to the lateral of the sewer system may be permitted for accommodating all units contained in such structure, except that separate connections shall be required for each semi-detached or row-type house or structure.

(Ord. —/—/1976, §2)

§18-203. Discontinuance of Private Sewer System.

It shall be unlawful for any person owning any property in the Township accessible to the sewer system to erect, construct or use or maintain or cause to be erected, constructed, used or maintained, any privy, cesspool, sinkhole, septic tank or other receptacle on such premises for receiving sanitary sewage after the expiration of the particular period specified in §18-202 hereof, or otherwise at any

time to erect, construct, use or maintain any pipe conduit, drain or other facility for the discharge of sanitary sewage into the gutters of the Township, the storm sewers of the Township or upon public or private property or otherwise, except into the sewer system.

(Ord. --/1976, §3)

§18-204. Erecting, Constructing, Using or Maintaining a Privy, Cesspool, Sinkhole or Septic Tank.

Any person who erects, constructs, uses or maintains a privy, cesspool, sinkhole or septic tank on any property accessible to the sewer system, or otherwise erects, constructs, uses or maintains any pipe, conduit, drain or other facility for the discharge of sanitary sewage in violation of this Part 2, shall be deemed and shall be declared to be erecting, constructing and maintaining a nuisance, which nuisance the Township is hereby authorized and directed to abate in the manner provided by law.

(Ord. --/1976, §4)

§18-205. Connection Fee; Permit.

No connection shall be made to the sewer system, except in compliance with the ordinances and resolutions, as well as such rules and regulations as may, from time to time, be enacted, adopted, approved or promulgated by the Township of the Authority.

(Ord. --/1976, §5)

§18-206. Failure to Comply; Performance of Work by Township.

After the expiration of the particular periods specified in §18-202 of this Part 2, if any owner of an occupied building on property in the Township accessible to the sewer system shall have failed to connect such property with the sewer system as required by said §18-202, the Township shall cause to be served on the owner of such property so failing to connect to said sewer system, and also upon the occupants of the building in question, a copy of this Part and a written or printed notice requiring such connection to be made, and such notice shall further state that its requirements shall be complied with within 30 days from the date thereof.

(Ord. --/1976, §6)

§18-207. Penalties.

The provisions of this Part are declared to be for the health, safety and welfare of the citizens of the Township and persons violating any provisions of this Part 2, upon conviction thereof before any magisterial district judge of Luzerne County, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. Each occupied building, as hereinbefore defined, whether or not the owners thereof shall be permitted to connect two or more occupied buildings or units by a single common connection to a lateral of the sewer system or shall be required to make separate connections for each occupied building or unit, shall constitute a separate and distinct unit under the provision of this Part 2 and the persons owning occupied buildings, consisting of multiple units contained in the same structure, who violate any of the provisions of this Part 2, shall be subject to the aforesaid fine for each and every one of such occupied buildings or units which are in violation of the provisions of this Part 2.

(Ord. --/1976, §7; as amended by A.O.)

§18-208. Granting to the Authority.

The Township Commissioners of the Township do hereby grant to the Authority all easements, rights-of-way and other rights on, under and over the public streets and alleys of the Township necessary or desirable to facilitate the construction of the sewer system subject to all applicable

Township ordinances.

(*Ord. --/1976*, §8)

Part 3

Uniform Requirements for Direct and Indirect Contributors to the Waste Water Collection and Treatment System

A. General Provisions

§18-301. Purpose and Policy.

1. Plains Township (hereinafter the “municipality”) owns and operates a wastewater collection system which is subject to a service agreement with the Wyoming Valley Sanitary Authority for the collection and treatment of wastes and sewage collected by such system and contributed by residents of the municipality.

2. This Part 3 sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system and enables the Township and the Authority to comply with all applicable state and federal laws as required by the Clean Water Act of 1977, 33 U.S.C.A. §§1251 *et seq.*, the General Pretreatment Regulations (40 C.F.R. Part 403), the Pennsylvania Clean Streams Law and the provisions of the service agreement.

3. The objectives of this Part 3 are:

A. To prevent the introduction of pollutants into the wastewater collection and treatment system which will interfere with the operation of the system, contaminate the resulting sludge, be difficult to treat by conventional means or otherwise be incompatible with the system.

B. To prevent the introduction of pollutants into the wastewater system which will pass through the system, inadequately treated, into receiving streams or the atmosphere, causing pollution.

C. To improve the opportunity to recycle and reclaim wastewater and sludges from the system.

D. To provide for equitable distribution of costs occasioned by the acceptance of industrial or other wastes of unusual characteristics.

4. This Part 3 provides for the regulation of contributors to the municipal wastewater system through the establishment of standards for discharge of wastes; by authorizing the issuance of permits to certain nondomestic users; by providing general requirements for all users; by authorizing monitoring and enforcement activities; by requiring certain reporting by users; and by providing for the setting of fees for the equitable distribution of costs resulting from the program established herein.

5. This Part 3 shall apply to all persons who discharge wastes, wastewater or sewage into the sanitary sewer system of the municipality. Except as otherwise provided herein, the Executive Director of the WVSA shall administer, implement and enforce the provisions of this Part 3.

(Ord. 2012-4, 9/13/2012, §1.1)

§18-302. Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Part, shall have the meanings hereinafter designated:

Act or the Act—the Federal Water Pollution Control Act, also known as the Clean Water Act of 1977, 33 U.S.C. §§1251 *et seq.*

Approval authority—the Administrator of the EPA, Region III, or the Department of Environmental Protection (PADEP) if duly authorized by the EPA to administer the Pretreatment Program.

Authorized representative—the person authorized to sign required reports, as defined at 40 C.F.R. §403.12(1).

Best Management Practices (BMPs)—schedules of activities, prohibition of practices, maintenance procedures and other management practices to implement the provisions of this Part 3, including the prohibitions listed in §18-311 and other pretreatment standards and requirements. BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. For purposes of determining significant noncompliance under §18-358 of this Part, BMPs are considered a narrative pretreatment standard or requirement.

Biochemical oxygen demand (BOD)—the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, as specified, in five days at 20°C expressed in terms of weight and concentration (milligrams per liter (mg/l)).

Categorical industrial user—industrial user that is subject to a National Categorical Pretreatment Standard.

Chemical oxygen demand (COD)—the measure of the oxygen-consuming capacity of inorganic and organic matter present in water, sewage, industrial wastewater or other liquid as determined by standard laboratory procedure, as specified, expressed as milligrams per liter (mg/l).

Control authority—the WWSA.

Cooling water—the water discharged from any system of condensation, such as air conditioning, cooling or refrigeration and which does not contain any pollutants or contaminants at levels which would require regulation under this Part 3. Cooling water which contains pollutants or contaminants which requires regulation shall be considered industrial wastewater.

Direct discharge—the discharge of treated or untreated wastewater directly to the waters of the Commonwealth of Pennsylvania.

Domestic sewage—the normal water-borne sewage and other wastes normally discharged by a household, including toilet wastes, laundry, washwater and other gray water, and similar wastes.

Domestic user—a user who discharges only domestic sewage.

Environmental Protection Agency or EPA—the U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

Executive director—the person designated as such by the WWSA to supervise the operation of WWSA facilities, or his or her duly authorized representative.

Grab sample—a sample which is taken from a waste stream on a onetime basis with no regard to flow and over a period of time not exceeding 15 minutes

Holding tank—a storage tank installed by the user to hold such industrial wastewater which is prohibited from being discharged to the sanitary sewer system and from which the contents must be hauled to a disposal site. Such tank shall be approved by the municipality and shall not be connected to the sanitary sewer system.

Indirect discharge or discharge—the discharge or the introduction of pollutants into the sanitary sewer system from any nondomestic user.

Industrial user—any user that discharges industrial wastewater.

Industrial wastewater—liquid waste and water-borne liquid, gaseous, and solid substances (except domestic sewage which is separately discharged) that is discharged from any industrial, manufacturing, trade or commercial establishment including non-profit organizations, governmental agencies or business activities. If domestic sewage is mixed with industrial

wastewater, the mixture is industrial wastewater.

Industrial wastewater discharge permit—a permit authorizing the discharge of industrial wastewater into the sanitary sewer system.

Interference—the inhibition or disruption of the WVSA treatment process or operations such as to cause or threaten to cause or contribute to a violation of any requirement of the WVSA’s NPDES permit, including an increase in the magnitude or duration of any violation. The term includes prevention of sewage sludge use or disposal by the WVSA in accordance with §405 of the Act, 33 U.S.C. §1345, or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act, 42 U.S.C. §6962, (including the RCRA), the Clean Air Act, 42 U.S.C. §§7401 *et seq.*, the Toxic Substances Control Act, 15 U.S.C.A. §§2601 *et seq.* or any more stringent state criteria for the use or disposal of sewage sludge.

Local limits—indirect discharge limits, which may include best management practices, established by the WVSA as required by 40 C.F.R. §403.5(c) (which such limits shall be deemed pretreatment standards), and any other limits developed by WVSA to implement the provisions of this Part 3 or the WVSA Rules and Regulations.

National Categorical Pretreatment Standard—EPA-promulgated indirect discharge standards for certain industrial process categories under §§307(b) and (c) of the Act, 33 U.S.C. §1317(b), (c), which are codified at 40 C.F.R. Chapter I, Subchapter N, Parts 405 through 471.

New source—any source, the construction of which is commenced after publication of proposed pretreatment standards under §307(c) of the Act, 33 U.S.C.A. §1317(c), which will be applicable to such source, if such standard is thereafter promulgated, as defined at 40 C.F.R. §403.3(m)(1).

Nondomestic user—a user engaged, wholly or in part, in the manufacturing, fabricating, processing, cleaning, laundering, bottling or assembling of a product, commodity or article, or in any commerce or trade and which discharges, or has the capacity to discharge, wastewater other than domestic sewage.

Non-significant categorical industrial user—An industrial user subject to National Categorical Pretreatment Standards that is determined by the control authority to be a non-significant industrial user on a finding that it never discharges more than 100 gallons per day of industrial waste subject to National Categorical Pretreatment Standards and that the following conditions are met:

- (1) The industrial user, prior to the control authority’s determination, has consistently complied with all applicable categorical pretreatment standards and requirements.
- (2) The industrial user annually submits the following certification statement together with any additional information necessary to support the certification statement:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 C.F.R. (*insert applicable section*), I certify that, to the best of my knowledge and belief that during the period from ____ to ____ [*month, day, year*]: (a) The facility described as _____ [*facility name*] met the definition of a non-significant categorical industrial user as described in §403.3(v)(2); (b) the facility complied with all applicable pretreatment standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information:_____.”

- (3) The industrial user never discharges any untreated concentrated wastewater.

Oil and grease—the result of the Hexane Extractable Materials Test, EPA Method 1664, or an equivalent method approved by EPA.

Pass through—a discharge which exits the WWSA treatment plant into the receiving stream in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes or contributes, or threatens to cause or contribute to a violation of any requirement of the WWSA's NPDES permit, including an increase in the magnitude or duration of a violation.

Person—any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns.

pH—the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions.

Pollution—the alteration of the thermal, chemical, physical, biological or radiological integrity of, or the contamination of, any water to the extent that the water is rendered harmful, detrimental or injurious to humans, animal life, vegetation or property, or to public health, safety or welfare, or that impairs the usefulness of the public enjoyment of that water. The violation of any water quality standard or criterion established by the PADEP through regulation, rule, permit or order shall be pollution.

Pretreatment or treatment—the reduction by physical, chemical or biological means of the amount or rate of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to discharge, except by means prohibited by 40 C.F.R. §403.6(d).

Pretreatment requirements—any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, which is imposed on an industrial user.

Pretreatment standards—National Categorical Pretreatment Standards and National Prohibited Standards as stated at 40 C.F.R. § 403.5 and local limits developed to implement the national prohibited standards.

Prohibited waste—any waste which is totally restricted from discharge into the sanitary sewer system by this Part 3.

Sanitary sewer system or sewer system—all of the property involved in the operation of a sanitary sewer collection and treatment facility, including, but not limited to, land, wastewater lines, appurtenances, pumping stations, metering chambers and the wastewater treatment plant, whether owned by the municipality, the WWSA or any other person.

Shall versus may—shall is mandatory; may is permissive.

Significant industrial user—any user, not classified as a non-significant industrial user by the WWSA:

- (1) That is subject to National Categorical Pretreatment Standards; or
- (2) That discharges an average flow of 25,000 gallons or more per day of process wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater); or
- (3) That contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the WWSA's treatment plant; or
- (4) That is designated as such by the WWSA on the basis that the user has a reasonable potential for adversely affecting the WWSA's operation or for violating any pretreatment standard or requirement.

Significant noncompliance—As defined in §18-358 of this Part 3.

Slug discharge—any discharge of a non-routine, episodic nature, including, but not limited

to, an accidental spill or a non-customary batch discharge which has reasonable potential to cause interference or pass through or in any other way violate the provisions of this Part 3, any industrial wastewater discharge permit or any provision of the WWSA Rules and Regulations.

Standard industrial classification (SIC)—a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

State—the Commonwealth of Pennsylvania.

Stormwater—any flow occurring during or following any form of natural precipitation and resulting therefrom.

Surcharge—an additional service charge levied against any person for discharging wastewater into the sanitary sewer system that requires additional handling, treatment, disposal or other costs.

Suspended solids—the total suspended matter that floats on the surface of, or is suspended in, water, and which is removable by filtration.

Toxic pollutant or priority pollutant—pollutants designated by EPA under provision of §307(a) of the Act, 33 U.S.C. §1317(a), as listed on Tables II and III of Appendix D of 40 C.F.R. Part 122.

User—any person who contributes, causes or permits the contribution of wastewater into the WWSA.

Waste or wastewater—domestic sewage, industrial wastewater and any other wastes or water-borne matter discharged, deposited or released by any person.

Wastewater treatment plant or treatment plant—the facilities owned and operated by the WWSA for the treatment and disposal of wastewater.

The Wyoming Valley Sanitary Authority or WWSA—a municipal corporation organized and existing under the laws of the Commonwealth of Pennsylvania, under the Municipal Authorities Act of 1945, 53 P.S. §§301 *et seq.*, as amended, with which the Township has a service agreement providing for the collection and treatment of wastewater flowing from the sanitary sewer system of the Township. The principal place of business of the WWSA is located at 1000 Wilkes-Barre Street, Wilkes-Barre, PA 18711.

WWSA facilities—all facilities owned, maintained, or operated by the WWSA, including the treatment plant, interceptor sewers, pumping stations and other such facilities.

(Ord. 2012-4, 9/13/2012, §1.2)

B. Regulations**§18-311. General Prohibitions.**

1. No person shall discharge, release, place or allow to be placed, any wastewater of any nature into any stream, storm sewer, waterway or any other place within the Township other than the sanitary sewers.

2. No user shall contribute, cause or allow to be discharged, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the sewer system or the WWSA facilities. These general prohibitions apply to all users of the sewer system whether or not the user is subject to any pretreatment standards or requirements or any other federal, state or local pretreatment standards or requirements. A user shall not contribute the following substances to the sanitary sewer system or the WWSA's facilities:

A. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with any other substance to cause fire or explosion or be injurious in any other way to the WWSA or to the operation of the WWSA's treatment plant. Discharges prohibited under this Section shall include, but not be limited to, wastestreams with a closed cup flashpoint of less than 140°F or 60°C using the test methods specified in 40 C.F.R. §261.21. At no time shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or any point in the system) be more than five percent, nor any single reading over ten percent of the lower explosive limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which cause or contribute to a fire hazard or a hazard to the sewer system in the quantities or concentrations discharged.

B. Any wastewater having a pH value less than 6.0 or greater than 11.5 in any grab sample, or a wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel.

C. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, gas, tar, asphalt residues, mud, or glass grinding or polishing wastes.

D. Any pollutants, including oxygen demanding pollutants (BOD and the like) released at a flow rate and/or pollutant concentration which a user knows or has reason to know will cause interference to the sewer system. In no case shall a discharge have a flow rate or contain a concentration of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24 hour flow or concentration of pollutants during normal operation. Notwithstanding the criteria above, any slug discharge shall be prohibited.

E. Any wastewater having a temperature which will inhibit biological activity in the WWSA treatment plant resulting in interference, but in no case any wastewater with a temperature at the introduction into the WWSA facilities which exceeds 40°C (104°F).

F. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with any wastewater treatment process, which will cause pass through or interference, or exceed the limitation set forth in a National Categorical Pretreatment standard or local limit.

G. Any discharge which may result in the presence of toxic gases, vapors or fumes within the treatment system in a quantity that may cause acute worker health and safety problems or

is sufficient to create a public nuisance or hazard.

H. Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through.

I. Any trucked or hauled pollutants, except at discharge points designated by the WWSA.

J. Any substance which may cause the WWSA treatment plant's effluent or any other product of the WWSA such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation or disposal process. In no case shall a substance discharged to the WWSA's facilities cause the WWSA to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under §405 of the Act, any criteria guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, 42 U.S.C. §6962, the Clean Air Act, 42 U.S.C. §§7401 *et seq.*, the Toxic Substances Control Act, 15 U.S.C.A. §§2601 *et seq.*, or state criteria applicable to the sludge management or disposal method being used.

K. Any substance which will cause or contribute to a violation of the WWSA's NPDES permit or cause interference or pass through, as established by the local limits adopted by the WWSA.

L. Any wastewater with color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions such as would cause or contribute to pass through or interference.

M. Any wastewater containing any radioactive wastes or isotopes by such half-life or concentration as may exceed limits established by the Executive Director in compliance with applicable state or federal regulations.

N. Any substance which causes a hazard to human life or creates a public nuisance.

3. When a local limit has been developed to implement any of the above prohibited waste standards, compliance with the local limit shall be deemed compliance with the prohibited waste standard unless the user has reason to know that the discharge, notwithstanding the local limit, has a reasonable potential to cause interference or pass through.

(Ord. 2012-4, 9/13/2012, §2.1)

§18-312. National Categorical Limits Override.

Upon the promulgation of National Categorical Pretreatment Standards for a particular industrial category or subcategory, the national standards, if more stringent than limitations imposed under this Part 3 for sources in that subcategory, shall immediately supersede the limitations imposed under this Part 3. The Executive Director shall notify all affected users of the applicable reporting requirements under 40 C.F.R. §403.12. However, failure to notify a categorical user of the applicable regulations shall not act to excuse any such user from its duty to comply with applicable law.

(Ord. 2012-4, 9/13/2012, §2.2)

§18-313. Prohibition on Pass Through and Interference.

No user shall contribute or cause to be contributed any discharge which by nature shall cause an upset in the performance of the WWSA's treatment system or pass through or interference such that the WWSA will violate or will be in danger of violating any provision of its NPDES permit or applicable state or federal regulations.

(Ord. 2012-4, 9/13/2012, §2.3)

§18-314. Local Limits and Local Equivalent Categorical Limits.

1. The WWSA will develop local limits as set forth in 40 C.F.R. § 403.5, and such other local limits as it deems advisable for the safe, efficient and reliable operation of the sewer system and the WWSA facilities. Local limits shall be applicable to such users as WWSA shall designate including,

but not limited to, all industrial users.

2. WVSA may develop equivalent mass limits or equivalent concentration limits to implement categorical pretreatment standards when requested by a categorical industrial user, pursuant to the provisions at 40 C.F.R. §§ 403.6(c)(5) and (6).

(Ord. 2012-4, 9/13/2012, §2.4)

§18-315. State Requirements.

State requirements and limitations on wastewater indirect discharge shall apply in any case where they are more stringent than federal and/or local requirements and limitations, or those in this Part.

(Ord. 2012-4, 9/13/2012, §2.5)

§18-316. Township's Right of Revision.

The Township reserves the right to establish more stringent limitations or requirements on discharges to the sewer system if deemed necessary to comply with the objectives presented in Part 3A of this Chapter.

(Ord. 2012-4, 9/13/2012, §2.6)

§18-317. Excessive Dilution.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or in any pollutant-specific limitations developed by the WVSA or the Commonwealth; provided, however, that dilution may be an acceptable means of complying with certain of the prohibitions set forth in §18-311, e.g., the pH and temperature prohibitions, if such dilution is authorized by an industrial wastewater discharge permit.

(Ord. 2012-4, 9/13/2012, §2.7)

§18-318. Prohibition on Discharge of Stormwater and Cooling Water.

No user shall discharge any stormwater, including, but not limited to, basement or foundation drainage, or any uncontaminated cooling water into the sanitary sewer system, provided that such discharges are allowable into those portions of the sewer system (if any) that are designated combined sewers by the Township. When, upon application to do so, the direct discharge of uncontaminated cooling water has been prohibited by the PADEP, the Township and WVSA may permit such a discharge into the sanitary sewer system upon application by the user to do so.

(Ord. 2012-4, 9/13/2012, §2.8)

C. Fees**§18-321. Purpose.**

The purpose of this Section is to provide for the recovery of costs from users of the WVSA's facilities for the implementation of the discharge control program established herein. In consideration of the service provided by WVSA and as provided in the service agreement, WVSA is hereby authorized to collect from users within the Township all such charges or fees as shall be set forth in the WVSA's Schedule of Charges and Fees.

(Ord. 2012-4, 9/13/2012, §3.1)

§18-322. Charges and Fees.

1. The Township and/or the WVSA may adopt charges and fees which may include:
 - A. Fees for reimbursement of clerical, labor and overhead costs of administering and operating the WVSA's Pretreatment Program;
 - B. Fees for monitoring, inspections and sampling of industrial users, including any extraordinary costs incurred for response costs or to ensure compliance by a noncompliant user;
 - C. Fees for reviewing slug discharge control and spill prevention procedures, pretreatment plans, and plans for grease and sediment interceptors;
 - D. Fees for response to accidental or slug discharges;
 - E. Fees for permit applications;
 - F. Fees for consistent removal of pollutants otherwise subject to federal pretreatment standards as provided by 40 C.F.R. §403.7;
 - G. Fees and surcharges for removal of pollutants such as BOD, TSS, oil and grease, phosphorus or nitrogen discharged in amounts greater than those found in domestic sewage;
 - H. Other fees as the Township and/or the WVSA may deem necessary to carry out the requirements contained herein.

2. These fees relate solely to the matters covered by this Part and are separate from all other fees chargeable by the Township and WVSA.

(Ord. 2012-4, 9/13/2012, §3.2)

§18-323. Surcharges.

1. The WVSA may require payment of a surcharge by any user who discharges wastewater of higher than normal concentration or loading of any substance, which results in additional treatment costs to the WVSA. Such surcharges shall be in addition to the regular sewer rent set forth in the rules and regulations of the WVSA.

2. Surcharges shall be established by the WVSA in its duly adopted rules and regulations.

(Ord. 2012-4, 9/13/2012, §3.3)

D. Pretreatment Requirements for Industrial Users**§18-331. Pretreatment Requirement.**

1. Any user generating wastewater of a character prohibited from discharge into the sanitary sewer system under Part 3B shall provide for pretreatment of the wastewater as necessary to attain the standards established by this Part 3 and the rules and regulations of the WWSA. The Township may, at its sole discretion and in conformance with the provisions of Act 537, permit the installation of holding tanks for wastes which are not amenable to pretreatment upon application by a user. The installation, operation and maintenance of holding tanks shall be as prescribed by the Township as a condition of its approval.

2. Grease traps or sediment traps shall be provided for the proper handling of waste containing grease, sand or sediment, in amounts above the limits provided herein. All traps shall meet the standards prescribed in §18-338.

3. Storage, handling, disposal and transportation of materials removed from pretreatment facilities, grease traps or sediment traps shall be accomplished according to all applicable federal, state and local regulations that pertain to the type and/or class of waste generated.

4. Any facilities required to pretreat wastewater to a level acceptable to the WWSA shall be provided, operated and maintained at the user's expense.

(Ord. 2012-4, 9/13/2012, §4.1)

§18-332. WWSA Approval for Pretreatment.

1. Detailed plans showing the pretreatment facilities and documentation of operating procedures shall be submitted to the WWSA for review, and shall be acceptable to the WWSA before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of constructing, operating or modifying the facility as necessary to produce an effluent acceptable to the WWSA under the provisions of this Part 3. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the WWSA prior to the user's initiation of the changes.

2. In addition to approval of WWSA, a building permit may be required by the Township and the provisions of this Part 3 shall not supersede any requirements of the building code applicable to the user's facilities.

(Ord. 2012-4, 9/13/2012, §4.2)

§18-333. Permit Requirement.

1. It shall be unlawful to discharge to the sanitary sewer system of the Township, any wastewater of any kind except as authorized by this Part 3 or the rules and regulations of the WWSA, as amended.

2. All nondomestic users proposing to connect to or to contribute to the sewer system shall notify the WWSA of such intent prior to connection or prior to the commencement of discharge if the connection point already exists.

3. Industrial users shall apply for and obtain an industrial wastewater discharge permit from the WWSA before connecting to or discharging industrial wastewater to the sewer system. Other nondomestic users may be required to apply for and obtain a permit to discharge wastewater other than domestic sewage by the WWSA as provided in its rules and regulations.

4. WWSA may, at its discretion and in conformance with the provisions of 40 C.F.R. §403.8(f)(1)(iii)(A), develop and issue general permits for certain classes of nondomestic user.

(Ord. 2012-4, 9/13/2012, §4.3)

§18-334. Industrial Wastewater Discharge Permit Provisions.

1. Industrial wastewater discharge permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than five years or may be stated to expire on a specific date. The user shall apply for a permit reissuance a minimum of 90 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the WWSA during the term of the permit as limitations or requirements as identified in Part 3B are modified or other just cause exists. The user shall be informed of any proposed changes in the permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit itself shall include a reasonable time schedule for compliance, as determined by the WWSA.

2. Industrial wastewater discharge permits are issued to a specific user for a specific operation and type of discharge. A permit shall not be reassigned or transferred or sold to a new owner, new user, different premises or a new or changed operation without the approval of the WWSA. If approval is granted by the WWSA, any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

3. Permits shall contain such terms and conditions as the WWSA shall determine as expressed in its rules and regulations. Permits may include the following:

- A. Effluent limits and best management practices based on National Categorical Pre-treatment Standards, local limits or other applicable discharge standards.
- B. Specifications for monitoring programs which include sampling locations, frequency of sampling, types and standards for tests (including the requirement that all sampling be representative of the discharge) and reporting schedules.
- C. Compliance schedules.
- D. Requirements for submission at specified times to the WWSA of technical reports, laboratory analysis reports or discharge reports.
- E. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the WWSA, and affording WWSA access thereto at reasonable times for examination and copying.
- F. Requirements for notification of the WWSA or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
- G. Requirements for installation and maintenance of inspection and sampling facilities.
- H. Requirements for notification of slug discharges as per §18-344.
- I. Other conditions as deemed appropriate by the WWSA to ensure compliance with this Part 3 and the WWSA rules and regulations.
- J. Notice of applicable civil and criminal penalties for violation of pretreatment standards and requirements or other provisions of this Part 3, the permit, or the rules and regulations of WWSA.
- K. A schedule of user charges and fees for the wastewater to be discharged into the sanitary sewer system.

(Ord. 2012-4, 9/13/2012, §4.4)

§18-335. Permit Application Process.

1. All industrial users shall submit to the WWSA an industrial wastewater discharge questionnaire containing information as set forth in this Part 3 or required by the rules and regulations of the WWSA. Other nondomestic users may be requested to submit information at the discretion of WWSA upon review of the notice required by §18-333 Subsection 2. of this Part 3.

2. Users required to obtain an industrial wastewater discharge permit shall be so notified by

the WVSA and shall timely complete and file with the WVSA an application in the form prescribed by the WVSA, and accompanied by the appropriate fee. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information, as required by WVSA:

- A. Name, address and location (if different from the address).
- B. SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- C. Wastewater constituents and characteristics including but not limited to those mentioned in Chapter 2B of this Part 3 as determined by an accredited analytical laboratory; sampling and analysis shall be performed in accordance with procedures contained in 40 C.F.R. Part 136, as amended.
- D. Time and duration of discharge.
- E. Average daily wastewater flow rates, short term peaks or batch discharge rates, and daily, monthly and seasonal variations, if any.
- F. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation.
- G. Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged.
- H. Material safety data sheets (MSDS) for all chemicals used on site.
- I. Where known, the nature and concentration of any pollutants in the discharge which are limited by any local, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment facilities are required for the user to meet applicable pretreatment standards.
- J. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
 - (1) The schedule shall contain increments of progress in the form of "milestone" dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction and the like)
 - (2) No increment referred to in Subsection 2. Paragraph 2.J.(1) above shall exceed nine months.
 - (3) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Executive Director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Executive Director.
- K. Each product produced by type, amount, process or processes and rate of production.
- L. Type and amount of raw materials processed (average and maximum per day).
- M. Number of employees per shift, hours of operation of plant and proposed or actual

hours of operation of pretreatment system.

N. Any other information as may be deemed by the WVSA to be necessary to evaluate the permit application.

3. The WVSA will evaluate the data furnished by the user and may require additional information. After evaluation of the data furnished, the WVSA may issue an industrial wastewater discharge permit subject to terms and conditions provided herein.

(Ord. 2012-4, 9/13/2012, §4.5)

§18-336. Modification of Permit.

Within three months of the promulgation of a National Categorical Pretreatment Standard, the industrial wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standards within the time frame prescribed by such standard. Where a user, subject to a newly promulgated National Categorical Pretreatment Standard had not previously submitted an application for an industrial wastewater discharge permit as required by §18-333, the user shall apply for an industrial wastewater discharge permit within 180 days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the user with an existing industrial wastewater discharge permit shall submit to the Executive Director, within 180 days after the promulgation of an applicable National Categorical Pretreatment Standard, the information required by §18-335 Subsection 2. Paragraphs I. and J.

(Ord. 2012-4, 9/13/2012, §4.6)

§18-337. Classifications of Dischargers.

1. Following review of a report submitted under §18-333 of this Part 3, each nondomestic user shall be placed into the appropriate classification of discharger. Said classifications are defined as follows:

A. A significant industrial user shall be a Class I user.

B. A Class II user shall include non-significant categorical industrial users and any non-domestic user that discharges any wastes other than domestic sewage to the sanitary sewer system in amounts that on a routine basis are determined by the WVSA not to have a significant impact on the treatment system, but may present a potential to impact on the treatment system, such as, but not limited to, users with oil and grease or settleable solids discharges that may present a potential to cause sewer obstructions, and those that have the potential to have slug discharges or chemical spills.

C. A Class III user shall be any nondomestic user who discharges only domestic sewage or has a dry process, or is considered to have insignificant impact on the treatment system.

D. A Class IV or commercial user shall be any nondomestic user who discharges industrial wastewater of the nature produced by facilities such as vehicle wash facilities, vehicle maintenance shops, fluid change facilities, steam cleaning facilities, restaurants, lounges and the like.

2. For the purpose of the permit process all Class I users shall be required to obtain an industrial wastewater discharge permit from the WVSA. Class II, Class III and Class IV users may be required to obtain a permit, as determined by the WVSA.

3. Whether a user is required to obtain a permit or not, it may be required to install such facilities as the WVSA or Township deems necessary to comply with the provisions of this Part 3.

(Ord. 2012-4, 9/13/2012, §4.7)

§18-338. Grease and Sediment Traps for Class IV Users.

Class II and IV users that discharge or have the potential to discharge significant quantities of oil

and grease or sediment, as determined by the WVSA, shall install and properly operate and maintain a grease trap or sediment trap (or both when necessary) satisfactory to the WVSA as required by its rules and regulations. Proper operation and maintenance of grease and sediment traps includes, but is not limited to, removal of accumulated grease or sediment on a routine basis and maintenance of documentation of such activity pursuant to §18-344. Failure to timely install, or to properly operate or maintain a grease or sediment trap required by this Part 3 shall be a violation of this Part 3 and may result in the rescission or suspension of the right to discharge wastewater to the sewer system, whether or not a permit has been issued by the WVSA.

(Ord. 2012-4, 9/13/2012, §4.8)

§18-339. Standard Designs.

Users required or choosing to install grease traps or sediment traps shall apply to the WVSA for a list of standard construction design criteria as prepared by and available through the WVSA's Engineering Department in accordance with current pretreatment design requirements. Users may deviate from standard construction design criteria only with permission of the Executive Director.

(Ord. 2012-4, 9/13/2012, §4.9)

§18-340. Inspection.

The Township and the WVSA may inspect the facilities of any nondomestic user to ascertain whether the purpose of this Part 3 is being met and all requirements are being complied with. Persons or occupants of premises where wastewater other than domestic sewage is created or discharged shall allow representatives of the Township and WVSA ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and/or copying, or in the performance of any of their duties. The Township, WVSA, PADEP and/or the EPA shall have the right to set up on the nondomestic user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security personnel so that upon presentation of suitable identification, representatives of the Township, WVSA, PADEP and/or the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(Ord. 2012-4, 9/13/2012, §4.10)

§18-341. Operation and Maintenance of Pretreatment Facilities.

1. It shall be the responsibility of the industrial user to maintain its pretreatment facility in a working order to provide consistent compliance with the limitations set forth in the industrial wastewater discharge permit and/or the rules and regulations of the WVSA. Operation of the pretreatment system shall be undertaken by the user according to the prescribed methods of the manufacturer as approved by the WVSA, to provide consistent compliance with the limitations set forth in this Part 3, the industrial wastewater discharge permit and the rules and regulations of the WVSA. The user shall be required to maintain documentation reflecting operations and maintenance of all pretreatment facilities.

2. If required by the WVSA, a user shall develop and implement a slug control plan containing the elements itemized at 40 C.F.R. §403.8(f)(2)(vi). The slug control plan shall be submitted to the WVSA for review and approval before implementation.

3. Any user required to install and operate a grease trap or sediment trap shall maintain the equipment in working order to provide consistent compliance with the limitations set forth in any permit issued by the WVSA and/or the rules and regulations of the WVSA. Operation of the trap shall be undertaken by the user according to the prescribed methods of the manufacturer as approved by the WVSA, to provide consistent compliance with the limitations set forth in this Part 3, any permit and the rules and regulations of the WVSA. The user shall be required to maintain documentation reflecting operations and maintenance of all grease and sediment traps for a period of three years or for such period of time as may be required by any permit.

(Ord. 2012-4, 9/13/2012, §4.11)

§18-342. Flow Measurement.

The volume of flow used in computing loadings or surcharges shall be based on the total water consumption data as obtained from the permittee or the records of the local water utility. If a user has a substantial portion of the metered water that does not reach the sanitary sewer system the user may, at its own expense, and with approval from the Executive Director, install a separate flow metering device to measure the actual discharge into the sanitary system. If the actual flow to the sanitary system is measured, the equipment used for the measurement of the flow must be maintained in proper working order at all times. A separate written record of calibration and maintenance must be kept for the flow metering device and made readily available for inspection by the WVSA.

(Ord. 2012-4, 9/13/2012, §4.12)

§18-343. WVSA Monitoring.

The WVSA may conduct periodic monitoring of the following types:

- A. Scheduled or unscheduled sampling and inspections of the user's facilities and records shall be conducted at all Class I users at least once each year.
- B. Additional sampling or inspections may be conducted whenever the WVSA determines a need to investigate the discharges of a user.
- C. Demand sampling and inspections may be performed in response to a complaint or an unusual or emergency situation, such as when the WVSA determines a change in the normal discharge characteristics of the user's wastewater flow, if a violation was detected during sampling or self-monitoring under §18-344, if problems that may be attributable to the user's discharge occur in the sewer system or WVSA facilities, or if a complaint or report of non-compliance is received by the Township or WVSA.
- D. If the WVSA performs routine compliance sampling of a user in lieu of the self-monitoring provisions of §18-344, the WVSA shall be subject to the repeat sampling requirement of §18-344 Subsection 2. in the case that a violation of any pretreatment standard or requirement is detected.

E. All discharge sampling and analyses conducted by WVSA shall be in accordance with the sampling and analysis requirements for user self-monitoring in §18-344.

(Ord. 2012-4, 9/13/2012, §4.13)

§18-344. User Self-Monitoring.

1. A. Users subject to an industrial wastewater discharge permit may be required, at the user's expense, to conduct sampling and analyses of their wastewater on a periodic schedule as established by the permit. Should the results of said analyses indicate a violation of any provision of the user's permit, the user must:

- (1) Report the violation to the WVSA within 24 hours of becoming aware of the violation.
- (2) Repeat the sampling and analysis within 30 days of becoming aware of the violation and report the results to the WVSA.

B. The resampling is not required if:

- (A) The WVSA conducts monthly sampling.
- (B) The WVSA conducted compliance sampling between the time when the initial sample was collected and when the laboratory results were received.

2. All wastewater sampling shall be representative of the indirect discharge. Unless otherwise specified in the wastewater discharge permit (and documented in the WVSA files), all samples shall be collected as flow-proportional composite samples over a 24-hour period, except for samples for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds which shall be obtained as grab samples. Grab samples for cyanide, total phenols and sulfides may be obtained as multiple grab samples and composited in the field or the laboratory before analysis; grab samples for oil and grease and volatile organic compounds may be obtained as multiple grab samples and composited in the laboratory before analysis. For constituents required to be collected as grab samples, the permit shall specify the number of grab samples required for each representative analysis.

3. Unless otherwise specified in a permit, all sampling, sample preservation and laboratory analyses shall be according to the requirements in 40 C.F.R. Part 136.

(Ord. 2012-4, 9/13/2012, §4.14)

§18-345. User Reporting and Recordkeeping.

1. All users subject to an industrial wastewater discharge permit shall be required to submit such reports as required by 40 C.F.R. §403.12 or the industrial wastewater discharge permit. Said reports include:

- A. Baseline monitoring reports for all categorical industrial users, as provided by 40 C.F.R. §403.12(b); sampling shall be as provided at 40 C.F.R. §403.12(g)(4), and shall include a minimum of four grab samples for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist, and a number as established by WVSA for facilities for which historical sampling data are available.
- B. Compliance schedule reports as required by 40 C.F.R. §403.12(b)(7) and (c).

C. Ninety-day compliance reports for categorical industrial users, as provided by 40 C.F.R. §403.12(d); sampling shall be as provided at 40 C.F.R. §403.12(g)(4), and shall include a minimum of four grab samples for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist, and a number as established by WVSA for facilities for which historical sampling data are available.

D. Periodic reports on continued compliance as scheduled in accordance with the user's industrial wastewater discharge permit and §18-344 of this Part 3.

E. Immediate notice to the WVSA of any discharge that constitutes a slug discharge.

F. Immediate notice to the WVSA of any change in the user's facility that could affect the potential to have a slug discharge.

G. Notification of any planned changes or modifications to the volume or character of the industrial wastewater discharge, including any changes to listed or characteristic hazardous waste discharges reported under §18-346 of this Part 3.

H. Sampling results and resampling reports as required by §18-344 of this Part 3.

2. Every significant industrial user and any nondomestic user which is required, by permit or by request of the WVSA, to institute any monitoring, BMP, sampling, grease or sediment removal, or any other activity which will produce a record (such as flow meter or pH recorder charts, laboratory results, or hauled waste records) shall retain all such records for a period of at least three years. All sampling records of significant industrial users shall include the information as set forth at 40 C.F.R. §403.12(o).

3. All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority upon request. The reports and other documents required to be submitted or maintained under this Section may be subject to the provisions of §309(c)(4) of the Clean Water Act, as amended, and 18 Pa.C.S.A. §4904, as amended, governing false statements, representations or certifications.

(*Ord. 2012-4, 9/13/2012, §4.15*)

§18-346. Reporting of Hazardous Waste Discharge.

1. All industrial users shall be required, in accordance with 40 C.F.R. §403.12(p), to report the discharge into the sanitary sewer system of any substance, which if otherwise disposed of, would be a listed or characteristic hazardous waste under 40 C.F.R. Part 261. Said notification shall be in writing to the WVSA, the EPA Regional Waste Management Division Director and the PADEP hazardous waste authorities, and shall include the name of the hazardous waste as set forth in 40 C.F.R. Part 261, the EPA hazardous waste number, and the type of discharge (batch, continuous or other).

2. If the user discharges more than 100 kilograms of such waste per calendar month to the WVSA, the notification shall also contain the following:

A. An identification of the hazardous constituents contained in the wastes.

B. An estimation of the mass and concentration of such constituents in the wastestream to be discharged in that calendar month.

C. An estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following 12 months.

3. All notifications must take place within 180 days of the first discharge of said hazardous waste. Any notification under this Section needs to be submitted only once for each hazardous waste discharged, provided that any planned change in the volume or character of the hazardous waste discharge must be reported as provided in §18-344 of this Part 3. The notification requirement does not apply to pollutants already reported under the self-monitoring requirements of this Part 3.

4. In the case of any notification made under this Section, the user shall certify that it has in place a program to reduce the volume and toxicity of hazardous wastes generated.

(Ord. 2012-4, 9/13/2012, §4.16)

§18-347. Signatory Responsibility.

1. All required reports submitted by a user must be signed by an authorized representative, as defined by 40 C.F.R. §403.12(1) to be:

A. A principal executive officer of at least the level of vice president if the user is a corporation.

B. A manager of one or more manufacturing, production or operating facilities, provided that the manager is authorized to make management decisions which govern the operation of the manufacturing facility and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedure.

C. A general partner or proprietor if the user is a partnership or sole proprietorship respectively.

D. A duly authorized representative of the individual designated in Subsection 1. Paragraphs 1.A., 1.B. or 1.C. above if the authorization is made in writing by the person designated in Subsection 1. Paragraphs 1.A., 1.B. or 1.C. above, the authorization specifies either the individual or a position having responsibility for the overall operation of the facility from which the discharge originates; and the authorization is submitted to the WWSA.

2. Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to federal pretreatment regulations and/or this Part 3, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under federal pretreatment regulations or this Part 3, shall be subject to the civil and criminal penalties as set forth at 40 C.F.R. §403.12(n) governing false statements, representations or certifications in reports

required under the Act, as well as 18 Pa.C.S.A. §4904, as amended, and other applicable state law.
(*Ord. 2012-4, 9/13/2012, §4.17*)

§18-348. Monitoring Location.

1. The WVSA may require to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems from which a discharge flows into the sewer system. The monitoring facility should normally be situated on the user's premises, but the municipality may, upon application by the user and when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

2. There shall be ample room in or near such monitoring facility to allow accurate sampling and preparation of samples for analysis. The monitoring facility shall be maintained at all times in a safe and proper operating condition at the expense of the user.

3. Whether constructed on public or private property, the monitoring facilities shall be provided in accordance with the WVSA's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification of approval of the plans by the WVSA or within such other time as may be authorized by WVSA.

(*Ord. 2012-4, 9/13/2012, §4.18*)

§18-349. Classified Information.

1. Information and data on a user obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the WVSA that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user.

2. When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this Part 3, the National Pollutant Discharge Elimination System (NPDES) permit, and the Pretreatment Program; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristic shall not be recognized as confidential information.

3. Information accepted by the WVSA as confidential, shall not be transmitted to the general public by the WVSA until and unless a ten-day notification is given to the user. Information accepted as confidential by the WVSA shall be made available to governmental agencies. If requested by the user, the EPA and PADER will treat the submitted information as confidential to the extent provided in 40 C.F.R. Part 2.

(*Ord. 2012-4, 9/13/2012, §4.19*)

§18-350. Accidental Discharges.

1. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Part 3. Facilities to prevent accidental discharge of prohibited materials and to mitigate, reduce and contain any such discharge shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the WWSA for review, and shall be approved by the WWSA before construction of the facility. No user who commences discharge of industrial wastewater to the sanitary sewer system after the effective date of this Part 3 shall be permitted to introduce pollutants into the system until accidental discharge protection, containment and countermeasure procedures have been approved by the WWSA. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this Part 3.

2. In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the WWSA of the incident. The notification shall include location of the discharge, type of waste, concentration and volume, and corrective actions being taken.

3. Within five days following an accidental discharge, the user shall submit to the Executive Director a detailed report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the WWSA, its facilities, or any other person or property; nor shall notification relieve the user of any fines, civil penalties or other liability which may be imposed by this Part 3 or other applicable law. Failure to notify the Executive Director of an accidental discharge shall constitute a separate and distinct violation of this Part 3.

4. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of an accidental discharge. Employers shall ensure that all employees who may be present in an area where an accidental discharge may occur are advised of the emergency notification procedure as well as the containment and countermeasures developed by the user to mitigate and control any such discharge.

(Ord. 2012-4, 9/13/2012, §4.20)

§18-350A. Emergency Discharge.

In the case of a nondomestic user that, for reasons of emergency maintenance, equipment failure, or other similar unforeseen event beyond the user's reasonable control, must discharge prohibited, high strength or other wastewater of unusual strength, character or volume, the user may apply to the Executive Director for an

emergency discharge permit. The Executive Director may issue such a permit, on terms and conditions as he or she deems appropriate, upon his or her review of the information provided and in his or her sole discretion. No discharge of the unusual wastewater may be made until and unless an emergency discharge permit has been issued. An emergency discharge permit shall not be issued for longer than 30 days and may be renewed only after a new application has been made.

(Ord. 2012-4, 9/13/2012, §4.21)

E. Violations and Enforcement**§18-351. Notification of Violation.**

Whenever the WVSA finds that any nondomestic user has violated or is violating this Part 3, the rules and regulations of the WVSA, its industrial wastewater discharge permit, or any prohibition, limitation or requirements contained herein, the WVSA may serve upon such person a written notice of violation stating the nature of the violation. Within 30 days of the date of the notice, or within such other reasonable time as the Executive Director shall state, a plan for the satisfactory correction thereof shall be submitted to the WVSA by the user.

(Ord. 2012-4, 9/13/2012, §5.1)

§18-352. Show Cause Hearing.

1. The WVSA may notify any user who is in violation of this Part 3, an industrial wastewater discharge permit, or the rules and regulations of the WVSA, to show cause before the WVSA Board of Directors (or such other adjudicative body as the WVSA shall select) why a proposed enforcement action should not be taken. The notice shall be served on the user specifying the time and place of a hearing to be held by the WVSA regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the WVSA why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

2. A show cause hearing is not subject to the requirements of the Local Agency Law, 2 Pa. C.S.A. §§551 *et seq.*, but may be conducted as provided in that statute at the discretion of the WVSA Board or adjudicative body.

3. Within a reasonable time after the conclusion of a show cause hearing, the Board of Directors (or adjudicative body) shall issue an opinion regarding the alleged violation and any enforcement action which it believes is appropriate. The WVSA may then proceed to undertake the recommended enforcement action, if any.

(Ord. 2012-4, 9/13/2012, §5.2)

§18-353. Other Legal Action.

1. If any person discharges sewage, industrial wastewater or other wastes into the sanitary sewer system contrary to the provisions of this Part 3, federal or state pretreatment requirements, the WVSA rules and regulations or any permit issued by the WVSA, the Municipal Solicitor may commence an action for appropriate legal and/or equitable relief in the courts. When the WVSA determines the need for legal action, said action shall be undertaken by the Township within 30 days of notification by the WVSA.

2. In the alternative, for purposes of enforcement of this Part 3 and the Pretreatment Program, the Township hereby appoints the Wyoming Valley Sanitary Authority as its agent and authorizes the WVSA or its duly appointed agents and employees, to undertake any legal action in the name of the Township, including but not limited to the filing of a civil complaint in the Court of Common Pleas of Luzerne County. In the case that WVSA acts in the name of the Township, the Township shall cooperate with and support the WVSA in the prosecution of any civil action as may be necessary.

(Ord. 2012-4, 9/13/2012, §5.3)

§18-354. Revocation of Suspension of Permit.

1. Any user who violates the following conditions of this Part 3, applicable state or federal regulations, or an industrial wastewater discharge permit is subject to having its industrial wastewater

discharge permit revoked or suspended in accordance with the procedures of this Section:

- A. Failure of a user to factually and accurately report the wastewater constituents and characteristics of its discharge.
- B. Failure of the user to report significant changes in operations, or changes in industrial wastewater constituents and characteristics, including, but not limited to, changes in facilities related to the control of slug discharges as required by §18-345 Subsection 1. Paragraph F.
- C. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring.
- D. Violation of any condition of the industrial wastewater discharge permit.

2. Upon notice of suspension or revocation of an industrial wastewater discharge permit, the user shall immediately cease the discharge of industrial wastewater to the sewer system. Any discharge of industrial wastewater to the sewer system after notice of revocation or suspension shall be a violation of this Part 3 and subject to the penalties provided herein. In the case of a suspension, the permit shall be reinstated upon a showing that the user has corrected the condition for which the suspension was imposed. In the case of a revocation, the user may only receive a new permit by going through the application process as stated in §18-335 of this Part 3.

(*Ord. 2012-4, 9/13/2012, §5.4*)

§18-355. Suspension of Sewer Service.

1. The Township and/or the WVSA may suspend the wastewater treatment service when such suspension is necessary, in the opinion of the WVSA, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference or pass through at the WVSA's treatment plant or causes the WVSA or Township to violate or be in danger of violating any condition of an NPDES permit or state-issued water quality management permit.

2. Any person notified of a suspension of the wastewater treatment service shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the Township may, and the WVSA is authorized to, take such steps as deemed necessary including immediate severance or obstruction of the sewer connection from the user's property, to prevent or minimize damage to the sewer system or the WVSA facilities or endangerment to any individuals. The WVSA or the Township shall reinstate the wastewater treatment service only upon satisfactory proof of elimination of the noncomplying discharge. All costs associated with the severance and/or reconnection of a sewer shall be incurred by the user.

(*Ord. 2012-4, 9/13/2012, §5.5*)

§18-356. Civil Penalties.

1. Any user who is found to have violated any provision of this Part 3, the rules and regulations of the WVSA, as amended, or any regulations or permits issued by the WVSA or the Township shall be subject to a civil penalty of not less than \$100 nor more than \$1,000 per each violation. Each day on which a violation shall occur or continue to occur shall be deemed a separate and distinct violation.

2. The Township recognizes that the WVSA has independent civil penalty authority under the provisions of the Publicly Owned Treatment Works Penalty Law (Act 9 of 1992, 35 P.S. §§752.1 *et seq.*). Any violation of this Part 3 shall constitute a violation of the WVSA's EPA-Approved Industrial Pretreatment Program and subject an industrial user to the penalties provided thereunder. Should WVSA choose to assess a civil penalty under its independent authority against a user who violates any provision of this Part 3, the Township shall cooperate to the extent necessary to aid

WVSA in such an action.

3. In addition to the civil penalties provided herein, the Township and/or the WVSA may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Part 3, the WVSA rules and regulations or any permit issued hereunder.

(Ord. 2012-4, 9/13/2012, §5.6)

§18-357. Right of Appeal.

Any user subject to an enforcement action or issuance or denial of an industrial wastewater discharge permit under this Part 3 may file an appeal with the WVSA within 15 days of receipt of the notice of the enforcement action or permit issuance, revision or denial. Said appeal shall be conducted by the WVSA as provided in the Local Agency Law, 2 Pa. C.S.A. §§551 *et seq.*

(Ord. 2012-4, 9/13/2012, §5.7)

§18-358. Public Notification.

1. The WVSA shall annually publish in a local newspaper of general circulation, a list of the significant industrial users which were in significant noncompliance with the pretreatment standards and requirements contained herein at least once during the previous calendar year. Significant noncompliance shall include any of the following:

- A. Chronic violations, defined as those in which 66 percent or more of all measurements taken for the same pollutant parameter during a six-month period are in excess of an applicable numeric pretreatment standard or requirement, including instantaneous maximum limits.
- B. Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC. TRC is 1.4 for BOD, TSS, oil and grease, and 1.2 for all other pollutants except pH.
- C. Any other violations of a pretreatment standard or requirement, including a narrative standard, which the WVSA determines has caused or contributed to interference or pass through.
- D. Any discharge that has caused imminent endangerment to human health and safety or the environment, or has resulted in the WVSA's exercise of its authority to halt or prevent such a discharge under §§18-354 or 18-355 of this Part 3.
- E. Failure to meet a compliance schedule milestone within 90 days of the schedule date.
- F. Failure to provide within 45 days after the due date, required reports as itemized in §18-345 of this Part 3.
- G. Failure to accurately report noncompliance.
- H. Any other violation or groups of violations including a violation of a BMP imposed by a permit or implemented as part of a plan developed by the user and approved by the WVSA, which the WVSA determines to adversely affect the operation or implementation of its approved Pretreatment Program.

2. The newspaper notice shall also summarize any enforcement actions taken against the user during the same time period.

(Ord. 2012-4, 9/13/2012, §5.8)

F. Cooperation**§18-361. Cooperation.**

The Township and the WVSA shall cooperate in all matters as they pertain to this Part 3. Neither the Township nor the WVSA shall act in any manner so as to compromise in any way the ability of the other party to administer this Part 3.

(Ord. 2012-4, 9/13/2012, §6)

Part 4**Sludge****§18-401. Short Title.**

This Part shall be known and cited as the “Sludge Ordinance”.
(*Ord. 1/3/1983, §1*)

§18-402. Prohibition.

Any owner and/or agent of property within the Township of Plains shall be expressly prohibited from utilizing sludge and/or any similar material which may be classified as a form of waste water material as cover and/or, fill material within sites currently or previously utilized as a landfill site.
(*Ord. 1/3/1983, §2*)

§18-403. Definitions.

The term sludge and/or similar material which may be classified as wastewater material shall be defined in accordance through the DEP standards.
(*Ord. 1/3/1983, §3*)

§18-404. Closure of Landfill Site.

Prior to the undertaking of any work or activities related to the closure of a landfill site, the owner and/or agent responsible for such work or activities shall provide the Township with the following information:

- A. The exact type of materials proposed to be utilized for fill and/or cover in the closure.
- B. The chemical and organic composition of all materials proposed to be utilized as fill and/or cover material.
- C. The quantitative amount of each type of material proposed to be utilized as fill and/or cover material.

(*Ord. 1/3/1983, §4*)

§18-405. Closure Plan.

Any owner and/or agent who files a closure plan with DEP for a landfill site and undertakes the activities thereunder shall meet or exceed the highest standards as set forth by DEP regulations for the closures of a landfill site within the Township of Plains.
(*Ord. 1/3/1983, §5; as amended by A.O.*)

§18-406. Notice Required.

No owner and/or agent of a landfill site shall undertake any work or related activities required for the closure of a landfill site until said owner and/or agent receives written notification from the Township that all regulations as set forth in this Part have been fully met.
(*Ord. 1/3/1983, §6*)

§18-407. Violation and Penalties.

Any person, firm or corporation who shall violate any provision of this Part 4, upon conviction thereof, shall be sentenced to pay a fine of not less than \$25 nor more than \$1,000 plus costs and, in

default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part 4 continues shall constitute a separate offense.

(*Ord. 1/3/1983*, §7; as amended by A.O.)

§18-408. Exemption.

Exempt from this Part will be any landfill site whose closure plan has been approved by the Pennsylvania Department of Environmental Protection.

(*Ord. 1/3/1983*; as added by *Ord. 1990-12*, 12/13/1990, §10; and as amended by A.O.)

Chapter 19

[Reserved]

Chapter 20

Solid Waste

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Municipal Collection and Disposal Service for Garbage and Rubbish

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Part 3

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Part 1**Municipal Collection and Disposal Service for Garbage and Rubbish****A. Collection and Disposal****§20-101. Intent and Purpose.**

All domestic, commercial and industrial refuse accumulated or stored upon any property within the Township of Plains shall be collected and removed by the Township or a responsible person or private hauler who shall be licensed with the Township of Plains and shall be disposed in an area authorized by and approved by the Board of Commissioners in accordance with all state regulations. (*Ord. 1990-11, 12/13/1990, Art. I, §1*)

§20-102. Definitions.

Acceptable waste—Township waste, but excluding unacceptable waste.

Disposal—transporting waste material to an incinerator, sanitary landfill, a resource recovery facility or other site, and making final disposition.

Hazardous waste—

A. Any material or substance which, by reason of its composition or characteristics, is:

(1) Toxic or hazardous wastes as defined in:

(a) Either the Solid Waste Disposal Act, 42 U.S.C. §§6901 *et seq.*, or §6(e) of the Toxic Substances Control Act, 15 U.S.C. §2605(e), or any laws of similar purpose or effect, and any rules, regulations or policies promulgated thereunder; or

(b) Either PaSWMA or any laws of similar purpose or effect, any rules, regulations or policies promulgated thereunder.

(2) Special nuclear or by-products materials within the meaning of the Atomic Energy Act of 1954, 42 U.S.C. §§2011 *et seq.*

B. Any other materials which the Pennsylvania Department of Environmental Protection or any governmental agency or unit having appropriate jurisdiction shall determine from time to time is ineligible for disposal in a landfill, whether by reasons of being harmful or dangerous or otherwise. [A.O.]

Municipal waste—any garbage, refuse, industrial lunch room or office waste and other material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act, 35 P.S. §§6018.101 *et seq.*, from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. This term does not include source separated materials.

Person—a natural person, firm, association, copartnership, corporation or other business entity.

Private hauler—any person collecting or transporting municipal solid waste for monetary or business purposes, including the municipality itself if it undertakes the collection of municipal solid waste directly and any business or institution within the municipality which generates sufficient municipal solid waste to required disposal directly by its own employees and equipment. The term “private hauler” and “collector” shall be used interchangeably in this Part 1 and shall have the same meaning.

Refuse—garbage, ashes, rubbish and acceptable waste as herein defined.

Residual waste—as defined in §103 of PaSWMA, 35 P.S. §6018.103, and any rules, regulations

or policies promulgated thereunder.

Rubbish—all waste materials not included in garbage and ashes except building rubbish from building construction or reconstruction, street refuse, industrial refuse, dead animals, abandoned large machinery or vehicles, unacceptable waste or other such waste materials as are not commonly produced in homes, stores and institutions.

Solid waste—any waste, including but not limited to, municipal, residual or hazardous wastes, including solidified liquids, semisolids or tainted gaseous materials.

Special handling waste—any “municipal waste” (as the term “municipal waste” is defined in §103 of PaSWMA, 35 P.S. §6018.103:

- (A) Which is defined as a “special handling waste” by rules, regulations or policies applied by the Pennsylvania Department of Environmental Protection or other governmental agency having appropriate jurisdiction;
- (B) For which the Pennsylvania Department of Environmental Protection or other governmental agency having appropriate jurisdiction requires special or separate approval or authorization before permitting its disposal in a landfill; or
- (C) Upon which the Pennsylvania Department of Environmental Protection or governmental agency having appropriate jurisdiction has imposed permitting, handling or operational controls or requirements different from those applicable to municipal waste generally. Special handling waste includes sewage sludge, infectious waste, chemotherapeutic waste and ash residue from a municipal waste processing facility. [A.O.]

Unacceptable waste:

- A. Hazardous waste.
- B. Residual waste.
- C. Special handling waste.
- D. Any other material or substance which, in the reasonable judgment of the company:
 - (1) May present a substantial endangerment to health, safety or the environment.
 - (2) Contains less than 20 percent solids.
 - (3) May affect the integrity of the landfill’s liner or other aspects of the landfill’s liner or other aspects of the landfill’s construction.
 - (4) May adversely affect the ability of the landfill’s leachate treatment facility to treat leachate to a quality required by any applicable law or permit requirement.
 - (5) May cause sludge generated by the landfill’s leachate treatment facility to become a hazardous waste, or (6) has a reasonable possibility of otherwise adversely affecting the operation of the landfill.

Unacceptable waste—includes drums, sealed containers, explosives, including dynamite, hand grenades, blasting caps, shotgun shells, fireworks and any other explosives, gasoline, kerosene, turpentine, waste oil, acids, hydraulic oil, petroleum, caustics, sewage or process wastewater, leachate, sewage sludge, flammable or volatile liquids, and any other liquids, demolition debris, asbestos, infectious, pathological, chemotherapeutic and biological waste, ashes, radioactive materials, human or animal remains, agricultural and farm machinery and equipment, tar, tires, white goods including refrigerators, washing machines, and other large metal objects, and motor vehicles and motor vehicle parts including transmissions, rear ends, springs, fenders and other large motor vehicle parts.

The singular shall include the plural and the masculine shall include the feminine and the neuter. (Ord. 1990-11, 12/13/1990, Art. I, §2; as amended by A.O.)

B. Disposal by Township and Residents**§20-111. Administration.**

1. All refuse accumulated in the Township shall be collected, conveyed and disposed of by the Township and the costs of such service shall be paid as provided in the schedule of fees set forth in §20-112 hereof by the person producing the refuse, or responsible for the existence or disposal thereof or for whom such refuse is removed. It shall be unlawful for any person to collect, convey over any of the streets or alleys of the Township or dispose of, any refuse accumulated in the Township; provided, however, that this Part 1 shall not prohibit the actual producers of refuse and unacceptable waste, or the owners of the premises upon which refuse and unacceptable waste has accumulated, from personally collecting, conveying and disposing of such refuse, if such producers or owners comply with all federal, Pennsylvania and Township regulations for collection, conveyance and disposal, or as prescribed in this Part 1, or made by the Commissioners under the terms hereof; and, provided further, that collectors of refuse and unacceptable waste (other than from their own premises or as produced by them in the Township as hereinbefore provided for) shall have the right to haul such refuse over Township streets, provided such collectors comply with the provisions of Part 1C of this Chapter.

2. The collection and disposal of refuse in Plains Township shall be under the supervision of the Board of Commissioners of the said Township. It shall have the authority to make regulations concerning the days of collection, type and location of waste containers and such other matters pertaining to the collection and disposal as it may deem advisable, and to change and modify the same after notice as required by law, provided that such regulations are not contrary to the provisions hereof.

3. The producers of refuse and unacceptable waste or the owners of premises upon which refuse is accumulated who desire personally to collect and dispose of such refuse and unacceptable waste and who desire to haul over the streets of the Township, shall use a watertight vehicle provided with a tight cover and so operated as to prevent offensive odors escaping therefrom and refuse from being blown, dropped or spilled. Such disposal shall be made only at a disposal area approved by the Pennsylvania Department of Environmental Protection. Further, said producers or owners shall provide the Township with all of the information required of private haulers of refuse pursuant to Part 1C of this Chapter. The Board of Commissioners of the Township shall have authority to make such other reasonable regulations concerning individual collection and disposal as it may deem necessary. [A.O.]

4. Ownership of refuse material set out for collection shall be vested in the Township.

5. All garbage bags shall be tied and the contents shall not weigh more than 40 pounds. Further, residents shall be limited to placing no more than four bags per week out for collection except as follows:

A. Residents shall be allowed to place in excess of four bags not to exceed eight bags per week for collection during the holiday weeks of Christmas, Memorial Day, Fourth of July, Labor Day and Thanksgiving.

B. No resident shall be allowed to place any refuse bags out for collection before 6:00 p.m. on the day before the normal collection date for that residence.

C. The Township of Plains has the right to inspect any bags placed out for any weekly collection. If the Township determines that any bags include garbage or waste not from the household where the garbage was picked up the owner and/or individuals residing at that residence shall be subject to any penalties set forth in §20-131. [*Ord. 2010-3; Ord. 2015-3*]

6. All persons whose garbage or rubbish is not being collected by the Township under the terms of this Part 1 shall furnish the Township Zoning Officer, immediately upon his or her request, a statement of the method and means of disposal of their garbage or rubbish and furnish such other

information relating thereto as shall be required of private haulers pursuant to Part 1C of this Chapter. (*Ord. 1990-11*, 12/13/1990, Art. II, §1; as amended by *Ord. 2010-3*, 8/12/2010, §1; and by A.O.; and by *Ord. 2015-3*, 6/11/2015; and by *Ord. 2016-3*, 7/14/2016)

§20-112. Fees.

The fees for the collection and disposal of refuse placed for collection at ground level and not more than ten feet distant from the side of the streets or alley from which collection is made and shall be as follows:

- A. All refuse to be collected by the Township shall only be deposited in garbage bags or other receptacles approved and distributed by the Township.
- B. (1) Each residential family unit and small business shall each year be required to purchase approved garbage bags or other receptacles from Plains Township in increments of 50 bags for a fee in an amount as established, from time to time, by resolution of the Board of Commissioners. Any bags unused by the end of any calendar year may be used the next year. [A.O.]
(2) The fee established in Paragraph B.(1) of this Section shall remain in effect until revised thereafter, from time to time, by resolution duly enacted by the Board of Commissioners.
- C. All of the fees fixed by this Section shall be payable at the time of purchase of the bags.

(*Ord. 1990-11*, 12/13/1990, Art. II, §2; as amended by *Ord. 1991-6*, 12/12/1991, §2; by *Ord. 1997-9*, 12/11/1997, §2; by *Ord. 2002-4*, 12/12/2002, §2; by *Ord. 2007-8*, 12/20/2007, §2; and by A.O.)

C. Disposal by Private Haulers

§§ 20-121–20-127. Reserved.

D. Penalties**§20-131. Penalties.**

Any person whether as property owner or tenant, principal, agent or employee, violating or assisting in the violation of any of the provisions of this Part 1 or of any resolution made by the Commissioners of the Township under the provisions hereof shall, upon conviction thereof, pay a fine of not less than \$50 nor more than \$1,000, costs of prosecution and reasonable attorney's fees for each and every violation thereof, and in default of payment of such fine and costs to be imprisoned for a period of not more than 30 days. After notice, each day's neglect to comply with the provisions of this Part 1 or any such regulations shall be deemed a separate offense, and separate proceedings may be instituted and separate penalties imposed for each day's offense after the first conviction.

(*Ord. 1990-11*, 12/13/1990, Art. IV, §1; as amended by A.O.; and by *Ord. 2015-3*, 6/11/2015)

E. Unacceptable Waste

§20-141. Short Title.

This Part 1E shall be known and may be cited as “Plains Township Unacceptable Waste Ordinance”.

(Ord. 1994-1, 4/14/1994, §1)

§20-142. Definitions.

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

Hazardous waste—

- (1) Any material or substance which, by reason of its composition or characteristics, is:
 - (a) Toxic or hazardous wastes as defined in:
 - (1) Either the Solid Waste Disposal Act, 42 U.S.C. §§6901 *et seq.*, or §6(e) of the Toxic Substances Control Act, 15 U.S.C. §2605(e), or any laws of similar purpose or effect, and any rules, regulations or policies promulgated thereunder; or
 - (2) Either Pennsylvania Solid Waste Management Act, 35 P.S. §§6018.101 *et seq.*, or any laws of similar purpose or effect, and any rules, regulations or policies promulgated thereunder.
 - (b) Special nuclear or by-products materials within the meaning of the Atomic Energy Act 1954, 42 U.S.C.A. §§2011 *et seq.*
- (2) Any other materials which the Pennsylvania Department of Environmental Protection or any governmental agency or unit having appropriate jurisdiction shall determine from time to time is ineligible for disposal in a landfill, whether by reasons of being harmful or dangerous or otherwise. [A.O.]

Person—any individual, association, public or private corporation, for profit or not for profit, partnership, licensee, lessee, property owner, firm, trust, estate, department, board, bureau or agency of the Commonwealth, political subdivision, municipality, district authority or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term person shall include the members of any association, partnership or firm and the officers and directors of any local agency or municipal corporation, public or private corporation for profit or not for profit.

Residual waste—as defined in §103 of Pennsylvania Solid Waste Management Act, 35 P.S. §6018.103, and any rules, regulations or policies promulgated thereunder.

Special handling waste—any “municipal waste” (as the term “municipal waste” is defined in §103 of Pennsylvania Solid Waste Management Act, 35 P.S. §6018.103:

- (1) Which is defined as a special handling waste by rules, regulations or policies applied by Pennsylvania Department of Environmental Protection or other governmental agency having appropriate jurisdiction;
- (2) For which the Pennsylvania Department of Environmental Protection or other governmental agency having appropriate jurisdiction requires special or separate approval or authorization before permitting its disposal in a landfill; or
- (3) Upon which the Pennsylvania Department of Environmental Protection or governmental agency having appropriate jurisdiction has imposed permitting, handling or

operational controls or requirements different from those applicable to municipal waste generally. Special handling waste includes sewage sludge, infectious waste, chemo-therapeutic waste, medical waste and ash residue from a municipal waste processing facility. [A.O.]

Unacceptable waste—

- (1) Hazardous waste.
- (2) Residual waste.
- (3) Special handling waste.
- (4) Any other material or substance which, in the reasonable judgement of the Board of Commissioners may present a substantial danger to health, safety or the environment.

(Ord. 1994-1, 4/14/1994, §2; as amended by A.O.)

§20-143. Unacceptable Waste Prohibited.

The handling, storage, transportation, transfer, processing, treatment, and/or disposal of any unacceptable waste is prohibited within the Township of Plains by any person except as follows and at a minimum:

- A. The person must make application to and receive approval of the Plains Township Zoning Board and comply with any conditions required by said Board.
- B. The operation shall be located in an I-1 District.
- C. A minimum lot area of two acres is required.
- D. The operation must take place in a building located at least 300 feet from any residential district/area and 100 feet from any adjoining and/or adjacent properties.
- E. A solid closed fence with a height of eight feet shall be installed on all boundaries.
- F. Trees having a diameter of at least six inches and a height of at least six feet shall be planted not further than 15 feet apart, as to effectively screen the operation from adjoining and/or adjacent properties.
- G. Unacceptable waste shall not remain within Plains Township for more than 24 hours.
- H. A performance bond in the amount of \$100,000 must be provided to the Township.
- I. The person must comply with any and all zoning or other ordinances in effect and which are applicable thereto.

(Ord. 1994-1, 4/14/1994, §3)

§20-144. Application.

1. A fee in an amount as established from time to time by resolution of the Board of Commissioners shall be submitted along with. [A.O.]
2. Completed application for zoning permit.
3. Copies of any and all required DEP permit applications (if applicable). [A.O.]
4. Listing of the locations of any similar operations in which applicant is involved (if applicable).
5. Proof of liability insurance in an amount as established from time to time by resolution of the Board of Commissioners. [A.O.]

(Ord. 1994-1, 4/14/1994, §4; as amended by A.O.)

§20-145. Penalties.

Any person violating or assisting in the violation of any provisions of this Part 1 or of any resolution made by the Board of Commissioners of the Township of Plains, under provisions hereof

shall, upon conviction thereof pay a fine of not more than \$1,000 and costs of prosecution for each and every violation thereof, and in default of payment of such fines and costs to be imprisoned for a period of not more than 30 days. After notice, each day's neglect to comply with the provisions of this Part 1 or any such regulations shall be deemed a new and separate offense, and separate proceedings may be instituted and separate penalties imposed for each day's offense after the first conviction.

(*Ord. 1994-1*, 4/14/1994, §5; as amended by A.O.)

Part 2**Recycling****§20-201. Title.**

The short title of this Part shall be the “Plains Recycling Program Ordinance”, or “P.R.P.” and the same may be cited in that manner.

(Ord. 1990-6, 9/26/1990, §I)

§20-202. Definitions.

Terms that are used in this Part:

Aluminum cans—empty all aluminum beverage and food containers.

Bimetallic containers—empty food or beverage containers consisting of steel and aluminum.

Commercial establishment—those properties used primarily for commercial or industrial purposes and those multiple dwelling residential buildings.

Community activities—events that are sponsored by public or private agencies or individuals that include, but are not limited to, fairs, bazaars, socials, picnics and organized sporting events attended by 200 or more individuals per day.

Corrugated cardboard—structural paper material with an inner core shaped in rigid parallel furrows and ridges.

Curbside collection—the collections by the Township or its authorized agent(s) of recyclable materials placed at the curbside or other designated location, such as recycling center/drop off site.

Ferrous containers—empty steel or tin-coated steel food or beverage containers.

Glass containers—bottles and jars made of clear, green or brown glass. Excluded are plate glass, automotive glass, blue glass and porcelain and ceramic products.

High grade office paper—all white paper, bond paper and computer paper used in commercial, institutional and Township establishments and in residences.

Institutional establishment—those facilities that house or serve groups of people such as hospitals, schools, day care centers and nursing homes.

Lead acid batteries—shall include, but not be limited to, automotive, truck and industrial batteries that contain lead.

Leaf waste—leaves from trees.

Magazines and periodicals—printed matter containing miscellaneous written pieces published at fixed or varying intervals. Expressly excluded are all other paper products of any nature whatsoever.

Multi-family housing properties—any properties having four or more dwelling units per structure.

Municipal establishments—public facilities operated by the Township and other governmental and quasi-governmental authorities.

Municipality—the Township of Plains.

Newspapers—paper of the type commonly referred to as newsprint and distributed at fixed intervals, having printed thereon news and opinions, containing advertisements and other matters of public interest. Expressly excluded are glossy advertising inserts often included with newspapers, and newspapers which have been soiled.

Person(s)—owners, lessees and occupants of residences, commercial or institutional establishments.

Plastic containers—empty plastic food and beverage containers. Due to the large variety of types of plastic, the recycling regulations may stipulate specific types of plastic which may be recycled.

Recyclable materials—source separated recyclable materials, including materials listed in §1501 of Act 101, 53 P.S. §4000.1501, and materials identified by the Township to be recycled.

Residential dwellings—any occupied single- or multi-family dwelling from which the Township or private haulers provides municipal waste collection service.

Solid waste—all refuse (garbage and rubbish) and other discarded solid material normally collected by a municipal or private hauler.

Source separated recyclable materials—those materials separated at the point of origin for the purpose of being recycled.

Waste—a material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed.

Yard waste—prunings, grass clippings, weeds, and leaves and garden waste.

(Ord. 1990-6, 9/26/1990, §II)

§20-203. Establishment of Program.

1. There is hereby established by the Township of Plains hereinafter referred to as the Township, a recycling program that mandates that recyclable materials shall be kept separate from solid waste by all persons, from residential to commercial premises within the borders of the Township of Plains, and outlines its elements in accordance with Act 101, §1501(c), 53 P.S. §4000.1501(c).
2. The elements of the recycling program include the following:
 - A. Separation of recyclables by residences, storage and collection.
 - B. Separation of recyclables by commercial, Township and institutional establishments and community activities, storage and collection.
 - C. Separation of recyclables by multi-family housing properties, storage and collection.
 - D. Separation, collection and composting of leaf waste.
 - E. A sustained public information and education program.
3. The specific program regulations are provided as an attachment to this Part 2, and that the Board of Commissioners is empowered to make changes to the program regulations as necessary. Subsequent changes in the program regulations may be made through approval of the Township and public notice and notification of all affected parties and should not necessitate a change in this Part 2 itself.

(Ord. 1990-6, 9/26/1990, §III)

§20-204. Lead Acid Batteries.

It prohibits disposal of lead acid batteries at the curb with the ordinary household waste.

(Ord. 1990-6, 9/26/1990, §IV)

§20-205. Separation and Disposal of Leaf Waste.

Leaf waste will be separated from the regular Township solid waste, and be picked up at curbside by the Township at all residential establishments, commercial, business, Township and institutional establishments, during a normal leaf waste collection period, which shall be in effect

from on or about the second week of October to no later than the third week of December. Leaf waste shall be placed at curbside, in containers designated by the Township, or where designated by the Township, such as recycling center/drop-off site.

(Ord. 1990-6, 9/26/1990, §V)

§20-206. Municipal Ownership of Recyclables.

From the time of placement at the curb or at a recycling center/drop-off site of any recyclable material, pursuant to the provisions of this Part 2 and the regulations issued hereunder, all recyclable materials shall become and be the property of the Township of Plains. It shall be a violation of the terms of this Part 2 for any person, other than authorized personnel of the Township, to collect, pick up or cause to be collected or picked up, any such recyclable material. Each such collection or “pick-up” in violation hereof shall constitute a separate and distinct offense.

(Ord. 1990-6, 9/26/1990, §VI)

§20-207. Recycling of Materials.

Recyclable materials designated by the Township shall be placed at curbside or other Township designated location, such as recycling center/drop-off site. All recyclable materials shall be kept separate from other solid waste or leaf waste, in containers that the Township deems appropriate for separate collection or drop off at such places, times and dates as may be hereinafter established by regulations.

(Ord. 1990-6, 9/26/1990, §VII)

§20-208. Franchise or License.

The Township may enter into agreements with public or private agencies or firms to authorize them to collect all or part of the recyclable materials from curbside or elsewhere as designated by the Township.

(Ord. 1990-6, 9/26/1990, §VIII)

§20-209. Incentive, Violation, Penalty and Enforcement.

Any person who shall violate any provision of this Part and program regulations shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part 2 continues shall constitute a separate offense.

(Ord. 1990-6, 9/26/1990, §IX; as amended by A.O.)

§20-210. Enforcement and Administration.

The Township is authorized and directed to enforce this Part 2. The same is hereby authorized and directed to establish and promulgate reasonable regulations as to the manner, days and times for the collection of recyclable materials in accordance with the terms hereof and any other matters required to implement this Part 2. The Township may change, modify, repeal or amend any portion of said rules and regulations at any time.

(Ord. 1990-6, 9/26/1990, §X)

§20-211. Alternative Collection of Recyclable Materials.

Any person may donate or sell recyclable materials to individuals or organizations. These materials must be delivered to the individual's or organization's site.

(Ord. 1990-6, 9/26/1990, §XI)

Part 3**Waste Dumpsters****§20-301. Scope.**

1. *Short title.* This Part 3 may be cited as the “Waste Dumpster Ordinance” of the Township of Plains hereinafter referred to as the “Dumpster Ordinance”.

2. *Effective date.* The provisions of this Part and rules and regulations interpreting such provisions shall become effective as provided in this Part.

3. *Legislative.* If any Section, Subsection, Sentence, Clause or Phrase of this Part 3 is for any reason declared to be invalid, such decision shall not affect the validity of the remaining portions herein. The Board of Commissioners hereby declares that it would have passed the remaining Sections, Subsections, Sentences, Clauses or Phrases irrespective of any one or more Sections, Subsections, Sentences, Clauses or Phrases which have been ruled invalid.

4. *Interchangeability.* Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter, the singular number includes the plural and the plural the singular.

5. *Terms not defined.* Where terms are not defined through the methods authorized by this Section, such terms shall have ordinarily accepted meanings such as the context implies.

(Ord. 2005-3, 3/10/2005, §1.0)

§20-302. Definitions.

As used in this Part, the following terms shall have the meaning indicated.

Cartway—that portion of the right-of-way designated for vehicular use. This shall include both opened and unopened streets.

Construction waste dumpster—a unit designed for the deposit of waste materials at building construction, repair or demolition sites, commonly located on a temporary basis on a public right-of-way abutting the site and transportable to and from the site for purposes of disposal of its contents by means of a carry vehicle.

Garbage—putrescible animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

Nonconstruction waste dumpster—a unit designed for the deposit of all types of rubbish materials, excluding garbage, generated at sites other than building construction, repair or demolition.

Person—any individual, firm or partnership, association or corporation.

Public right-of-way—the width of a strip of land between property lines set aside for public use or ownership as a street, alley, crosswalk, easement or other facility but shall not include the tree lawn.

Rubbish—nonputrescible solid waste consisting of both combustible and noncombustible waste such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar items.

Sidewalk—that portion of the sidewalk area which is paved for pedestrian use.

Sidewalk area—that area extending from the curb line to the property line which is designed for pedestrian use.

Treelawn—that portion of the treelawn area which is grass and/or tree lined.

Treelawn area—that area extending from the curb line to the sidewalk area which is designed for grass and/or trees.

(Ord. 2005-3, 3/10/2005, §2.0)

§20-303. Permit Required.

The regulations applicable to the permit requirements for the placement of construction or nonconstruction waste dumpsters upon a public right-of-way are as follows:

A. It shall be unlawful for any person to place upon, cause to be placed upon, or permit to remain upon a public right-of-way, a construction or nonconstruction waste dumpster without first filing with the Code Enforcement Officer or Zoning Officer an application, in writing, and obtaining a formal permit. The duration of such permit shall be contingent upon full compliance with the regulations set forth in this Part 3.

B. An application for a permit shall be filed with the Code Enforcement Officer or Zoning Officer by the property owner or a licensed contractor employed in their respective field by the property owner in connection with the placement of a construction or nonconstruction waste dumpster. An application must be signed by the property owner and, in the case of a permit being issued to a licensed contractor employed by the property owner, an application permit must also be signed by the contractor.

C. All permits issued shall cover only the work set forth in the permit application, however, in the event that it is necessary to replace a construction or nonconstruction waste dumper upon a public right-of-way prior to the completion of said work, additional permits shall not be required.

D. The placement of only one dumpster per job site upon a public right-of-way shall be permitted at any one time.

E. To permits shall be issued by the Code Enforcement Officer or Zoning Officer if, in their opinion, the location and placement of this construction or nonconstruction waste dumpster will create a safety hazard to the use of the sidewalk area, treelawn area or cartway by pedestrians or vehicles.

F. Upon the issuance of a construction or nonconstruction dumpster permit by the Code Enforcement Officer or Zoning Officer, the permit must be displayed in a conspicuous place in front of the premises plainly visible to passerby and kept there for the duration of the permit. The application is responsible for the maintenance of this permit and should it be destroyed or removed, must immediately obtain another copy.

(Ord. 2005-3, 3/10/2005, §3.0)

§20-304. Permit Fee.

A fee in an amount as established, from time to time, by resolution of the Board of Commissioners shall be paid for each construction or nonconstruction waste dumpster permit issued by the Code Enforcement Officer or Zoning Officer.

(Ord. 2005-3, 3/10/2005, §4.0; as amended by A.O.)

§20-305. Time Limitation for Construction Waste Dumpster.

A construction waste dumpster shall be permitted to be placed upon a public right-of-way for the duration of a specific building construction, repair or demolition project for which a building permit was secured from the Code Enforcement Officer or Zoning Officer.

(Ord. 2005-3, 3/10/2005, §5.0)

§20-306. Regulations.

Regulations applicable to the placement of construction or nonconstruction waste dumpsters upon a public right-of-way are as follows:

- A. The placement of a construction or nonconstruction waste dumpster upon a public right-of-way must be temporary in nature and must be one that can be readily removed from the right-of-way.
- B. A construction or nonconstruction waste dumpster placed upon a public right-of-way shall not extend into a cartway nor impede or endanger the free flow of pedestrian or vehicular traffic.
- C. A construction or nonconstruction waste dumpster placed upon a public right-of-way shall not be placed within 20 feet of a crosswalk at an intersection.
- D. A construction or nonconstruction waste dumpster placed upon a public right-of-way shall not be placed within 15 feet of a fire hydrant.
- E. A construction or nonconstruction waste dumpster placed upon a public right-of-way shall bear the owner's name and telephoned number displayed in a conspicuous place plainly visible to passerby and kept there for the duration of the permit.
- F. A construction or nonconstruction waste dumpster placed upon a public right-of-way shall bear reflect markings in sufficient positions and with sufficient reflective capacity to provide reasonable warning to approaching nighttime traffic of items location, and a standard barricade light shall be in operation on the dumpster side nearest the travel lane of the public right-of-way from sunset to sunrise.
- G. No public right-of-way shall be closed for the purpose of location or utilization of a construction or nonconstruction waste dumpster.
- H. The location and utilization of a construction or nonconstruction waste dumpster upon a public right-of-way shall not be such as to constitute a safety hazard to person or property.
- I. The placement of a construction or nonconstruction waste dumpster shall not extend into the sidewalk area any more than one-third the width of the sidewalk area, but in no case more than three feet.
- J. The placement of a construction or nonconstruction waste dumpster shall not extend into the treelawn area unless approved by the Code Enforcement Officer or Zoning Officer.
- K. The location and utilization of a construction or nonconstruction waste dumpster upon a public right-of-way shall be in compliance with all other federal, state and local statutes, rules and regulations applicable thereto.

(Ord. 2005-3, 3/10/2005, §6.0)

§20-307. Prohibitive Uses for Nonconstruction Waste.

A nonconstruction waste dumpster shall not be permitted to be placed upon a public right-of-way for the disposal of garbage as defined in §20-302 of this Chapter.

(Ord. 2005-3, 3/10/2005, §7.0)

§20-308. License.

1. Every person engaged in the business of construction and/or nonconstruction waste dumpsters shall before engaging in such occupation obtain a license therefor from the Code Enforcement Officer or Zoning Officer after the submission of the following documents:

- A. A certificate of insurance, naming the Township of Plains as certificate holder, establishing that said hauling contractor is currently covered by a reputable insurance company acceptable to the Code Enforcement Officer or Zoning Officer and the Township of Plains conserving said hauling contractor in the amount of not less than \$300,000 being single limit or split limit for bodily injury and property damage. Said certificate shall be for continuous coverage. In the event that the insurance is canceled, the Code Enforcement Officer or Zoning Officer shall be notified in writing within 30 working days by said insurance company.

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- B. A certificate of workers compensation insurance, naming the Township of Plains as certificate holder. In the event that a hauling contractor is not obligated to maintain workers compensation insurance because he or she does not employ any individuals, he or she shall be required to file an affidavit form with the Code Enforcement Officer or Zoning Officer, affirming that he or she is not obligated to maintain workers compensation insurance.
- C. Their federal or state employer identification number.
- D. An indemnity agreement, in a form acceptable by the Township of Plains promising to indemnify, save harmless and defend the Township of Plains, its officials, agents, servants and employees and each of them against, and hold it and them harmless from, and all lawsuits, claims, costs and reasonable attorney's fees, for or on account of such injury, or any damage to any property, which may arise or which may be alleged to have arisen out of or in connection with the placement or utilization of the waste dumpster in the public right-of-way. A license shall not be transferable or assignable.
2. Every person licensed under this Part 3 shall give immediate notice of any change in his or her home or business address.
3. Every person engaged in the business of construction and/or nonconstruction waste dumpsters shall before engaging in such occupation pay an annual license fee in an amount as established, from time to time, by resolution of the Board of Commissioners. [A.O.]
4. All construction and/or nonconstruction waste dumpster hauling contractor licenses shall be issued solely by the building inspector and shall be valid for one licensing year and renewed annually. Prior to renewing a license, a hauling contractor must submit the following documents to the Code Enforcement Officer or Zoning Officer:
- A. A certificate of insurance, naming the Township of Plains as certificate holder, establishing that said hauling contractor is currently covered by a reputable insurance company acceptable to the Code Enforcement Officer or Zoning Officer and the Township of Plains covering said hauling contractor in the amount of not less than \$300,000 being single limit or split limit for bodily injury and property damage. Said certificate shall be for continuous coverage. In the event that the insurance is canceled, the Code Enforcement Officer or Zoning Officer shall be notified in writing within 30 working days by said insurance company.
- B. A certificate of workers compensation insurance, naming the Township of Plains as certificate holder. In the event that a hauling contractor is not obligated to maintain workers compensation insurance because he or she does not employ any individuals, he or she shall be required to file a contractor affidavit form with the Code Enforcement Officer or Zoning Officer, affirming that he or she is not obligated to maintain workers compensation insurance.
- C. Their federal or state employer identification number.
5. In the event that a licensed construction and/or nonconstruction waste dumpster hauling contractor fails to renew his or her license at the specified time established by the Township, the Township will provide written notification within seven working days after the date their license has expired giving the hauler 45 days to renew said license. The hauling contractor will be required to pay, in addition to the normal license fee, a late charge in an amount as established, from time to time, by resolution of the Board of Commissioners, made payable to the Township of Plains. [A.O.]
6. A. Any construction and/or nonconstruction waste dumpster hauling contractor's license issued to any person may be suspended by the Code Enforcement Officer or Zoning Officer if, after a thorough and proper investigation, it is determined that:
- (1) Said license was partially or wholly procured by or through nondisclosure, misstatement or misrepresentation.
- (2) If a previously imposed penalty shall not have met with full compliance.

(3) The holder of said license has repeatedly and/or willfully violated any one of the provisions of this Part 3. Repeated violations is hereby defined as a minimum of three separate offenses within a period of five years under this Part 3 for which the licensee or offender has either pleaded guilty by a magisterial district judge or other court of competent jurisdiction. [A.O.]

B. The Code Enforcement Officer or Zoning Officer, prior to invoking a suspension of a license, shall first cause to be served upon said licensee by certified or registered mail, a written notice of suspension or revocation of license, as the case may be setting forth in specific terms and language the nature of the repeated violations, the times thereof and places of occurrence.

C. On a first offense, a hauling contractor's license shall be suspended for a period of one to three months. On a second offense, a hauling contractor's license shall be suspended for a mandatory six months. A third offense shall constitute an immediate revocation of a hauling contractor's license.

D. Any person aggrieved by the suspension of such license may take an appeal to the Board of Commissioners within ten working days from the notice of license suspension. The Board of Commissioners shall convene a hearing within 30 days and issue a written decision within ten days thereafter.

E. If during the time of suspension, a hauling contractor's license is eligible for renewal, said contractor will be exempt from meeting the license renewal provisions as defined in Subsection 3. above for the entire time period said license is suspended. Within 30 working days from the date the suspension is removed by the Code Enforcement Officer or Zoning Officer the license renewal provisions as defined in the Subsection 3. above shall apply. In the event that the hauling contractor fails to renew his or her license within 30 working days from the date of the suspension was removed, the provisions outlined in Subsection 4. above shall apply.

7. A. Revocation of license any construction and/or nonconstruction waste dumpster hauling contractor's license issued to any person may be immediately revoked by the Code Enforcement Officer or Zoning Officer if, after a thorough and proper investigation, it is determined that:

(1) The holder of said license has willfully or negligently damaged or caused to be damaged the Township's public right-of-way.

(2) The holder of said license has willfully or negligently placed a construction waste dumpster in a public right-of-way which has created a dangerous or unsafe condition which poses a threat to the safety and welfare of pedestrian and/or vehicular traffic.

(3) The holder of said license has repeatedly and/or willfully ignored stop work order(s) issued by the Code Enforcement Officer or Zoning Officer.

B. Any hauling contractor's license which has been revoked by the Code Enforcement Officer or Zoning Officer shall not be reactivated.

C. Any person aggravated by the revocation of such license may take an appeal to the Board of Commissioners within ten working days from the notice of license suspension or revocation. The Board of Commissioners shall convene a hearing within 30 days and provide a written decision within ten days thereafter.

8. Use of license by another prohibited. No person licensed under these provisions shall allow a permit to be issued in his, her or its own name for use by a person not licensed as required herein to place construction or nonconstruction waste dumpsters within the Township public right-of-way under penalty or forfeiture of his, her or its license.

(Ord. 2005-3, 3/10/2005, §8.0; as amended by A.O.)

§20-309. Safety Hazard.

1. Whenever the placement of a construction or nonconstruction waste dumpster shall have been declared a safety hazard to the use of the sidewalk area, treelawn area or cartway by pedestrians or vehicles by the Code Enforcement Officer or Zoning Officer or his or her designee, the Code Enforcement Officer or Zoning Officer or his or her designee shall serve or cause to be served upon the owner or other person who may have a vested or contingent interest in said waste dumpster, a written notice describing the unsafe or hazardous condition and ordering the same be made safe and secure or removed within 48 hours after notice has been issued relative to the unsafe or hazardous condition.

2. If the person to whom such notice and order is addressed cannot be found after a diligent search then such notice and order shall be sent by registered mail to the last known address of such person; and a copy of such notice shall be posted in a conspicuous place on the construction or nonconstruction waste dumpster to which it relates. Such mailing and posting shall be deemed adequate service.

3. If the person served with a notice to make safe and secure or remove the construction or nonconstruction waste dumpster should fail, within the time frame specified by the Code Enforcement Officer or Zoning Officer or his or her designee, to comply with requirements thereof, Code Enforcement Officer or Zoning Officer building inspector or his or her designee, when authorized by the Board of Commissioners may have said waste dumpster removed from the public right-of-way. Any costs incurred shall be paid out of the Township treasury on certification by of the Code Enforcement Officer or Zoning Officer or his or her designee.

4. The Township Solicitor or other prosecuting authority shall institute proper actions against the owner of the construction or nonconstruction waste dumpster for the recovery of costs incurred by the Code Enforcement Officer or Zoning Officer or his or her designee in the performance of having said waste dumpster removed from the public right-of-way.

5. Any person aggrieved by the actions of the Code Enforcement Officer or Zoning Officer may take an appeal to the Board of Commissioners within ten working days from the notice to make safe and secure, convene a hearing within 30 days and provide a written decision within ten days thereafter.

(Ord. 2005-3, 3/10/2005, §9.0)

§20-310. Violation and Penalties.

1. Any person, firm or corporation who shall violate any provision of this Part 3, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part 3 continues shall constitute a separate offense.

2. The owner of a building, structure or premises, where the violation of this Part 3 shall be placed or shall exist, and the contractor employed in connection therewith and who may have assisted in the commission of such violation and the owner of the waste dumpster who may have assisted in the commission of such violation, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part 3 continues shall constitute a separate offense.

(Ord. 2005-3, 3/10/2005, §10.0; as amended by A.O.)

Chapter 21

Streets and Sidewalks

Part 1

Pave Cuts and Street Excavations

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Part 1**Pave Cuts and Street Excavations****A. Definitions****§21-101. Definitions.**

1. The following words, terms and phrases when used in this Part shall have the same meaning ascribed to them in this Section, except where the context clearly indicates a different meaning.

2. The word “shall” is always mandatory and not merely directory. Whenever in this Part, the words “directed”, “required”, “permitted”, “ordered”, “designated”, “prescribed” or words of like import are used, it shall be understood that the direction, requirement, permission, order, designation or prescription of the Township Engineer is intended; and similarly, the words “approved”, “acceptable”, “satisfactory” or words of like import shall mean approved by, acceptable to or satisfactory to the Township Engineer.

Application for a pave cut permit—a form provided the utility by the Township noting pertinent data for the purposes of inspection and control by the Township and constituting a receipt for services performed by the Township.

Capital improvement—preplanned to improve upgrade and existing system or to install a completely new system providing new or additional service.

Emergency repair—work necessitated by the rupture or sudden malfunction of existing underground facilities.

Inspection—a careful or critical investigation not necessarily confined to optical observation but is understood to embrace tests and examination for the purpose of ascertaining quality and compliance as prescribed in this Part and discovering and correcting error.

Municipal corporation—all cities, boroughs, towns, townships or counties of this Commonwealth and also any public corporation, authority or body whatsoever created or organized under any laws of this Commonwealth for the purpose of rendering any service similar to that of a public utility. For the purpose of this document, “municipal corporation” shall mean the Township of Plains.

New pavement—any pavement to a road that is less than five years old. [Ord. 2015-2]

Pavements—riding surfaces of machine laid asphalt over a base of concrete, brick, Belgian block, crushed stone, bituminous concrete or oil and stone.

Person—individuals, partnerships or associations other than corporations and includes their lessees, assignees, trustees, receivers, executors, administrators or other successors in interest.

Public utility—

(1) Persons or corporations now or hereafter owning or operating in this Commonwealth equipment or facilities for:

(a) Producing, generating, transmitting, distributing or furnishing natural or artificial gas, electricity or steam for the production of light, heat or power to or for the public for compensation.

(b) Diverting, developing, pumping, impounding, distributing or furnishing water to or for the public for compensation.

(c) Transporting, or conveying natural or artificial gas, crude oil, gasoline or petroleum products by pipe lines or conduit, for the public for compensation.

(d) Conveying or transmitting messages or communications by telephone or tel-

ograph to the public for compensation.

- (2) The term “public utility” shall not include:
- (a) Any person or corporation, not otherwise a public utility, who or which furnishes services only to himself, herself or itself.
 - (b) Any bona fide cooperative association which furnishes services to its stockholders or members on a non-profit basis.
 - (c) Any producer of natural gas not engaged in distributing such gas directly to the public for compensation.

Service—“service” is used in this Part in its broadest and most inclusive sense, and includes any and all acts done, rendered or performed, and any and all things furnished or supplied, and any and all facilities used, furnished or supplied by public utilities, in the performance of their duties under this Part to their patrons, employees, other public utilities and the public, as well as the interchange of facilities between two or more of them. A copy of the completed application signed by the Township Engineer or his or her agent shall be in the hands of a competent person at the worksite described in said application and shall constitute a permit.

Special pavement—riding surfaces of concrete, brick, Belgian block or cobblestone.

Street—street shall mean and include any street, highway, road, land, court, alley or place of whatever nature, whether dedicated or not, open to the use of the public as a matter or right for purposes of vehicular travel.

Township pave cut log—a chronological record of pave cuts as required to the Township containing pertinent data as required by the Township for the purposes of inspection and control.

Utility corridor—an area within any public right-of-way, usually underground but not limited to same, reserved for and assigned to a specified utility by the Township Engineer. The area to be used by the specified utility for placing and operating its facilities for transmitting and distributing its particular commodity or service.

Utility relocation—utility relocation shall mean and include the adjustment, replacement or relocation of utility facilities as required by street construction or repaving project, such as: removing or reinstalling the facility, acquiring the necessary rights-of-way, moving or rearranging existing facilities, changing the type of facility, and any necessary safety and protective measures. It shall also mean the construction of a replacement facility functionally equal to the existing facility, where necessary for the continuous operation of the utility service, the project economy, or sequence of street construction.

Work—the furnishing of all materials, labor, equipment and other incidentals necessary or convenient to the successful completion of the project and the fulfillment of all duties and obligations imposed by this Part.

(Ord. 8/24/1988, §101; as amended by Ord. 2015-2, 5/14/2015, §§101, 106)

B. Permits**§21-111. Alternate Permit Procedure.**

1. Notification by telephone, to the Township Zoning Officer must be made a minimum of 15 minutes in advance of excavation, but not more than 24 hours in advance of excavation. An entry in the Township pave cut log (the record of notification of the Township) together with a completed application for pave cut permit shall constitute a permit. The completion of an application form alone shall not constitute a permit.

2. An application form, properly completed and including a location sketch shall be collected from the utility on a monthly basis by the Township. Permit fees shall be billed on a monthly basis by the Township of Plains and shall be payable to the Township. Application forms shall be provided by the Plains Township Zoning Officer.

(Ord. 8/24/1988, §201)

§21-112. Emergency Permit Procedures.

1. In the case where an emergency repair, as herein before defined, is found, the utility shall first notify the Township Zoning Officer, and inform him or her that an emergency exists.

2. When the emergency occurs after the normal Township working hours, on weekends and holidays, the Township Police Dispatcher must be notified. Emergency pave cuts shall be recorded in the Township pave cut log at the start of the next business day following the emergency.

(Ord. 8/24/1988, §202)

§21-113. Nonfee Permits.

Pave cuts necessitated by the Township sponsored public improvements will be on a nonfee basis but limited to a specific contract area. Work done outside a project area will be handled under §21-111, and will require a permit fee. A list of noting exact locations and dimensions of all such cuts shall be submitted to the Department of Public Works at the completion of work. Notification will be required for any pave cuts made in state highways located within the Township for which a highway occupancy permit has been issued.

(Ord. 8/24/1988, §118)

§21-114. Penalty for Failure to Obtain a Permit.

All work done without a permit shall be subject to a penalty plus regular fees. (See Fee Schedule.)

(Ord. 8/24/1988, §119)

§21-115. Insurance Protection.

1. The applicant shall protect, defend, indemnify and save harmless the municipality, its officers and/or agents thereof, from all claims, suits, actions and proceedings of every nature and description which may be brought against the municipality, its officers or agents thereof, for or on account of any injuries or damages to persons or public or private property, because of any materials or appliances used in the work, or by or on account of improper materials or workmanship, or for or on account of any accident or any other act, negligence or omissions of said applicant, or his or her agents, servants or employees, and the municipality shall not, in any way, be liable therefor during the period of the work progress and for the period following the completion of the work until the street is resurfaced or reconstructed by the municipality.

2. Minimum insurance shall be:

- A. Five hundred thousand dollars liability per individual with a limit of \$1,000,000 for each occurrence for bodily injury.
- B. Five hundred thousand dollars liability for property damage.
- C. Evidence of insurance in the form of a certificate or letter executed by a duly authorized representative of the applicant's insurance carrier shall be submitted to the Engineer each January 15. Said evidence of insurance must include the provision that the Township shall be given proper advance notice of at least 30 days of cancellation or any material alteration in the applicant's policy.

(*Ord. 8/24/1988, §120; as amended by Ord. 2015-2, 5/14/2015, §120*)

§21-116. Safety Precautions.

During the progress of work the applicant shall provide and maintain such barricades, warning signs and flagpersons as may be deemed necessary by the Township to prevent accidents to the public and/or adjoining tenants. Minimum precautions must include, but should not be limited to, advance warning signs on all approaches to the work, safe crossing for pedestrians each 300 feet, barricades with flashers on each exposed side at 50-foot intervals. All precautions shall be in accordance with the "Manual of Uniform Traffic Control Devices" as adopted by USTA 1972 and current update.

(*Ord. 8/24/1988, §121*)

§21-117. Road Closing.

No street in the Township of Plains may be completely closed to traffic at any time. One lane of traffic must be able to pass unobstructed at all times. Flagpersons must be posted at the limits of work at all times to direct traffic through the work area, and all established traffic patterns must be maintained at all times. If all other means of traffic control have been exhausted, the Township may permit a road to be completely closed temporarily only with the consent of the Township Fire Chief and the Township Police Chief. When an emergency exists the Police and Fire Departments shall be notified. An application form for a permit to close a street will be available from the Township Zoning Officer. The completed application bearing the signatures of the before mentioned officers shall be returned to the applicant and shall constitute a permit. A penalty shall be imposed for failure to notify the Chiefs of the Fire and Police Bureaus. (See Fee Schedule.)

(*Ord. 8/24/1988, §122*)

§21-118. Time Periods.

For small area pave cuts, the utility or contractor shall be required to complete the temporary restoration within 48 consecutive hours of the initial cuts during the normal working week excluding holidays and weekends. Extension time may be allowed upon appeal to the Township Engineer, provided the contractor substantiates sufficient reasons for the extension required. Work on long cuts, those over 25 feet in length, shall proceed in a continuous manner in accordance with §21-116, Safety Precautions. Permits for long cuts or capital improvements will not be granted during the months of November through March except by written permission from the Township Engineer. The utility or contractor shall coordinate planned cuts in the Township streets with the paving program of the Township. A construction schedule comprised of planned cuts shall be submitted to the Township Engineer as it become available. The Township will provide a paving program for a one-year period to the utilities prior to February 15. Changes in the utilities schedule of planned cuts shall require confirmation from the Township Engineer. Changes in the Township paving program shall be submitted to all utilities at the earliest possible date to permit the utilities to adjust their respective schedule.

(*Ord. 8/24/1988, §123; as amended by Ord. 2015-2, 5/14/2015, §123*)

§21-119. Scheduling.

1. All excavations shall be commenced and completed by the use of a reasonable work force. In congested areas and the central business district, the municipality may limit work to other than normal daytime working hours. At the cessation of work, adequate steel plates shall be placed over the excavation while it is not being worked to ensure full traffic flow. The maximum length of any opening in the roadway shall be 200 feet, unless otherwise permitted, in writing, by the Municipal Engineer.

2. In accordance with the Pennsylvania One Call System, those individuals or entities making pave cuts shall be required to mark said cuts with the following colors:

- A. Red: electric power lines, cables, conduit and lighting cables.
- B. Yellow: gas, oil, steam, petroleum or gaseous materials.
- C. Orange: communications, alarm or signal lines, cables or conduit.
- D. Blue: water, irrigation and slurry lines.
- E. Green: sewers and drain lines.
- F. Pink: temporary survey markings.
- G. White: proposed excavation.

(Ord. 8/24/1988, §124; as amended by Ord. 2015-2, 5/14/2015, §124)

§21-120. Excavated Material.

In peak traffic areas all excavated material shall be removed daily at the cessation of work. All gutters and drainage devices shall be kept clean of all debris and excavated material. Fire hydrants adjacent to the work shall be at all times readily accessible to fire apparatus, and no material or obstructions shall be placed within 15 feet of any hydrant.

(Ord. 8/24/1988, §125)

§21-121. Suitability of Materials.

The suitability of materials to be used as backfill shall be determined by the Township Engineer or his or her agent. All materials not conforming to the requirements of this Part whether in place or not, shall be rejected. Such materials shall be removed promptly from the work site.

(Ord. 8/24/1988, §126)

§21-122. Waste Material.

Material which is unsuitable and any sum of excavated material shall be considered waste and shall be disposed of by the utility or contractor beyond the project limits. In no case shall waste material be left at the work site.

(Ord. 8/24/1988, §127)

§21-123. Wet Material.

Material containing moisture in excess of that percentage which will ensure satisfactory compaction shall not be used as backfill material.

(Ord. 8/24/1988, §128)

§21-124. Dry Material.

Material containing insufficient moisture to obtain satisfactory compaction shall be moistened before compaction.

(Ord. 8/24/1988, §129)

§21-125. Opening of a Street.

Power-driven concrete saws or air hammers shall be used on all cuts in portland cement base pavements. The cuts must be of sufficient depth to provide a smooth edge. Opening in brick or Belgian block cased streets shall be of sufficient width to expose one-half row of undisturbed interlocking stone. No pavement busters, such as drop hammers, hoe rams and the like shall be used without the written permission of the Township Engineer.

(*Ord. 8/24/1988, §130*)

§21-126. Special Type Pavements.

The removed riding surface of brick, Belgian block or cobblestone, tiles or other special surface shall be preserved at the worksite for restoration after the opening has been backfilled.

(*Ord. 8/24/1988, §131*)

§21-127. Responsibility for Damages.

In the event a cut is made, and upon inspection, damage to another utility's underground facilities is discovered, it shall be the responsibility of the party making the cut to contact the Township Engineer, and all concerned pertinent utilities to instruct them (it) to have representatives inspect the condition before any backfilling is begun.

(*Ord. 8/24/1988, §132*)

§21-128. Backfilling.

The Municipal Engineer must be notified in advance of all backfilling. In backfilling, four-inch layers shall be placed in the deepest portion of the backfill, and, as placement progresses, each four-inch layer shall be horizontally constructed. Compaction operations shall be continued using mechanical tampers until each layer of fill is compacted to a dry density at least equal to 95 percent of the maximum dry density attained by the Modified Proctor Test, ASTM D1557, latest revision, Method C or Method D, as designated by the Municipal Engineer. Specifications for sidewalk restoration are covered under a separate municipal ordinance.

(*Ord. 8/24/1988, §133; as amended by Ord. 2015-2, 5/14/2015, §133*)

§21-129. Temporary Restoration.

All restoration made with cold patch shall be considered temporary. The permittee is responsible for all costs and expenses of making and maintaining temporary and permanent restorations of disturbed arose. Temporary restoration consists of a minimum of three inches of bituminous material and is maintained in place until permanent restoration can be made.

(*Ord. 8/24/1988, §134*)

§21-130. Permanent Restoration.

Only utilities or their contractors will be permitted to make permanent restorations of openings in pavements. The restored pavements shall be guaranteed from failure from the date of completion until such time as the street is resurfaced by the Township. Permanent restoration must be completed within 30 days of the initial cut. Any cuts made in the month of November through March shall be permanently restored within 30 days after hot asphalt becomes available. Any failure of restoration will be reported to the pertinent utility, and repairs by the utility will begin 24 hours after notification. Upon failure of the utility to repair the cut in a satisfactory manner, the Township shall have the option to do the work or to contract to complete the work and bill the utility for the cost plus 20 percent. In addition, penalties for noncompliance shall be levied against the utility or contractor.

(*Ord. 8/24/1988, §135; as amended by Ord. 2000-5, 7/13/2000; as amended by Ord. 2015-2, 5/14/2015, §135*)

§21-131. Restoration.

1. Prior to the placement of the base course, the existing base and surface must be cut back to a minimum of 12 inches on each side of any pave cut or such greater amount as deemed necessary by the Municipal Engineer. The concrete base course shall be replaced with high early strength concrete when temperatures are below 40°F, for temperatures above 40°F, 3,000 pounds per square inch concrete shall be used for the full depth of the adjacent base or a minimum of eight inches to the bottom elevation of the existing asphalt wear course. After placement, the concrete shall be cured in accordance with Penn Dot Form 408. Following the concrete curing a tack coat of bituminous material Type E-I will be applied. Restoration of flexible base pavements shall consist of BCBC for the full depth of the adjacent permanent base. The wearing course shall be placed at a minimum depth of two inches and rolled to conform with the existing road, and the edges sealed. Surface treatments, such as sand or chip seals, are prohibited. On long cuts, surface finishing must be rolled with not less than a six-ton roller. Small cuts may be finished with a mechanical tamper or vibrator. All openings, regardless of size, must be permanently restored.

2. Any pave cut which exceeds 100 feet in length shall require complete restoration of the entire road for the entire length of the pavement cut. Restoration shall include replacing pavement markings, milling and returning of the road to its original pitch and crown.

(Ord. 8/24/1988, §136; as amended by Ord. 2015-2, 5/14/2015, §136)

§21-132. Restoration-Special.

The permanent restoration of special type pavements, such as concrete, brick, Belgian block, cobblestone gutters or tiles, shall consist of relaying the original wearing course in accordance with the original installation specifications in such a manner as to prevent settlement or other deterioration.

(Ord. 8/24/1988)

§21-133. Testing and Inspection.

1. The Township Street Inspector may inspect all cuts having an area of five square yards or more, and an inspection fee shall be charged. Such inspection fees shall constitute acceptance and approval of work performed by the utility or its contractor, but it is understood that such acceptance and approval does not relieve the utility of any responsibility under this Part throughout the guarantee period.

2. Inspection of small cuts having an area of five square yards or less shall not require visual observation when the work is in progress, but may be approved or rejected through subsequent examinations and/or testing.

(Ord. 8/24/1988, §137)

§21-134. Repaving and Reconstruction.

Upon notification from the office of the Township Engineer of a planned street resurface or reconstruction, all utilities will be required to test their lines and services and to schedule necessary capital improvements and service connections prior to resurfacing or reconstruction. Thereafter, cuts will be permitted in the new pavement only in an emergency. Pave cuts made in new pavement shall be subject to a penalty. (See Fee Schedule.) Essential services for new building construction will be exempt from this penalty. New construction shall not include the addition of an alternate or

secondary source of fuel, water, heat or other service not included in the original construction or regarded as essential to the original construction. Pavement shall be considered new for a period of five years, from the date of plan.

(*Ord. 8/24/1988, §138*)

§21-135. Limestone and Monuments.

No limestone or monument in the Township of Plains may be removed, altered or buried at any time. When pave cuts or road construction, require the temporary removal of a limestone or monument, it must be preserved at the site and reset at the direction of the Engineer. All costs incident thereto, including surveys, shall be charged to the utility or contractor. A penalty shall be imposed for failure to report the removal or alteration of a limestone or monument. Burial or paving over a limestone or monument shall carry a penalty for each stone or monument covered. In addition, all cost incidental to exposing and/or resetting a limestone or monument shall be charged to the utility or contractor, and a 20 percent penalty shall be added to their costs.

(*Ord. 8/24/1988, §139; as amended by Ord. 2015-2, 5/14/2015, §139*)

§21-136. Parking Meters.

When street work renders metered parking unavailable, the applicant shall be charged in an amount as established, from time to time, by resolution of the Board of Commissioners per day per metered space.

(*Ord. 8/24/1988, §140; as amended by A.O.*)

§21-137. Test Borings.

All test holes and borings shall require restoration. Restoration of bore holes shall follow immediately after testing with the application of asphalt or other water resistant plugs. A penalty will be charged for each test hole found unplugged. (See Fee Schedule.)

(*Ord. 8/24/1988, §141*)

§21-138. Replacement of Pavement Markings.

The utility and/or its contractor must replace, in kind, all pavement markings damaged or removed by pave cuts and work incident thereto. All markings must be replaced within five days after permanent restoration. Should the contractor fail to replace the same, the municipality shall contract to have the necessary repairs made and bill the utility for the cost of the work plus 20 percent penalty.

(*Ord. 8/24/1988, §142; as amended by Ord. 2015-2, 5/14/2015, §142*)

§21-139. Replacement of Electronic Traffic Control Devices and Ancillary Equipment.

Electronic traffic control devices and ancillary equipment damaged or removed because of pavement excavations or work incident thereto must be replaced by the utility or its contractor, in kind, in whole or in part, as required by the Township Engineer or his or her agent. The Township shall contract to have the necessary repairs made and bill the utility.

(*Ord. 8/24/1988, §143*)

C. Preparation of Streets for Pavings, Repair or Reconstruction**§21-141. Purpose.**

The Township Board of Commissioners provides by this Part 1C, for the laying, renewing and repairing of all gas, water, steam or other pipes, or conduits, in any street, before the paving, repaving or repairing of the same, and for making the necessary house connections with said pipes, and also for the necessary house connections and branches with and leading into main or lateral sewers; provided, that in no case, except as a sanitary measure, of which the Board of Commissioners shall be the judge, shall the Board of Commissioners require such house connections to be extended further from such sewers, or from such gas, water, steam or other pipes, or conduits, than to the inner line of the curbstone of such street. The Board of Commissioners may, after notice to all companies, corporations, persons and owners affected, and in default of compliance therewith, cause said pipes to be laid, renewed or repaired, and said connections made, and collect the cost of paving, and repairing all pipes and pipe from the companies, corporations or persons owning or operating the said gas, water, steam and other pipes or conduits, with interest and the cost of the sewer connections shall be a first lien against the land for whose benefit such connections are made. A separate lien may be filed therefor, or such sewer connection cost may be included in any lien filed for the cost of such street improvement, and the lien and the other proceedings thereon shall be as in the case of other municipal liens. Municipal Claims and Liens Act, 53 P.S. §§7101 *et seq.*

(Ord. 8/24/1988)

§21-142. Determination of Lines and Grades by the Township Engineer.

The Township Engineer shall have the final decision for the determination of lines and grades for street construction. This decision shall be based on good engineering practices and Township standards.

(Ord. 8/24/1988, §301)

§21-143. Utility Corridor; Vertical Assignments for New Street Construction.

The following depths for pipes and conduits are assigned to the utilities operating under this Part:

- A. Gas lines shall be a minimum of 30 inches below subgrade.
- B. Water lines shall be a minimum of 36 inches below subgrade, a water main shall be a minimum of five feet below subgrade.
- C. Electric lines and conduits shall be a minimum of 24 inches below subgrade.
- D. Steam lines shall be a minimum of 30 inches below subgrade.
- E. Telecommunication lines and conduits shall be a minimum of 36 inches below subgrade.

(Ord. 8/24/1988, §302)

§21-144. Horizontal and Aerial Utility Corridors.

Aerial installations of electric power transmissions and telecommunications lines suspended from supporting poles having their base and/or support wires within the public right-of-way and interfering with a roadway construction reconstruction or repair project shall be relocated upon written order from the Township Engineer to a point specified therein. The Township Engineer may require the utility to place its aerial facilities underground where it is deemed necessary or desirable. Hereafter, aerial installations shall be placed subject to approval by the Township Engineer. The Township Engineer shall assign horizontal corridors on a case by case basis for all new construction. All gate box shut-off valves and other regulating devices underground for individual customers for

gas, water, steam, electric and telecommunications lines shall be located inside the inner line of the curbstone or, in the case where no curb exists, to a point specified by the Township Engineer.

(*Ord. 8/24/1988, §303*)

§21-145. Determination of Reimbursement.

The Township may participate in the actual costs less betterments of utility relocation when:

- A. An existing utility right-of-way is owned buy the utility and interferes with a Township construction project.
- B. Utility relocation may be necessary for the installation, maintenance or repair of municipally owned or operated utility systems such as the municipal sewer systems where the installation or modification of Township owned or operated utility is a part of a roadway construction project, participation in the reimbursement for utility relocation is expected.

(*Ord. 8/24/1988; as amended by Ord. 2015-2, 5/14/2015, §304*)

§21-146. Commencement of Utility Relocation Activities.

1. Upon receipt of a letter from the Township Engineer authorizing the start of physical work, the utility shall commence work within 30 days unless otherwise stated by the Engineer with reasonable cause shown in order to clear the construction area. The utility shall perform the relocation work in accordance with the approved plan of the Township Engineer.

2. Utility relocation shall be accomplished by the utility to assure its completion prior to the commencement of roadway construction. Areas of utility relocation work which cannot be accomplished simultaneously without restricting the roadway project contractor may be done concurrently with the contractors operations when approved by the Township Engineer and the contractor.

3. It is acknowledged that field conditions occasionally necessitate revision of the utility relocation plan. It shall be the responsibility of the utility to report and justify such revisions, to correct any data on the file with the Township Engineer. The utilities are required to obtain the contractors concurrence prior to such revisions within the right-of-way of the project under construction. Minor modifications of the relocation plan may be made without prior approval of the Township Engineer. All such changes shall be brought to the attention of the project engineer and shall be noted in the daily inspection report.

(*Ord. 8/24/1988; as amended by Ord. 2015-2, 5/14/2015, §305*)

D. Enforcement**§21-151. Delegation of Authority to the Township Zoning Officer.**

The Board of Commissioners provides by this Part that the responsibility and authority for the administration and enforcement of the Act shall rest in the Township Zoning Officer.

(Ord. 8/24/1988, §401)

§21-152. Street Inspectors.

The Township Zoning Officer may appoint as representatives persons to enforce this Part. These shall have the authority and responsibility for the enforcement of this Part as vested in the Township Zoning Officer.

(Ord. 8/24/1988, §402)

§21-153. Noncompliance.

When work performed by a utility or contractor under this Part is found in violation of same the contractor or utility may be given the opportunity to make corrections as required by the Township. If the corrections are not completed in the specified time or not completed as specified, the Township may suspend all work whether completed or in progress in noncompliance with this Part, and take appropriate safety precautions. All work performed or contracted for by Plains Township to attain compliance in this regard shall be billed to the utility or contractor. In addition, a penalty for noncompliance shall be imposed. (See Fee Schedule.)

(Ord. 8/24/1988, §403)

§21-154. Resumption of Suspended Work.

The utility shall actively resume work upon order from the Township after a suspension.

(Ord. 8/24/1988; as amended by Ord. 2015-2, 5/14/2015, §404)

§21-155. Penalties for Noncompliance.

If the utility or contractor fails to make adequate corrections to work found in noncompliance with this Part in the time specified, a penalty shall be imposed until said corrections are complied to specifications. (See Fee Schedule.)

(Ord. 8/24/1988; as amended by Ord. 2015-2, 5/14/2015, §405)

§21-156. Nonissuance.

1. The Township reserves the right to bar any contractor or his or her employees from working within the Township limits whose work is found in noncompliance with this Part. The Township reserves the right to refuse issuance of a permit to any applicant who fails to maintain pave cuts in accordance with this Part, or who fails to pay the sum due the Township within 30 days from the date of billing.

2. The Township reserves the right to refuse issuance of a permit to cut new pavement.

(Ord. 8/24/1988; as amended by Ord. 2015-2, 5/14/2015, §406)

§21-157. Designation of Statutory Agent.

Every public utility shall file with the Township Zoning Officer, a designation in writing of the name and the post office address of a person within the Commonwealth of Pennsylvania upon whom service of any notice, order or process may be made under this Part. Such designation may, from time to time, be changed by like writing similarly filed.

§21-158. Pertaining to General Contractors.

At the discretion of the Township, licensed contractors, other than those under the contract to a utility, may be permitted to make an opening cut or excavation in the Township's public streets. Sections pertaining to public utilities shall be applicable to licensed contractors. (See Fee Schedule.)

(Ord. 8/24/1988; as amended by Ord. 2015-2, 5/14/2015, §408)

E. Repealer**§21-161. Effect on Existing Proceedings, Regulations and Contracts.**

All litigation, hearings, investigations and other proceedings whatsoever pending under any Act repealed by the Act shall continue and remain in full provisions of the Act. All orders, rules, regulations issued or filed under the Act repealed by this Part and in full force and effect for the term issued or until revoked vacated or modified under the provisions of this Part. All existing contracts and obligations entered into or created under any Act repealed by this Part and in force and effect upon the effective date of this Part shall remain in full force and effect.

(*Ord. 8/24/1988*; as amended by *Ord. 2015-2, 5/14/2015, §502*)

§21-162. Repealed Laws Not Revived and the Like.

The repeal by this Part of any other Act shall revive any heretofore repealed or suspended and shall not impair or affect any act, offense committed or liability, penalty, judgment or punishment incurred prior to the time this Part takes effect but the same may be enforced, prosecuted or inflicted as fully and to the same extent as if this Part had not been passed. The provisions of this Part, as far as they are the same as those of existing laws shall be continued as a continuation of such laws and not as new enactments.

(*Ord. 8/24/1988*; as amended by *Ord. 2015-2, 5/14/2015, §503*)

§21-163. Penalty for Violation.

Any person violating any of the provisions of this Part shall, upon summary conviction thereof in a summary proceeding before a magistrate of the appropriate jurisdiction, shall be sentenced to pay a fine of not less than \$100 and not more than \$1,000 and costs. In default of the payment of such fine and costs, such person shall be imprisoned in the county jail for a period not exceeding 90 days. Each and every day upon which any person violates or continues to violate the provisions this Part, shall constitute a separate offense.

(*Ord. 8/24/1988*; as amended by A.O.; as amended by *Ord. 2015-2, 5/14/2015, §504*)

§21-164. Acknowledgment of Guilt.

Any person charged with violating any provisions of this Part may sign an acknowledgment of the offense committed, either before or after the beginning of suit, and pay to any duly authorized agent of the Township, the maximum fine provided by this Part, together with costs accruing to that date. Such person shall receive a printed receipt therefor, which shall bear the imprint of the seal of the Township and the signature of its Secretary, which shall be evidence of full satisfaction of the offense committed.

(*Ord. 8/24/1988*)

Part 2**Snow and Ice Removal From Sidewalks****§21-201. Responsibility.**

The owner, occupant or tenant of every property abutting upon or alongside any street or alley in the Township of Plains is hereby required to remove or cause to be removed from the sidewalks in front of, alongside or abutting upon the property all snow or ice thereon fallen or formed, within 24 hours after the same shall have ceased to fall or to form. The owner of a property shall be responsible for complying with the requirements of this Section where such property is occupied by such owner, shall be vacant or unoccupied or be a multiple-unit property having more than one live in a tenantable unit; the tenant or occupier of a property shall be responsible where such property is a single-unit property occupied by such tenant or occupier only.

(Ord. 5/8/1986, §101)

§21-202. Removal by Township; Recovery of Costs.

In any case where the owner, occupant or tenant, as the case may be, shall fail, neglect or refuse to comply with the provisions of §21-201 of this Part within the time limit prescribed therein, the Township authorities may proceed immediately to clear all snow and/or ice from the sidewalk of such delinquent and to collect the expenses thereof, with an additional amount of ten percent of said cost from such owner, occupant or tenant, as the case may be which may in addition to any fine or penalty imposed under §21-203 of this Part.

(Ord. 5/8/1986, §102)

§21-203. Violations and Penalties.

Any owner, occupant or tenant who shall fail to remove snow or ice from any sidewalk as required by §21-201 of this Part shall, on conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 5/8/1986, §103; as amended by A.O.)

§21-204. Definition.

Sidewalk—that portion of property fronting, on the side of, or abutting private property, which is located between the trafficway and the front, side or abutting yard, and is open to the public for purposes of pedestrian travel as a matter of right or custom.

(Ord. 5/8/1986, §104)

Part 3**Railroad Crossings****§21-301. Repairs and Improvements.**

All railroad companies having railroad crossings that traverse the streets of the Township of Plains shall make any and all necessary repairs and improvements to said crossings so as to ensure the safe crossing of pedestrians and motorists using the streets of the Township of Plains, and shall from the effective date of this Part keep said crossings for pedestrians and motorists in good repair and condition at all times.

(Ord. 11/13/1975B, §1)

§21-302. Penalty.

Any railroad company that shall continue to violate the provisions of this Part, after receipt of a copy of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 11/13/1975B, §3; as amended by A.O.)

Chapter 22

Subdivision and Land Development

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Appendix

Design Standards; Development Agreement

Part 1**General Provisions****§22-101. Title.**

This Chapter shall be known and cited as the “Plains Township Subdivision and Land Development Ordinance”.

(Ord. 2009-____, -/-/2009, §100)

§22-102. Authority.

1. Plains Township is empowered to regulate subdivisions and land developments within its Township limits as provided for under the Pennsylvania Municipalities Planning Code, Act 247, 53 P.S. §§10101 *et seq.*, as amended.

2. *Major subdivision/major land development.* The Plains Township Board of Commissioners shall retain and exercise the authority for the approval or disapproval of all major subdivisions and major land developments as set forth in this Part. The Plains Township Planning Commission shall act in an official advisory capacity to the Board of Commissioners for the review and recommendation of the approval or disapproval of all major subdivisions and major land developments set forth in this Part.

3. *Minor subdivision/minor land development.* The Plains Township Board of Commissioners hereby confers the exercise the authority for the approval or disapproval of all minor subdivisions and minor land developments as set forth in this Part to the Plains Township Planning Commission.

(Ord. 2009-____, -/-/2009, §101)

§22-103. Objectives.

Through the adoption, administration and enforcement of this Chapter, Plains Township proposes to create conditions favorable to promote the health, safety and general welfare of the Township with regulations aimed at achieving the following objectives:

- A. To guide the future growth and development of the Township in accordance with sound planning practices.
- B. To provide a standard set of minimum regulations to guide applicants in the design and development of subdivisions and land developments.
- C. To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population.
- D. To protect and conserve the value of land throughout the Township and the value of buildings and improvements upon the land, and to minimize the conflicts among the uses of land and buildings.
- E. To ensure that public facilities are available and will have a sufficient capacity to serve a proposed subdivision or land development.
- F. To establish reasonable standards of design and procedures for subdivisions and resubdivision in order to further the orderly layout and use of land and to ensure proper legal descriptions and monumentation of proposed subdivisions.
- G. To guide public and private policy and action in order to provide adequate and efficient transportation, water, electrical service and other utilities, sewage, schools, parks, playgrounds, recreation and other public requirements and facilities.
- H. To provide the most beneficial relationship between the uses of land and buildings and

the circulation of traffic throughout the Township having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.

I. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the Zoning Ordinance.

J. To prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the prudent use and management of natural resources throughout the Township in order to preserve the integrity and stability of the community and the natural environmental characteristic of the land.

K. To protect and regulate land in critical areas which may be unsuitable for development.

(Ord. 2009-____, --/2009, §102)

§22-104. Application of Chapter.

1. No subdivision or land development of any lot, tract or parcel of land shall be made, and no street, sanitary sewer, water main gas, oil or electric transmission line, or other facilities in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel or for the common use of occupants of buildings abutting thereon, except in accordance with this Chapter.

2. No lot in a proposed subdivision or land development may be sold, and no zoning permit to erect any building upon land in a subdivision or land development may be issued unless and until the following conditions are met:

A. The plans and application have been granted final approval by the Planning Commission.

B. All required improvements as set forth in the grant of approval have been constructed or until the applicant posts a form of financial security, acceptable to Plains Township, which guarantees that all required improvements shall be subsequently constructed within a defined period of time.

C. The final plan, as approved, is filed with the Luzerne County Recorder of Deeds.

(Ord. 2009-____, --/2009, §103)

§22-105. Status of Pending Subdivision and Land Development Applications.

From the time an application for approval of a subdivision or land development, whether preliminary or final, is duly filed in accordance with the provisions of this Chapter and while such application is pending approval or disapproval, an amendment to this Chapter, the Zoning Ordinance [Chapter 27] or any other applicable ordinance, shall not affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of all applicable ordinances as they stood at the time the application was duly filed. When an application is, however, properly and finally denied, any subsequent application shall be subject to any amendments to this Chapter, the Zoning Ordinance [Chapter 27] and any other applicable ordinance and/or regulations.

(Ord. 2009-____, --/2009, §104)

§22-106. Status of Approved Subdivision or Land Development Applications.

1. When an application for approval of a subdivision or land development, whether preliminary or final, has been approved, no subsequent amendment to this Chapter, the Zoning Ordinance, [Chapter 27] or any other applicable ordinance, shall be applied to adversely affect the right of the applicant to commence and to complete any aspect of the approved development in accordance with the terms of such approval within five years from such approval. If final approval is preceded by preliminary approval, the five-year period shall be counted from the date of the preliminary approval.

In the case of any doubt as to the terms of a preliminary approval, the terms shall be construed in the light of the provisions of the governing ordinances or plans as they stood at the time when the application for such approval was duly filed.

2. Where the applicant has substantially completed the required improvements as depicted upon the final plat within the aforesaid five-year limit, or any extension thereof as may be granted by the Board of Commissioners, no change of Township ordinance or plan enacted subsequent to the date of filing of the preliminary plat shall modify or revoke any aspect of the approved final plat pertaining to zoning classification or density, lot, building, street or utility location.

(Ord. 2009-____, --/2009, §105)

§22-107. Phased Development Exceeding Five Years.

1. In the case of a preliminary plat calling for the installation of improvements beyond the five-year period, a schedule shall be filed by the landowner with the preliminary plat delineating all proposed sections as well as deadlines within which applications for final plat approval of each section are intended to be filed. Such schedule shall be updated annually by the applicant on or before the anniversary of the preliminary plat approval, until final plat approval of the final section has been granted and any modification in the aforesaid schedule shall be subject to approval of the Planning Commission in its discretion.

2. Each section in any residential subdivision or land development, except for the last section, shall contain a minimum of 25 percent of the total number of dwelling units as depicted on the preliminary plan, unless a lesser percentage is approved by the Planning Commission in its discretion; provided the landowner has not defaulted with regard to or violated any of the conditions of the preliminary plat approval, including compliance with landowner's aforesaid schedule of submission of final plats for the various sections, then the protections afforded by substantially completing the improvements depicted upon the final plat within five years, as contained in §22-106, shall apply and for any section or sections, beyond the initial section, in which the required improvements have not been substantially completed within said five-year period the aforesaid protections shall apply for an additional term or terms of three years from the date of final plat approval for each section.

3. Failure of landowner to adhere to the aforesaid schedule of final plats for the various sections shall subject any such section to any and all changes in zoning, subdivision and other governing ordinance enacted by the Township subsequent to the date of the initial preliminary plan submission.

(Ord. 2009-____, --/2009, §106)

§22-108. Resubdivision of Land.

A revision or resubdivision of a plan of record shall be considered as a new subdivision and shall come under the jurisdiction of this Chapter.

(Ord. 2009-____, --/2009, §107)

§22-109. Interpretation.

1. In the interpretation and application, the provisions of this Chapter 22 shall be held to the minimum requirements for the promotion of the public health, safety and general welfare. When provisions, standards and specifications of this Chapter differ from those of any other ordinance, statute or regulation, the more restrictive or higher standards shall apply.

2. The provisions of this Chapter are not intended to abrogate any private easement, covenant or any other restriction of record, provided that where the provisions of this Chapter are more restrictive or impose higher standards or regulations than such easement, covenant or other restriction, the applicable provisions of this Chapter shall govern.

§22-110. Modification of Required Standards.

1. The Planning Commission may grant a modification of requirements of one or more provisions if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question; provided, that such modification will not be contrary to the public interest and that the purpose and intent of this Chapter is observed.
2. Any request for a modification shall be submitted in writing and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provisions or requirements of this Chapter in question, and the minimum modification or modifications necessary.
3. All proposals for modification of provisions or requirements of this Chapter shall require approval by the Planning Commission.
4. Upon rendering a final decision for any proposed modification, the Planning Commission shall provide a record of their action within the minutes of their meeting.

(Ord. 2009-____, --/2009, §109)

§22-111. Fees.

1. *Township fees.* The Plains Township Board of Commissioners shall establish by resolution a fee schedule for subdivision and land development applications.
2. *County fees.* The applicant shall also be required to submit all required fees for review and comment by the Luzerne County Planning Commission.
3. *Filing date and payment of fees.* A completed application and plans for any proposed subdivision or land development shall not be considered as filed until all fees are paid and all applications are properly signed.

(Ord. 2009-____, --/2009, §110)

§22-112. Penalties.

1. *Preventive remedies.*

A. In addition to other remedies, the Township may institute and maintain appropriate actions by law or equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds to the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

B. The Township may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this Chapter. The authority to deny such a permit or approval shall apply to any of the following applicants:

- (1) The owner of record at the time of such violation.
- (2) The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
- (3) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether the current owner had actual or constructive knowledge of the violation.
- (4) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee

had actual or constructive knowledge of the violation.

C. As an additional condition for the issuance of a permit or granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Township may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

2. *Jurisdiction.* Magisterial district judges shall have initial jurisdiction in proceedings brought under Subsection 3. of this Section. [A.O.]

3. *Enforcement remedies.*

A. Any person, partnership or corporation who or which has violated the provisions of this Chapter, shall upon being found liable therefore under civil enforcement proceedings, commenced by the Township, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney's fees incurred by the Township as a result of such proceedings. No judgment shall be commenced or be imposed, levied or 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. Under such circumstances, there shall be deemed to have been only one such violation until the fifth day following the date of the termination of a violation by the magisterial district judge and thereafter each day that a violation continues shall constitute a separate violation. [A.O.]

B. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.

C. Nothing contained within this Section shall be construed or interpreted to grant any person or entity other than the Township the right to commence action for enforcement pursuant to this Section.

(Ord. 2009-____, --/2009, §111; as amended by A.O.)

§22-113. Amendment Procedure.

The regulations set forth in this Chapter may, from time to time, be amended by the Plains Township Board of Commissioners. The following requirements shall be observed prior to enacting any amendments to this Chapter.

A. A public hearing on the proposed amendment shall be held by the Board of Commissioners pursuant to public notice.

B. In the case of an amendment other than that prepared by the Planning Commission, the Board of Commissioners shall submit such amendment to the Planning Commission not less than 30 days prior to the public hearing

C. The proposed amendment shall be submitted to the Luzerne County Planning Commission not less than 30 days prior to the public hearing.

D. The proposed amendment shall not be enacted unless public notice is given which shall include the time and place of the meeting at which passage will be considered and a reference to a place within the Township where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost of reproduction.

E. Public notice of the proposed amendment shall include the full text thereof or the title and a brief summary, prepared by the Township Solicitor, setting forth

all the provisions in reasonable detail. If the full text is not provided, a copy shall be supplied to the newspaper in which the public notice is placed and an attested copy shall be placed on file at the Luzerne County Law Library.

F. Within 30 days following the adoption of an amendment to this Chapter, the Board of Commissioners shall forward a certified copy of the amendment to the Luzerne County Planning Commission.

(*Ord. 2009-____, --/2009, §112*)

§22-114. Appeals to Court.

Decisions rendered by the Planning Commission may be appealed to a court of proper jurisdiction in accordance with the procedures, provisions and time limitations as contained in Article X-A of the Pennsylvania Municipalities Planning Code, Act 247, 53 P.S. §11001-A, as amended.

(*Ord. 2009-____, --/2009, §113*)

§22-115. Conflict with Other Ordinances.

All ordinances, or any parts thereof, which are inconsistent or in conflict with this Chapter, including, but not limited to, the Plains Township Subdivision and Land Development Ordinance of November 13, 1997, and any amendments thereto are hereby repealed.

(*Ord. 2009-____, --/2009, §114*)

Part 2**Definitions****§22-201. General Interpretation.**

Words used in the present tense include the future. Words in the masculine gender include the feminine and the neuter. The singular includes the plural, and the plural the singular. The word “may” is permissive. When used in this Chapter, the following words, terms and phrases shall have the following meanings, unless expressly stated otherwise, or unless the context clearly indicates otherwise.

(Ord. 2009-____, -/-/2009, §200)

§22-202. Definition of Terms.

When terms, phrases or words are not defined, they shall have the meaning as defined in “The Latest Illustrated Book of Development Definitions” (H. S. Moskowitz and C. G. Lindbloom, Rutgers, The State University of New Jersey, 2004) or if not defined therein, they shall have their ordinarily accepted meanings or such as the context may imply.

Abut—next to or adjacent to, and includes the words “directly across from streets, natural features and rights-of-way”.

Access drive—a private road or roads connecting a development such as a school, hospital, commercial, industrial or housing complex with a public street.

Acre—43,560 square feet.

Adjacent—a state of being side by side, next to, adjoining, contiguous or abutting one to another, and includes the words “directly across from streets, natural features and rights-of-way”.

Administrator—the person designated by the Plains Township Board of Commissioners who is authorized to accept and receive subdivision and land development plans and applications for and on behalf of the Township.

Alley—a public or private right-of-way affording secondary means of access to abutting property.

Applicant—a landowner or developer who has filed an application for a subdivision or land development, including his or her heirs, successors and assigns.

As-built drawings—construction plans prepared after the completion of construction, by the engineer of record, in such a manner as to accurately identify and depict the location and design of all on-site improvements, which includes, but is not limited to, streets, structures, parking facilities, stormwater detention/retention areas, curbs, sidewalks and any other facilities approved for the subject development. As-built drawings shall be sealed by the engineer of record.

Base flood elevation—the highest elevation, expressed in feet above mean sea level, of the floodwaters of a 100-year flood, as projected and delineated upon the most recent official Flood Insurance Rate Map, published by the Federal Insurance Administration.

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

Board of Commissioners—the Board of Commissioners of Plains Township, Luzerne County, Pennsylvania.

Building—any structure built for the support, shelter or enclosure of persons, animal or prop-

erty of any kind.

Building setback line—the minimum distance as required in the Zoning Ordinance [Chapter 27] between any building or structure, to the front, rear or side property line.

Cartway—the paved portion of a street or alley designated, intended or capable of being used for vehicular travel.

Catch basin—an inlet designated to intercept and redirect surface stormwater.

Clear sight triangle—an area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of the street centerlines.

Common facilities—all the real property and improvements, including, without limitation, landscaped areas, buffers, open space not included within title lines of any privately owned lot, street rights-of-way not dedicated to Plains Township, owned in common by residents within the development which is served by the facilities.

Community association—a non-profit organization comprised of homeowners or property owners, the function of which is to maintain and administer property owned in common by members of the association or by the association, to protect and enhance the value of the property owned individually by each of the members. Homeowners associations and condominium associations are types of community associations.

Comprehensive Plan—the most recent Comprehensive Plan, and any amendments thereto, as adopted by Plains Township.

Condominium—real estate, portions of which is designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those separate portions, in accordance with the Pennsylvania Uniform Condominium Act, Act No. 1980-82, 68 Pa.C.S.A. §§3101 *et seq.*, as amended.

Construction plans—the maps or drawings accompanying a subdivision or land development plan and showing the specific location and design of improvements to be installed in accordance with the requirements of this Chapter and in accordance with any terms or conditions as set forth by the Planning Commission.

County—Luzerne County, Pennsylvania.

County Planning Commission—the Luzerne County Planning Commission.

Covenant—a restriction on the use of land usually set forth in the deed. A covenant usually runs with the land and the restrictions thereunder are binding upon subsequent owners.

Critical area—an area with one or more of the following characteristics: (1) slopes in excess of 20 percent; (2) floodplain and/or wetlands; soils classified as having a high water table; (3) soils classified as highly erodible, subject to erosion or highly acidic; (4) land incapable of meeting percolation requirements.

Culvert—a drain, ditch or conduit not incorporated in a closed system that carries storm drainage water under a driveway, roadway or railroad.

Dedication—the deliberate appropriation of land by its owner for any general and public use, reserving to himself or herself no other rights than those that are compatible with the full exercise and enjoyment of the public uses to which the property has been devoted.

Department of Environmental Protection (DEP)—the Pennsylvania Department of Environmental Protection, its bureaus, divisions, departments and/or agencies, as may from time to time be established, or such department or departments as may in the future succeed it. [A.O.]

Detention basin/pond—an area in which surface water runoff is temporarily stored pending its release at a controlled rate.

Developer—any landowner, agent of such landowner or tenant with the permission of such

landowner, who makes or caused to be made, a subdivision of land or a land development.

Development—any human-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

Development plan—the provisions for development included within an application for a subdivision and/or land development, including all covenants relating to use, location and bulk of buildings and other structure intensity of use or density of development, streets, ways and parking facilities, common open space, easements and public facilities. The phrase “development plan” shall mean the written and graphic materials referred to in this definition.

District or zoning district—a portion of the territory of the Township within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this Chapter.

Disturbance of land—any action which results in the cutting or removal of vegetation on any land, and/or which results in the turning, displacement, grading or removal of any soil.

Drainage—

- (1) Surface water runoff;
- (2) The removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and sedimentation during and after construction or development.

Drainage easement—an easement required for the installation of stormwater sewers or drainage ditches, and/or required for the preservation or maintenance of a natural stream or watercourse or other drainage facility.

Drainage facility—any ditch, gutter, pipe, culvert, storm sewer or other structure designed, intended or constructed for the purpose of diverting surface waters from or carrying surface waters off streets, public rights-of-way, parks, recreational areas or any part of any subdivision, land development or contiguous land areas.

Driveway—a privately owned and constructed vehicular access from an approved private or public road into a lot or parcel having a frontage on the road.

Dwelling—one or more rooms, designed, occupied or intended for occupancy as separated living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

- (1) *Dwelling, multiple*—a building containing three or more dwelling units entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.
- (2) *Dwelling, single-family*—a detached building arranged or used for occupancy by one family.
- (3) *Dwelling, two-family*—a detached or semidetached building where not more than two individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except by access to the outside or to a common cellar.

Earth disturbance activity—any construction or other activity which disturbs the surface of the land including, but not limited to, excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth.

Easement—a grant of one or more of the property rights by the property owner to and/or for the use by the public, a corporation or another person or entity.

Engineer—a registered professional engineer licensed and registered as such by standards established by the Commonwealth of Pennsylvania.

Erosion—the removal of surface material by the action of natural elements.

Excavation—any act by which earth, sand, gravel, rock or any other material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed. It shall include the conditions resulting therefrom.

Fill—any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped or moved to a new location above the natural surface or on top of the stripped surface. It shall include the conditions resulting therefrom. The difference in elevation between the point on the original ground and a designated point of the higher elevation of the final grade.

Final approval—last official action of the Plains Township Planning Commission granting approval of a subdivision or land development which has been granted preliminary approval, after all conditions and requirements have been met, including as applicable, the installation of all required improvements or the posting of an acceptable form of a financial security to guarantee the installation of such.

Financial security—a form of security, including an irrevocable letter of credit, a cash deposit, an escrow agreement or other similar collateral or surety agreements, from federal or Commonwealth chartered lending institutions in an amount and form acceptable to the Township to be used in accordance with applicable provisions of this Chapter to guarantee completion of public and/or required improvements.

Flood—a temporary condition of partial or complete inundation of normally dry land areas occurring from the overflow of inland waters and/or the unusual and rapid accumulation of runoff and surface waters from any source.

Flood fringe—the portion of a 100-year floodplain outside of the floodway, as delineated upon the most recent Flood Hazard Boundary Maps as published by the Federal Insurance Administration.

Flood Hazard Boundary Map—the most recent map, as published by the Federal Insurance Administration, which delineates the boundaries of the floodway and flood fringe of a 100-year floodplain.

Flood Insurance Rate Maps—the most recent map, as published by the Federal Insurance Administration, which delineates areas of special flood hazards, base flood elevations and applicable risk premium zones of a 100-year floodplain.

Floodplain (100-year floodplain)—areas of land which are subject to inundation by waters of a 100-year flood. The source of delineating the boundaries of a 100-year floodplain shall be based upon the most recent maps of the Flood Insurance Administration.

Floodproofing—a combination of structural provisions, changes or adjustments to properties and structures subject to flooding for the reduction or elimination of flood damage to properties, water and sanitary facilities and other utilities, structures and the contents of buildings.

Floodway—the portion of a 100-year floodplain, as delineated upon the most recent Flood Hazard Boundary Maps as published by the Federal Insurance Administration, which is designated to carry and discharge water and flow of a 100-year flood without increasing the water surface elevation by more than one foot at any given point.

Governing body—the Plains Township Board of Commissioners.

Grade—the slope of a road, street or other public or private way, specified in percentage terms.

Grading—any stripping, gutting, filling, stockpiling of earth or land, including the land in its cut or filled condition.

Highway occupancy permit—a permit, issued by the Pennsylvania Department of Transportation, Luzerne County or Plains Township which authorizes access from a parcel of land onto a street or highway which is under its jurisdiction.

Homeowners association—a non-profit organization comprised of homeowners or property owners, planned and operated under negotiated and approved rules and regulations, for the purpose of administering the needs of residents through the maintenance of community owned property. This term is synonymous with “property owners association”.

Impact analysis—a study, which may be required by the Plains Township Planning Commission prior to preliminary or conditional approval of a subdivision or land development, to determine the potential impact of a proposed development on activities, utilities, traffic generation and circulation, surrounding land uses, community facilities, environmental features, critical areas, the health, safety and welfare of residents and other factors directly, indirectly or potentially affected. The developer and/or applicant shall be responsible for all costs related to the any and all reports and/or studies required by the Plains Township Planning Commission under or within the context of the term “impact analysis”. The developer and/or applicant shall also be responsible to fully reimburse the Township for all engineering and/or other consulting fees which are incurred for the review of any required studies or reports.

Improvements—human-made physical additions, alterations and/or changes which becomes part of, placed upon or is affixed to real estate.

Land development—the improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:

- (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively.
- (2) A single nonresidential building on a lot or lots with two or more occupants regardless of their tenure.
- (3) A single nonresidential building, designed or intended for a single occupant, with a minimum gross floor area of not less than 5,000 square feet, excluding agricultural buildings and/or structures.
- (4) Any nonresidential use of land, with or without structures, which encompasses two or more acres of land, including grading and/or the backfilling of land, earth moving activities, and/or removal of vegetative cover. Agricultural uses of land and/or related agricultural activities shall be specifically excluded.
- (5) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (6) The conversion of an existing single-family detached dwelling or single-family semi-detached dwelling into more than three residential units. Any conversion, described above, which results in not more than three residential units shall be deemed as a land development if the units are intended to be a condominium.
- (7) The development of a mobile home park or the expansion of an existing mobile home park.
- (8) A single residential structure containing more than five residential units.

The development of any accessory building, including farm buildings, on a lot or lots which are subordinate to an existing principal building shall not be classified as a “land development”.

Land development, major—a land development which does not qualify or classify as a minor land development.

Land development, minor—a development of a parcel of land which contains not more than two detached single-family residential structures, whether developed initially or cumulatively.

Land surveyor—a person who is licensed and registered by the Commonwealth of Pennsylvania

nia, which qualifies said person to perform accurate field measurements including the description and definition of land boundaries.

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

Lot—a designated parcel, tract or area of land established by plat, subdivision or as otherwise permitted by law, to be used, developed or built upon as a unit.

Lot area—the total area within the lot lines of a lot, excluding any street rights-of-way.

Lot, corner—a lot or parcel of land abutting upon two or more streets at their intersection, or upon two parts of the same street forming an interior angle of less than 135 degrees.

Lot coverage—that portion of the lot that is covered by buildings and structures.

Lot depth—the distance measured from the front lot line to the rear lot line.

Lot frontage—the length of the front lot line measured at the street right-of-way line.

Lot interior—a lot other than a corner lot.

Lot line—a line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

Lot line adjustment—a minor subdivision involving the revision or deletion of one or more lot lines in such a way that all of the following are true:

- (1) No new lots will be created beyond what was previously approved.
- (2) No additional street segments or significant changes in alignment are proposed other than what was previously approved.
- (3) No additional nonconformities will be created under the Township Zoning Ordinance [Chapter 27].
- (4) No new land development will occur other than a land development that was previously approved.

Lot line, front—the lot line separating a lot from a street right-of-way.

Lot line, rear—the lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot.

Lot line, side—any lot line other than a front or rear lot line.

Lot, minimum area of—the smallest lot area established by the Zoning Ordinance [Chapter 27] on which a use or structure may be located in a particular zoning district.

Lot, through—a lot which fronts upon two parallel streets, or which fronts upon two streets which do not intersect at the boundaries of the lot.

Lot width—the horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum required building setback line.

Mobile home—a transportable, single-family dwelling intended for permanent occupancy, and contained in one unit, or two units designed to be joined into one integral unit, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and constructed so that it may be used with or without a permanent foundation when connected to required utilities.

Mobile home lot—a parcel of land in a mobile home park, improved with the necessary utility connection and other appurtenances necessary for the erection thereon of a single mobile home, which is leased or rented by the park owner to the occupants of the mobile home

erected on the lot.

Mobile home park—a site with required improvements and utilities for the long term placement of mobile homes which may include services and facilities for the residents.

Multiphase development—a development project that is to be constructed in stages, each stage being capable of existing independently of the others.

Municipality—Plains Township, Luzerne County, Pennsylvania.

Natural drainage flow—the pattern of surface and stormwater drainage from a particular site before the construction or installation of improvements or prior to any regrading and/or any earth disturbance activity.

Nonconforming lot—a lot, the area, dimensions or location of which was lawful prior to the adoption, revision or amendment of the Zoning Ordinance [Chapter 27], but which fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

Nonconforming structure or building—a structure or building the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to the Zoning Ordinance [Chapter 27], but which fails by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

Nonconforming use—a use or activity which was lawful prior to the adoption, revision or amendment of the Zoning Ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

Official Map—a Township map adopted by ordinance conclusively showing the location of the lines of existing and proposed public streets, watercourses and public grounds including the widening, narrowing, extension, diminution, opening or closing of the same, for the entire Township.

Official soil map—soil survey maps of Luzerne County as provided by the Luzerne County Conservation District.

Official soils interpretation—the written description of soil types and their characteristics and accompanying maps based upon soil survey maps of Luzerne County as provided by the Luzerne County Conservation District.

One-hundred year flood—a flood that, on the average, is likely to occur once every 100 years and has a one percent chance of occurring each year.

One-hundred year floodplain—the areas within the Township that have a one percent chance of being flooded in any given year based upon the most recent data and maps as provided by the Federal Insurance Administration.

Ordinance—the Plains Township Subdivision and Land Development Ordinance [this Chapter], and any amendments thereto.

Owner of record—the person(s) or entity to whom any applicable property tax is assessed and/or is indicated to be a tax-exempt property as shown on the latest assessment records of Luzerne County.

Performance guarantee—a written instrument which may be accepted by the Board of Commissioners in lieu of a requirement that certain improvements be made by a developer before the final plan is granted final approval and released for recording, which shall provide for the deposit with the Township of financial security in an amount sufficient to cover the costs of any improvements or common amenities including, but not limited to, roads, sanitary sewage facilities, water supply and distribution facilities, stormwater detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements and buffer or screen planting which may be required. [A.O.]

Person—an individual, partnership, organization association, trust or corporation. When used

in a provision, “person” shall include the members of such partnership, the trustees of such trust and the officers of such organization association or corporation.

Plan or plat—the map or plan of a subdivision or land development:

Final plan—a complete and exact plan prepared for official recording with the Luzerne County Recorder of Deeds, as required by this Chapter with said plan being properly indicated in title as “final plan”.

Preliminary plan—the preliminary drawings and any accompanying data, which accurately shows the proposed layout of lots, streets, improvements and other information as required by this Chapter, with all such material being properly indicated in title as “preliminary plan”.

Record plan—the copy of the final plan which contains the original endorsements of the Township and which is intended to be recorded with the County Recorder of Deeds.

Sketch plan—an informal plan, identified as such with the title sketch plan on the map, indicating salient existing features of a tract and its surroundings and the general layout of the proposal to be used as a basis for consideration by the Township.

Planned residential development—an area of land controlled by a landowner, to be developed as a single entity for a number of dwelling units, with a development plan which does not correspond in lot size, bulk or type of dwelling, or use, density, or intensity, lot coverage and required open space to the regulations established in any one zoning district created, from time to time, under the provisions of the Plains Township Zoning Ordinance [Chapter 27].

Planning Commission—the Planning Commission of Plains Township.

Professional consultant(s)—a person or persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accountants, engineers, geologists, land surveyors, landscape architects or planners.

Public hearing—a formal meeting held pursuant to public notice by the Township Board of Commissioners or the Planning Commission, intended to inform and obtain public comment, prior to taking action on a particular subject.

Public improvements—any street, roadway, sidewalk, pedestrian right-of-way, drainage facility, recreation area, off-street parking area, lot improvement or other facility for which Plains Township may ultimately assume the responsibility of maintenance and operation or which may affect an improvement for which Plains Township’s responsibility is established.

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

Qualified professional—an individual authorized to prepare plans pursuant to §503(1) of the MPC, 53 P.S. §10503(1), which states that plats and surveys shall be prepared in accordance with the Act of May 23, 1945 (P.L. 913, No. 367), 63 P.S. §§148 *et seq.*, known as the “Engineer, Land Surveyor and Geologist Registration Law”, except that this requirement shall not preclude the preparation of a plat in accordance with the Act of January 24, 1966 (P.L. 1527, No. 535), 63 P.S. §§901 *et seq.*, known as the “Landscape Architects Registration Law”, when it is appropriate to prepare the plat using professional services set forth in the definition of the “practice of landscape architecture” under §2 of that Act, 63 P.S. §902.

Resubdivision—a change in a map of an approved or recorded subdivision plat affecting any street layout on such map, any area reserved therein for public use or any lot line.

Right-of-way—a defined and designated area for vehicular or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane or alley,

and including both cartway and shoulders.

Runoff—the surface water discharge or rate of discharge of a given watershed after a fall of rain or snow that does not enter the soil but runs off the surface of the land.

Sanitary sewer—pipes that carry only domestic or commercial sewage and into which storm, surface and groundwaters are not intentionally admitted.

Sedimentation—the depositing of earth or soil that has been transported from its site of origin by water, ice, wind, gravity or other natural means as a product of erosion.

Septic system—an underground system with a septic tank used for the decomposition of domestic wastes, in which bacteria in the wastes decompose the organic matter, and the sludge settles to the bottom. The effluent flows through drains into the ground. Sludge is pumped out at regular intervals.

Septic tank—a watertight receptacle that receives the discharge of sewage from a building, sewer or part thereof, and is designed and constructed so as to permit settling of solids from this liquid, digestion of the organic matter, and discharge of the liquid portion into a disposal area.

Sewage disposal system, central—a means of collecting sanitary sewage from individual lots by a system of pipes which transports the sewage to a central treatment and disposal system, with all aspects of the system being constructed and operated in compliance with all governing federal, state and Township regulations.

Sewage disposal system, on-lot—a structure designed to biochemically treat sewage within the boundaries of an individual lot.

Site—an plot or parcel of land or combination of contiguous lots or parcels of land.

Soil erosion and sedimentation control plan—a plan that indicates necessary land treatment measures, as approved by the Luzerne County Conservation District, designed to effectively minimize soil erosion and sedimentation.

Soil percolation test—a field test conducted to determine the suitability of the soil and site conditions for an on-lot sewage disposal system by measuring the absorption capacity of the soil at a given depth and location.

Storm sewer—a pipe that collects and transports rainwater, surface water and other liquid waste exclusive of sewage.

Street—a public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, parkway, drive, lane, boulevard, highway, road and alley.

Arterial—arterials are designed primarily to carry traffic and generally should not provide access to land which would interfere with their primary traffic functions. They are also designed for medium to heavy volumes at moderately high speeds with restricted vehicular access to abutting properties.

Collector street—collector streets are designed to carry a moderate volume of traffic between local streets and arterials, and provide only limited vehicular access to the abutting properties.

Cul-de-sac—a minor or local street with a single common ingress and egress and with a turnaround located at its end.

Dead end street—a street with a single common ingress and egress.

Limited access—a street designed to carry a high volume of traffic and usually designated as an expressway, freeway, highway or boulevard. Owners or occupants of abutting property normally have no expressed or legal right to access to or from the same.

Local street—local streets provide direct access to abutting properties and provide routes

to collector streets.

Structure—any human-made object having an ascertainable stationary located on or in land or water, whether or not affixed to the land.

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

Subdivision, major—any subdivision which does not qualify or classify as a minor subdivision.

Subdivision, minor—a subdivision of a parcel of land into not more than six lots, which, has access, direct or indirect, to an existing public street or road and does not require any expenditures for the extension of any street or the extension or creation of any public improvements, does not adversely affect the remainder of the parcel or adjoining property and does not conflict with the Comprehensive Plan. Any proposed subdivision of a lot of record, which resulted from a minor subdivision shall be classified as a major subdivision, when the cumulative number of lots, from the original lot of record and/or any resulting lot, exceed six lots within five years from the date of its approval under a minor subdivision classification. Information stating the above requirement shall be included upon all deeds for lots created under a minor subdivision. See also “lot line adjustment”.

Subdivision, reverse—the removal of lot lines between contiguous lots of record held in single ownership for the purpose of forming a single tract of land. A reverse subdivision shall be classified as a minor subdivision.

[Ord. 2009-4]

Substantially completed—the point at which, in the judgment of the Township Engineer, at least 90 percent of those improvements required as a condition for final approval, based upon the cost of the posted financial security, have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

Surveyor—a licensed surveyor registered by the Commonwealth of Pennsylvania.

Water supply and distribution system, central—a system for supplying and distributing water from a common source to two or more dwelling units and/or other buildings within a subdivision or land development, with the total system being publicly or privately owned.

Water supply and distribution system, on-lot—a system for supplying and distributing water to a single dwelling or other type of principal building from a source located upon the same lot.

Water table—the upper surface of groundwater, or that level below which the soil is seasonally saturated with water.

Watercourse—a permanent or intermittent stream, river, brook, creek or channel or ditch for collection and conveyance of water, whether natural or human-made.

Wetlands—those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. The term includes, but is not limited to, wetlands areas listed in the State Water Plan, the United States Forest Service Inventory of Pennsylvania, the Pennsylvania Coastal Management Plan and any wetland area designated by a

river basin commission.

Yard—an open space that lies between the principal or accessory building or buildings and the nearest lot line. Such yard is unoccupied and unobstructed from the ground upward except as may be specifically provided in the Zoning Ordinance [Chapter 27].

Front yard—a space extending the full width of the lot between any building and the front lot line, and measured perpendicular to the building at the closest point to the front lot line.

Rear yard—a space extending across the full width of the lot between the principal building and the rear lot line, and measured perpendicular to the building to the closest point of the rear lot line.

Side yard—a space extending from the front yard to the rear yard between the principal building and the side lot line measured perpendicular from the side lot line to the closest point of the principal building.

Zoning Officer—an administrative officer authorized to administer the literal terms and provisions of the Zoning Ordinance [Chapter 27].

Zoning Ordinance—the governing Zoning Ordinance of Plains Township [Chapter 27], and any subsequent amendments.

Zoning permit—a permit requiring approval by the Zoning Officer as a condition prior to the commencement of a use of property, with or without improvements.

(Ord. 2009-____, --/2009, §201; as amended by Ord. 2009-4, 5/14/2009, §1; and by A.O.)

Part 3

Procedural Requirements

§22-301. Review and Approval Process.

1. The submission and review process for subdivision and land development applications shall be in accordance with the following:

- A. Major subdivision shall require the submission and approval of a preliminary plan and a final plan. The submission of a sketch plan prior to the formal submission of preliminary plan shall be optional.
- B. Minor subdivision shall require the submission and approval of only a final plan, in accordance with the provisions as set forth in Part 6 of this Chapter.
- C. Major land development shall require the submission and approval of a preliminary plan and a final plan. The submission of a sketch plan prior to the formal submission of a preliminary plan shall be optional.
- D. Minor land development shall require the submission and approval of only a final plan, in accordance with the provisions as set forth in Part 4 of this Chapter.

2. The owner of record and the applicant must attend the Planning Commission meeting for the purpose of presenting the plans and to respond to questions.

(Ord. 2009-____, --/2009, §301)

§22-302. Sketch Plan Review.

1. Prior to submitting a major subdivision application or a land development application, the applicant is advised, but not required, to submit a sketch plan to the Planning Commission. The submission and review of a sketch plan shall not constitute the filing of an application for plan review and approval of a subdivision or land development. The Planning Commission shall provide advice and comment on the necessary requirements to achieve conformity to the standards and provisions of this Chapter and other related regulations.

2. The applicant shall submit an application and ten copies of a sketch plan to the Administrator not less than 14 days prior to the next regularly scheduled meeting of the Planning Commission, unless waived by the discretion of the Planning Commission.

3. The sketch plan shall be drawn to a scale of not greater than one inch equals 50 feet and shall address:

- A. All land which the applicant proposes to subdivide and/or develop.
- B. All land within 200 feet of site's boundaries and the names of the subject property owners based upon the records of the Luzerne County Assessor's Office.
- C. All existing and proposed streets, proposed lot sizes, natural features including topographic contours, sewage disposal, drainage, water supply and related utilities.

4. Upon reviewing a sketch plan, the Planning Commission shall advise the applicant of any initial changes, modifications and/or additions, if any, which should be addressed relative to the proposed design, layout and character of the site.

(Ord. 2009-____, --/2009, §302)

§22-303. Submission of Plans and Applications.

1. The applicant shall provide the following information to the Administrator not less than 14 days prior to the next regularly scheduled meeting of the Planning Commission:

- A. Fourteen prefolded copies of the plan (preliminary or final).
 - B. Fourteen prefolded copies of construction plans (if applicable).
 - C. A completed subdivision or land development application with original signatures and 14 copies of the same.
 - D. A completed planning module, if applicable, as required by the Pennsylvania Department of Environmental Protection and two copies of the same.
2. The submission of plans and/or applications that fail to comply with the above requirements shall be deemed to be an incomplete submission shall not be accepted or shall be returned to the applicant along with any fees which have been submitted.
3. The Planning Commission shall have the discretion to waive the 14-day requirement for the submission of the above information for a minor subdivision or minor land development.
- (Ord. 2009-____, --/2009, §303)

§22-304. Distribution of Plans.

1. The Administrator shall provide each member of the Planning Commission with a copy of the complete set of plans (sketch, preliminary or final), a copy of the subdivision application and a copy of the DEP planning module.
2. The Administrator shall provide or direct, as applicable, that a copy of the complete set of plans (preliminary or final), a copy of the application and a copy the DEP planning module, be forwarded to the following agencies and officials for review, comment and/or approval, as applicable:
 - A. The Plains Township Board of Commissioners.
 - B. The Luzerne County Planning Commission (submitted by applicant with documentation, including date of submission, to the Planning Commission verifying the same).
 - C. The Township Zoning Officer.
 - D. The Township Engineer and/or Planning Consultant.
 - E. The Solicitor to the Township Planning Commission.
 - F. The Township Solicitor.
 - G. The Township Sewage Enforcement Officer.
 - H. The Luzerne County Conservation District (submitted by applicant with documentation, including date of submission, to the Planning Commission verifying the same).
 - I. The Municipal Sanitary Authority (submitted by applicant with documentation, including date of submission, to the Planning Commission verifying the same).
 - J. The Pennsylvania Department of Transportation, Luzerne County and/or Plains Township Road Department in cases where a proposed subdivision or land development fronts upon or is to have access to have access to a road under their respective jurisdictions (submitted by applicant with documentation including date of submission, to the Planning Commission verifying the same).
 - K. The Pennsylvania Department of Environmental Protection (submitted by applicant with documentation, including date of submission, to the Planning Commission verifying the same).
 - L. Adjoining municipalities that have a common border with the proposed subdivision and/or land development.
 - M. To any other agency as so directed by the Planning Commission.
3. The applicant shall be responsible to ensure that copies of the plan and supporting material are provided to all applicable utility companies intended to service the site.
4. The applicant shall pay any applicable fees related to the review and inspection of other

agencies and parties provided under Subsection 3. above.

(Ord. 2009-____, --/2009, §304)

§22-305. Luzerne County Review.

The Plains Township Planning Commission shall not approve any subdivision or land development plans or application until a report, containing the comments and recommendation of the Luzerne County Planning Commission is received or until the expiration of 30 days from the date said plans and application were forwarded to the Luzerne County Planning Commission. The applicant shall pay all review fees required by the Luzerne County Planning Commission.

(Ord. 2009-____, --/2009, §305)

§22-306. Public Hearing.

The Planning Commission, at its discretion, may hold a public hearing prior to rendering a decision on any plan (preliminary or final).

(Ord. 2009-____, --/2009, §306)

§22-307. Installation or Guarantee of Required Improvements.

Prior to approving the final plan of a major subdivision or a major land development, in which the approval was conditioned upon specific improvements, the Planning Commission shall require the following of the applicant:

- A. The installation of all required improvements in accordance with the design standards and specifications of this Chapter and all applicable terms and conditions in granting approval.
- B. Provision of a form of financial security, acceptable by Plains Township, which assures and guarantees the subsequent installation of all required improvements in accordance with the design standards and specifications of this Chapter and all applicable terms and conditions in granting approval.

(Ord. 2009-____, --/2009, §307)

§22-308. Procedural Methods in Rendering Decisions.

1. The Planning Commission shall approve or reject a submitted plan (preliminary or final) within 90 days following the date of the Planning Commission's regular meeting at which said plan is first reviewed. Should the regular meeting date occur more than 30 days following the date of submission of said plan, the 90-day period shall be measured from the thirtieth day following the date on which the plan was properly submitted to the Township.

2. The Planning Commission shall communicate its decision to the applicant in writing either by delivery in person or by mail to applicant's last known address not later than 15 days following the decision.

3. When an application and plan (preliminary or final) is not approved as submitted, the Planning Commission's decision shall specify the defects found in such, and describe the requirements which have not been met and shall, in each case, cite the provisions of the statute or ordinance relied upon.

4. In granting approval to a plan, preliminary or final, which is subject to specific conditions, the Planning Commission shall include in their notification that the applicant, may notify the Planning Commission of his or her refusal to accept all said conditions in writing. In such cases, the Planning Commission's conditional approval shall be deemed rescinded upon receipt of the applicant's written notification. In the event the applicant fails to notify the Planning Commission of his or her refusal to accept all said conditions within the 30-day time period, all conditions shall stand granted and deemed accepted by the applicant.

5. As prescribed by the Pennsylvania Municipalities Planning Code, Act 247, 53 P.S. §§10101 *et seq.*, as amended, failure of the Planning Commission to render a decision and communicate said decision to the applicant as set forth in this Section shall be deemed approval of the plan as submitted, unless the applicant has agreed in writing to an extension of time or change in the prescribed manner of communication of the decision.

(Ord. 2009-____, --/2009, §308)

§22-309. Revised Plans.

1. Any revisions to a preliminary plan or final plan which are independently initiated by the applicant or developer that alters or changes the character, density, design, layout and/or location of any proposed structures and/or improvements on the plans as originally submitted shall be deemed to be a new submission. Such will require the applicant or developer to submit a new application, plans, supporting documentation and applicable fees. In such cases, the Planning Commission shall provide the applicant or developer with written notice of the need to submit a new plan and require the applicant to formally withdraw the revised plan in writing. If the applicant or developer fails to do so, the Planning Commission shall act to formally disapprove the revised plan and communicate the same to the applicant or developer in accordance with §22-308 of this Chapter.

2. Any revisions to a preliminary plan or final plan which are clearly undertaken by the applicant or developer for the purpose of complying with any conditions and/or additional requirements established by the Planning Commission or agency or entity which holds jurisdiction over any aspect of the plan shall be accepted as a revised plan. A revised plan, which meets such conditions, shall not be subject to the submission of a new application or the payment of a new application fee to Plains Township.

3. All revised plans shall be accompanied by an itemized listing of revisions to the plans and the basis for such revisions. Such information shall be prepared and certified by a professional engineer.

4. Any revised plan may be resubmitted to the Luzerne County Planning Commission or to any other party noted within §22-304 Subsection 2. of this Chapter if the Planning Commission renders a determination that the scope of the revisions are substantial in nature to warrant any additional review. If such a determination is rendered, the applicant shall be responsible for the applicable required fees.

(Ord. 2009-____, --/2009, §309)

§22-310. Recording of Final Plan.

1. The applicant shall record the final plan as approved by the Planning Commission in the office of the Recorder of Deeds of Luzerne County within 90 days of such final approval, unless an extension has been granted in writing by the Planning Commission. Failure by the applicant to record the final plat within the 30 days, or an approved extension of the time period, will result in the Planning Commission's approval becoming null and void. The final plan for recording shall comprise all plans submitted for final approval.

2. A final plan shall not be submitted for recording within the Recorder of Deeds Office unless it bears the signature of the Planning Commission's Chairperson and Secretary and bears appropriate signature and/or seal that it has been reviewed by the Luzerne County Planning Commission.

3. Within 14 days from the date on which the final plan is recorded, the applicant shall furnish to the Administrator a copy of a certificate or receipt attesting to the recording of the final plan in the Recorder of Deeds Office.

(Ord. 2009-____, --/2009, §310)

§22-311. Phasing Major Subdivision Plans.

Prior to granting final approval of a major subdivision plan, the Planning Commission may permit the plan to be divided into two or more sections or phases and may impose such conditions upon the filing of the sections as it may deem necessary to assure the orderly development of the plan. The Planning Commission may require that the financial security be in such amount as is commensurate with the section or sections of the plan to be filed and may defer the remaining required financial security principal amount until the remaining sections of the plan are offered for filing. The developer may also file in writing irrevocable offers to dedicate streets and public improvements in the sections offered to be filed and defer filing offers of dedication for the remaining sections until such sections, subject to any conditions imposed by the Planning Commission shall be granted concurrently with final approval of the plan.

(Ord. 2009-____, -/-/2009, §311)

Part 4**Preliminary Plan****§22-401. Initial Review.**

The Planning Commission shall review the preliminary plan to determine its completeness with regard to the standards, provisions and requirements of this Chapter. Any submission which is found to be incomplete shall be deemed to be invalid. The Planning Commission shall notify the applicant in writing as to the nature and type of additional information which the applicant must submit.

(Ord. 2009-____, --/2009, §401)

§22-402. Review by Luzerne County Planning Commission.

The Planning Commission shall not approve a preliminary plan until a report is received from the Luzerne County Planning Commission or until the expiration of 30 days from the date it was forwarded to the Luzerne County Planning Commission.

(Ord. 2009-____, --/2009, §402)

§22-403. Review and Approval/Disapproval of Plan.

The Planning Commission shall consider all official reports, comments and recommendations as provided in §24-304 of this Chapter. The Planning Commission shall render a decision in conformance with §22-308 of this Chapter. The following constitutes the type of action the Planning Commission may take:

- A. The Planning Commission may disapprove the preliminary plan, in which case it shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite the provisions of this Chapter relied upon.
- B. Approval of the preliminary plan by the Planning Commission shall constitute approval of the subdivision or land development as to the character and intensity of development, the arrangement and approximate dimensions of streets, lots and other planned features. The approval binds the applicant to proceed with the installation of the required improvements and/or to arrange for a form of financial security to cover installation of improvements and to prepare the final plan. Approval of the preliminary plan does not authorize the sale of lots, property or the recording of the preliminary plan. The Planning Commission shall provide written notification to the applicant, in conformance to §22-308 of this Chapter.
- C. No tree clearing, grading and/or earth disturbance (except for soil analysis for proposed sewage disposal systems) shall be permitted on a site prior to preliminary plan approval.

(Ord. 2009-____, --/2009, §403)

§22-404. Preliminary Plan Drafting Standards.

1. The preliminary plan of a proposed subdivision or land development shall be clearly and legibly drawn to a scale not greater than:
 - A. One inch equals 50 feet for a property in excess of two acres.
 - B. One inch equals 20 feet for a property equal to or less than two acres.
2. The original drawing and all submitted prints thereof shall be made on a sheet size of 24 inches by 36 inches.
3. All dimensions shall be set in feet and decimal parts thereof, and bearings in degrees, minutes and seconds.

4. If the preliminary plan requires more than one sheet, a key diagram showing relative location of the several sections shall be drawn on each sheet, and appropriately labeled with match lines.
5. Preliminary plans shall be so prepared and shall bear an adequate legend to indicate clearly which features are existing and those which are proposed.
6. The survey shall not have an error of closure greater than one foot in 10,000 feet.
(Ord. 2009-____, -/-/2009, §404)

§22-405. Preliminary Plan-Existing Conditions.

The preliminary plan shall contain the following information:

- A. Certification of ownership, including:
 - (1) The name and address of record owner, with source of title by deed book and page number and affidavit of ownership that carries a notarial seal. If the owner of record is a corporation or similar legal entity, the names and titles of all corporate officers, directors and stockholders owning more than five percent of any class of stock shall be provided within the affidavit of ownership.
 - (2) Name and address of applicant if different from owner. If the applicant is a corporation, provide name and titles of all corporate officers, directors and stockholders owning more than five percent of any class of stock.
- B. Name of proposed subdivision or land development, labeled as the “preliminary plan”.
- C. Name and address of registered engineer, or registered land surveyor, responsible for the subdivision plan or land development plan, including certification of the accuracy of the plan and its conformance to the provisions of this Chapter.
- D. North point, graphic scale and date including the month, day and year that the original drawing was completed and the month, day and year that the original drawing was revised for each revision.
- E. Total tract boundaries of the property being subdivided, showing bearings and distances, with bearings not less than the nearest ten seconds and distances to the nearest one-hundredths of a foot. The total size of the property shall be listed in both acreage and square feet.

- F. The names of all adjoining landowners, including block and lot numbers from the Luzerne County Assessor's Office.
- G. All existing streets, including streets of record (recorded but not constructed) on or abutting the tract, including names, right-of-way widths, cartway (pavement) widths and approximate grades.
- H. All existing sewer lines, water lines, fire hydrants, utility transmission lines, utility easements or utility rights-of-way, culverts, storm drains, bridges, railroad rights-of-way and other significant human-made features within the proposed subdivision or land development.
- I. All existing building or structures within the boundaries of the proposed subdivision or land development.
- J. The zoning district or districts, delineated upon the plan, along with the required building setback line and/or the proposed placement of each building shall be shown, and where corner lots are involved, the required setback lines on both streets shall be shown.
- K. (1) Original topography providing the contour lines at vertical intervals of:
- (a) Not more than five feet for land with an average natural slope of five percent or less.
 - (b) Not more than ten feet for land with an average natural slope exceeding five percent.
 - (c) Not more than 20 feet for land with an average natural slope exceeding 15 percent.
- (1) Topography for major subdivisions or land development shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.
- L. Existing watercourses, streams, ponds, wetlands, floodplain and/or flood prone areas, wooded areas, tree masses and rock outcrops within the proposed subdivision or land development.
- M. (1) With regard to wetlands, all plans must specifically address the subject of as to whether any wetlands are located upon the site. If no wetlands are located within the site, a certification of the absence of wetlands shall be so noted upon the plan, which is certified by a person with appropriate training and experience in the identification of wetlands. If wetlands are located within the site, a delineation of all wetlands boundaries, upon the site shall be provided by a person with appropriate training and experience in the identification of wetlands. The inclusion of wetlands upon the site shall require a complete survey, delineation and total acreage of said wetlands boundaries included upon the plans.
- (2) Any parcels or portions thereof, which are not intended and/or proposed to be developed to be in any manner including, but not limited to, new structures may, at the discretion of the Planning Commission, be temporarily exempt from providing the information required under Subparagraph (1) of this Paragraph M. subject to clearly indicating such areas upon the plan and:
- (a) Including written notification of the upon the plan with a legend that outlines the boundaries of areas not to be developed.
 - (b) The inclusion deed restrictions upon parcels which prohibits development on such areas until compliance with Subparagraph (1) of this Paragraph M. is met.
- N. A location map at a scale of not greater than one inch equals 2,000 feet, indicating the relation of the site to its geographic proximity within the Township.

§22-406. Preliminary Plans-Proposed Development.

The preliminary plans shall contain and include the following information:

- A. Lot layout and related features which shall indicate and provide:
 - (1) The total number of lots proposed for the site, with identification numbers.
 - (2) The dimensions and area of all lots, expressed in either square feet or acres.
 - (3) The building setbacks for all lots along each street, or in the case of a land development, the proposed placement of each building along each street, and the proposed use of each building.
 - (4) Proposed open space, parks, playgrounds or recreational facilities, with any governing conditions thereof.
 - (5) Copies of proposed deed restrictions, easements and protective covenants referenced on the plan.
 - (6) Proposed contour lines at vertical intervals of five feet of the entire site.
 - (7) Location, width and purpose of proposed easements and utility right-of-way.
 - (8) In the case of wetlands, total acreage of any such area proposed to be disturbed.
- B. Street and right-of-way layout which shall indicate and/or provide:
 - (1) The location of all proposed streets and existing streets (public and private) within the site and abutting or adjoining the site.
 - (2) The location, right-of-way and cartway of all proposed streets, with a statement of any condition governing their use and the right-of-way and cartway of any existing streets (public or private) to which the proposed street will intersect.
 - (3) Suggested street names, in accordance with §22-809 of this Chapter, the location of street signs in accordance with §22-810 of this Chapter and the location of traffic control signs in accordance with §22-811 of this Chapter.
 - (4) The beginning and end point of proposed street construction.

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- (5) Location, width and purpose of proposed easement and utility right-of-way.
 - (6) The location of sidewalks.
 - C. (1) A subdivision and/or land development, when being serviced by sanitary sewers, shall be connected to public sewers. The developer shall provide a letter of commitment from the Plains Township Sewer Authority providing notice that said Authority can adequately serve the proposed subdivision or land development and accept the conveyance of sewage for treatment and disposal, including any conditions required for the provision of service. If applicable, written approval from any adjoining municipality regarding the conveyance of sewage into their system to access intended conveyance of sewage to facilities of the subject Township Sanitary Authority shall also be required. The following information shall be provided upon the plan.
 - (a) The layout, size and material of sanitary sewers within the site.
 - (b) Location of manholes with invert elevation of flow line and grade at the top of each manhole.
 - (c) Location of laterals.
 - (2) When serviced by on-lot sewage disposal, a test pit shall be required for each lot within a proposed subdivision and/or land development. The following information shall be provided upon the plan:
 - (a) Location of test pits sites for each lot.
 - (b) Location of soil percolation test sites.
 - (c) Location and extent of various soil types within the site with DEP definitions for each.
 - (d) Proposed or typical location of building and/or structure with proposed location of wells, if applicable.
 - (e) Copy of the applicable report and findings of the Township's Sewage Enforcement Officer.
 - D. (1) A subdivision and/or land development, when being serviced by a centralized water system shall indicate and/or provide the following:
 - (a) If to be served by an existing water company or authority, a letter from the same indicating said company or authority can adequately serve the proposed subdivision or land development, including any conditions required for the provision of service.
 - (b) Location and size of all waterlines.
 - (c) Location of fire hydrants.
 - (2) A subdivision and/or land development, when individual lots are serviced by individual wells shall indicate the proposed location of the subject wells upon the plans.
 - E. Storm drainage shall indicate and/or provide:
 - (1) The location, size and material of all storm drainage facilities.
 - (2) Watershed areas for each drainage facility or swale.
 - F. (1) A letter from the applicable public utility company which provides electrical service and/or gas service to the Township, indicating said company can and shall adequately serve the proposed subdivision or land development, including any conditions required for the provision of service.
 - (2) All plans shall contain the following notice in compliance with PA. Act 287:

Call Before You Dig!

Before You Dig Anywhere in Pennsylvania

Call 1-800-242-1776

PA Act 287 of 1974 Requires 3
Working Days Notice to Utilities
Before You Excavate, Drill or Blast
Pennsylvania One Call System Inc.

(Ord. 2009-____, --/2009, §406)

§22-407. Additional Materials Submitted with Preliminary Plan.

The following material and information shall be submitted with the preliminary plan:

- A. Proof of ownership including a copy of the existing deed.
- B. Preliminary plan application and required fee.
- C. The required fee for Luzerne County Planning Commission review.
- D. If applicable, a copy of the application for a highway occupancy permit, as required by the Pennsylvania Department of Transportation, Luzerne County and/or Plains Township.
- E. Construction plans which include, where applicable, preliminary design, preliminary profiles, typical cross-sections and specifications for the construction or installation of streets, sidewalks, sanitary sewers, sewage treatment facilities, storm drainage facilities, water lines, bridges or culverts.
 - (1) Cross-sections for proposed streets and sidewalks shall be provided at intervals of 50 feet and at intersections and the limits of work.
 - (2) Engineering design of proposed bridges or culverts shall be prepared in conformance with the latest Pennsylvania Department of Transportation design manuals.
 - (3) Engineering design of a proposed central sewage system and/or central water supply and distribution system shall be accompanied by all permit applications for all respective utilities.
- F. Any offers of dedication of proposed improvements, signed by the owner of the property and properly notarized.
- G. A sewage planning module and all accompanying data as required by the Pennsylvania Department of Environmental Protection.
- H. A copy of the soil erosion and sedimentation control plan, application and related information as required by the Luzerne County Conservation District.
- I. Stormwater management plans, including drawings of present and proposed contours, stormwater runoff data and facilities for stormwater drainage.
- J. In the case of delineation of wetlands, the wetland boundaries, as provided by the developer, must be verified by either the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection based upon a jurisdictional determination of said agencies.
- K. Estimated costs by item for required improvements in accordance with §22-703 of this Chapter.
- L. A community association document, also known as a homeowners association document or a condominium association document, shall be provided for all subdivision and land development applications which propose lands or facilities to be used or owned in common by all the residents of that subdivision or land development and not deeded to the Plains Township. The elements of the community association document shall include, but shall not necessarily be limited to the following:
 - (1) A description of all lands and facilities to be owned by the community association. This description shall include a map of the proposal highlighting the precise location of those lands and facilities.

- (2) Statements setting forth the powers, duties and responsibilities of the community association, including the services to be provided.
- (3) A declaration of covenants, conditions and restrictions, giving perpetual easement to the lands and facilities owned by the community association. The declaration shall be a legal document which also provides for automatic association membership for all owners in the subdivision or land development and shall describe the mechanism by which owners participate in the association, including voting, elections and meetings. Furthermore, it shall give power to the association to own and maintain the common property and to make and enforce rules.
- (4) Statements prescribing the process by which community association decisions are reached and setting forth the authority to act.
- (5) Statements requiring each owner within the subdivision or land development to become a member of the community association.
- (6) Statements setting cross covenants or contractual terms binding each owner to all other owners for mutual benefit and enforcement.
- (7) Requirements for all owners to provide a pro rata share of the cost of the operations of the community association.
- (8) A process of collection and enforcement to obtain funds from owners who fail to comply.
- (9) A process for transition of control of the community association from the developer to the unit owners.
- (10) Statements describing how the lands and facilities of the community association will be insured, including limit of liability.
- (11) Provisions for the dissolution of the community association, in the event the association should become unviable.

M. Any other information deemed necessary by the Planning Commission, including, but not limited to, any impact analysis, as defined in Part 2 of this Chapter.

N. An executed written agreement under which the applicant agrees to fully reimburse Plains Township for any and all consulting fees incurred resulting from the review of plans, applications and supporting information, data and/or reports or studies. In providing for such an agreement, the Planning Commission, at its discretion, may require the applicant to establish an escrow account in a manner arranged for the Township's withdrawal of funds for the payment of consulting fees incurred by the Township.

(Ord. 2009-____, --/2009, §407)

Part 5**Final Plan****§22-501. Submission and Review Procedure.**

1. The Planning Commission shall review the final plan to determine its completeness including, but not limited to, conformance with the standards and data as set forth in Part 4 and any changes or modifications required by the Planning Commission as a condition of granting approval of the preliminary plan.

2. The applicant shall submit the final plan within one year from the date of the approval of the preliminary plan by the Planning Commission, unless an extension in writing has been approved by the Planning Commission. Failure to comply with the one-year time requirement, shall render the preliminary plan and any accompanying approval as null and void, thus requiring a new submission of the preliminary plan.

(Ord. 2009-____, --/2009, §501)

§22-502. Review and Approval/Disapproval of Plan.

The Planning Commission shall consider the reports, comments and recommendations as provided in §22-304 Subsection 2 of this Chapter. The Planning Commission shall render a decision in conformance with §22-308 of this Chapter. The following constitutes the type of action the Planning Commission may take:

A. The Planning Commission may disapprove the final plan, in which case it shall specify the defects found in the application and describe the requirements which have not been met and shall, in each case, cite the provisions of this Chapter relied upon. The Planning Commission shall provide written notification to the applicant, in conformance to §22-308 of this Chapter.

B. The Planning Commission may approve the final plan as submitted. Such approval by the Planning Commission shall allow the applicant to file said final plan with the Luzerne County Recorder of Deeds Office. The Planning Commission shall provide written notification to the applicant in conformance to §22-308 of this Chapter.

(Ord. 2009-____, --/2009, §502)

§22-503. Final Plan Drafting Standards.

1. The final plan of a proposed subdivision or land development shall be at a scale not greater than:

A. One inch equals 50 feet for a property in excess of two acres.

B. One inch equals 20 feet for a property equal to or less than two acres.

2. The original drawing, and all submitted prints thereof shall be made on a sheet size of 24 inches by 36 inches.

(Ord. 2009-____, --/2009, §503)

§22-504. Final Plan Requirements.

The final plan shall include all additional information and any changes required by the Planning Commission in granting approval of the preliminary plan. It shall not be necessary to resubmit all supporting data, required under the preliminary plan, provided there have been no changes. In the event of any changes, the procedures and requirements outlined in §22-309 of this Chapter shall apply. The following additional information shall be included on the final plan:

- A. Drawings and/or plans shall be titled “final plan”.
- B. An accurate field boundary survey of the entire site which shall be balanced and close with an error of closure not to exceed one foot in 10,000 feet.
- C. The location and material of all permanent monuments and lot markers.
- D. Written certification by the responsible land surveyor, which attests to the accuracy of the survey and compliance with the applicable provisions of this Chapter.
 - E. (1) A three-inch by five-inch blocked space shall be provided on the final plan for the signatures of the Chairperson and Secretary of the Township Planning Commission indicating approval of the final plan and date of the same.
 - (2) A separate three-inch by five-inch blocked space shall also be provided on the final plan for the appropriate signature and/or seal which indicates compliance with required review procedure by the Luzerne County Planning Commission.
- F. The latest source of title to the property as shown by deed, page number and book of the Luzerne County Recorder of Deeds Office.
- G. The exact dimensions of all streets, including right-of-way and cartway; lot lines, areas and distances; utility and other easements; and all land to be dedicated to public use.
- H. All lot lines shall be completely dimensioned in feet if straight, and if curved, by designating length of arc and radius (in feet) and central angle (in degrees, minutes and seconds). All internal angles within the lots shall be designated to the closest second.
- I. Typical final street cross-section drawings for all proposed streets and/or roads showing the following:
 - (1) Typical cut sections.
 - (2) Typical fill sections.
 - (3) Typical superelevated sections.
 - (4) Typical parallel drainage.
- J. Final profiles along the top of the cartway (pavement) centerline showing existing and final grade lines and printed elevations of the final grade line at 50-foot intervals, unless otherwise required by this Chapter.
- K. The zoning district or districts, delineated upon the plan, along with the required building setback line and/or the proposed placement of each building shall be shown, and where corner lots are involved, the setback lines on both streets shall be shown.
- L. If applicable, the number of the approved highway occupancy permit issued by the Pennsylvania Department of Transportation or the notation that deed restrictions prohibit development or improvements to the site or parcels to be created thereunder until the subject highway occupancy permit is secured.
- M. A space shall be provided on the lower edge of the final plan for acknowledge of receipt and recording of the plan by the Luzerne County Recorder of Deeds Office.

(Ord. 2009-____, --/2009, §504)

§22-505. Additional Material-Submitted with Final Plan.

The following material and information shall be submitted with and/or upon the final plan:

- A. Certification of ownership, including:
 - (1) The name and address of record owner, with source of title by deed book and page number and affidavit of ownership that carries a notarial seal. If the owner of record is a corporation or similar legal entity, the names and titles of all corporate officers, directors and stockholders owning more than five percent of any class of stock shall be pro-

vided within the affidavit of ownership.

(2) Name and address of applicant if different from owner. If the applicant is a corporation, provide name and titles of all corporate officers, directors and stockholders owning more than five percent of any class of stock.

B. Certification of plan's compliance with all applicable terms and conditions required by this Chapter and/or the Planning Commission and any offer of dedication, if applicable, signed by the owner of the property and notarized.

C. (1) If applicable approved highway occupancy permits, as required by the Pennsylvania Department of Transportation, Luzerne County and/or Plains Township.

(2) If the location of any driveways and/or any proposed points of access have not yet been determined, a deed restriction shall be required for the subject parcels that prohibits development or improvements to the site and/or any lots or parcels until the appropriate highway occupancy permit is secured. Said restriction shall also be included upon the plan.

D. Copies of final deed restrictions, those existing and those to be included upon recording, if any.

E. All final covenants running with the land governing the reservation and maintenance of dedicated or undedicated land, open space and/or common facilities.

F. Written certification from the Pennsylvania Department of Environmental Protection approving the required planning module and any supporting data.

G. Soil erosion and sedimentation control plan approved by the Luzerne County Conservation District, and if applicable an approved NPDES permit.

H. Final drainage/stormwater management plans.

I. Final construction plans and subsequent "as built" drawings of all sanitary sewer, water distribution and storm drainage systems, showing their exact location, size and invert elevations; the location of all manholes, inlets and culverts; and final profiles, cross-sections and specifications for proposed streets, sidewalks, sanitary sewers, water distribution systems and storm drainage systems, with written certification from the applicant's engineer which notes that the above plans and/or drawings are in compliance with the applicable governing design standards and/or have been installed in compliance with said plans or drawings. The submission of the above referenced "as built" drawings shall precede the release of any remaining funds placed as a financial security by the developer.

J. If any streets are not offered for dedication to public use, the applicant shall submit and record with the plan a copy of the agreement made and executed on behalf of the applicant, including his or her heirs or assigns, subject to review by the Planning Commission's Solicitor and approval by Planning Commission, establishing the conditions under which the streets may be later offered for dedication. Said conditions shall include, although not limited to, that the subject streets shall conform to the Township's design specifications at such time the offer of dedication is made or that the owners of the lots within the subject subdivision shall include with their offer of dedication sufficient funds, as estimated by the Township Engineer, to provide the needed improvements required for conformance to the Township's design specifications at the time of such dedication.

K. A final community association document in accordance with the provisions of §22-407 Paragraph L. of this Chapter.

L. An agreement as part of the community association document, homeowners association document or a condominium association document, for any streets not offered for dedication, stating who shall be responsible for the improvements and maintenance of such streets. If such an association is deemed to be responsible, the association must be legally organized prior to approval of the final plan.

- M. A statement setting forth any zoning variances or subdivision waivers/modification obtained.
- N. A financial security, in accordance with §22-704 of this Chapter, subject to the approval by the Planning Commission, for the installation of required improvements, unless all such improvements are installed and completed to design specifications prior to final plan approval.
- O. A financial security for the maintenance of improvements, in accordance with §22-710 of this Chapter.
- Q. If applicable, written certification from the Township Sanitary Authority granting final approval for the acceptance of the conveyance of sewage for treatment and disposal from the proposed subdivision and/or land development.
- R. Written certification from the appropriate public utility company which authorizes and approves the provision of water, gas and electrical service for the proposed subdivision and/or land development.
- S. All required state or federal environmental permits.
- T. All required permits and/or approvals from either the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection for site development activities which affects delineated wetlands.
- U. The cost of all consulting fees and costs incurred by the Township for the review of the application, plan and supporting information, data and/or reports or studies including, but not limited to, any required impact analysis and site inspections to ensure compliance with the terms of approval and required improvements.

(Ord. 2009-____, --/2009, §505)

§22-506. Recording of Plan.

The applicant shall record the final plan in accordance with the requirements as set forth in §22-310 of this Chapter.

(Ord. 2009-____, --/2009, §506)

Part 6**Minor Subdivision/Land Development****§22-601. Only Final Plan Required.**

The classification of a proposed subdivision as a “minor subdivision” shall only require the submission, review and approval of only a final plan. A land development classified as a “minor land development” shall only require the submission, review and approval of only a final plan. The classification shall be based upon the definitions of terms “minor subdivision” and “minor land development” as provided for under Part 2 of this Chapter.

(Ord. 2009-____, --/2009, §601)

§22-602. Submission Procedure.

The submission procedure for a minor subdivision or minor land development shall be in accordance with §22-303 of this Chapter.

(Ord. 2009-____, --/2009, §602)

§22-603. Distribution of Plan.

The distribution of a minor subdivision plan or minor land development plan shall be in accordance with §22-304 of this Chapter.

(Ord. 2009-____, --/2009, §603)

§22-604. Drafting Standards for Minor Plans.

1. The final plan for a proposed minor subdivision or minor land development shall be clearly and legibly drawn to a scale not greater than:

- A. One inch equals 50 feet for a property in excess of two acres.
- B. One inch equals 20 feet for a property equal to or less than two acres.

2. The original drawing, and all submitted prints thereof shall be made on a sheet size of 24 inches by 36 inches.

(Ord. 2009-____, --/2009, §604)

§22-605. Requirements for Minor Plans.

The final plan shall be noted as “minor subdivision final plan” or “minor land development final plan” and contain the following information:

- A. Certification of ownership, including:
 - (1) The name and address of record owner, with source of title by deed book and page number and affidavit of ownership that carries a notarial seal. If the owner of record is a corporation or similar legal entity, the names and titles of all corporate officers, directors and stockholders owning more than five percent of any class of stock shall be provided within the affidavit of ownership.
 - (2) Name and address of applicant if different from owner. If the applicant is a corporation, provide name and titles of all corporate officers, directors and stockholders owning more than five percent of any class of stock.
- B. Name of proposed subdivision or land development.
- C. Name and address of registered engineer and/or registered land surveyor, responsible for the subdivision plan or land development plan, including certification of the accuracy of

the plan for an error of closure not to exceed one foot in 10,000 feet and its conformance to the applicable provisions of this Chapter.

D. North point, graphic scale and date, including the month, day and year that the original drawing was completed and the month, day and year that the original drawing was revised for each revision.

E. Total tract boundaries of the property being subdivided and/or developed, showing bearings and distances, and total size of the property, expressed in acreage and square feet.

F. The total number of proposed lots, within a subdivision, with identification numbers for each or for a land development, the location of buildings upon the lot with identification numbers for each. Markers shall be provided for all proposed lots. Markers shall consist of either iron or steel bars at least 36 inches long and not less than five-eighths inch in diameter placed flush with the surrounding grade.

G. The dimensions and area of all lots, expressed in both square feet and acres.

H. The zoning district or districts, delineated upon the plan, along with the required building setback line and/or the proposed placement of each building shall be shown, and where corner lots are involved, the setback lines on both streets shall be shown.

I. The required yard setbacks, as provided in the Zoning Ordinance [Chapter 27], for all lots along each street or in the case of a land development, the proposed placement of each building along each street and the proposed use of each building.

J. The location and dimensions of all existing structures, including accessory structures and off-street parking areas upon the subject property.

K. The distance of all existing structures to lot lines, front, rear and side, which will result upon approval of the plan.

L. The names of all adjoining property owners, including block and lot numbers from the Luzerne County Assessors Office.

M. All existing streets, public or private, including streets of record (recorded but not constructed) on or abutting the subject tract, including their names and right-of-way widths.

N. All existing sewer lines, water lines, fire hydrants, utility transmission lines, utility easements or rights-of-way, culverts, storm drains, bridges, railroad rights-of-way, and other significant human-made features located within the boundaries of the proposed subdivision or land development.

O. Existing watercourses, streams, ponds, wetlands, floodplain and/or flood prone areas, wooded areas, tree masses and rock outcrops within the proposed subdivision or land development.

(1) With regard to wetlands, all plans must specifically address the subject of as to whether any wetlands are located upon the site. If no wetlands are located within the site, a certification of the absence of wetlands shall be so noted upon the plan, which is certified by a person with appropriate training and experience in the identification of wetlands. If wetlands are located within the site, a delineation of all wetlands boundaries, upon the site shall be provided by a person with appropriate training and experience in the identification of wetlands. The inclusion of wetlands upon the site shall require a complete survey, delineation and total acreage of said wetlands boundaries included upon the plans. The total acreage of any wetlands area proposed to be disturbed shall also be indicated upon the plans.

(2) Any parcels or portions thereof, which are not intended and/or proposed to be developed to be in any manner, including, but not limited to, new structures, may, at the discretion of the Planning Commission, be temporally exempt from providing the information required under Subparagraph (1) of this Paragraph O. subject to clearly indi-

cating such areas upon the plan and:

- (a) Including written notification of the upon the plan with a legend that outlines the boundaries of areas not to be developed.
- (b) The inclusion deed of restrictions upon parcels which prohibits development on such areas until compliance with Subparagraph (1) of this Paragraph O. is met.

P. Existing contour lines at vertical intervals of:

- (1) Not more than five feet for land with an average natural slope of five percent or less.
- (2) Not more than ten feet for land with an average natural slope exceeding five percent.
- (3) Not more than 20 feet for land with an average natural slope exceeding 15 percent.

Q. If the lots or development are to be serviced by individual on-lot sewage disposal:

- (1) The location of soil percolation test sites.
- (2) Location and extent of various soil types within the site with DEP definitions for each.
- (3) Proposed or typical location of building and/or structure with proposed location of wells, if applicable.
- (4) Copy of the applicable report and findings of the Township's Sewage Enforcement Officer.

R. All easements, existing and/or proposed, including their location, dimensions and purpose.

(Ord. 2009-____, --/2009, §605)

§22-606. Information to Be Submitted with Plan.

The following information, as applicable, shall be submitted with the final plan of a minor subdivision or minor land development.

- A. Proof of ownership including a copy of the existing deed.
- B. Application for minor subdivision plan or minor land development plan, and the required fee.
- C. Required fee for Luzerne County Planning Commission review.
- D. If applicable, an approved highway occupancy permit, as required by the Pennsylvania Department of Transportation or a deed restriction that prohibits development or improvements to the site or parcels to be created thereunder until the subject highway occupancy permit is secured.
- E. If applicable, a letter of commitment from the Plains Sewer Authority that said Authority can and shall adequately serve the proposed subdivision or land development and accept the conveyance of sewage for treatment and disposal, including any conditions required for the provision of service.
- F. (1) Written certification from the appropriate public utility company which authorizes and approves the provision of water, gas and electrical service for the proposed subdivision and/or land development, including any conditions required for the provision of service.
- (2) All plans shall contain the following notice in compliance with PA Act 287:

Call Before You Dig!

Before You Dig Anywhere in Pennsylvania

Call 1-800-242-1776

Pa Act 287 of 1974 Requires 3
Working Days Notice to Utilities
Before You Excavate, Drill or Blast
Pennsylvania One Call System Inc.

- G. If applicable, the Sewage Enforcement Officer's report and findings regarding percolation testing of the site for suitability of the site for any proposed on-lot sewage system as required by DEP.
- H. Copies of deed restrictions, those existing, and those to be included upon recording of plan.
- I. Copies of description of easements, existing easements of record and any proposed easements to be included upon recording of plan.
- J. In the case of delineation of wetlands, the wetland boundaries, as provided by the developer, must be verified by either the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection based upon a jurisdictional determination of said agencies and all required permits and/or approvals from either the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Protection for site development activities which affects delineated wetlands.
- K. A statement setting forth any zoning variances or subdivision waivers/modification obtained.
- L. If applicable a soil erosion and sedimentation control plan approved by the Luzerne County Conservation District, and if applicable an approved NPDES permit.
- M. An appropriate planning module for land development, approved by DEP.
- N. Any other information as required by the Planning Commission.
- O. The cost of all consulting fees incurred by the Township for the review of the application, plans and supporting formation, data and/or reports or studies, including but not limited to, any required impact analysis and site inspections of the property to ensure compliance with the terms of approval and required improvements.

(Ord. 2009-____, --/2009, §606)

§22-607. Recording of Plan.

The applicant shall record the final plan in accordance with the requirements as set forth in §22-310 of this Chapter.

(Ord. 2009-____, --/2009, §607)

Part 7**Assurances for Completion of Improvements****§22-701. Installation or Guarantee of Improvements.**

No plan shall be granted final approval until the applicant either:

- A. Installs all required improvements in accordance with the terms of approval and the applicable design standards of said improvements.
- B. Posts a form of financial security, acceptable to the Township, which shall be of sufficient amount to fully cover the costs of all required improvements in accordance with the terms of approval and the applicable design standards of said improvements.

(Ord. 2009-____, --/--/2009, §701)

§22-702. Types of Financial Guarantee.

1. A financial guarantee which shall be deemed as acceptable financial security for the purposes of this Chapter shall include:

- A. An unconditional and irrevocable letter of credit with authorization for drawing upon by the Township in the event of default or failure by the developer or applicant to complete the installation of required improvements.
- B. A restrictive escrow account.
- C. Other types of financial security which the Township may approve, which approval shall not be unreasonably withheld.

2. Such financial security shall be with a lending institution which is chartered by the federal government or the Commonwealth of Pennsylvania or with a bonding company which is legally authorized to conduct such business within the Commonwealth of Pennsylvania.

(Ord. 2009-____, --/--/2009, §702)

§22-703. Review by Solicitor.

1. When an applicant proposes to provide a financial security, said financial security shall be submitted to the Board of Commissioners and their Solicitor for review not less than 14 days prior to the public meeting of the Board of Commissioners at which the acceptance and/or approval of proposed financial security will be considered by the Board of Commissioners.

2. At the discretion of the Board of Commissioners, and when requested by the developer, in order to facilitate financing, the Board of Commissioners may furnish the developer with a signed copy of a letter indicating approval of the final plan contingent upon the developer obtaining a satisfactory financial security. The final plan or record plan shall not be signed nor recorded until the financial security agreement is executed.

3. The letter of conditional approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days unless a written extension is granted by the Board of Commissioners, such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.

(Ord. 2009-____, --/--/2009, §703)

§22-704. Amount of Financial Security.

The amount of financial security to be posted for the completion of required improvements shall be equal to 110 percent of the cost of completion, estimated as of 90 days following the scheduled

completion date. Said financial security shall be of sufficient amount to fully cover the costs of all required improvements in accordance with the terms of approval and the applicable design standards of said improvements or common amenities which may be required, including, but not limited to, roads, curbs, gutters, sidewalks, fire hydrants, stormwater detention and/or retention basins and other related drainage facilities, traffic control signs, street lights, street signs, recreational facilities, open space improvements, or buffer areas or screen plantings. The amount of the required financial security shall be based upon a written estimated cost of completion of required improvements, submitted by the developer or applicant, and prepared by a professional engineer, licensed as such by the Commonwealth. Said engineer shall certify in writing that his or her estimated cost for the completion of the required improvements is a fair and reasonable estimate. The Planning Commission, upon the recommendation of the Township Engineer, may for good cause shown, refuse to accept the developer's estimated cost. In cases where the Township and the developer or applicant are unable to agree on an estimate, then the estimate shall be recalculated and recertified by another licensed professional engineer, mutually accepted by the Township and the developer or applicant. The estimate certified by the third party engineer, being presumed fair and reasonable, shall be deemed the final estimate. In the event that the third party engineer is chosen, the cost of his or her services shall be paid equally by the Township and the developer or applicant.

(Ord. 2009-____, --/2009, §704)

§22-705. Required Time Period for Completion.

1. The financial security shall provide for, and secure to the public the completion of the required improvements within one year of the date fixed on the final plan for the completion of such improvements.

2. If the applicant in posting the financial security requires more than one year from the date of posting the financial security to complete the required improvements, the amount of financial security may be increased by an additional ten percent for each one-year period beyond the anniversary date from posting of the financial security or to an amount not exceeding 110 percent of the cost of completing the required improvements as reestablished on or before the expiration of the preceding one-year period.

(Ord. 2009-____, --/2009, §705)

§22-706. Phasing of Development.

In the case where development is projected over a period of years, the Planning Commission may authorize the submission of final plans by sections or phases of development subject to such requirements or guarantees as to improvements in future sections or phases of development as it finds essential for the protection of any finally approved section of the development.

(Ord. 2009-____, --/2009, §706)

§22-707. Start of Work Notice.

The applicant and/or developer shall provide the Township and the Township Engineer with not less than a 72-hour notice prior to the commencement of work at the site.

(Ord. 2009-____, --/2009, §707)

§22-708. Periodic Inspections During Construction.

The Township Engineer shall make periodic inspections to the site during the construction of improvements to ensure the work is in conformance with the approved plans. The Township Engineer shall promptly provide the Planning Commission and the developer with a written report after any such inspection.

(Ord. 2009-____, --/2009, §708)

§22-709. Release of Portions of Financial Security.

1. As the work of installing the required improvements proceeds, the party posting financial security may request the Board of Commissioners to release or authorize the release, from time to time, of such portions of the financial security necessary for payment to the contractor or contractors performing the work.

2. Any such request shall be in writing addressed to the Board of Commissioners. The Board of Commissioners shall have 45 days from receipt of such request within which to allow the Township Engineer to certify in writing that such portion of the work upon the improvements has been completed in accordance with the approved plan.

3. Upon such certification the Board of Commissioners shall authorize release by the bonding company or lending institution of an amount as estimated by the Township Engineer as fair in representing the value of the completed improvements. Failure of the Board of Commissioners to act within the said 45-day period shall be deemed an approval of the release of the funds requested.

4. The Board of Commissioners may, prior to final release at the time of completion and certification by its Engineer, require retention of ten percent of the estimated cost of the aforesaid improvements.

(Ord. 2009-____, --/2009, §709)

§22-710. Financial Security for Maintenance of Improvements.

1. Where the Plains Township Board of Commissioners accepts dedication of all or some of the required improvements following completion, it shall require the posting of financial security to secure the structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as shown on the final plan for a term not to exceed 18 months from the date of acceptance of dedication.

2. Said financial security shall be of the same type as otherwise required in §22-702 of this Chapter with regard to installation of such improvements, and the amount of the financial security shall not exceed 15 percent of the actual cost of installation of said improvements.

(Ord. 2009-____, --/2009, §710)

§22-711. Financial Security for Improvements under Jurisdiction of a Public Utility or Municipal Authority.

If water mains or sanitary sewer lines or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or Township Authority separate and distinct from the Township, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this Chapter. A copy of any such executed financial security shall be provided to the Planning Commission not less than 14 days prior to its next regularly scheduled meeting at which the final plan shall be considered.

(Ord. 2009-____, --/2009, §711)

§22-712. Issuance of Permits When Financial Security Has Been Posted.

1. If financial security has been provided in lieu of the completion of improvements required as a condition for final approval as set forth in this Part, the Township shall not condition the issuance of zoning, building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as shown on the final plan upon actual completion of the improvements shown on the approved final plan.

2. If a financial security has been provided certificates of zoning compliance or

occupancy permits for any building or buildings to be erected shall not be withheld following:

- A. The improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition.
- B. The completion of all other improvements as shown on the approved final plan, either upon the lot or lots or beyond the lot or lots in question, if such improvements are deemed necessary for the reasonable use of or occupancy of the building or buildings.

(Ord. 2009-____, --/2009, §712)

§22-713. Completion of Required Improvements.

1. When the applicant has completed all of the necessary and required improvements, the applicant shall notify the Board of Commissioners in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Township Engineer.

2. The Board of Commissioners shall, within ten days after receipt of such notice, direct and authorize the Township Engineer to inspect all the aforesaid improvements.

The Township Engineer shall thereupon file a report, in writing with the Board of Commissioners, and shall promptly mail a copy of the same to the developer. The report by the Township Engineer shall be made and mailed within 30 days from the aforesaid authorization from the Board of Commissioners.

3. The report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part. If said improvements, or any portion thereof be rejected, said report shall contain a statement of the reasons for such rejection.

4. The Board of Commissioners shall notify the developer, in writing, within 15 days of receipt of the Township's Engineer's report, by certified or registered mail of the action of the Board of Commissioners with relation thereto.

5. If the Board of Commissioners or the Township Engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved, and the applicant shall be released from all liability, pursuant to its performance guarantee bond or other security agreement.

(Ord. 2009-____, --/2009, §714)

§22-714. Responsibility of Applicant upon Disapproval of Improvements.

If any portion of the said improvements shall not be approved or shall be rejected by the Board of Commissioners, the applicant shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined in §22-713, shall be followed.

(Ord. 2009-____, --/2009, §714)

§22-715. Applicant's Right to Contest Action.

Nothing herein, however shall be construed in limitation of the applicant's right to contest or question by legal proceedings or otherwise any determination of the Board of Commissioners or Township Engineer.

(Ord. 2009-____, --/2009, §715)

§22-716. Remedies to Effect Completion of Improvements.

1. In the event that any improvements which may be required have not been installed as provided in this Chapter or in accordance with the approved final plan, or after having been installed such work has been damaged prior to final acceptance of the improvements due to natural causes, lack of maintenance, vandalism, work of others or other causes, the Township can enforce any corporate bond or other security by appropriate legal and equitable remedies.

2. If the proceeds of such bond or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Township may, at its option, install part of such improvements in all or part of the subdivision or land development, may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements.

3. All of the proceeds, whether resulting from the security or from any legal or equitable action or from both brought against the applicant shall be used solely for the installation of the improvements covered by such security, and not for any other Township purpose.

(Ord. 2009-____, --/2009, §716)

§22-717. Engineering and Consulting Fees.

In addition to the fees noted in §22-111 of this Chapter, the developer shall be responsible for payment of all engineering fees or other consulting fees related to the review and inspection of plans and subsequent improvements, including but not limited to costs incurred by the Township as related to §§22-704, 22-705, 22-708, 22-709, 22-710 and 22-713 of this Chapter. The developer shall also be required to fully reimburse the Township for any engineering and/or other consulting fees which the Township may incur for the review of any required studies and/or reports within the context of an “impact analysis” as so defined in Part 2 of this Chapter. Such expenses shall be reasonable and in accordance with the ordinary and customary fees charged by the engineer or consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the Township when the fees are not reimbursed or otherwise imposed on the applicants. Upon notification by the Township of such costs, the developer shall provide a certified check or money order to the Township to fully reimburse the Township for said engineering fees, within 30 days from the billing date from Plains Township.

(Ord. 2009-____, --/2009, §717)

§22-718. Procedure for Disputes over Consulting Fees.

1. An applicant may contest the amount to be reimbursed to the Township for consulting fees. The applicant shall notify the Township, in writing, within ten working days of the billing date, as to which consulting fees are disputed as being unreasonable and/or unnecessary. The applicant shall forfeit any right to contest the amount to be reimbursed to the Township for consulting fees, if written notification is not submitted within the prescribed ten working days of the date of the billing.

2. In such cases, the Planning Commission shall not delay or disapprove a subdivision or land development application or any permit related to development due to the applicants written request to contest certain consulting expenses.

3. If, within 20 days from the date of billing, the Township and the applicant cannot agree on the amount of consulting expenses which are reasonable and necessary, then the applicant and the Planning Commission shall jointly, by mutual agreement, appoint another professional engineer, licensed as such in the Commonwealth of Pennsylvania, to review the said expenses and make a determination as to the amount thereof which is reasonable and necessary.

4. The professional engineer so appointed shall hear such evidence and review such documentation as the professional engineer in his or her sole opinion deems necessary and render a decision within 50 days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.

5. In the event that the Planning Commission and applicant cannot agree upon a professional engineer to be appointed within 20 days of the billing date, then upon application of either party, the President Judge of the Luzerne County Court of

Common Pleas (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such engineer, who shall be neither the Township Engineer nor any professional engineer who has been retained by, or performed services for, the Township or the applicant within the preceding five years.

6. The fee of the appointed professional engineer for determining the reasonable and necessary consulting expenses shall be paid by the applicant if the amount of the payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by \$1,000 or more, the Township shall pay the fee of the professional engineer. If neither of the afar mentioned cases apply, the Township and the applicant shall each pay one-half of the fee of the appointed professional engineer.

(Ord. 2009-____, -/-/2009, §718)

Part 8**Design Standards****§22-801. Application.**

1. The design standards and requirements as outlined in this Part 8 shall be utilized by the Planning Commission in evaluating the plans for all proposed subdivisions and land developments.

2. Any request to modify the design standards and requirements of this Part shall be in accordance with §22-110 of this Chapter.

(Ord. 2009-____, --/2009, §800)

§22-802. General Requirements.

1. *Planning.* The development shall generally conform to policies, goals and objectives of the Plains Township Comprehensive Plan. The streets, drainage, rights-of-way, school sites, public parks and playgrounds as shown upon the officially adopted Comprehensive Plan shall be considered in the approval of all plans. The applicant shall submit a narrative outlining how the proposed development conforms to the above referenced plan.

2. *Contiguous lands.* Where the owner of a site under consideration for development owns contiguous land that may be suitable for development, the subdivision plan shall include all contiguous lands. This provision, however, may be waived in full or in part by the Planning Commission, if it is not considered essential to the evaluation of the plans for the current development tract.

3. *Remnants; development design; neighboring development.* All portions of a tract being subdivided shall be taken up in lots, streets, open lands or other proposed uses so that remnants and landlocked areas shall not be created. The layout of a subdivision shall also be planned with consideration for existing nearby developments or neighborhoods so that they are coordinated in terms of interconnection of open space, traffic movement, drainage and other reasonable considerations.

4. *Improvement specifications.* The design standards and requirements as outlined in this Part 8 shall be utilized by the Planning Commission in evaluating the plans for all proposed subdivisions and land developments. Altered design standards, including more stringent specifications may be required, in cases where the Planning Commission finds that such specifications are essential to protect the health, safety and general welfare of the residents of Plain Township and/or the environment of the Township.

5. *Other ordinances.* Whenever a Township, county, state or federal statute and/or regulation imposes a higher or more restrictive standard than those contained in this Chapter, the higher or more restrictive standard shall apply.

(Ord. 2009-____, --/2009, §801)

§22-803. Site Suitability for Development.

1. The land for any proposed subdivision or land development shall be suited for the purpose of intended use.

2. Land which the Planning Commission deems unsuitable for subdivision or development due to flooding, improper drainage, rock formations, adverse earth formations or topography, steep slopes, utility easements or other features which may reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate mitigation methods are formulated by the

applicant and approved by the Planning Commission upon the recommendation of the Township Engineer.

3. The approval of a plan for any proposed subdivision or land development shall not constitute a representation, guarantee or warranty of any kind by the Township, any official, any employee or agent thereof of the practicability or safety of the use of such land or development, and shall create no liability upon the Township, its officials, employees or agents.

(Ord. 2009-____, --/2009, §802)

§22-804. Natural Features.

Care shall be taken to preserve natural features such as agricultural land, woodlands, wetlands, watercourses, bodies of water, riparian lands, scenic views and historical and cultural features and/or resources, such as buildings and stone walls, which maintains the attractiveness and value of the land. Damming, filling, relocating or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural watercourse shall not be permitted except with the approval of the Township and, where appropriate, the PA DEP and the U.S. Army Corps of Engineers.

A. *Groundwater resources.* Proposed subdivisions and land developments shall to the greatest practical extent be designed in a manner to cause the least practicable disturbance to natural infiltration and percolation of precipitation to the groundwater table, through careful consideration of vegetation and land disturbance activities. The placement of streets, buildings and other impervious surfaces shall to the greatest practical extent attempt to maximize permeability where precipitation is most likely to infiltrate and recharge the groundwater.

B. *Streams, swales, springs and other lowland areas.*

(1) Stream channels, swales, springs and other lowland areas are resources that warrant restrictive land use controls because of flooding hazards to human life and property, their groundwater recharge functions, their importance to water quality and the health of aquatic communities, and their wildlife habitats. They are generally poorly suited for on-site subsurface sewage disposal systems.

(2) To the greatest practical extent the following activities shall be minimized:

(a) Disturbance to streams and drainage swales.

(b) Disturbance to year-round wetlands, areas with seasonally high water tables and areas of surface water concentration.

C. *Woodlands.*

(1) Woodlands occur throughout the Township, often in association with stream and wet areas, poor and erodible agricultural soils, and moderate to steep slopes. Woodlands serve as a valuable resource in its ecological functions, i.e., in protecting steep slopes, erodible soils, maintaining stream quality and providing for wildlife habitats. Any proposed subdivision and/or land development in which the original lot of record which exceeds ten acres shall require an evaluation of the tract's woodlands undertaken by a forester, landscape architect, horticulturist or another qualified professional acceptable to the Township. The findings of the evaluation shall be provided in narrative form and shall be depicted upon the plans as an existing condition with supporting photographs of the property.

(2) All subdivisions and land developments shall be designed and constructed in a manner which shall to the greatest practical extent:

(a) Minimize the loss or degradation of woodland areas.

(b) Preserve woodlands along roadways, property lines and lines occurring within a site such as streams, swales, stone fences and hedgerows shall be considered in the proposed design of the site.

(c) Minimize disturbance or removal of woodlands occupying environmentally sensitive areas. This shall include, but not necessarily be limited to, vegetation performing important soil stabilizing functions on wet soils, stream banks and sloping lands.

(3) No tree clearing or earth disturbance (except for soil analysis for proposed sewage disposal systems) shall be permitted on a site prior to preliminary plan approval.

D. *Slopes.* Moderately sloping lands (15 to 25 percent) and steeply sloping lands (over 25 percent) are prone to severe erosion if disturbed. Erosion and the resulting overland flow of soil sediments into streams, ponds and public roads, are detrimental to water quality and aquatic life, and a potential hazard to public safety. Areas of steep slope shall be preserved in accordance with the following:

(1) All grading and earthmoving on slopes exceeding 15 percent shall be minimized.

(2) No site disturbance shall be allowed on slopes exceeding 25 percent except grading for a portion of a driveway accessing a single-family dwelling when it can be demonstrated that no other routing which avoids slopes exceeding 25 percent is feasible.

(Ord. 2009-____, --/--/2009, §803)

§22-805. Monuments and Markers.

The applicant shall place permanent reference monuments and markers by a registered land surveyor.

A. Monuments shall be placed so that the center of a scored or marked point shall coincide exactly with the intersection of the lines to be marked.

B. Monuments shall be of concrete or stone, with a flat top having a minimum width or diameter of four inches and a minimum length of 30 inches. Concrete monuments shall be marked with a three-fourths-inch copper or brass dowel; stone or precast monuments shall be marked on the top with a proper inscription and a drill hole. Monuments shall be set so that the top of the monument or marker is level with the surface of the surrounding ground.

C. Markers shall consist of either iron or steel bars at least 36 inches long and not less than five-eighths inch in diameter. Markers normally shall be flush with the surrounding grade.

D. Monuments shall be set as follows:

(1) One at each single angle of the perimeter of the property at all major subdivisions and land developments.

(2) One at the beginning and end of all curves along street right-of-way lines along one side of the street.

(3) A minimum of one at each street intersection along the street right-of-way line.

E. Markers normally shall be flush with the surrounding grade.

F. Markers shall be set as follows:

(1) At all points where lot lines intersect street right-of-way lines, except for monument locations.

(2) At all other lot corners.

(3) At all points where lot lines intersect curves.

(4) At all angles in property lines of lots.

(Ord. 2009-____, --/--/2009, §804)

§22-806. Residential Blocks.

1. For blocks, the following standards shall apply:
 - A. Maximum length not to exceed 1,200 feet.
 - B. Be of sufficient width to permit two tiers of lots.
 2. Exceptions to this prescribed block width shall be permitted in blocks adjacent to major streets, railroads or waterways.
- (Ord. 2009-____, --/2009, §805)

§22-807. Residential Lots.

1. All subdivisions and land development for residential use shall be in conformance with the applicable minimum lot sizes, lot widths in yard requirements as set forth in the Plains Township Zoning Ordinance [Chapter 27].
2. Each lot or area platted for residential use shall be accessible from an existing or proposed street.
3. The lot depth shall not be greater than three times its width.
4. Side lines of lots shall be at right angles to straight streets and on radius lines on curved streets. Some variation may be permitted at the discretion of the Planning Commission, but pointed or very irregular shaped lots shall be avoided.
5. In the case of lots utilizing an on-site sewage disposal system, there shall be sufficient area for the disposal field in accordance to DEP regulations.
6. Double frontage lots shall be avoided; however, if deemed necessary, the rear lot lines of each property shall contain a buffer area, comprised of a row of evergreen trees with the spacing distance between the trees not less than eight feet or greater than ten feet. Said trees shall be not less than eight feet in height at the time of planting.
7. Lots shall be laid out so as to provide positive drainage away from all buildings and individual lot drainage shall be coordinated with the general storm drainage pattern for the area drainage shall be designed so as to avoid concentration of storm drainage water from each lot onto adjacent lots.
8. Flag lots shall be avoided when alternate development layouts would yield the same number of lots otherwise permitted with the elimination of flag lots. The approval of flag lots shall subject to the following standards:
 - A. Not more than five percent of the lots within a major subdivision may be approved as flag lots.
 - B. The access corridor portion of the lot shall not exceed 300 feet as measured from its intersection with the street right-of-way.
 - C. The applicant shall prove to the satisfaction of the Planning Commission that proposed driveway would provide adequate access for emergency vehicles.
 - D. The lot width measurement shall be made on the main portion of the lot and shall not include the access corridor portion of the lot.
 - E. Approval of a flag lot shall be conditioned upon the existence or provision of a recorded a deed restriction prohibiting any further subdivision of the flag lot.

(Ord. 2009-____, --/2009, §806)

§22-808. Streets-General Requirements.

1. Any proposed subdivision or land development shall have frontage upon or access to an existing state, county or Township road.
2. Streets shall be designed to provide adequate vehicular access to all lots or parcels within any proposed subdivision or land development.

3. Streets shall be designed and appropriately related to the topographic conditions of the site, with the grade of streets conforming as closely as possible to the original topography.

4. Streets shall be graded and improved in accordance with the appropriate design standards and specifications of this Chapter.

5. All streets shall be properly integrated with the existing and proposed system of streets and dedicated right-of-way as established in the Comprehensive Plan.

6. All streets shall be properly related to specific traffic generators such as residential developments, industries, business districts, schools, churches and shopping centers; to population densities; and to the pattern of existing and proposed land uses.

7. Proposed streets shall be extended to the boundary lines of the tract to be subdivided, unless prevented by topography or other physical conditions, or unless in the opinion of the Planning Commission such extension is not necessary or desirable for the coordination of the layout of the subdivision with the existing layout or the most advantageous future development on adjacent tracts.

8. Any residential subdivision and/or land development containing 13 or more lots which do not front upon an existing off-site public street, shall provide within the overall traffic design of the site, not less than two separate points within the site where an interior road as part of the proposed subdivision and/or land development shall intersect with and provide access to an existing off-site public street.

9. All proposed streets shall be planned with regard to the existing street system, public convenience in terms of fire protection and pedestrian traffic, and probable volumes of traffic.

(Ord. 2009-____, --/2009, §807)

§22-809. Street Names.

The applicant may propose names for all streets within a subdivision or land development prior to final approval. A proposed street name shall not include the name of any existing street in the Township, except that a street when planned as a continuation of an existing street shall bear the same name. Final approval of street names for streets subject to public dedication to the Township and/or private streets to remain under private ownership shall be vested with the Plains Township Planning Commission based upon the prior approval of the same by the Luzerne County 911 Communication Center for Emergency Services and the United States Postal Service.

(Ord. 2009-____, --/2009, §808)

§22-810. Street Signs.

Street signs, which provide the legal name of each street shall be erected at the intersection of each street within a subdivision or land development prior to final approval. The size, color and construction materials of said signs shall be subject to approval by the Planning Commission.

(Ord. 2009-____, --/2009, §809)

§22-811. Traffic Control Signs.

1. Traffic control signs, designed to regulate the speed of traffic or to convey any other pertinent traffic or physical characteristic of the road to motorists shall be installed at appropriate locations by the applicant as determined by PennDOT, Luzerne County, the Planning Commission and/or the Township Engineer.

2. The applicant shall be responsible for line painting on all new streets, including the extension of existing streets, in accordance with the following standards:

A. *Centerlines.* Four-inch wide double yellow centerlines shall be painted along the centerline of the travelway of each street.

B. *Edge lines.* Four-inch wide white edge lines shall be painted four inches inside the edge of pavement shoulder.

C. *Stop lines.* Twenty-four inches wide white stop lines shall be painted that completely traverse all traffic lanes on each approach to a stop sign and/or crosswalk.

3. All pavement markings shall be inlaid hot applied thermoplastic unless a higher standard is provided for in accordance with the latest edition of the latest edition of the latest edition of PennDOT Publication 408.

(Ord. 2009-____, --/2009, §810)

§22-812. Dead-End Streets Prohibited.

Permanent dead-end streets shall be prohibited. When such is provided on a temporary basis, to permit future street extension onto adjoining tracts, the street shall have an adequate turning capability or be designed as cul-de-sacs. The arrangement of streets shall provide for the continuation of principal streets between adjacent properties when such continuation is for convenient movement of traffic, effective fire protection and/or for efficient provision of utilities.

(Ord. 2009-____, --/2009, §811)

§22-813. Cul-de-sac Streets. (See Appendix for Illustration)

1. A cul-de-sac street shall not be approved when a through street is more advantageous.

2. Cul-de-sac streets shall not exceed 600 feet in length and furnish access to not more than 13 dwelling units. All lots fronting upon the arc of a cul-de-sac street shall have a frontage, as measured along the length of the arc, which results in a chord length of 75 feet. Said requirement shall apply to all lots along the arc a cul-de-sac regardless of the zoning district in which the subdivision is located.

3. No physical obstructions shall be located within six feet of the edge of the cartway within a cul-de-sac, including, but not limited to, mailboxes, utility poles, utility transformer boxes and/or similar above grade obstructions.

4. Any street which is terminated, with planned future access to an adjoining property or because of authorized stage development, shall be provided with a temporary, all-weather turning circle. The turning circle shall be completely within the boundaries of the subdivision and/or land development, and the use of the turn around shall be guaranteed to the public until such time as the street is extended.

5. An easement for the purpose of snow removal, having a size of not less than 35 feet in length and 15 feet in depth, shall be provided upon the front yard areas of lot or lots located at the end of a cul-de-sac.

(Ord. 2009-____, --/2009, §812)

§22-814. Access to Arterial Streets.

Where a subdivision or land development borders on or contains an existing or proposed arterial street, the Planning Commission may require that access to such street be limited by one of the following methods:

A. The subdivision of lots in a manner in which the lots front onto a parallel local street with no access provided to or from the arterial street which shall contain a strip of screening along the rear property line of such lots.

B. A series of cul-de-sacs, U-shaped streets or short loops entered from and designed generally at right angles to such a parallel street, with the rear lines of their terminal lots backing onto the arterial.

C. A marginal access or service road, separated from the arterial street by a planting or grass strip and having access thereto at suitable points.

(Ord. 2009-____, --/2009, §813)

§22-815. Intersections.

1. Streets shall intersect as nearly as possible at right angles, but in no instance shall two streets intersect with an angle of intersection of less than 80 degrees as measured from their centerlines.
 2. Multiple intersections involving the junction of more than two streets shall be prohibited.
 3. Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a four percent grade at a distance of 75 feet, measured from the nearest right-of-way of the intersecting street.
 4. Where any street intersection will involve earth banks or existing vegetation inside any corner lot that would create a traffic hazard by limiting visibility, the applicant shall cut such ground and/or vegetation (including trees) in connection with the grading of the public right-of-way to the extent deemed necessary to provide an adequate sight distance.
 5. A. Clear sight triangles shall be provided at all street intersections. Within such triangles, no object between two and one-half feet and 12 feet in height, and no other object including, but not necessarily limited to, earth embankment and/or vegetation that would obscure the vision of the motorist, shall be permitted. The following standards shall apply unless site conditions warrant a greater distance based upon the recommendation of the Township Engineer. Such triangles shall be established from a distance of:
 - (1) Seventy-five feet from the point of intersection of the centerlines of two streets where both are local streets.
 - (2) One hundred feet from the point of intersection of the centerlines of two streets where one is a collector street.
 - (3) One hundred fifty feet from the point of intersection of the centerlines of two streets where one is an arterial street.
 - B. Wherever a portion of the line of such triangles occur within the proposed right-of-way line, such portion shall be shown on the final plan of the subdivision, and shall be considered a right-of-way line, subject to the above standards.
 6. Two streets intersecting a third street from opposite sides shall either intersect with a common centerline or their centerlines shall be offset according to the following distances:
 - A. The two streets shall be separated by a distance of not less than 150 feet between centerlines measured along the centerline of the street being intersected when all three streets involved are local streets.
 - B. The two streets shall be separated by a distance of not less than 400 feet between centerlines measured along the centerline of the street being intersected when one or more of the streets involved is a collector street.
 - C. The two streets shall be separated by a distance of not less than 800 feet between centerlines measured along the centerline of the street being intersected when one or more of the streets involved is an arterial street.
 7. Minimum curb radii at street intersections shall be 20 feet for intersections involving only local streets; 30 feet for intersections involving any other type of street, or a greater radius may be provided that is suited for the specific intersection based upon the recommendation of the Township Engineer. A property line corner shall be rounded to the same radius as the curb which it adjoins.
 8. The cross-slopes on all streets, including intersections, shall not exceed two percent.
- (Ord. 2009-____, --/2009, §814)

§22-816. Driveway Entrances.

1. Adequate provisions to maintain uninterrupted parallel drainage along a public street at the point of driveway entry shall be required. The adequacy of each proposed driveway shall be made based upon the recommendation of the Township Engineer in relationship to existing site conditions.
2. Driveway entrances or aprons within the street right-of-way shall be surfaced their full width of entrance, with material compatible to the cartway.
3. Driveway entrances or aprons shall be stabilized and maintained by the property owner in a manner to prevent erosion of driveway material onto any adjoining public right-of-way.
4. All driveway entrances with access onto a State Legislative Route shall be required to secure a highway occupancy permit from PennDOT prior to construction and the establishment of the same. A deed restriction requiring the owner or developer of a property as the responsible party to secure the required highway occupancy permit shall be contained in all deeds.
5. A. Driveways to individual lots or to a land development shall be located in accordance with the following minimum distances as measured from the centerline of a driveway to the centerline of the nearest intersecting street by street classification.

Type	Arterial	Collector	Local
Residential	150	75	50
Nonresidential	200	150	100

- B. Access shall be provided to the street of lesser classification when there is more than one street classification involved. Driveways shall not interfere with the normal traffic movement or be inconsistent with the design, maintenance and drainage of the street. Driveway location shall be delineated on all land development plans; however, subdivision plans may delineate locations or include a notice of conformity to this specification.
6. Driveway entrances shall be rounded at a minimum radius of five feet, or should have a flare constructed that is equivalent to this radius, at the point of intersection with the cartway edge (curb line) or outside shoulder edge as applicable. For residential lots the entrance of the driveway shall have a minimum angle of 60 degrees, and for all other lots, 90 degrees. The maximum driveway width at the edge of the cartway shall be 30 feet.
7. The number of driveways shall not exceed one per lot or, on lots with street frontages in excess of 100 feet, one per 100 feet of street frontage. Such driveway may be of loop design. No part of a driveway shall be located closer than ten feet from a side property line.

(Ord. 2009-____, --/2009, §815)

§22-817. Street Right-of-Way Widths.

Street right-of-way widths in a proposed subdivision or land development shall conform to the following minimum standards:

Type	Minimum Standard
Arterial Highway	PennDOT specifications based upon projected average daily traffic and speed limit
Collector Street	60 feet
Local Street	50 feet
Turnaround of Cul-de-sac Street	120 feet

(Ord. 2009-____, --/2009, §816)

§22-818. Street Cartway Widths.

Street cartway widths, measured from curb to curb, shall conform to the following minimum standards.

- A. *Limited access highway.* PennDOT specifications based upon projected average daily traffic and speed limit.
- B. *Collector street.* Forty feet, with a minimum lane width of 12 feet and a minimum shoulder width of eight feet; if curbs are provided, the minimum lane width shall be 12 feet with a minimum width of eight feet for a parking lane, if there is no parking lane on one side, add two feet for water table along the curb.
- C. *Local street.* Thirty-four feet, with a minimum lane width of 11 feet and a minimum shoulder width of six feet; if curbs are provided, the minimum lane width shall be 11 feet with a minimum width of seven feet for a parking lane, if there is no parking lane on one side, add two feet for water table along the curb.
- D. *Diameter of turnaround of cul-de-sac.* One hundred feet.

(Ord. 2009-____, --/2009, §817)

§22-819. Horizontal Visibility.

1. When street centerlines are deflected more than five degrees over a linear distance of 500 feet or less, connection shall be made by horizontal curves. Streets shall be so laid out that there will be unobstructed sight distances along centerlines thereof measured from a point three and one-half above the proposed grade line, to permit horizontal visibility as follows:

Street Classification	Horizontal Visibility
Arterial Street	PennDOT Specifications
Collector Streets	300 feet
Local Streets	200 feet

2. A minimum tangent of 100 feet shall be required between curves on all classifications of streets.

(Ord. 2009-____, --/2009, §818)

§22-820. Street Grades.

The centerline grade shall be not less than one percent nor greater than the following based upon the classification of the street:

Street Classification	Maximum Percent Grade
Arterial Street	PennDot Specifications
Collector Streets	7 percent
Local Streets	11 percent

(Ord. 2009-____, --/2009, §819)

§22-821. Vertical Curves.

Vertical curves shall be used at changes of grade exceeding one percent. Vertical curves shall be

designed to produce the following minimum sight distances:

Street Classification	Minimum Site Distance
Arterial Street	PennDot Specifications
Collector Streets	PennDot Specifications

Local Streets	300 feet
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(Ord. 2009-____, --/2009, §820)

§22-822. Road Design, Construction and Paving Standards.

In order to provide for streets of suitable location, width and improvement to accommodate prospective traffic and afford satisfactory access to police, firefighting, snow removal, sanitation and street maintenance equipment, and to coordinate streets so as to compose a convenient system and avoid undue hardship to adjoining properties, the design standards for streets as set forth in the Appendix of this Chapter shall apply.

(Ord. 2009-____, --/2009, §821)

§22-823. Curbs.

1. *Granite curbs.* Granite curbs shall be provided along all streets intended to be offered for public dedication to the Township. Drainage swales shall not be located within the public right-of-way or upon any property intended to be offered for public dedication. Any drainage swales that are intended for private dedication, including, but not limited to, a homeowners association, shall provide a maintenance plan and required funding of the same for approval by the Planning Commission. Drainage swales which are part of the stormwater management plan that have slopes of eight percent or more shall be paved, and the Planning Commission may require the paving of drainage swales on less than eight percent slopes.

2. *Granite curb design standards.*

A. Type "A" or equal, four inches by 16 inches as produced by North Carolina Granite Corp., Mt. Airy, N.C. or an approved equal, as solely determined by the Planning Commission. Provide a sawed top to a true plane with no projection or depression greater than one-eighth inch. Back arris line shall pitch straight and true with no variation from a straight line greater than one-fourth inch. Back shall have no projection to exceed four inches in a 12-inch batter for a distance of three inches down from the top. Ends shall be square with the plane and face of top. Joints shall back over eight inches from the plane of the joint. Curb bottom shall have a tolerance of one inch less, or two inches more than the required width. Front face shall have a three-fourths inch in ten-inch batter down and shall be smooth quarry split. No projection shall exceed three-fourths inch or depression to exceed one-half inch for eight inches down. Front arris line to be true and straight. Curb shall not contain any marble seams which are irregular to the section. Mortar for joints shall be one part cement, one part fine aggregate and shall be mixed with sufficient water to form a plastic composition.

B. Excavate to the base of the curb allowing sufficient width and depth for the dry mix concrete. Tamp the subgrade and prepare to form a smooth and uniform surface so that the top elevation of the curb is to the desired grade. Set the curb for a max joint width no greater than one-half inch. Verify the curbs alignment, grade and plumbness and place Cl. B Conc. in a continuous pour in front, back and under curb. Provide the required curb reveal at drives and normal sections as specified. Use drive transition pieces of the size indicated on the detail drawings, and at locations where handicap ramps are to be installed. Drill holes in new granite curbs at factory where rainleader holes are required.

(Ord. 2009-____, --/2009, §822)

§22-824. Sidewalks.

Sidewalks shall be required in all residential developments. Each property owner shall be responsible for the maintenance of sidewalks which border his or her property. Said responsibility for sidewalk maintenance shall be contained within each deed of a proposed subdivision, in other subdivisions or land developments, sidewalks or pedestrian interior walkways may also be required by the Planning Commission based upon features of the site and the proposed use and/or development of the property.

A. *Location.* Sidewalks, where required or provided, shall be located within the street right-of-way and no closer than one foot from the right-of-way line, no closer than three feet from the curb line. A grass planting strip shall be planted between the curb and sidewalk.

B. *Width.* Sidewalks shall have a minimum width of four feet.

C. *Required construction.* Sidewalks shall be constructed with class. "AA" concrete having a minimum strength of 3,750 PSI at 28 days. Minimum depth of sidewalks shall be five inches with a subbase of four inches. Where crossed by driveways sidewalks shall be six inches minimum depth with a subbase of four inches. False joints shall be provided at maximum intervals of five feet and shall be at least one-quarter the depth of the concrete. Expansion joints shall be provided at all walls, poles, curbs and other obstructions. All concrete shall be cured in accordance with the latest edition of PennDOT Publication 408. Forms shall be removed no sooner than seven days after sidewalk concrete is poured. Sidewalks shall be sprayed with anti-spalling compound within 28 days after being poured.

D. *Transition apron.* The developer shall provide sufficient curb depressions at the time of original curb construction to permit driveway access to each lot. Where sidewalks are also required the developer shall install a concrete transition apron between curb and sidewalk at each such depression concurrently with curb and sidewalk construction.

E. *Requirements for physically handicapped persons.* Where sidewalks are provided, all curbs shall be designed and constructed with barrier-free ramps at intersections. Said ramps shall not outlet onto a catch basin, be located and designed in accordance with the most recent governing accessibility standards in compliance with the Americans with Disabilities Act of 1990, 42 U.S.C. §§12101 *et seq.*, as amended. Expansion joints shall be constructed with three-fourths inch premolded expansion joint material. Expansion joints shall be required at all obstructions. All concrete shall be cured in accordance with the latest edition of PennDOT Publication 408.

(Ord. 2009-____, --/2009, §823)

§22-825. Tree Lawn and Street Trees.

The applicant or developer shall seed or sod a planting strip not less than three feet wide between the curb and sidewalk, and, shall in addition, provide street trees. Such trees shall be two inches to two and one-half inches in diameter, measured at not less than five feet in height, when planted, and shall be spaced at intervals no greater than 40 feet. The type of trees shall be subject to approval by the Planning Commission. Species shall be selected according to the following criteria:

- A. Cast moderate shade to dense shade in summer.
- B. Long-lived (over 60 years).
- C. Mature height of at least 50 feet.
- D. Be tolerant of pollution and direct or reflected heat.
- E. Require little maintenance, by being mechanically strong (not brittle) and insect and disease-resistant.
- F. Be able to survive two years with no irrigation after establishment.
- G. Be of native origin, provided they meet the above criteria.
- H. Among the species that are recommended are sycamore or London plane, sweet gum, red maple, green ash, shademaster golden locust, littleleaf linden and village green zelkova.

(Ord. 2009-____, --/2009, §824)

§22-826. Street Lighting.

Street lights shall be installed at the intersection of all streets, at the middle point of the terminus of a cul-de-sac and at other locations deemed necessary based upon field conditions or required by the Planning Commission.

(Ord. 2009-____, --/2009, §825)

§22-827. Bridges and Stream Crossings.

Bridges and other stream crossing structures which are part of the proposed street system shall be designed and constructed in accordance with current PennDOT standards and specifications. Evidence of compliance with and approval of the Division of Dams and Encroachments, Pennsylvania Department of Environmental Protection, shall be provided by the developer, if applicable.

(Ord. 2009-____, --/2009, §826)

§22-828. Erosion and Sedimentation Control.

No construction, including, but not limited to, grading, excavation and/or any forms of earth moving activities, shall be undertaken until written approval of an erosion and sedimentation control plan is approved by the Luzerne County Conservation District.

- A. All earth moving activities shall be conducted in such a way as to prevent accelerated erosion and the resulting sedimentation.
- B. No changes shall be made in the contour of the land; no grading, excavating, removal or destruction to the topsoil, trees or other vegetative cover of the land shall be commenced until such time that a plan for minimizing erosion and sedimentation has been reviewed and approved by the Luzerne County Conservation District, or there has been a written determination by the Luzerne County Conservation District that such a plan is not necessary.
- C. The soil erosion and sedimentation control plan and measures used to control erosion and sedimentation shall meet the standards and specifications set forth in the Pennsylvania Department of Environmental Protection Soil Erosion and Sedimentation Control Manual and 25 Pa.Code, Chapter 102, of the rules and regulations of the Pennsylvania Department of Environmental Protection. [A.O.]

D. The following measures are deemed effective in minimizing erosion and sedimentation, and shall be included in control plans as applicable:

- (1) *Stripping*. Stripping of vegetation for development shall be done in such a way that will prevent all but minor erosion.
- (2) *Natural features*. Development plans shall preserve salient natural features, keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.
- (3) *Natural vegetation*. Whenever feasible, natural vegetation shall be retained, protected and supplemented.
- (4) *Disturbed areas*. The disturbed area and the duration of exposure shall be kept to a practical minimum.
- (5) *Stabilization*. Disturbed soils shall be stabilized as quickly as practicable.
- (6) *Temporary vegetation and mulching*. Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
- (7) *Permanent vegetation and measures*. The permanent final vegetation and structural erosion control and drainage measures shall be installed as soon as practical in the development.
- (8) *Accommodation of increased runoff*. Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Where necessary, the rate of surface water runoff shall be structurally retarded.
- (9) *Containment of sedimentation*. Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of debris basins, sediment basins, silt traps or similar measures.

E. Any construction activity which will disturb more than five acres of land, requires a National Pollutant Discharge Elimination System permit, administered by the Pennsylvania Department of Environmental Protection. The developer or owner shall be required to contact the Luzerne County Conservation District for information on the required permit. Where the earth moving activity affects 25 acres or more, the soil erosion and sedimentation control plan must be submitted to the County Conservation District, together with an application for an earth moving permit. An earth moving permit must be granted by the Pennsylvania Department of Environmental Protection prior to preliminary approval of a subdivision or land development. [A.O.]

F. The Planning Commission in its consideration of all proposed subdivisions and land developments shall condition its approval upon the execution and implementation of an erosion and sedimentation control plan which meets the governing standards of the Luzerne County Conservation District, based upon written verification by said agency in approval of a submitted plan.

(Ord. 2009-____, --/2009, §827; as amended by A.O.)

§22-829. Stormwater Management Plan.

A stormwater management plan shall be required for any major subdivision or major land development and shall be prepared in coordination with the soils erosion and sedimentation control plan. Stormwater management plans shall be designed in accordance with the governing provisions of this Chapter and the Act 167 Stormwater Management Plan for Mill Creek. The stormwater management plan shall provide the means and methods of control by which there shall be no increase in the rate stormwater discharge and runoff from the site than that prior to the proposed subdivision or land development and/or that which would have occurred from the land prior to the activity, using a

grassland condition for cleared agricultural land and a good woodland condition for forested land. For land previously developed, the prior condition shall reflect the actual developed condition.

A. *Calculating stormwater runoff.* The general criteria for calculating stormwater runoff shall be based upon methods as set forth in the DEP document titled “PA Stormwater Best Management Practices Manual”, Document #363-0300-0002/ December 30, 2006, as approved by the Township Engineer and shall include the following:

- (1) *Point of evaluation.* The point of evaluation shall be the point or points at which the stormwater leaves the development site. The Township Engineer may require additional points of evaluation beyond the development site as he or she deems necessary.
- (2) *Method of computation.* The acceptable methods of computation shall be those that are contained in the publication “Recommended Hydraulic Procedures for Computing Urban Runoff from Small Watersheds in Pennsylvania”. The limitations of each method are defined in this publication. The same method of computation shall be used for both predevelopment and post development calculations as well as subsequent revisions unless specifically approved by the Township Engineer.
- (3) *Rainfall frequency data.* Rainfall frequency data are available from the U.S. Department of Commerce, Weather Bureau and from the Pennsylvania Department of Environmental Protection, Research Publication Number 70.
- (4) *Design storms.*
 - (a) All stormwater retention/detention facilities shall be designed on the basis of providing adequate control for all storms of a 24-hour duration and for frequencies of two, ten, 25, 50 and 100 years.
 - (b) Emergency spillways shall be designed to pass the expected post development flows for a 100-year storm frequency, assuming the principal spillway is 100 percent blocked.

- (c) 1) Storm sewer systems shall be designed to handle the peak rate of runoff from a storm of 25-year frequency. This design shall be used for:
 - a) Building drains; and
 - b) Local streets.
 - 2) Culverts shall be sized for the following classes of roads and storm frequencies:
 - a) Collector streets for storms of 25-year frequency;
 - b) Arterial highways for storm of 25-year frequency; and
 - c) Expressways for storms of 50-year frequency.
 - (d) Greater design frequencies may be imposed on individual projects if deemed necessary for particular uses of land by the Township Engineer.
 - (e) Where state or federal laws impose a greater design frequency, they shall prevail.
- (5) *Release rate.* The release rate of stormwater from retention/detention facilities shall comply with the Act 167 Stormwater Management Plan for Mill Creek and/or shall not exceed the predevelopment peak discharge for each storm frequency, for that particular point of discharge.
- B. *Methods of stormwater runoff detention and control.*
 - (1) The following represents a listing of detention and control methods which may be utilized in stormwater management systems, based upon site conditions. All state and federal regulations must be followed in the use of any control method.
 - (a) On-lot retention of roof water.
 - (b) Seepage pits, seepage trenches or other infiltration structures.
 - (c) Cisterns and underground reservoirs.
 - (d) Roof-top storage.
 - (e) Parking lot ponding.
 - (f) Porous pavement and concrete lattice-block surfaces.
 - (g) Grassed channels and vegetative strips.
 - (h) Routing flow over grass.
 - (i) Decreased impervious area coverage.
 - (j) Detention basins.
 - (k) Retention basins.
 - (2) Lots which do not drain into other approved control facilities must have on-lot stormwater retention systems to retain roof water.
 - (3) The use of other control methods which meet the criteria in this Section shall be permitted if approved by the Township Engineer. Various combinations of methods should be tailored to suit the particular requirements of the type of development and topographic features of the project area.
- C. *Design of control methods.* The following publications should be consulted as an aid in designing control facilities:
 - (1) Chapter 105, "Water Obstructions and Encroachments", Title 25, Pa.Code, Rules and Regulations of the Pennsylvania Department of Environmental Protection.
 - (2) "Guidelines for Stormwater Management", Pennsylvania Department of Environmental Protection, Bureau of Dams and Waterways Management.

(3) Urban Hydrology for Small Watersheds, Technical Release No. 55, U.S. Department of Agriculture, Soil Conservation Service, January 1975.

D. *Stormwater management plan required.* Prior to the preliminary and final approval of subdivision, land development or the issuance of any permit, or the commencement of any land disturbance activity, the owner, subdivider, developer or his or her agent shall submit a stormwater management plan to the Township Planning Commission for approval.

E. *Plan requirements.*

(1) The stormwater management plan for any subdivision or land development shall be prepared and sealed by a licensed professional engineer. The plan shall meet the requirements set forth herein, shall also meet all requirements of applicable state and federal regulations.

(2) The following items, where appropriate, shall be included in the plan:

(a) *General.*

- 1) General description of project.
- 2) General description of stormwater controls both during and after development.
- 3) Expected project time schedule, including anticipated start and completion dates.
- 4) Training and experience of person(s) preparing plan.
- 5) An executed signature block by a registered professional engineer as follows: "I, _____, have prepared and hereby certify that the stormwater management plan meets all design standards and criteria of Plain's Township's Subdivision and Land Development Ordinance."

(b) *Map(s) of the project area showing:*

- 1) The location of the project relative to highways, municipalities or other identifiable landmarks.
- 2) Existing contours at intervals of two feet.
- 3) Streams, lakes, ponds or other bodies of water within the project area or adjacent to the site which will be affected by runoff from the project.
- 4) Other physical features including existing drainage swales and areas of natural vegetation to be preserved.
- 5) Location of existing overhead and underground utilities, sewers and water lines.
- 6) Location of proposed underground utilities, sewers and water lines.
- 7) Soil types and boundaries.
- 8) Proposed changes to land surface and vegetative cover.
- 9) Areas to be cut or filled.
- 10) Proposed structures, roads, paved areas and buildings.
- 11) Proposed final contours at intervals of two feet.
- 12) Location(s) of where water will exit the site and the means for discharging.
- 13) The location of where stormwater runoff exits the site based upon pre-developed conditions.

- 14) Boundaries of the drainage area contributing to each point of discharge based upon predeveloped and post developed conditions including areas beyond.
- 15) Show the runoff flowlines used in the time-of-concentration calculations for both the predeveloped and post developed conditions.
- 16) Provide two separate maps; one for the predeveloped conditions and one for post developed conditions.
- 17) Provide detailed drawings of all proposed stormwater management facilities.
- 18) Show all existing and proposed easements on the plan drawings. Identify each by use and width, along with identification legend of existing versus proposed. Indicate to whom the easement is being granted.

F. *Stormwater management controls.* The plan shall show the location and description of permanent control measures and facilities to be provided at the site, including:

- (1) Permanent vegetation or other soil stabilization measures.
- (2) Infiltration facilities such as seepage pits, beds or trenches including on-lot retention systems for groundwater recharge; when such structures are used, the location of septic tank infiltration areas and wells relative to these facilities; cross-sections of proposed infiltration facilities must be provided upon the plan.
- (3) Other control devices or methods such as roof-top storage, semi-pervious paving materials, grass swales, parking lot ponding, vegetated strips, detention or retention ponds, drainage easements, storm sewers, culverts and the like.
- (4) All calculations, assumptions and criteria used in the design of the control device or method must be included upon the plan.
- (5) Details on the types, locations and dimensions of facilities for stormwater detention and conveyance and for groundwater recharge.
- (6) Schedule for installation of the control measures and devices.
- (7) A 25-foot right-of-way around all stormwater management structures and from such structures to a public right-of-way wherever the Township is to accept the dedication of such structures.

G. *Hydrologic/hydraulic calculations.* Stormwater control system design calculations shall be based on methods as set forth in the DEP document titled "PA Stormwater Best Management Practices Manual" Document #363-0300-0002, December 30, 2006, as approved by the Township Engineer. As an attachment to the plan, hydrologic/hydraulic calculations shall be provided for stormwater flows from the site and from the entire area tributary and watershed to the site under conditions existing prior to development and resulting from the proposed development. Hydrologic/hydraulic calculations, assumptions and criteria used in the design of stormwater control devices or methods shall also be provided. Measurements shall be in cubic feet per second for the design storms. A written narrative which fully describes the stormwater management plan shall be submitted with the required hydrologic/hydraulic calculations.

H. *Plan submission.* Four copies of the completed plan and all related calculations shall be submitted with the preliminary.

I. *Maintenance program.* A maintenance program for all stormwater management control facilities must be included. This program must include the proposed ownership of the control facilities and detail the financial responsibility for any required maintenance. The establishment and/or use of a homeowners' association shall not be included within the scope of a

maintenance program.

J. *Maintenance guarantees.* If any stormwater management facilities are accepted as public improvements by Plains Township, the developer shall provide a financial security, in a form approved by the Township Solicitor for a maintenance guarantee, equal to 15 percent of the total cost of the installation of said facility, used as financial security to guarantee the stability of the newly constructed facility and revegetation for a period of 18 months.

K. *Stormwater drainage.*

(1) Storm sewers, culverts, drainage easements and related measures shall be provided so as to control drainage and shall be included where applicable in the stormwater management plan.

(2) (a) *General.* All required storm drainage facilities within the public right-of-way shall be designed as underground piping system. Open swales shall be expressly prohibited as a design element of any required storm drainage facilities within the public right-of-way.

(b) *On-lot retention systems.* The owner of the individual lot shall be required to observe the following guidelines:

- 1) When required, a sub-surface stormwater retention area shall be constructed on each lot prior to issuance of an occupancy permit.
- 2) Stormwater runoff from impervious areas must be collected and conveyed underground to subsurface retention areas.
- 3) Retention system, including conveyance and collection lines, are to be owned and maintained by the lot owner. Repair/replacement and maintenance of the system is the responsibility of the lot owner.
- 4) The system shall be designed to accommodate anticipated peak flow from ten-year, 24-hour rainfall.

- 5) All retention basins shall be designed and constructed with silt post detectors.
- 6) The system shall be designed by a professional engineer in Pennsylvania and shall be approved by the Township Engineer and Township Planning Commission prior to its construction.
- 7) The system shall be constructed concurrently with or immediately after the house is framed.
- 8) The system design shall be based on the seasonal high groundwater table, subsurface soil permeability and slope. Proper tests shall be conducted to substantiate design considerations and test results are to be provided to proper officials along with design details. At a minimum, the following tests are to be conducted on each lot, in the area where the system will be constructed:
 - a) *Test pit.* To determine the groundwater table elevation in accordance with accepted standards for on-lot sanitary disposal systems.
 - b) *Percolation test.* To determine soil permeability in accordance with accepted standards for on-lot sanitary disposal systems.
- 9) The system design shall include the following:
 - a) Filter fabric or other acceptable devices shall be utilized to prevent clogging or siltation of the storage areas.
 - b) Cleanouts and traps are to be provided for maintenance purposes.
 - c) Collection pipes are to be a minimum four-inch PVC, perforated pipe.
 - d) Storage area is to include all necessary tanks, large diameter pipes, and stone, 2-B or equivalent.
 - e) Outlet pipes are to be solid wall PVC pipe, directed to adjacent swales and ditches, or to any adjacent streams that traverse the lot.
 - f) Outlet pipes shall not discharge any runoff onto any adjacent lot.
 - g) Large diameter pipes utilized for storage areas are to be either solid wall PVC or galvanized corrugated metal pipe, or other approved substitutes.
- 10) Township officials, as designated by the Township Planning Commission, shall inspect the system during and prior to backfilling. If the system is covered over prior to inspection, the lot owner will be required to re-excavate the backfill so proper inspection can be conducted.
- 11) An occupancy permit shall not be issued until the Township confirms the system has been constructed in accordance with the approved design plans.

L. *Storm drainage systems.* Storm drainage systems shall be required when the storm-water runoff cannot be satisfactorily handled within the street cartway in the determination of the Township Engineer. Where existing storm sewers are accessible, proposed subdivisions and land developments shall be required to connect to them. Where storm sewers are to be located in undedicated land, they shall be placed in an easement at least 20 feet wide. The minimum allowable velocity in storm sewers (pipes) shall be three feet zero inches per second. The maximum allowable spacing between structures to be used for inspecting and cleaning storm sewers shall be based upon the following table:

Pipe Diameter (inches)	Maximum Allowable Spacing
15	400 feet

18-36	500 feet
42-60	700 feet
66 or larger	unlimited

M. *Street drainage at intersections.* Stormwater shall not be permitted to cross intersections or the crown of a street. Inlet spacing shall be designed in accordance with Pennsylvania Department of Transportation, Design Manual, Part 2. Inlets shall be placed at all changes in grade or direction of storm sewers and at a maximum spacing of 600 feet. Inlets shall be designed to the latest edition PennDOT Publication 408. Type C or M. Inlet tops shall be cast-in-place reinforced concrete or precast concrete. Culvert ends shall be provided with either reinforced concrete headwalls or pipe end sections. Headwalls or end sections are required where flow enters inlets from natural or human-made swales or channels. Minimum pipe size shall be 15 inches in diameter and shall be made of reinforced concrete or aluminumized steel or smooth bore corrugated polyethylene (PE) as approved by the Township Engineer. When material for storm drain systems is not specified, the specifications of the Pennsylvania Department of Transportation shall govern. Drainage structures that are located on or discharging onto state highway rights-of-way shall be approved by the Pennsylvania Department of Transportation. A letter from that office indicating such approval shall be directed to the Township Planning Commission.

N. *Natural drainageways.*

- (1) Where a subdivision or land development is traversed by a natural watercourse, a drainage easement shall be provided conforming substantially with the line of such watercourse. The width of such easement shall be at least 100 feet, measuring on 50 feet each side, or of such additional width as will be adequate to preserve the unimpeded flow of natural drainage and to provide adequate access along the watercourse for maintenance purposes.
- (2) No person, corporation or other entity shall block, impede the flow of, alter, construct any structure or deposit any material or thing, or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from the Pennsylvania Department of Environmental Protection or the Township.

- O. *Roof Drains, Sump Pumps, Downspouts and the Like.* Stabilized outlets shall be provided for stormwater roof drains, springs and sump pumps, footer drains, floor drains and downspouts. No stormwater shall be discharged directly onto streets and sidewalks from these sources. All piping systems from roofs, basement pumps and the like discharging to rights-of-way must discharge via buried drainage pipe into adjacent roadway at the ditch invert, if allowed and accommodated for per the stormwater management plan as approved by the Township Planning Commission.
- P. *Lot drainage.* Lots shall be laid out and graded to provide positive drainage away from new and existing buildings.
- Q. *Detention basin requirements.*
- (1) The design of any detention basin intended to meet the requirements of this Chapter shall be verified by routing the design storm hydrograph through the proposed basin. For basins designed using the modified rational method technique, the detention volume shall, at minimum, equal the volume derived from the approximate routing process as contained in SCS Technical Release Number 55 (TR55, 1986), Chapter 6, (Figure 6-1).
 - (2) All stormwater detention facilities shall be designed based upon the following criteria. Due to the uniqueness of each stormwater detention basin and the variability of soil and other site conditions, the following criteria may be modified or deleted at the discretion of the Township Engineer if warranted.
 - (a) The basin is to be sodded or topsoiled and seeded including the bottom, side slopes and all earthen dams and embankments.
 - (b) Suitable lining shall be required at all points of inflow to the basin where erosion and scour may occur.
 - (c) An easement to allow maintenance crews access to the basin and outlet areas shall be established around all basins to be maintained. The limits of such easements shall be 25 feet from the outside toe of all dams and embankments and the top of all pond side slopes, with said easement being connected to a public right-of-way.
 - (d) The design dimensions of the detention basin shall be maintained throughout construction, unless it is to be used as a sedimentation basin during construction in the watershed. If so, it shall be immediately returned to design dimensions following the completion of such construction. If used as temporary sedimentation basin, it shall be designed based upon the most recent standards of DEP for sedimentation basins.
 - (e) Runoff from areas uphill or upstream from the development site may be passed across the development site without detention or storage. If it is more convenient, part or all of such water may be passed through the detention means described above, and an equal amount of water that originates on site may be passed downhill or downstream. If any such upstream water enters the detention structure, the amount of detention shall be increased accordingly.

- (f) The inlet shall enter at the opposite end of the basin if possible. The basin shall have a minimum bottom slope of one percent towards the primary outlet to assure positive drainage. Low flow channels may be required to convey small inflows to the basin outlet.
- (g) Side slopes shall be a maximum of three feet horizontal to one foot vertical (3:1), unless the design slopes are less than three feet, in which case 4:1 side slopes are required. The design engineer may propose steeper side slopes if justifiable evidence is submitted.
- (h) Basins with a minimum depth of three feet or greater shall be enclosed by a fence not less than six feet in height around the entire perimeter to keep out children and all other unauthorized access to the basin area. A basin less than three feet in depth may have 3:1 side slopes if fencing is provided. A gate shall be installed to allow access into the basin for required maintenance. With the exception of the location of the gate, a vegetative screen of trees, with the variety subject to the approval of the Planning Commission, shall be planted in front of the fence with the spacing distance not greater than eight feet between trees. Said trees shall be not less than six feet in height at the time of planting.
- (i) The runoff entering the basin will result in the accumulation of considerable amounts of sedimentation. Provision shall be made within the maintenance schedule for periodic removal of accumulated solid materials.
- (j) Responsibility for operation and maintenance of detention facilities, including periodic removal of accumulated materials, shall remain with the owner who is granted subdivision or land development approval of a given development, unless the detention facilities are dedicated and accepted by Plains Township.
- (k) In some instances, the provision of separate detention facilities for a number of single sites may be more difficult to maintain than the provision of joint facilities for number of sites. In such cases, the Township may consider the provision of joint detention facilities which would meet all requirements of stormwater management. In such cases, a properly planned staged program of detention facilities may be approved by the Township in which compliance with certain specified requirements may be postponed at early stages, while preliminary phases are undertaken. This shall however pertain to stormwater management only and not erosion and sedimentation pollution control.
- (l) Safety ledges shall be constructed on the side slopes of all detention basins designed to have a permanent pool of water. The ledges shall be four to six feet in width and located approximately two and one-half to three feet below and one to one and one-half feet above the permanent water surface. Side slopes shall conform to Clauses (g) and (h) above of this Paragraph Q., Subparagraph (2).
- (m) Where the project consists of more than one phase, the stormwater controls shall be designed so that the rate of runoff for the maximum built out condition of the site is consistent with release rate specified in the plan. The outlet structure may have to be modified for the first phase. The stormwater detention basin shall be constructed prior to the first phase.
- (n) All basins shall have, at minimum, a primary outlet to control the design storm(s) with a one-foot freeboard above the maximum pool elevation associated the design storm(s). All basins shall also provide an emergency spillway to safely convey the 100-year design storm with one-half foot of freeboard.

(o) If the flow from the basin is proposed to be concentrated and discharged onto adjacent property, the developer must provide documentation that there are adequate downstream conveyance facilities to safely transport the concentrated discharge or otherwise provide documentation that no adverse affects will result from the concentrated discharge. An easement from the adjacent property owner must be obtained which fully explains the proposed discharge to allow for consideration of such discharge. Ultimate approval of the feasibility of such discharges shall require the approval by the Township Engineer.

(p) Maximum velocities in emergency spillways shall be determined based on the velocity of the peak flow in the spillway resulting from the routed emergency spillway hydrograph. Where maximum velocities exceed those contained in the most recent DEP Sedimentation and Erosion Control Manual suitable lining shall be provided.

(q) The minimum top width of all basins shall be as follows:

Height	Top Width
0-10 feet	6 feet
11-14 feet	8 feet
15 or greater	As per DEP regulations

(r) All detention basin routing will be performed using acceptable routing methods. Selected time increments will be of a short enough duration to allow reasonable approximation of the inflow hydrograph.

(s) Any detention basin intended to meet the requirements of this Chapter which requires a Dam Safety Permit from DEP shall be designed consistent with the provisions of the Dam Safety and Encroachment Act, 32 P.S. §§693.1 *et seq.*, and DEP 25 Pa.Code, Chapter 105, rules and regulations.

(t) The applicant shall comply with any additional design requirements which may be recommended by the Township Engineer based upon site conditions.

(u) All detention basins shall be designed and constructed with silt post detectors.

R. Compliance a condition of preliminary plan approval. The Township, in its consideration of all preliminary plans of subdivision and land development, shall condition its approval upon the execution of stormwater management control measures as contained in §22-827 and regulations thereunder.

S. As-built drawings required. Following the completion of construction, the developer shall submit drawing(s) of all improvements included within the scope of the approved stormwater management plan to the Plains Township Planning Commission. Said drawings shall bear the seal of a Pennsylvania registered professional engineer indicating the “as-built” of all required improvements shown upon the drawings. No approved dedication of improvements shall be accepted by the Township without the submission of “as-built” drawings.

(Ord. 2009-____, --/2009, §828)

§22-830. Water Supply Facilities.

Within any proposed major subdivision or major land development, if the water is to be provided by means other than by private wells, owned and maintained by the individual owners of the lots within the subdivision or land development, the developer shall present evidence to the Planning

Commission that the subdivision or land development is to be supplied by a certified public utility, a bona fide cooperative association of lot owners; or by a municipal corporation, authority or utility. A copy of a certificate of public convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable as evidence.

(Ord. 2009-____, --/2009, §829)

§22-831. Centralized Water System.

1. All subdivisions and land developments shall utilize an approved public distribution system for water supply when such a system is accessible to the site and connection to such is feasible.

2. The plans for the installation of water lines of a public water supply shall be prepared by the developer with the cooperation of the applicable public water company or authority and submitted with the preliminary plans.

3. When a subdivision or land development is to be serviced by a centralized water supply system, fire hydrants shall be required. The location and number of fire hydrants shall be determined on a case-by-case basis. Fire hydrants along any approved street shall not be more than 500 feet apart and connected to a water main not less than eight inches in diameter.

4. All suppliers of water to any proposed subdivision or land development shall be organized in such a fashion as to fall within the jurisdiction of the Pennsylvania Public Utility Commission. One copy of all correspondence, supporting documentation, application for permits and certificates for operation submitted to the Pennsylvania Department of Environmental Protection and the Pennsylvania Public Utility Commission for the right to provide such services shall be forwarded to the Township as part of the public record. One copy of the permit and certificate of convenience issued by the Pennsylvania Department of Environmental Protection and the Pennsylvania Public Utility Commission authorizing such services shall be forwarded upon receipt to the Planning Commission as part of the public record.

(Ord. 2009-____, --/2009, §830)

§22-832. On-Lot Water System.

Where it is not feasible to connect a proposed subdivision or land development to a centralized water system, on-lot systems shall be permitted subject to their construction in accordance with applicable criteria as set forth by the Pennsylvania Department of Environmental Protection and/or any other governmental agency with jurisdiction over such systems.

(Ord. 2009-____, --/2009, §831; as amended by A.O.)

§22-833. Sewage Disposal Facilities.

All subdivisions and land developments shall be served with a sewage system centralized which meet or exceed the applicable minimum design standards as set forth by the Pennsylvania Department of Environmental Protection. All proposed subdivisions and/or land developments shall require the preparation and submission of an appropriate sewage planning module to DEP in accordance with 25 Pa.Code.

(Ord. 2009-____, --/2009, §832)

§22-834. Centralized Sewers.

1. All subdivisions and land developments shall be served by centralized sewage disposal systems, which is compatible with the Township's Official 537 Sewage Plan.

2. All sanitary sewers shall be designed and constructed to provide adequate capacity for the ultimate flow of the subject development plus additional flow as may be projected to be generated by adjacent properties.

3. All individual lateral connection shall be installed to the curb right-of-way line at the time of initial installation of the system.

4. Design standards, materials and specifications shall conform with the most current Sewage Manual of the Pennsylvania Department of Environmental Protection, including any supplements or amendments thereto and all other applicable requirements, federal, state and/or Township.

(Ord. 2009-____, --/2009, §833)

§22-835. On-Lot Sewage Disposal System.

1. On-lot sewage shall only be permitted when it is not feasible to connect to a centralized sewage system.

2. On-lot sewage systems, both individual and community sewage systems, shall be designed and constructed in accordance with Pennsylvania Department of Environmental Protection requirements under 25 Pa.Code, Chapter 73, and any amendments thereto.

3. Prior to approval of preliminary plan, the Township Sewage Enforcement Officer shall submit a favorable report to the Planning Commission regarding the site and soils investigation and analysis.

4. An adequate number of test pits and soil percolation tests, as determined by the Sewage Enforcement Officer, shall be undertaken to determine the general suitability of soils throughout the subdivision or land development for on-lot subsurface sewage disposal.

5. All systems utilizing subsurface disposal of sewage effluent ("community sewage systems" as defined by 25 Pa.Code, Chapter 73, of the Pennsylvania Department of Environmental Protection Regulations) shall be designed and constructed in accordance with requirements of the aforesaid Chapter 73. A registered professional engineer employed by the applicant shall provide written certification that the existing or proposed facility has adequate capacity to satisfactorily treat the total projected sewage flow.

6. A sewage permit must be approved and issued by the Township Sewage Enforcement Officer prior to the start of any construction or development upon any lot within an approved subdivision or land development.

(Ord. 2009-____, --/2009, §834)

§22-836. Utility Easements.

Easements shall be provided for all utilities, including but not limited to poles, wires, conduits, storm and sanitary sewers, water and heat mains, gas, electric power, telephone, cable TV and roadway embankments.

A. *Location and width.* With the exception of on-lot sewer laterals, utilities shall be located either within the public right-of-way or in easements centered on or adjacent to front, rear or side lot lines. No structures or trees shall be placed within such easements. Such easements shall be minimum of 20 feet in width.

B. *Underground installation.* In developments of ten or more lots or residential developments of ten or more dwelling units electric, telephone and all other utility facilities shall be installed underground. All existing and proposed utilities shall be shown on the preliminary plan. Prior to final plan approval the developer shall be required to obtain a letter from each utility company providing service to the subdivision stating that it has entered into an agreement with the developer to provide for such a system. All underground utilities including laterals, service connections and the like or provisions for the same shall be installed prior to the placing of the subbase material in areas where the utilities underlie the cartway.

C. *Petroleum, gas and electric transmission lines.*

(1) Where any petroleum, petroleum products, natural gas or electric transmission line traverses a subdivision or land development the developer shall confer with the applicable transmission or distribution company to determine the minimum distance which the company requires between each structure and the centerline of such transmission line. Prior to preliminary plan approval the developer shall be required to obtain a letter from the transmission or distribution company stating that it has entered into an agreement with the developer establishing an easement through the tract and stating any conditions on the use of the tract and the easement width.

(2) Any company intending to install a petroleum, petroleum products or natural gas transmission line shall be required to construct such line on an easement at least 50 feet wide, and the line shall be located at the center of such easement.

(3) The installation shall comply with all applicable standards of the Pennsylvania Utilities Commission.

(4) A minimum distance of 25 feet, measured from the edge of the easement, shall be required between any proposed dwelling unit and any petroleum, petroleum products or natural gas transmission line which traverses a subdivision.

(Ord. 2009-____, --/2009, §835)

§22-837. Nonresidential Subdivision and Land Development.

1. *General.* If a proposed subdivision includes land that is zoned for commercial or industrial purposes, the layout of the subdivision or land development with respect to such land shall make such

provisions as the Planning Commission require.

2. *Required.* A nonresidential subdivision or land development shall also be subject to all the requirements of site plan approval set forth in the Zoning Ordinance [Chapter 27]. Site plan approval and nonresidential subdivision plan approval may proceed simultaneously at the discretion of the Planning Commission. A nonresidential subdivision shall be subject to all the requirements of these regulations as well as such additional standards required by the Planning Commission and shall conform to the proposed land use and standards established in the Comprehensive Plan, Official Map and Zoning Ordinance [Chapter 27].

3. *Standards.* In addition to the requirements and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the Planning Commission that the street, parcel and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed.

- A. Proposed industrial parcels shall be suitable in the types of industrial or commercial development anticipated.
- B. Street right-of-way and pavement shall be adequate to accommodate the type and volume of traffic anticipated to be generated thereon.
- C. Special requirements may be imposed by the Planning Commission with respect to street, curb, gutter and sidewalk design and construction.
- D. Special requirements may be imposed by the Planning Commission with respect to the installation of public utilities, including water, sewer and storm drainage.
- E. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.
- F. Streets carrying nonresidential traffic, especially truck traffic, shall not normally be extended to the boundaries of adjacent existing and potential residential areas.

(Ord. 2009-____, --/2009, §836)

Part 9**Mobile Home Parks****§22-901. General Requirements.**

In accordance with §501 of the Pennsylvania Municipalities Planning Code, Act 247, 53 P.S. §10501, as amended, provisions regulating mobile home parks shall be separate and distinct. The standards and regulations provided herein shall apply to both the development and expansion of mobile home parks. The development and/or expansion of a mobile home park shall be deemed as a subdivision or land development and shall be subject to design standards within Part 8 and regulations provided within this Part.

(Ord. 2009-____, --/2009, §901)

§22-902. Site Location Standards.

1. Unless stated otherwise, a mobile home park shall be subject to the design standards requirements as set forth in Part 8 of this Chapter.
2. All mobile home parks shall be serviced by a centralized sewage disposal system and a central water supply and distribution system.
3. All mobile home parks shall have a total land area of not less than ten acres.
4. All mobile home parks shall be located on well drained land with the average natural slope not exceeding ten percent. The development and/or expansion of a mobile home park on land within a 100-year floodplain shall be prohibited.
5. All mobile home parks shall have access to public streets or roads.
6. Mobile homes shall not be located on sites so that any portion of any mobile home is closer than 35 feet to any portion of any other mobile home or permanent building within the mobile home park.
7. Access to mobile home sites shall be from interior driveways, access drives or private streets and shall not be from public street or roads. Entrance roads shall have a paved cartway width of at least 24 feet.
8. Every mobile home site shall be provided with a minimum of two off-street parking spaces.
9. The minimum area of land per mobile home site shall be not less than 7,200 square feet, with the dimensions being 60 feet by 120 feet. There shall be an interior spacing distance of not less than 30 feet from the defined site on which the mobile home is located to the next defined site for a mobile home.
10. A buffer area shall be provided around the mobile home park. No mobile home lot shall be located closer than 50 feet to any public road right-of-way or closer than 75 feet to any other exterior property line.
11. A vegetative screening of evergreen trees shall be required along the property boundary line separating the park and any adjacent use. The variety of evergreen trees shall subject to approval by the Planning Commission. Said trees shall be minimum height of six feet at the time of planting and shall be planted not more than six feet apart. The applicant and/or operator of the mobile home park shall be responsible to maintain such screening, including the replacement of any trees which are damaged, die or otherwise fail to grow.
12. Every mobile home park shall provide a defined recreational site or sites which shall contain an area of land not less than five percent of the total gross land area within the boundaries of the mobile home park. All recreational sites shall be located in areas which are readily accessible to all residents of the mobile home park. A recreational development plan shall be provided which

identifies passive and active recreational features to be provided upon the site, including recreational equipment, play apparatus, benches and all other features and facilities to be incorporated into the design of the recreational site. The location of the recreational site and the recreational development plan shall be subject to the review and approval of the Planning Commission. The recreational site must be identified and approved by the Planning Commission prior to final approval of the development or expansion of a mobile home park. To guarantee the installation of all improvements to the site, the applicant shall be required to complete the installation of all such improvements prior to receiving an unconditional final approval or to post an irrevocable letter of credit in the amount of 110 percent of the estimated cost of improvements. The procedures and standards contained within §509 of the Pennsylvania Municipalities Planning Code, Act 247, 53 P.S. §10509, as amended, shall apply to posting the aforementioned irrevocable letter of credit. The procedures and standards within §510 of Act 247, 53 P.S. §11001, as amended, shall apply to the release of the irrevocable letter of credit upon the completion of the required improvements. The applicant shall be required to reimburse the Township for any consulting and engineering fees associated with the inspection of improvements to the site. Said reimbursement must be paid at the same meeting of the Planning Commission at which the applicant seeks final and unconditional approval of said improvements.

13. Each mobile home lot shall be improved to provide a permanent poured concrete foundation for the placement and tiedown of the mobile home, thereby securing the structure against uplift, sliding, rotation and overturning. The foundation and utility connections shall be constructed in accordance with governing standards contained in the Pennsylvania Uniform Construction Code, 34 Pa.Code §§401 *et seq.*

14. Every mobile home shall be securely anchored or tied-down governing standards contained in the Pennsylvania Uniform Construction Code, 34 Pa.Code §§401 *et seq.* All mobile homes shall be enclosed from the bottom of the mobile home to the ground or paving using industry approved fire resistant skirting material with sufficient ventilation to inhibit decay and deterioration of the mobile home.

15. The owner/operator of each mobile home park shall provide a refuse disposal plan.

16. An approved soils erosion and sedimentation plan and a stormwater management plan shall be required prior to the unconditional approval for the development or expansion of a mobile home park.

17. An approved Department of Environmental Protection planning module shall be required prior to the unconditional approval for the development or expansion of a mobile home park.

18. A letter of commitment for the provision of required utilities from all applicable utility companies.

19. Street identification signs and traffic control signs shall be provided for all streets at every intersection in the mobile home park. Such signs shall be purchased and installed by the developer.

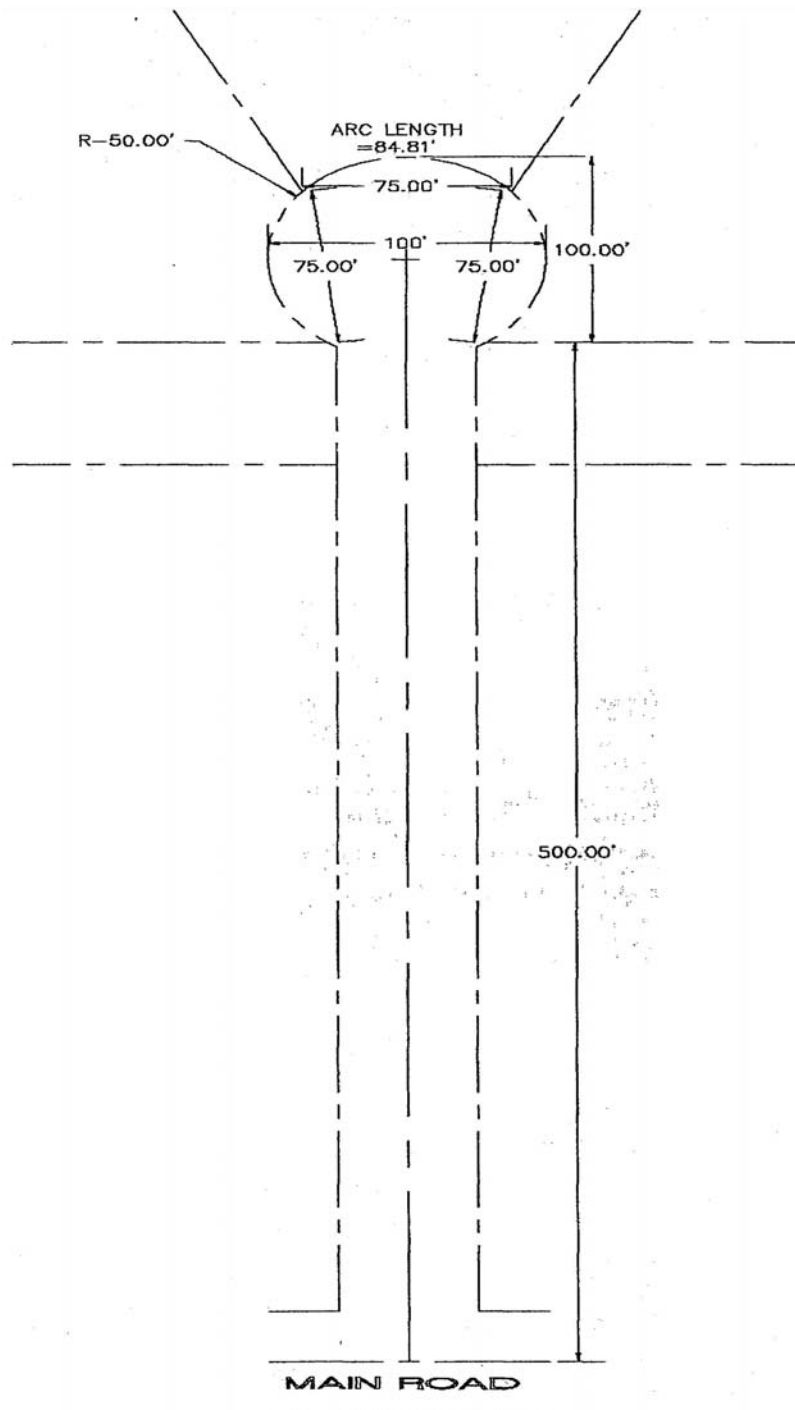
(Ord. 2009-____, --/2009, §902)

Appendix**Design Standards; Development Agreement****DESIGN STANDARDS****FOR****CUL-DE-SAC STREET**

All cul-de-sac streets, whether permanently or temporarily designed as such, shall terminate in a circular turnaround and shall be designed in accordance with the following standards:

1. A circular right-of-way with a minimum diameter of 100 feet, with a minimum radius of 40 feet, as measured to the outer pavement edge or curb line, and improved to the required construction specifications.
2. For all lots fronting upon the arc of a cul-de-sac, there shall be a minimum cord distance of not less than 75 feet as measured from the side yard lot lines for each lot. (See Design Standard Illustration on following page.)
3. The entire area within a cul-de-sac shall be paved. No physical obstructions shall be permitted within the cul-de-sac including, but not limited to, islands, vegetative cover, trees and/or any other types of decorative features.

**PLAINS TOWNSHIP
CUL-DE-SAC DESIGN REQUIREMENTS**



<p style="text-align: center;">PLAINS TOWNSHIP PAVING STANDARDS</p>

The paving standards for Plains Township shall reflect the following PennDOT Superpave Standards, or any subsequent revision which may be adopted by PennDOT.

PennDOT - SUPERPAVE STANDARDS

Procedures/Specification. Design of all streets constructed shall be in accordance with the guidelines and requirements for Design of Local Roads and Streets contained in Design Manual, Part II, Highway Design, latest revision and the latest edition of PennDOT Publication No. 408. The following procedures shall be followed for construction.

Local Street

1. If at the time of construction, local, unstable subgrade conditions are encountered, the Township Engineer may require that all areas of unstable subgrade may be excavated to sufficient depth, replaced with approved material, and compacted to a density and stability equal to, or greater than the surrounding subgrade. The Township Engineer may require PennDOT No. 408 Specifications to be installed for the entire subgrade of the proposed cartway. Pavement base drain may be required by Township Engineer.
2. Fine grade and roll subgrade.
3. Cut out all soft and yielding areas to a maximum depth of two feet and backfill with 2A modified or 3A modified aggregate compacted in six-inch lifts. If the soil is still soft at the two-foot depth, place geotextile fabric in the bottom prior to backfilling with 2A or 3A aggregate.
4. Place and compact a minimum six-inch depth of 2A modified aggregate.
5. Place and compact a minimum four and one half-inches depth of Superpave asphalt design, 25.0 mm, PG 64-22 base course.
6. Place and compact a minimum one and one half inches of Superpave asphalt design, 9.5 mm, PG 64-22 wearing course. The appropriate skid resistance level shall be used in accordance with PennDOT Publication No. 408 and 242. Design mix shall be submitted to Township for review to include appropriate ESAL.

<p style="text-align: center;">PLAINS TOWNSHIP</p> <p style="text-align: center;">DEVELOPMENT AGREEMENT</p>

Development Agreement Required

All applicants proposing any subdivision or land development which provides for the installation of improvements required by this Chapter 22 or any improvements or amenities which appear on the plan shall be required to enter into a legally binding development agreement with the Township prior to final plan approval. The development agreement shall guarantee the installation of said improvements in accordance with all Township requirements. The final plan shall not be approved by the Commission prior to the execution of this agreement and the delivery of the Performance Guarantee.

Terms of Development Agreement

The development agreement shall be in the manner and form approved by the Solicitor to the Planning Commission, and it shall consist of the following terms, where applicable:

- (1) The construction depicted upon the approved plans in itemized format.
- (2) Construction of streets with related curbs, street signs, drainage facilities and related improvements.
- (3) Installation of utility lines.
- (4) Dedication of streets, transfer of water and sewer lines and easements.
- (5) Prevention of erosion, sedimentation and water damage to the subject and adjacent properties.
- (6) Developer's responsibilities for damage to other property.
- (7) A work schedule setting forth the beginning and ending dates and such other details as the Township deems fit and appropriate for the improvements covered by the development agreement, together with an inspection schedule approved by the Township Engineer.
- (8) The estimated cost of the improvements not yet completed, including a detailed breakdown in a form acceptable to the Township, per the Financial Security required under Part 7 of this Chapter 22.
- (9) The provision of a Financial Security for completion of required improvements which complies with the applicable requirements of Part 7 of this Chapter 22.
- (10) The developer shall provide the Planning Commission with a set of reproducible "AS BUILT" plans prepared by and certified to by a professional land surveyor/professional engineer of all streets, storm and sanitary sewers and water distribution facilities.
- (11) Provisions for violation of the development agreement.
- (12) Developer shall secure or maintain public liability insurance for the duration of improvements construction. A copy of other evidence of coverage shall be submitted to the Township.

- (13) A save harmless clause to protect the Township from liability.
- (14) All improvements subject to the development agreement shall be approved according to the approved inspection schedule and the governing provisions under Part 7 of this Chapter 22.
- (15) The developer shall be responsible for all reasonable engineering and legal costs and expenses for review, inspection, consultations, and preparation of agreements.
- (16) Any other lawful terms which the Planning Commission may require to carry out the provisions of this Chapter 22.

Chapter 23

Stormwater Management

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- §23-102. Statement of Findings
- §23-103. Purpose
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- §23-106. Compatibility with Other Requirements

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- §23-401. Plan Requirements
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Part 8 Enforcement and Penalties

§23-801. Right-of-Entry
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Appendices

Appendix 23-A.1 Stormwater Management and Maintenance Agreement
Appendix 23-A.2 Easement Agreement
Appendix 23-B Stormwater Management Permit Application
Appendix 23-C.1 Disconnected Impervious Area (DIA) and Worksheet
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Appendix 23-E Stormwater Management for Small Projects
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Part 1**General Provisions****§23-101. Short Title.**

This Chapter shall be known and may be cited as the “Plains Township Stormwater Management Ordinance”.

(*Ord. 2012-2, 5/10/2012, §101*)

§23-102. Statement of Findings.

The Board of Commissioners of the Township finds that:

A. Inadequate management of accelerated runoff of stormwater resulting from development throughout a watershed increases flows and velocities, contributes to erosion and sedimentation, overtaxes the carrying capacity of streams and storm sewers, greatly increases the cost of public facilities to carry and control stormwater, undermines floodplain management and flood control efforts in downstream communities, reduces groundwater recharge, threatens public health and safety, and increases nonpoint source pollution of water resources.

B. A comprehensive program of stormwater management, including reasonable regulation of development and activities causing accelerated runoff, is fundamental to the public health, safety and welfare and the protection of people of the Commonwealth, their resources and the environment.

C. Stormwater is an important water resource, which provides groundwater recharge for water supplies and base flow of streams, which also protects and maintains surface water quality.

D. Federal and state regulations require certain municipalities to implement a program of stormwater controls. These municipalities are required to obtain a permit for stormwater discharges from their separate storm sewer systems under the National Pollutant Discharge Elimination System (NPDES).

(*Ord. 2012-2, 5/10/2012, §102*)

§23-103. Purpose.

The purpose of this Chapter is to promote health, safety and welfare within the Township and its watershed by minimizing the harms and maximizing the benefits described in §23-102 of this Chapter through provisions designed to:

A. Meet legal water quality requirements under state law, including regulations at 25 Pa.Code Chapter 93, to protect, maintain, reclaim and restore the existing and designated uses of the waters of this Commonwealth.

B. Preserve the natural drainage systems as much as possible.

C. Manage stormwater runoff close to the source.

D. Provide procedures and performance standards for stormwater planning and management.

E. Maintain groundwater recharge to prevent degradation of surface and groundwater quality and to otherwise protect water resources.

F. Prevent scour and erosion of stream banks and streambeds.

G. Provide proper operation and maintenance of all permanent SWM BMPs that are im-

plemented within the Township.

H. Provide standards to meet NPDES permit requirements.

(Ord. 2012-2, 5/10/2012, §103)

§23-104. Statutory Authority.

1. *Primary authority.* The Township is empowered to regulate these activities by the authority of the Act of October 4, 1978, P.L. 864 (Act 167), 32 P.S. §§680.1 *et seq.*, as amended, the “Stormwater Management Act” and the First Class Township Code, 53 P.S. §§55101 *et seq.*

2. *Secondary authority.* The Township also is empowered to regulate land use activities that affect runoff by the authority of the Act of July 31, 1968, P.L. 805, No. 247, the Pennsylvania Municipalities Planning Code, 53 P.S. §§10101 *et seq.*, as amended.

(Ord. 2012-2, 5/10/2012, §104)

§23-105. Applicability.

1. All regulated activities and all activities that may affect stormwater runoff, including land development and earth disturbance activity, are subject to regulation by this Chapter.

2. Pennsylvania Department of Transportation (PennDOT) roadway projects will perform stormwater management consistent with Publication 13M (Design Manual 2) Chapter 13.6, Antidegradation and Post Construction Stormwater Management Policy.

(Ord. 2012-2, 5/10/2012, §105)

§23-106. Compatibility with Other Requirements.

1. Approvals issued and actions taken under this Chapter do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law, regulation or ordinance.

2. If the Township administers its own Subdivision and Land Development Ordinance [Chapter 22], the Township shall be responsible for administering this Chapter.

3. If the Township falls under the authority of the Luzerne County Subdivision and Land Development Ordinance, the county shall be responsible for administering this Chapter.

4. The standards and criteria in this Chapter supersede the standards and criteria in the previously enacted Luzerne County Stormwater Management Ordinance.

(Ord. 2012-2, 5/10/2012, §108)

Part 2**Definitions****§23-201. Definitions.**

For the purposes of this Chapter, certain terms and words used herein shall be interpreted as follows:

- A. Words used in the present tense include the future tense; the singular number includes the plural, and the plural number includes the singular; words of masculine gender include feminine gender; and words of feminine gender include masculine gender.
- B. The word “includes” or “including” shall not limit the term to the specific example but is intended to extend its meaning to all other instances of like kind and character.
- C. The words “shall” and “must” are mandatory; the words “may” and “should” are permissive.

Agricultural activity—activities associated with agriculture such as agricultural cultivation, agricultural operation and animal heavy use areas. This includes the work of producing crops including tillage, land clearing, plowing, disking, harrowing, planting, harvesting crops or pasturing and raising of livestock and installation of conservation measures. Construction of new buildings or impervious area is not considered an agricultural activity.

Applicant—a landowner, developer or other person who has filed an application to the Township for approval to engage in any regulated activity at a project site in the Township.

Best management practice (BMP)—activities, facilities, designs, measures or procedures used to manage stormwater impacts from regulated activities, to meet state water quality requirements, to promote groundwater recharge, and to otherwise meet the purposes of this Chapter. Stormwater BMPs are commonly grouped into one of two broad categories or measures: “structural” or “nonstructural”. In this Chapter, nonstructural BMPs or measures refer to operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff whereas structural BMPs or measures are those that consist of a physical device or practice that is installed to capture and treat stormwater runoff. Structural BMPs include, but are not limited to, many practices and devices, from large-scale retention ponds and constructed wetlands, to small-scale underground treatment systems, infiltration facilities, filter strips, low impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins and manufactured devices. Structural stormwater BMPs are permanent appurtenances to the project site.

Capture—the process of collecting runoff to be managed by a stormwater BMP.

Conservation District—a Conservation District, as defined in §3(c) of the Conservation District Law, 3 P.S. §851(c), that has the authority under a delegation agreement executed with DEP to administer and enforce all or a portion of the regulations promulgated under 25 Pa.Code, Chapter 102; refers to the Luzerne Conservation District unless otherwise noted.

DEP—the Pennsylvania Department of Environmental Protection.

Design storm—the magnitude and temporal distribution of precipitation from a storm event measured in probability of occurrence (e.g., a five-year storm) and duration (e.g., 24 hours) used in the design and evaluation of stormwater management systems. Also see “return period”.

Detention volume—the volume of runoff that is captured and released into the waters of this Commonwealth at a controlled rate.

Development, land—see “land development”.

Development, site—any human-induced change to improved or unimproved real estate, whether public or private, including, but not limited to, land development, construction, installation or expansion of a building or other structure, land division, street construction, drilling and site alteration such as embankments, dredging, grubbing, grading, paving, parking or storage facilities, excavation, filling, stockpiling or clearing.

Disconnected impervious area (DIA)—an impervious or impermeable surface that is disconnected from any stormwater drainage or conveyance system and is redirected or directed to a pervious area, which allows for infiltration, filtration and increased time of concentration as specified in Appendix C.1, “Disconnected Impervious Area”.

Disturbed area—an unstabilized land area where an earth disturbance activity is occurring or has occurred.

Earth disturbance activity—a construction or other human activity which disturbs the surface of the land, including, but not limited to: clearing and grubbing; grading; excavations; embankments; road maintenance; building construction; and the moving, depositing, stockpiling or storing of soil, rock or earth materials.

Erosion—the natural process by which the surface of the land is worn away by water, wind or chemical action.

Existing condition—the dominant land cover during the five-year period immediately preceding a proposed regulated activity.

FEMA—Federal Emergency Management Agency.

Floodplain—any land area susceptible to inundation by water from any natural source or delineated by applicable FEMA maps and studies as being a special flood hazard area. Also includes areas that comprise Group 13 Soils, as listed in Appendix A of the Pennsylvania DEP Technical Manual for Sewage Enforcement Officers (as amended or replaced from time to time by DEP).

Floodway—the channel of the watercourse and those portions of the adjoining floodplains that are reasonably required to carry and discharge the 100-year flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by FEMA. In an area where no FEMA maps or studies have defined the boundary of the 100-year floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet from the top of the bank of the stream.

Forest management/timber operations—planning and activities necessary for the management of forestland. These include conducting a timber inventory, preparation of forest management plans, silvicultural treatment, cutting budgets, logging road design and construction, timber harvesting, site preparation and reforestation.

Geotextile—a porous fabric manufactured from synthetic fiber that is used to provide separation between different types of media (i.e., between soil and stone).

Gravel (crushed stone)—considered to be impervious when the intended use of the stone is for transportation purposes, parking areas, construction areas, trails or if the gravel is compacted at any time during or after its placement; landscaping stone is not considered as impervious area.

Hotspot—areas where land use or activities generate highly contaminated runoff, with concentrations of pollutants that are higher than those that are typically found in stormwater (e.g., vehicle salvage yards and recycling facilities, vehicle fueling stations, fleet storage areas, vehicle equipment and cleaning facilities, and vehicle service and maintenance facilities).

Hydrologic soil group (HSG)—infiltration rates of soils vary widely and are affected by subsurface permeability as well as surface intake rates. Soils are classified into four HSGs

(A, B, C and D) according to their minimum infiltration rate, which is obtained for bare soil after prolonged wetting. The NRCS defines the four groups and provides a list of most of the soils in the United States and their group classification. The soils in the area of the development site may be identified from a soil survey report that can be obtained from local NRCS offices or Conservation District offices. Soils become less pervious as the HSG varies from A to D (NRCS^{3,4}).

Impervious surface (impervious area)—a surface that prevents the infiltration of water into the ground. Impervious surfaces include, but are not limited to streets, sidewalks, pavements, parking lots, driveways, roofs, stone patios. See definition of “gravel (crushed stone)” for when gravel classifies as impervious area.

Infiltration—movement of surface water into the soil, where it is absorbed by plant roots, evaporated into the atmosphere or percolated downward to recharge groundwater.

Karst—a type of topography or landscape characterized by surface depressions, sinkholes, rock pinnacles/uneven bedrock surface, underground drainage and caves. Karst is formed on carbonate rocks, such as limestone or dolomite.

Land development (development)—inclusive of any or all of the following meanings:

- (1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - (a) A group of two or more buildings; or
 - (b) The division or allocation of land or space between or among two or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (2) Any subdivision of land;
- (3) Development in accordance with §503(1.1) of the Pennsylvania Municipalities Planning Code, 53 P.S. §10503(1.1).

Low impact development—a land development and construction approach that uses various land planning, design practices and technologies to simultaneously conserve and protect natural resource systems, while allowing for necessary infrastructure improvements associated with land development.

Municipality—Plains Township, Luzerne County, Pennsylvania.

NRCS—USDA Natural Resources Conservation Service (previously SCS).

Peak discharge—the maximum rate of stormwater runoff from a specific storm event.

Pervious area—any area not defined as impervious.

Project site—the specific area of land where any regulated activities in the Township are planned, conducted or maintained.

Qualified professional—any person licensed by the Pennsylvania Department of State or otherwise qualified by law to perform the work required by the Chapter.

Redevelopment—any development that requires demolition or removal of existing structures or impervious surfaces at a site and replacement with new impervious surfaces. Maintenance activities such as top-layer grinding and re-paving are not considered to be redevelopment. Interior remodeling projects and tenant improvements are also not considered to be redevelopment.

Regulated activities—any earth disturbance activities or any activities that involve the alteration or development of land in a manner that may affect stormwater runoff.

Regulated earth disturbance activity—activity involving earth disturbance subject to regulation under 25 Pa.Code, Chapters 92, 102 or the Clean Streams Law, 35 P.S. §§691.1 *et seq.*

Retention volume/removed runoff—the volume of runoff that is captured and not released directly into the surface waters of this Commonwealth during or after a storm event.

Return period—the average interval, in years, within which a storm event of a given magnitude can be expected to occur one time. For example, the 25-year return period rainfall would be expected to occur on average once every 25 years; or stated in another way, the probability of a 25-year storm occurring in any one year is 0.04 (i.e., a four percent chance).

Runoff—any part of precipitation that flows over the land.

Sediment—soils or other materials transported by surface water as a product of erosion.

State water quality requirements—the regulatory requirements to protect, maintain, reclaim and restore water quality under 25 Pa.Code and the Clean Streams Law, 35 P.S. §§691.1 *et seq.*

Stormwater—drainage runoff from the surface of the land resulting from precipitation or snow or ice melt.

Stormwater management best management practices—is abbreviated as BMPs or SWM BMPs throughout this Chapter.

Stormwater management facility—any structure, natural or human-made, that, due to its condition, design or construction, conveys, stores or otherwise affects stormwater runoff. Typical stormwater management facilities include, but are not limited to: detention and retention basins; open channels; storm sewers; pipes; French drains; underground on-lot seepage pits; and infiltration facilities.

Stormwater management plan—the Luzerne County Stormwater Management Plan for managing stormwater runoff adopted by the County of Luzerne as required by the Act of October 4, 1978, P.L. 864, (Act 167), as amended, and known as the “Stormwater Management Act”.

Stormwater management site plan—the plan prepared by the developer or his or her representative indicating how stormwater runoff will be managed at the development site in accordance with this Chapter. Stormwater management site plan will be designated as “SWM site plan” throughout this Chapter.

Subdivision—as defined in the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, No. 247.

USDA—United States Department of Agriculture.

Void ratio—the ratio of the volume of void space to the total volume of the BMP material (void space plus solid material/media providing structural support to create the storage area).

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

Watershed—region or area drained by a river, watercourse or other surface water of this Commonwealth.

Wetland—areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

(Ord. 2012-2, 5/10/2012, §201)

Part 3**Stormwater Management Standards****§23-301. General Requirements.**

1. For all regulated activities, submission of the stormwater management permit application provided in Appendix 23-B is required.
2. For all regulated activities, unless preparation of a SWM site plan is specifically exempted in §23-302:
 - A. Preparation and implementation of an approved SWM site plan is required.
 - B. No regulated activities shall commence until the Township issues written approval of a SWM site plan, which demonstrates compliance with the requirements of this Chapter.
3. SWM site plans approved by the Township, in accordance with §23-406, shall be on site throughout the duration of the regulated activity.
4. The Township may, after consultation with DEP, approve measures for meeting the state water quality requirements other than those in this Chapter, provided that they meet the minimum requirements of, and do not conflict with, state law including, but not limited to, the Clean Streams Law, 35 P.S. §§691.1 *et seq.*
5. For all regulated earth disturbance activities, erosion and sediment control BMPs shall be designed, implemented, operated and maintained during the regulated earth disturbance activities (e.g., during construction) to meet the purposes and requirements of this Chapter and to meet all requirements under 25 Pa.Code and the Clean Streams Law, 35 P.S. §§691.1 *et seq.* Various BMPs and their design standards are listed in the Erosion and Sediment Pollution Control Program Manual (E&S Manual 2), No. 363-2134-008 (April 15, 2012), as amended and updated.
6. For all regulated activities, implementation of the volume controls in §23-303 is required, unless otherwise exempted by §23-302.
7. Impervious areas:
 - A. The measurement of impervious areas shall include all of the impervious areas in the total proposed development even if development is to take place in stages.
 - B. For development taking place in stages, the entire development plan must be used in determining conformance with this Chapter.
 - C. For projects that add impervious area to a parcel, only the proposed impervious area on the parcel must be considered and summed to determine the plan preparation and approval requirements of this Chapter.
 - D. For redevelopment projects in which the existing site is disturbed, the entire proposed site is subject to the plan preparation and approval requirements of this Chapter. Existing conditions are considered to be the existing site prior to disturbance, and 20 percent of the existing impervious area must be considered as meadow in good condition for all stormwater calculations. For redevelopment projects in which the existing site is already controlled by a stormwater management facility, the requirement to consider 20 percent of existing impervious area as meadow is waived, provided the existing facility meets the water quality, volume and peak rate standards and criteria of this Chapter.
8. Stormwater flows onto adjacent property shall not be created, increased, decreased, relocated or otherwise altered without written notification of the adjacent property owner(s). Such stormwater flows shall be subject to the requirements of this Chapter.

9. All regulated activities shall include measures to:
- A. Protect health, safety and property.
 - B. Meet the water quality goals of this Chapter by implementing measures outlined in the Pennsylvania Stormwater Best Management Practices Manual (BMP Manual)¹ to:
 - (1) Minimize disturbance to floodplains, wetlands and wooded areas.
 - (2) Maintain or extend riparian buffers.
 - (3) Avoid erosive flow conditions in natural flow pathways.
 - (4) Minimize thermal impacts to waters of this Commonwealth.
 - (5) Disconnect impervious surfaces by directing runoff to pervious areas, wherever possible.
 - C. To the maximum extent practicable, incorporate the techniques for low impact development practices described in the BMP Manual.¹
10. The design of all facilities over karst and mined areas shall include an evaluation of measures to minimize adverse effects.
11. Infiltration BMPs should be spread out, made as shallow as practicable, and located to maximize use of natural on-site infiltration features while still meeting the other requirements of this Chapter.
12. Storage facilities, to the greatest extent possible and at the discretion of the Township Engineer, shall completely drain both the volume control and rate control capacities over a period of time not less than 24 hours and not more than 72 hours from the end of the design storm.
13. Storage facilities shall incorporate features to maximize the length of the flow path and increase the travel time through the facility.
14. The design storm volumes to be used in the analysis of peak rates of discharge should be obtained from the Precipitation-Frequency Atlas of the United States, Atlas 14, Volume 2, Version 3.0, U.S. Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Weather Service, Hydrometeorological Design Studies Center, Silver Spring, Maryland. NOAA's Atlas 14 can be accessed at: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.⁵
15. For all regulated activities, SWM BMPs shall be designed, implemented, operated and maintained to meet the purposes and requirements of this Chapter and to meet all requirements under 25 Pa.Code, the Clean Streams Law, 35 P.S. §§691.1 *et seq.*, and the Stormwater Management Act, 32 P.S. §§680.1 *et seq.*
16. Various BMPs and their design standards are listed in the BMP Manual.¹
(Ord. 2012-2, 5/10/2012, §301)

§23-302. Exemptions.

1. Regulated activities that create impervious areas or earth disturbance shall adhere to Table 23-3-1 to meet the requirements of this Chapter. The larger of the two areas determines the applicable requirements of this Chapter (i.e., if only 500 square feet of impervious area is proposed, but 15,000 square feet of earth disturbance, the requirements follow row 3 of Table 23-3-1).

Table 23-3-1. Stormwater Management Requirements and Exemptions

Proposed Impervious Area (sq. ft.)	Proposed Total Earth Disturbance (sq. ft.)	Ordinance Exemptions	Stormwater Management Requirements	What is required to submit to Township?*
<1,000	<5,000	§23-303, §23-304 and Part 4 of this Chapter	Ensure §23-301, general requirements are met	N/A

Proposed Impervious Area (sq. ft.)	Proposed Total Earth Disturbance (sq. ft.)	Ordinance Exemptions	Stormwater Management Requirements	What is required to submit to Township?*
1,000 to 5,000	5,000 to 10,000	§23-303, §23-304 and Part 4 of this Chapter	Disconnected Impervious Area (DIA) as in Chapter Appendix 23-C.1	Chapter Appendix 23-C.1 Worksheet and Sketch (or equivalent)
			OR	OR
			Capture and control first 1 inch of runoff over proposed impervious areas as in Chapter Appendix 23-E	Chapter Appendix 23-E Worksheet and Sketch (or equivalent)
5,000 to 10,000	10,000 to 20,000	§23-304 and Part 4 of this Chapter	Capture and permanently remove the first 2 inches of runoff over proposed impervious areas as in §23-303, Paragraph B of this Chapter	Chapter Appendix 23-D Worksheet and Sketch (or equivalent)
>10,000	>20,000	None	All requirements of this Chapter	SWM site plan
*In addition to the stormwater management permit application provided in Chapter Appendix 23-B.				

2. Agricultural activity is exempt from the rate control and SWM site plan preparation requirements of this Chapter provided the activities are performed according to the requirements of 25 Pa.Code Chapter 102.

3. Forest management and timber operations are exempt from the rate control and SWM site plan preparation requirements of this Chapter provided the activities are performed according to the requirements of 25 Pa.Code Chapter 102.

4. Exemptions from any provisions of this Chapter shall not relieve the applicant from the requirements in §§23-301 Paragraphs 1. through .16.

(Ord. 2012-2, 5/10/2012, §302)

§23-303. Volume Controls.

The low impact development practices provided in the BMP Manual¹ shall be utilized for all regulated activities to the maximum extent practicable. Water volume controls shall be implemented using the design storm method in Paragraph A. below or the simplified method in Paragraph B below. For all regulated activities that require submission of a formal SWM site plan, both the design storm method and the simplified method shall be calculated; the larger control volume based on the two calculations shall be controlled. Paragraph C. below provides requirements for mined, karst or other geologically limiting areas where infiltration shall not occur.

A. The design storm method (CG-1 in the BMP Manual¹) is applicable to any size of regulated activity. This method requires detailed modeling based on site conditions.

- (1) Do not increase the post-development total runoff volume for all storms equal to or less than the two-year 24-hour duration precipitation.
- (2) For modeling purposes:
 - (a) Existing (predevelopment) non-forested pervious areas must be considered meadow or its equivalent.
 - (b) Twenty percent of existing impervious area, when present, shall be considered meadow in the model for existing conditions.

B. When design storm method CG-1 guidelines are not used, the simplified method (CG-2 in the BMP Manual¹) has been modified to accommodate two inches of permanently removed runoff volume. This method (provided below) is independent of site conditions and should be used if the design storm method is not followed. For new impervious surfaces:

- (1) The first two inches of runoff from new impervious surfaces shall be permanently removed from the runoff flow (i.e., it shall not be released into the surface waters of this Commonwealth). Removal options include reuse, evaporation, transpiration and infiltration.
- (2) Wherever possible, infiltration facilities should be designed to accommodate infiltration of the entire permanently removed runoff; however, in all cases at least the first one-half inch of the permanently removed runoff should be infiltrated.

- (3) Facilities, to the greatest extent possible and subject to the Township Engineer's discretion, shall be designed to drain the permanently removed runoff volume in a period no less than 24 hours and no greater than 72 hours.
- (4) Runoff volume in excess of two inches shall be safely conveyed to existing stormwater collection systems or streams, in the direction of the existing drainage course.
- (5) This method is exempt from the requirements of §23-304, Rate Controls.

C. Before infiltration is proposed on a site, site conditions shall be evaluated by a qualified design professional through subsurface investigation and testing to determine if site conditions are suitable to support proposed infiltration facilities to manage runoff. If it is determined that infiltration is not feasible due to physical constraints of the site, or will adversely impact the environment as demonstrated by the presence of acid mine drainage, sinkhole formation or other serious environmental issues, then the above volume controls must be achieved through surface BMP mitigation. Reference the BMP Manual¹ for alternative mitigation measures that do not require infiltration.

(Ord. 2012-2, 5/10/2012, §303)

§23-304. Rate Controls.

1. *Areas not covered by a Stormwater Management District Map contained in Appendix 23-F.1 of the Chapter.* Post-development discharge rates shall not exceed the predevelopment discharge rates for the one through 100-year, 24-hour storms. If it is shown that the peak rates of discharge indicated by the post-development analysis are less than or equal to the peak rates of discharge indicated by the predevelopment analysis for one through 100-year, 24-hour storms, then the requirements of this Section have been met. Otherwise, the applicant shall provide additional controls as necessary to satisfy the peak rate of discharge requirement. The maps referenced in this section are on file in the township offices and available for review.

2. *Areas covered by a Stormwater Management District Map contained in Appendix 23-F.1 of the Chapter.* For the one through 100-year storms, the post-development peak discharge rates will follow the applicable approved Stormwater Management District Maps. For any areas not shown on the Stormwater Management District Maps, the post-development discharge rates shall not exceed the predevelopment discharge rates. The maps referenced in this section are on file in the township offices and available for review.

(Ord. 2012-2, 5/10/2012, §304)

Part 4

Stormwater Management (SWM) Site Plan Requirements

§23-401. Plan Requirements.

The following items shall be included in the SWM site plan:

- A. Appropriate Sections from the Township's Subdivision and Land Development Ordinance [Chapter 22] and other applicable local ordinances, shall be followed in preparing the SWM site plans. In instances where the Township lacks subdivision and land development regulations, the content of SWM site plans shall follow the county's Subdivision and Land Development Ordinance.
- B. The Township or county shall not approve any SWM site plan that is deficient in meeting the requirements of this Chapter. At its sole discretion and in accordance with this Part, when a SWM site plan is found to be deficient, the Township may either disapprove the submission and require a resubmission, or in the case of minor deficiencies, the Township may accept submission of modifications.
- C. Provisions for permanent access or maintenance easements for all physical SWM BMPs, such as ponds and infiltration structures, as necessary to implement the operation and maintenance (O&M) plan discussed in Paragraph E., Subparagraph (9) below.
- D. The following signature block for the Township:

“(Municipal official or designee), on this date (date of signature), has reviewed and hereby certifies that the SWM site plan is in compliance with the Municipal Ordinance No. 2012-2.”
- E. The SWM site plan shall provide the following information:
 - (1) The overall stormwater management concept for the project.
 - (2) A determination of site conditions in accordance with the BMP Manual. A detailed site evaluation shall be completed for projects proposed in areas of carbonate geology or karst topography, mined areas and other environmentally sensitive areas, such as brownfields; depending on site conditions, more stringent standards than those in this Chapter may be imposed at the discretion of the Township Engineer.
 - (3) Stormwater runoff design computations, and documentation as specified in this Chapter, or as otherwise necessary to demonstrate that the maximum practicable measures have been taken to meet the requirements of this Chapter, including the recommendations and general requirements in §23-301; computations are required for all proposed stormwater management facilities.
 - (4) Expected project time schedule.
 - (5) A soil erosion and sediment control plan, where applicable, as prepared for and submitted to the approval authority, and in conformance with 25 Pa.Code Chapter 102.
 - (6) The effect of the project (in terms of runoff volumes, water quality and peak flows) on surrounding properties and aquatic features and on any existing stormwater conveyance system that may be affected by the project.
 - (7) Plan and profile drawings of all SWM BMPs, including drainage structures, pipes, open channels and swales.
 - (8) SWM site plan shall show the locations of existing and proposed on-lot wastewater facilities and water supply wells.
 - (9) The SWM site plan shall include an O&M Plan for all existing and proposed

physical stormwater management facilities. This plan shall address long-term ownership and responsibilities for O&M as well as schedules and costs for O&M activities.

(10) The SWM site plan shall include the following additional elements:

- (a) Construction details of all proposed stormwater management facilities.
- (b) A stormwater facility design narrative.
- (c) A signature block containing the name, address and phone number of the individual responsible for the operation and maintenance plan.
- (d) A drainage area map with time of concentration paths shown.
- (e) Existing contour intervals of two feet.
- (f) All existing features on the property and within 50 feet of property.
- (g) Floodplain and floodway limits.
- (h) Proposed structures and proposed grades.
- (i) Soil boundary lines and descriptions.
- (j) Date of submission, north arrow, graphic scale, call before you dig note and reference number, location map, name of development, name and address of property owner and individual preparing the SWM site plan.
- (k) Existing and proposed easements.
- (l) Statement signed by landowner stating that they cannot alter any stormwater management facility without prior permission of the Township.

(Ord. 2012-2, 5/10/2012, §401)

§23-402. Plan Submission.

1. Ten copies of the SWM site plan shall be submitted as follows:
 - A. Five copies to the Plains Township Planning Commission.
 - B. One copy to the Planning Commission Secretary (see Subsection 3. below).
 - C. One copy to the Planning Commission Solicitor.
 - D. One copy to the Township Engineer (see Subsection 3. below).
 - E. One copy to the Plains Township Zoning Officer.
 - F. One copy to the Plains Township Sewer Authority.
2. Additional copies shall be submitted as requested by the Township or DEP or as stated in the Plains Township Subdivision and Land Development Ordinance [Chapter 22].
3. Digital copies of the plan and supporting documents or calculations may be submitted to the Planning Commission Secretary and Township Engineer in Adobe Portable Document File (PDF) in lieu of paper copies to reduce the number of required paper copies for submittal to eight.

(Ord. 2012-2, 5/10/2012, §402)

§23-403. Plan Review.

1. The SWM site plan shall be reviewed by a qualified professional for the Township for consistency with the provisions of this Chapter. After review, the qualified professional shall provide a written recommendation for the Township to approve or disapprove the SWM site plan. If it is recommended to disapprove the SWM site plan, the qualified professional shall state the reasons for the disapproval in writing. The qualified professional also may recommend approval of the SWM site plan with conditions and, if so, shall provide the acceptable conditions for approval in writing. The SWM site plan review and recommendations shall be completed within the time allowed by the Municipalities Planning Code, 53 P.S. §§10101 *et seq.*, for reviewing subdivision plans.
2. The Township shall notify the applicant in writing within 45 days whether the SWM site

plan is approved or disapproved. If the SWM site plan involves a subdivision and land development plan, the notification period is 90 days. If a longer notification period is provided by other statute, regulation or ordinance, the applicant will be so notified by the Township. If the Township disapproves the SWM site plan, the Township shall cite the reasons for disapproval in writing.

(Ord. 2012-2, 5/10/2012, §403)

§23-404. Modification of Plans.

A modification to a submitted SWM site plan that involves a change in SWM BMPs or techniques, or that involves the relocation or redesign of SWM BMPs, or that is necessary because soil or other conditions are not as stated on the SWM site plan as determined by the Township shall require a resubmission of the modified SWM site plan in accordance with this Part.

(Ord. 2012-2, 5/10/2012, §404)

§23-405. Resubmission of Disapproved SWM Site Plans.

A disapproved SWM site plan may be resubmitted, with the revisions addressing the Township's concerns, to the Township in accordance with this Part. The applicable review fee must accompany a resubmission of a disapproved SWM site plan.

(Ord. 2012-2, 5/10/2012, §405)

§23-406. Authorization to Construct and Term of Validity.

The Township's approval of an SWM site plan authorizes the regulated activities contained in the SWM site plan for a maximum term of validity of five years following the date of approval. The Township may specify a term of validity shorter than five years in the approval for any specific SWM site plan. Terms of validity shall commence on the date the Township signs the approval for an SWM site plan. If an approved SWM site plan is not completed according to §23-407 within the term of validity, then the Township may consider the SWM site plan disapproved and may revoke any and all permits. SWM site plans that are considered disapproved by the Township shall be resubmitted in accordance with §23-405 of this Chapter.

(Ord. 2012-2, 5/10/2012, §406)

§23-407. As-Built Plans, Completion Certificate and Final Inspection.

1. The developer shall be responsible for providing as-built plans of all SWM BMPs included in the approved SWM site plan. The as-built plans and an explanation of any discrepancies with the construction plans shall be submitted to the Township.

2. The as-built submission shall include a certification of completion signed by a qualified professional verifying that all permanent SWM BMPs have been constructed according to the approved plans and specifications. If any licensed qualified professionals contributed to the construction plans, then a licensed qualified professional must sign the completion certificate.

3. After receipt of the completion certification by the Township, the Township or official designee may conduct a final inspection.

(Ord. 2012-2, 5/10/2012, §407)

Part 5**Operation and Maintenance****§23-501. Responsibilities of Developers and Landowners.**

1. The Township shall make the final determination on the continuing maintenance responsibilities prior to final approval of the SWM site plan. The Township may require a dedication of such facilities as part of the requirements for approval of the SWM site plan. Such a requirement is not an indication that the Township will accept the facilities. The Township reserves the right to accept or reject the ownership and operating responsibility for any portion of the stormwater management controls. If the facility is rejected by the Township, provisions shall be made to identify the legal owner.

2. Notwithstanding anything contained in the Plains Township Subdivision and Land Development Ordinance [Chapter 22] to the contrary, three options exist for perpetual ownership and responsibility of stormwater management facilities:

A. The developer retains ownership.

B. A homeowners association assumes ownership and responsibility, including any management companies engaged by the developer and/or homeowners association to handle the care and maintenance of the stormwater management facilities.

C. The facility is dedicated to, and accepted by, the Township.

3. Facilities, areas or structures used as stormwater management BMPs shall be enumerated as permanent real estate appurtenances and recorded as deed restrictions or conservation easements that run with the land.

4. The O&M Plan shall be recorded as a restrictive deed covenant that runs with the land.

5. The Township may take enforcement actions against an owner for any failure to satisfy the provisions of this Part.

(Ord. 2012-2, 5/10/2012, §501)

§23-502. O&M Agreements.

The owner is responsible for O&M of the SWM BMPs. If the owner fails to adhere to the O&M agreement, the Township may perform the services required and charge the owner appropriate fees. Nonpayment of fees may result in a lien against the property.

(Ord. 2012-2, 5/10/2012, §502)

Part 6**Fees and Expenses****§23-601. General.**

The Township may include all costs incurred in the review fee charged to an applicant. The review fee may include, but not be limited to, costs for the following:

- A. Administrative/clerical processing.
- B. Review of the SWM site plan.
- C. Attendance at meetings.
- D. Inspections.

(Ord. 2012-2, 5/10/2012, §601)

Part 7

Prohibitions

§23-701. Prohibited Discharges and Connections.

1. Any drain or conveyance, whether on the surface or subsurface, that allows any non-stormwater discharge including sewage, process wastewater and wash water to enter the waters of this Commonwealth is prohibited.

2. No person shall allow, or cause to allow, discharges into surface waters of this Commonwealth which are not composed entirely of stormwater, except:

(A) As provided in Subsection 3. below; and

(B) Discharges allowed under a state or federal permit.

3. The following discharges are authorized unless they are determined to be significant contributors to pollution to the waters of this Commonwealth:

A. Discharges from firefighting.

B. Flows from riparian habitats and wetlands.

C. Potable water sources including water line flushing.

D. Uncontaminated water from foundations or from footing drains.

E. Irrigation drainage.

F. Lawn watering.

G. Air conditioning condensate.

H. Dechlorinated swimming pool discharges.

I. Springs.

J. Uncontaminated groundwater.

K. Water from crawl space pumps.

L. Water from individual residential car washing.

M. Pavement wash waters where spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used.

N. Routine external building wash down (which does not use detergents or other compounds).

4. In the event that the Township or DEP determines that any of the discharges identified in Subsection 3. above significantly contribute to pollution of the waters of this Commonwealth, the Township or DEP will notify the responsible person(s) to cease the discharge.

(Ord. 2012-2, 5/10/2012, §701)

§23-702. Roof Drains.

Roof drains and sump pumps shall discharge to infiltration or vegetative BMPs and to the maximum extent practicable satisfy the criteria for DIAs consistent with Appendix 23-C.1. of this Chapter.

(Ord. 2012-2, 5/10/2012, §702)

§23-703. Alteration of SWM BMPs.

No person shall modify, remove, fill, landscape or alter any SWM BMPs, facilities, areas or structures without the written approval of the Chapter.

(Ord. 2012-2, 5/10/2012, §703)

Part 8**Enforcement and Penalties****§23-801. Right-of-Entry.**

Upon presentation of proper credentials, the Township may enter at reasonable times upon any property within the Township to inspect the condition of the stormwater structures and facilities in regard to any aspect regulated by this Chapter.

(Ord. 2012-2, 5/10/2012, §801)

§23-802. Inspection.

Stormwater structures and facilities may be inspected by the landowner, or the landowner's designee (including the municipality for dedicated and owned facilities), or governmental agencies using SWM BMPs:

- A. The frequency of said inspections, shall be determined by the landowner, municipality or governmental agency, as deemed appropriate on a case-by-case basis.
- B. Such inspections are at the discretion of the municipality or governmental agency where the facility is located. The cost of this inspection shall be set by the municipality or governmental agency which may include bonding requirements. Such costs or bonding requirements shall be provided to the landowner and/or developer at its request or at any time during the project, however, if bonding is required then all work shall cease until these requirements are met.

(Ord. 2012-2, 5/10/2012, §802)

§23-803. Enforcement.

1. It shall be unlawful for a person to undertake any regulated activity except as provided in an approved SWM site plan, unless specifically exempted in §23-302 of this Chapter.

2. It shall be unlawful to violate §23-703 of this Chapter.

(Ord. 2012-2, 5/10/2012, §803)

§23-804. Penalties.

1. Any person, firm or corporation who shall violate any provision of this Chapter, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. [A.O.]

2. In addition, the Township may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Chapter. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus or other appropriate forms of remedy or relief.

(Ord. 2012-2, 5/10/2012, §804; as amended by A.O.)

§23-805. Appeals.

Any person aggrieved by any decision of the Township, its representative or designee, relevant to the provisions of this Chapter, may appeal to the county court of common pleas in the county where the activity has taken place within 30 days of the Township's decision.

(Ord. 2012-2, 5/10/2012, §805)

Part 9

References

§23-901. References.

As referenced throughout this Chapter:

¹ Pennsylvania Department of Environmental Protection. No. 363-0300-002 (December 2006), as amended and updated. Pennsylvania Stormwater Best Management Practices Manual. Harrisburg, PA.

² Pennsylvania Department of Environmental Protection. No. 363-2134-008 (April 15, 2000), as amended and updated. Erosion and Sediment Pollution Control Program Manual. Harrisburg, PA.

³ U.S. Department of Agriculture, National Resources Conservation Service (NRCS). National Engineering Handbook. Part 630: Hydrology, 1969-2001. Originally published as the National Engineering Handbook, §4: Hydrology. Available from the NRCS online at: <http://www.nrcs.usda.gov/>.

⁴ U.S. Department of Agriculture, Natural Resources Conservation Service. 1986. Technical Release 55: Urban Hydrology for Small Watersheds, Second Edition. Washington, D.C.

⁵ U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Weather Service, Hydrometeorological Design Studies Center. 2004-2006. Precipitation-Frequency Atlas of the United States, Atlas 14, Volume 2, Version 3.0, Silver Spring, Maryland. Internet address: <http://hdsc.nws.noaa.gov/hdsc/pfds/>.

⁶ Stormwater Management and Maintenance Agreement, Angelo C. Terrana, Jr., Esquire, Terrana Law, P.C., 400 Third Avenue, Suite 117, Kingston, PA 18704.

⁷ Easement Agreement, Angelo C. Terrana, Jr., Esquire, Terrana Law, P.C., 400 Third Avenue, Suite 117, Kingston, PA 18704.

(Ord. 2012-2, 5/10/2012, §901)

APPENDIX A.1

**STORMWATER MANAGEMENT AND
MAINTENANCE AGREEMENT**

THIS AGREEMENT is entered into and made this _____ day of _____, 20____, by and between _____, a Pennsylvania _____, having its principal office located in _____, _____, hereinafter referred to as **“OWNER” AND THE TOWNSHIP OF PLAINS**, a Municipal Subdivision of the Commonwealth of Pennsylvania, having its municipal office located in Plains Township, Luzerne County, Pennsylvania, hereinafter referred to as **“TOWNSHIP”**.

RECITALS

WHEREAS, the Owner represents and warrants that it owns and has fee simple, absolute title to all that certain parcel of real estate located in the Township of Plains, County of Luzerne and Commonwealth of Pennsylvania, more particularly described in Luzerne County Record Book _____, at page _____. A copy of which is hereto attached and marked Exhibit “A”;

WHEREAS, pursuant to the terms and requirements of the Plains Township Subdivision and Land Development Ordinance, as amended, hereinafter referred to as the “SALDO”, prior to the granting of any final approval of any subdivision or land development which requires the installation of certain stormwater management controls as prescribed by the SALDO, an agreement of this nature must be entered into by any such Owner and the Township and recorded in the Office of the Recorder of Deeds of and for Luzerne County;

WHEREAS, the Owner is desirous to create this Agreement in order to comply with the terms of the SALDO.

WITNESSETH

NOW, THEREFORE, in consideration of Ten dollars (\$10.00), other valuable consideration and mutual promises contained herein, receipt of which is hereby acknowledged, the parties agreeing to be legally bound hereby agree as follows:

1. The Owner agrees to install the stormwater management controls and improvements as outlined and described in its Application for Major Land Development.
2. The Owner shall bear the exclusive responsibility for any and all damages to the adjoining property owners’ lands during the installation of the items contemplated herein.
3. The Owner, its transferees, successors and assigns, shall maintain the stormwater management facilities in good working condition, acceptable to the Township so that they are performing their designed functions.
4. The Township, by and through its Consulting Engineer, shall inspect the installed stormwater measures no less than _____ a year for a period of seven (7) years from the date of this Agreement. Provided, however, that the Consulting Engineer shall be required to provide the Developer with a ten (10) day notice prior to the planned inspection. Upon completion of the inspection, the Consulting Engineer shall be required to supply the Developer with a copy of the inspection report. At time of execution, the Owner shall be required to deposit with the Township a sum certain as designated by the Township for the cost of the inspections to be performed by the Township’s Consulting Engineer over the seven (7) year period. The Township shall be required to hold these funds in escrow and shall be disbursed to the Consulting Engineer upon receipt of a billing statement by the Consulting Engineer for the cost of each inspection.

5. In the event that any improvements that were required to be constructed have not been installed as provided for by this Agreement, the SALDO or in accordance with approved final Land Development Plan or in the event that any inspection performed by the Township's Consulting Engineer as contemplated herein revealed any defect or defects to the stormwater management controls, the Township or its Planning Commission may institute appropriate legal or equitable action to cover the cost necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from any legal or equitable action against the Owner, shall be used solely for the installation of the improvements required herein, the repairing, maintaining or replacing any and all defective stormwater management controls, and not for any other municipal purpose. Prior to the Township being able to enforce any of its rights and remedies contained herein, the Owner shall be entitled to a sixty (60) day notice to cure. The Notice shall specifically address the items which the Owner is in default or breach of and shall be sent by registered mail, return receipt requested to the Owner, at _____ with a copy to the Engineer of the Owner, at _____.

6. The Owner grants the Township, its Consulting Engineer, the right of access to its lands.

7. The Owner shall indemnify and hold the Township, its officers, employees, and agents harmless for any and all claims, suits, injuries, including death, judgments and awards that arise as a result of the Township, its Consulting Engineer, inspecting the stormwater management controls. This Indemnification shall include but not be limited to actual damages, attorney's fees and court costs. Promptly after any service of process by any third person in any litigation in respect of which indemnity may be sought from Owner, the Township shall notify the Owner of the commencement of such litigation, and the Owner shall be entitled to assume the defense thereof at its expense with counsel of its own choosing.

8. The Owner acknowledges and agrees to execute an Easement Agreement between the Owner and the Township granting to the Township a Perpetual Easement for the purposes of allowing the Township the right to inspect, operate, maintain, repair and otherwise improve the stormwater management controls and devices which the Owner shall be installing as part of the planned infrastructure improvements required by the Township in the event that the Owner fails to do such maintenance and the like. The Owner shall cause to have recorded the Easement Agreement, which further illustrates and elaborates the parties' respective rights and obligations.

9. This Agreement shall be binding and inure to the benefit of all the parties hereto, their respective personal representatives, heirs, successors and assigns.

10. This Agreement shall be construed under and in accordance with the laws of the Commonwealth of Pennsylvania and sets forth the entire understanding of the parties hereto and may not be changed except in writing and signed by all parties hereto.

11. This Agreement may be simultaneously executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

12. This Agreement shall be filed in the Office of the Recorder of Deeds of Luzerne County or in any other municipal, county or state office by either party to this Agreement. The Owner shall bear any filing fees.

13. The stormwater management systems referenced in the final land development plan shall be maintained in perpetuity by the Owner and/or whom title to such systems shall be conveyed and transferred. The stormwater management systems will be completed and conform with the construction and improvement plans under the direction of the Township Engineer. The primary responsibility for the maintenance and servicing of the same shall be that of the Owner and/or Owner's successor(s) in title.

14. Nothing contained herein shall operate in any fashion or be constructed to impose upon Township any obligation of maintenance/ correction/replacement and/or repair of any of the aforesaid stormwater management systems.

15. **Confession of Judgment. IN ORDER TO EXPEDITE THE TOWNSHIP'S COL-**

LECTION OF ANY FUNDS BEING DUE AND OWING HEREUNDER, THE OWNER OR ITS SUCCESSOR IN TITLE SHALL BE DEEMED TO HAVE APPOINTED A REPRESENTATIVE OF THE TOWNSHIP THE ATTORNEY-IN-FACT FOR SUCH DEVELOPER OR ITS SUCCESSOR IN TITLE TO CONFESS JUDGMENT AGAINST SUCH DEVELOPER OR ITS SUCCESSOR IN TITLE IN ANY COURT OF COMPETENT JURISDICTION IN PENNSYLVANIA, FOR ANY SUCH FUNDS UNPAID TO THE TOWNSHIP. THE SAME SHALL BE IRREVOCABLE; AND UPON ACCOMPANIED BY A VERIFIED AFFIDAVIT, SHALL BE A SUFFICIENT WARRANT TO FILE SUCH CONFESSION OF JUDGMENT. THE AUTHORITY GRANTED HEREIN TO CONFESS JUDGMENT SHALL NOT BE EXHAUSTED BY ANY EXERCISE THEREOF BUT SHALL CONTINUE FROM TIME TO TIME AND AT ALL TIMES.

Initials of Owner's representative: _____

16. Authority to bind. The parties signing on behalf of the Owner hereby represents and warrants that he has the authority to bind the Owner to the obligations and performances set forth herein.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have set their hands and seals on the day and year first written above.

NAME OF OWNER

Witness

By: _____
Name
Title:

TOWNSHIP OF PLAINS

Attest

By: _____
Name:
Title: Chairman of the Board of Commissioners

COMMONWEALTH OF PENNSYLVANIA

ss.

COUNTY OF LUZERNE

ON THIS, the _____ day of _____, 20____, before me the undersigned officer, personally appeared _____, who acknowledged himself to be the _____ of _____, and that he, as such _____ being authorized to do so, executed the foregoing instrument for the purposes therein by signing on behalf of the named _____ as such.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission expires:

COMMONWEALTH OF PENNSYLVANIA

ss.

COUNTY OF LUZERNE

ON THIS, the _____ day of _____, 20____, before me the undersigned officer, personally appeared _____, known to me, who acknowledged himself to be the Chairman of the Board of Commissioners of the Township of Plains, and that he executed the foregoing instrument, under a resolution adopted in accordance with the laws of the Commonwealth of Pennsylvania, and that he signed his name hereto by like resolution.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission expires:

(Ord. 2012-2, 5/10/2012, App. A.1)

APPENDIX A.2

EASEMENT AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 20____, by and between _____, a _____, duly filed and organized in accordance with the laws of the Commonwealth of Pennsylvania, hereinafter referred to as “**GRANTOR**” **AND TOWNSHIP OF PLAINS**, a municipal entity, operating and governing under the laws of the Commonwealth of Pennsylvania, hereinafter referred to as “**GRANTEE**”.

RECITALS

WHEREAS, the Grantor, its transferees, successors and assigns, represent and warrant that the Grantor own and have fee simple title to all that certain parcel of real estate located in the Township of Plains, County of Luzerne and Commonwealth of Pennsylvania, more fully shown in Luzerne County Record Book _____, at page ____; and

WHEREAS, the Grantor had planned to erect a _____ in accordance with laws of the Commonwealth of Pennsylvania and the Ordinances and Codes of the Grantee. The Subdivision/Land Development contemplated by the Grantor is known as “_____”; and

WHEREAS, as part of the improvements planned to be constructed at the subject lands, the Grantor shall erect storm detention basin(s) on the plot of lots in order to restrict and manage the stormwater which will drain from the lands of the Grantor onto public roadways and/or adjacent properties; and

WHEREAS, the Grantee had requested and the Grantor had consented to grant to the Grantee a perpetual easement in order for the Grantee to come onto the lands of the Grantor from time to time for purposes of inspecting, maintaining and repairing the storm detention basin(s) and related facilities. Moreover, the legal description denoting the location of the Easement Area is attached hereto, made a part hereof and marked Exhibit “A”; and

WHEREAS, the parties hereto are desirous of entering into this Agreement in order to memorialize the terms and conditions for the granting of the Easement to the Grantee.

WITNESSETH

NOW, THEREFORE, in consideration of One dollar (\$1.00), other valuable consideration and mutual promises contained herein, receipt of which is hereby acknowledged, the parties agreeing to be legally bound hereby agree as follows:

1. The Grantor, its transferees, successors and assigns, do hereby grant the right of ingress, egress and regress to Grantee, its agents, employees, successors and assigns, over the Easement Area as denoted on Subdivision/Land Development Map of _____,

which shall be recorded in the Office of the Recorder of and for Luzerne County, Pennsylvania, in order to inspect, maintain, repair and otherwise improve the detention basin(s) and related facilities erected in accordance with the standards and regulations established by the Grantee.

2. In addition to those rights granted above, the following rights are also granted: to allow any other person or company the ability to access the storm detention basin(s) and related facilities which shall be installed and constructed; and to clear the land and keep the same clear of all trees, undergrowth or other obstructions within the Easement Area.

3. The Grantor, its transferees, successors and assigns reserve the right and privilege to use the above described Easement Area for any purpose or purposes except as herein granted or as might interfere with the Grantee’s, successors’ and assigns’ use or occupation of the Easement Area, or as

might cause a hazardous condition; and provided further by way of illustration and not of limitation to the grant herein made, no building, structure or obstruction shall be located or constructed on said Easement Area, by the Grantor, its transferees, successors and assigns unless approved in writing by the Grantee, its successors and assigns.

4. Except as herein granted, the Grantor, his heirs, personal representatives, transferees, successors and assigns, shall continue to have the full and complete use and enjoyment of his property.

5. The Grantor, its transferees, successors and assigns, shall bear full responsibility for the use and enjoyment of the Easement Area and shall hold the Grantee, its successors and assigns, harmless from any and all claims or damages to person or premises resulting from the Grantees, its successors and assigns, use, and possession of the Easement Area. Furthermore, the Grantors, its transferees, successors and assigns, shall bear all costs necessary to maintain the Easement Area in the same or similar condition that it was in at the time that the installation and/or maintenance shall be done in the Easement Area.

6. Should the Grantor convey its property in multiple sections to any third parties, each lot owner shall be obligated to contribute on a proportional basis each lot owner's share of the costs required to inspect, operate, maintain, repair or otherwise improve the storm detention basin(s) area. Any costs incurred by the Grantee in connection with the grant of easement by the Grantor herein shall be apportioned accordingly. Any payments due to the Grantee hereunder shall be paid in full no later than thirty (30) days from the date which the Grantee provides notice to each lot owner that such a payment is due and owing. In the event that any such lot owner does not tender payment to the Grantee within the specified time, the Grantee shall be entitled to file a lien attaching against the lot owner's property who either failed to make the requested payment or refused to make the required payment.

7. This Agreement shall run with the land and shall inure not only to the benefit of the parties hereto, but also the respective successors, and assigns of the parties hereto.

8. This Agreement shall be caused to be recorded in the Office of the Recorder of and for Luzerne County and shall be governed by the laws of the Commonwealth of Pennsylvania. The Grantor shall be responsible for tendering the moneys necessary to have this Agreement recorded.

9. This Agreement may not be altered, modified or terminated without the complete written agreement of all the parties hereto, their transferees, successors and assigns and only may be accomplished hereunder by executing and delivering to any party hereto, their respective transferees, successors and assigns, an instrument which shall be in recordable form, and upon the recording of the same, this Agreement shall be altered, modified or terminated whatever the case may be.

10. The Grantee shall be under no obligation to maintain, improve, or otherwise provide labor, materials or other services or work in connection with the operation, maintenance, repair, or improvement of the Premises included herein. It is the understanding and agreement between the Grantor herein and the Grantee herein that the purpose of this Easement Agreement is to secure to the Grantee the right to access the lands included (as the same has been previously been set forth) in case of emergency or necessity and to provide the Grantee with the ability to perform the above-stated activities should there be a failure or default in performing the same on the part of the Grantor, or his personal representatives, heirs, successors and assigns, and to provide to the Grantee a method of obtaining reimbursement for the performance of such activities.

IN WITNESS WHEREOF, the parties have set their hands and seals on the day and year first written above.

NAME OF GRANTOR

Witness

By: _____
Name
Title:

TOWNSHIP OF PLAINS

Attest

By: _____
Name:
Title: Chairman of the Board of

COMMONWEALTH OF PENNSYLVANIA

ss.

COUNTY OF LUZERNE

ON THIS, the _____ day of _____, 20____, before me the undersigned officer, personally appeared _____, who acknowledged himself to be the _____ of _____, and that he, as such _____ being authorized to do so, executed the foregoing instrument for the purposes therein by signing on behalf of the named _____, as _____ of for the purposes herein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission expires:

COMMONWEALTH OF PENNSYLVANIA

ss.

COUNTY OF LUZERNE

ON THIS, the _____ day of _____, 20____, before me the undersigned officer, personally appeared _____, known to me, who acknowledged himself to be the Chairman of the Board of Commissioners of the Township of Plains, and that he executed the foregoing instrument, under a resolution adopted in accordance with the laws of the Commonwealth of Pennsylvania, and that he signed his name hereto by like resolution.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission expires:

(Ord. 2012-2, 5/10/2012, App. A.2)

APPENDIX B

STORMWATER MANAGEMENT PERMIT APPLICATION

Anyone performing a regulated activity must complete the accompanying Stormwater Management Permit Application, and submit to the Municipality. A regulated activity is defined by this Chapter as:

Regulated Activity - Any earth disturbance activities or any activities that involve the alteration or development of land in a manner that may affect stormwater runoff.

This includes but is not limited to: the clearing of wooded areas, grading and excavating, placement of pavement (driveways, parking areas, roads), construction of buildings and other structures (homes, sheds, garages, commercial and industrial buildings), and other activities which alter the way stormwater runs off of the landscape. Impervious area is defined by this Chapter as:

Impervious Surface (Impervious Area) - A surface that prevents the infiltration of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavements, parking lots, driveways, roofs, stone patios. See definition of “Gravel (Crushed Stone)” for when gravel classifies as impervious area.

Gravel (Crushed Stone) - Considered to be impervious when the intended use of the stone is for transportation purposes, parking areas, construction areas, trails, or if the gravel is compacted at any time during or after its placement; landscaping stone is not considered as impervious area.

Depending on the amount of impervious area placed and the amount of earth disturbance to the project site, this Chapter requires different levels of stormwater management, and correspondingly different levels of design and review.

Level 1: Proposed impervious area is less than 1,000 sq. ft. and total earth disturbance is less than 5,000 sq. ft.

Stormwater Management Controls: Ensure that adverse downstream impacts do not occur due to redirecting stormwater flows towards nearby structures.

Submission: Submit the Stormwater Management Permit Application and Project Sketch; the easiest mechanism is to include the application with Building Permits. **Review:** Reviewing the application will not likely require a qualified professional.

Level 2: Proposed impervious area is between 1,000 sq. ft. and 5,000 sq. ft. or total earth disturbance is between 5,000 sq. ft. and 10,000 sq. ft.

Stormwater Management Controls: Utilize Disconnected Impervious Area (DIA) for stormwater controls as outlined in this Chapter 23, Appendix C.1.; if DIA cannot be achieved, utilize stormwater management controls for small projects as outlined in Ordinance Appendix E.

Submission: Submit the Stormwater Management Permit Application and computations for DIA; the worksheet in this Chapter 23, Appendix C.1 may be used and submitted as is, or may be modified as the Municipality sees fit. If DIA cannot be achieved, submit computations for Stormwater Management for Small Projects; the worksheet in this Chapter 23, Appendix E may be used and submitted as is, or may be modified as the Municipality sees fit; the easiest mechanism is to include the application with Building Permits.

Review: Reviewing the application and computations may require a qualified professional if the person responsible for issuing Building Permits is not comfortable with performing the review.

Level 3: Proposed impervious area is between 5,000 sq. ft. and 10,000 sq. ft. or total earth disturbance is between 10,000 sq. ft. and 20,000 sq. ft.

Stormwater Management Controls: Capture and permanently remove the first 2 inches of runoff over all proposed impervious areas; infiltrate at least the first 0.5 inches.

Submission: Submit the Stormwater Management Permit Application and computations for permanently removing the first 2 inches of runoff over all proposed impervious areas; the worksheet in this Chapter 23, Appendix D may be used and submitted as is, or may be modified as the Municipality sees fit.

Review: Reviewing the application and computations will most likely require a qualified professional.

Level 4: Proposed impervious area is greater than 10,000 sq. ft. or total earth disturbance is greater than 20,000 sq. ft.

Stormwater Management Controls: All requirements of this Chapter are applicable, including water quality and volume controls as found in §23-303 and peak rate controls as found in §23-304.

Submission: Submit the Stormwater Management Permit Application and Stormwater Management (SWM) Site Plan as in Article IV of this Chapter.

Review: Reviewing the application and SWM Site Plan requires a qualified professional.

Following the Stormwater Management Permit Application and accompanying sketch sheet are examples of common smaller projects which do not require the review by a qualified professional (review by a qualified professional is optional). An Alternative Stormwater Management Permit Application is also provided following the examples. Both forms may be modified by the Municipality before one is selected.

STORMWATER MANAGEMENT PERMIT APPLICATION

All requirements of the Ordinance have been met.

Applicant Signature: _____ Date: _____

FOR REVIEWER ONLY

This stormwater management permit application has been **APPROVED** **DENIED** (circle one)

Reviewed by (print): _____ Reason for Denial: _____

Signature: _____ Date: _____

PROJECT SKETCH

- Show direction of proposed stormwater discharges
- Show all structures within 50 feet of site
- If storm sewers are present, show approximate location of inlets

EXAMPLE 2 PROJECT SKETCH - Homeowner opted to utilize the worksheet provided in Appendix C.1 to show stormwater management for DIA.

Applicant Address: Joe Homeowner 123 Site Street Anytown, PA 12345	Brief Description of Project: Construction of 2,000 sq. ft. (40 ft. x 50 ft.) single-family home with 500 sq. ft. driveway (10 ft. x 50 ft.) and 800 sq. ft. stone patio (20 ft. x 40 ft.). The back half of the house discharges to rainspouts underground.				
Nearest waterbody: Tributary to Mill Creek	No more than 1,000 sq. ft. can discharge to one point on the surface. Number of surface discharge points required: 3				
Total Proposed Impervious Area (A): 3,300 sq. ft. Total Earth Disturbance: 6,000 sq. ft.	Discharge Point 1: Front of Home	Discharge Point 2: Driveway	Discharge Point 3: Patio	Discharge Point 4: N/A	Discharge Point 5: N/A
	Area: 1,000 sq. ft.	Area: 500 sq. ft.	Area: 800 sq. ft.	Area: N/A	Area: N/A
Are rainspouts discharged underground? (Y/N) Yes If yes, contributing impervious area (B): 1,000 sq. ft.	Impervious Path Length: 20 ft.	Impervious Path Length: 10ft.	Impervious Path Length: 20 ft.	Impervious Path Length: N/A	Impervious Path Length: N/A
	Pervious Path Length: 30 ft.	Pervious Path Length: 50 ft.	Pervious Path Length: 40 ft.	Pervious Path Length: N/A	Pervious Path Length: N/A
Total Impervious Area Discharged on Surface (A)-(B): 3,300 - 1,000 = 2,300 sq. ft.	Pervious Path Slope <10%? (Y/N) Yes	Pervious Path Slope <10%? (Y/N) Yes	Pervious Path Slope <10%? (Y/N) Yes	Pervious Path Slope < 10%? (Y/N) N/A	Pervious Path Slope < 10%? (Y/N) N/A
HSG Soil Group from Appendix F.2 Hydrologic Soils Group Map (Cannot be "D" Soils): HSG "C"					

EXAMPLE 3 PROJECT SKETCH - Homeowner opted to utilize the worksheet provided in Appendix C.1 to show stormwater management for DIA.

Applicant Address: Joe Homeowner 123 Site Street Anytown, PA 12345	Brief Description of Project: Construction of 2,000 sq. ft. (40 ft. x 50 ft.) single-family home with 500 sq. ft. driveway (10 ft. x 50 ft.) and 800 sq. ft. stone patio (20 ft. x 40 ft.). The back half of the house discharges to rainspouts underground.				
Nearest waterbody: Tributary to Mill Creek	No more than 1,000 sq. ft. can discharge to one point on the surface. Number of surface discharge points required: 3				
Total Proposed Impervious Area (A): 3,300 sq. ft. Total Earth Disturbance: 6,000 sq. ft.	Discharge Point 1: Front of Home	Discharge Point 2: Driveway	Discharge Point 3: Patio	Discharge Point 4: N/A	Discharge Point 5: N/A
	Area: 1,000 sq. ft.	Area: 500 sq. ft.	Area: 800 sq. ft.	Area: N/A	Area: N/A
Are rainspouts discharged underground? (Y/N) Yes If yes, contributing impervious area (B): 1,000 sq. ft.	Impervious Path Length: 20 ft.	Impervious Path Length: 50 ft.	Impervious Path Length: 20 ft.	Impervious Path Length: N/A	Impervious Path Length: N/A
	Pervious Path Length: N/A	Pervious Path Length: N/A	Pervious Path Length: 40 ft.	Pervious Path Length: N/A	Pervious Path Length: N/A
Total Impervious Area Discharged on Surface (A)-(B): 3,300 - 1,000 = 2,300 sq. ft.	Pervious Path Slope <10%? (Y/N) N/A	Pervious Path Slope <10%? (Y/N) N/A	Pervious Path Slope <10%? (Y/N) Yes	Pervious Path Slope <10%? (Y/N) N/A	Pervious Path Slope <10%? (Y/N) N/A
HSG Soil Group from Appendix F.2 Hydrologic Soils Group Map (Cannot be "D" Soils): HSG "C"					

(Ord. 2012-2, 5/10/2012, App. B)

APPENDIX C.1

DISCONNECTED IMPERVIOUS AREA (DIA) AND WORKSHEET

When a regulated activity creates impervious areas between 1,000 sq. ft. and 5,000 sq. ft., or total earth disturbance between 5,000 and 10,000 sq. ft., the stormwater management requirements follow Appendix C.1 - Disconnected Impervious Areas (DIAs), of this Chapter. If site conditions prevent the requirements of Appendix C.1 from being met, then the first 1 inch of runoff shall be captured and controlled in a manner consistent with Appendix E - Stormwater Management for Small Projects, of this Chapter.

When rooftop or pavement runoff is directed to a pervious area that allows for infiltration, filtration, and increased time of concentration, the contributing rooftop or pavement area may qualify as a Disconnected Impervious Area (DIA). A rooftop or pavement area is considered to be a DIA if it meets the requirements listed below:

- The soil, in proximity of the discharge area, is not designated as hydrologic soil group “D” or equivalent (see Appendix F.2. Hydrologic Soil Group Map);
- The overland flow path (pervious area serving as BMP) from discharge area has a positive slope of ten percent or less;
- The length of overland flow path (pervious area serving as BMP) is greater than or equal to the contributing rooftop or pavement length;
- The length of overland flow path (pervious area serving as BMP) is greater than 25 feet.

If the discharge is concentrated at one or more discrete points, no more than 1,000 square feet of impervious area may discharge to any one point. In addition, a gravel strip or other spreading device is required for concentrated discharges. For non-concentrated discharges along the edge of the pavement, this requirement is waived; however, there must be a provision for the establishment of vegetation along the pavement edge and temporary stabilization of the area until vegetation becomes stabilized.

If rainspouts are discharged underground to provide infiltration, the portion of the impervious area draining to those rainspouts is waived from the DIA discharge requirements. Rainspouts discharged underground which are directly connected to a storm sewer system are not waived from the DIA requirements.

Computations for DIA as a BMP must be submitted to the municipality. This worksheet is provided as an example, or may be used for the computations.

Applicant Address:	Brief Description of Project:				
Nearest waterbody:	No more than 1,000 sq. ft. can discharge to one point on the surface. Number of discharge points required:				
Total Proposed Impervious Area (A):	Discharge Point 1	Discharge Point 2	Discharge Point 3	Discharge Point 4	Discharge Point 5
Total Earth Disturbance:	Area:	Area:	Area:	Area:	Area:
Are rainspouts discharged underground? (Y/N)	Impervious Path Length:	Impervious Path Length:	Impervious Path Length:	Impervious Path Length:	Impervious Path Length:
If yes, contributing impervious area (B):	Pervious Path Length:	Pervious Path Length:	Pervious Path Length:	Pervious Path Length:	Pervious Path Length:
Total Impervious Area Discharged on Surface (A)-(B):	Pervious Path Slope <10%? (Y/N)	Pervious Path Slope <10%? (Y/N)	Pervious Path Slope <10%? (Y/N)	Pervious Path Slope <10%? (Y/N)	Pervious Path Slope <10%? (Y/N)
HSG Soil Group from Appendix F.2 Hydrologic Soils Group Map (Cannot be "D" Soils):					
Project sketch:					

Example: Joe Homeowner would like to build a single-family home, with a driveway and backyard stone patio. The home is 2,000 sq. ft., the stone patio is 800 sq. ft., and the asphalt driveway is 500 square feet.

Applicant Address: Joe Homeowner 123 Site Street Anytown, PA 12345	Brief Description of Project: Construction of 2,000 sq. ft. (40 ft. x 50 ft.) single-family home with 500 sq. ft. driveway (10 ft. x 50 ft.) and 800 sq. ft. stone patio (20 ft. x 40 ft.). The back half of the house discharges to rainspouts underground.				
Nearest waterbody: Tributary to Mill Creek	No more than 1,000 sq. ft. can discharge to one point on the surface. Number of discharge points required: 3				
Total Proposed Impervious Area (A): 3,300 sq. ft. Total Earth Disturbance: 6,000 sq. ft.	Discharge Point 1 Front of Home	Discharge Point 2 Driveway	Discharge Point 3 Patio	Discharge Point 4 N/A	Discharge Point 5 N/A
	Area: 1,000 sq. ft.	Area: 500 sq. ft.	Area: 800 sq. ft.	Area: N/A	Area: N/A
Are rainspouts discharged underground? (Y/N) Yes If yes, contributing impervious area (B): 1,000 sq. ft.	Impervious Path Length: 20 ft.	Impervious Path Length: 10 ft.	Impervious Path Length: 20 ft.	Impervious Path Length: N/A	Impervious Path Length: N/A
	Pervious Path Length: 30 ft.	Pervious Path Length: 50 ft.	Pervious Path Length: 40 ft.	Pervious Path Length: N/A	Pervious Path Length: N/A
Total Impervious Area Discharged on Surface (A)-(B): 3,300 - 1,000 = 2,300 sq. ft.	Pervious Path Slope <10%? (Y/N) Yes	Pervious Path Slope <10%? (Y/N) Yes	Pervious Path Slope <10%? (Y/N) Yes	Pervious Path Slope <10%? (Y/N) N/A	Pervious Path Slope <10%? (Y/N) N/A
HSG Soil Group from Appendix F.2 Hydrologic Soils Group Map (Cannot be "D" Soils): HSG "C"					

(Ord. 2012-2, 5/10/2012, App. C.1)

APPENDIX C.2**RAINSPOUT DISCONNECTION FROM SANITARY SEWER SYSTEMS
REQUIREMENT FOR MUNICIPALITIES**

When roofs are being replaced, the municipality may require that rainspouts must be disconnected from sanitary sewer systems. The following guidance is provided should a municipality choose to enforce this requirement as part of this Chapter 23, and is subject to the municipal engineer's discretion. When rainspouts are disconnected from sanitary sewer systems, it must be shown that adverse stormwater impacts are not created downstream. If the municipality opts to enforce this requirement, delete what is highlighted in gray on this page.

Source of image: www.muncicsanitary.org/stormwater-managment

Source of image: rainwise.seattle.gov/solution_brochures
(*Ord. 2012-2, 5/10/2012, App. C.2*)

APPENDIX D

PROJECTS MEETING REQUIREMENTS IN §23-303, PARAGRAPH B.

When a regulated activity creates impervious areas between 5,000 sq. ft. and 10,000 sq. ft., or total earth disturbance between 10,000 and 20,000 sq. ft., the stormwater management requirements follow §23-303, Paragraph B. of this Chapter.

Section 23-303, Paragraph B. is duplicated below:

B. When design storm method CG-1 guidelines are not used, the simplified method (CG-2 in the BMP Manual¹) has been modified to accommodate 2 inches of permanently removed runoff volume. This method (provided below) is independent of site conditions and should be used if the design storm method is not followed. For new impervious surfaces:

- (1) The first 2 inches of runoff from new impervious surfaces shall be permanently removed from the runoff flow (i.e., it shall not be released into the surface waters of this Commonwealth). Removal options include reuse, evaporation, transpiration and infiltration.
- (2) Wherever possible, infiltration facilities should be designed to accommodate infiltration of the entire permanently removed runoff; however, in all cases at least the first 0.5 inch of the permanently removed runoff should be infiltrated.
- (3) Facilities, to the greatest extent possible and subject to the Township Engineer's discretion, shall be designed to drain the permanently removed runoff volume in a period no less than 24 hours and no greater than 72 hours.
- (4) Runoff volume in excess of two inches shall be safely conveyed to existing stormwater collection systems or streams, in the direction of the existing drainage course.
- (5) This method is exempt from the requirements of §23-304, Rate Controls.

Computations for all stormwater facilities must be submitted to the municipality. This worksheet is provided as an example, or may be used for the computations.

Applicant Address:	Brief Description of Project:		
Nearest waterbody:	Permanently Removed Volume = (2 inches/12) x (Impervious Area)		
Total Proposed Impervious Area:	A Factor of Safety of 2 is applied to the Tested Infiltration Rate. Design Infiltration Rate = Tested Infiltration Rate/2		
Total Earth Disturbance:	Components of the project may be directed to multiple facilities. Number of facilities used:		
Soil Testing Method:	Facility #1	Facility #2	Facility #3
	Component of Project:	Component of Project:	Component of Project:
	Volume Collected:	Volume Collected:	Volume Collected:
Tested Infiltration Rate (in/hr):	Type of Facility:	Type of Facility:	Type of Facility:
	Volume of Facility*:	Volume of Facility*:	Volume of Facility*:
	Area of Facility:	Area of Facility:	Area of Facility:
	Depth of Facility:	Depth of Facility:	Depth of Facility:
Additional Calcs/Notes:	Drawdown Time = Depth of Facility / Design Infiltration Rate =	Drawdown Time = Depth of Facility / Design Infiltration Rate =	Drawdown Time = Depth of Facility / Design Infiltration Rate =
	Loading Ratio = Impervious Area Controlled : Area of Facility =	Loading Ratio = Impervious Area Controlled : Area of Facility =	Loading Ratio = Impervious Area Controlled : Area of Facility =
	Existing Discharge Point (Inlet/Sewer/Stream):	Existing Discharge Point (Inlet/Sewer/Stream):	Existing Discharge Point (Inlet/Sewer/Stream):
	Discharge Method for Runoff in Excess of 2 in.:	Discharge Method for Runoff in Excess of 2 in.:	Discharge Method for Runoff in Excess of 2 in.:
	Capacity**:	Capacity**:	Capacity**:
*Infiltration facilities with stone beds: 40% void space, multiply volume in stone portion by 0.4. Calculations:			
**If a grass spillway is used: Capacity (cfs) = 2.5 x Length x Freeboard^{1.5}			
**If an orifice structure is used: Capacity (cfs) = 0.6 x Orifice Area x (2 x 32.2 x Flow Depth Above Orifice)^{0.5} Capacity Calculations:			

Example: A doctor's office is proposed for a site. The building is 5,000 sq. ft. and the parking lot is 3,000 sq. ft.

Applicant Address: Dr. Office 123 Site Street Anytown, PA 12345	Brief Description of Project: A proposed doctor's office consisting of 5,000 sq. ft. building (50 ft. x 100 ft.) and 3,000 sq. ft. parking lot (30 ft. x 100 ft.). The building drains to the back of the property to an infiltration facility, and the parking lot drains to an infiltration facility adjacent the parking lot.
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Nearest waterbody: Trib. to Mill Creek	Permanently Removed Volume = (2 inches /12) x (Impervious Area) = (2 inches / 12) x (8,000 sq. ft.) = 1,333 cu. ft.		
Total Proposed Impervious Area: 8,000 sq. ft.	A Factor of Safety of 2 is applied to the Tested Infiltration Rate. Design Infiltration Rate = Tested Infiltration Rate/2 = 1 in/hr/2 = 0.5 in/hr		
Total Earth Disturbance: 12,000 sq. ft.	Components of the project may be directed to multiple facilities. Number of facilities used: 2		
Soil Testing Method: Percolation Test	Facility #1	Facility #2	Facility #3
	Component of Project: Building Volume Collected: 5,000 x 2/12 = 833 cu. ft.	Component of Project: Parking Lot Volume Collected: 3,000 x 2/12 = 500 cu. ft.	Component of Project: N/A Volume Collected: N/A
Tested Infiltration Rate (in/hr): 1 in/hr	Type of Facility: Infiltration Volume of Facility*: 1,133 cu. ft. Area of Facility: 50 ft. x 10 ft. = 500 sq. ft. Depth of Facility: 1 ft. stone + 1.3 ft. = 2.3 ft.	Type of Facility: Infiltration Volume of Facility*: 590 cu. ft. Area of Facility: 30 ft. x 10 ft. = 300 sq. ft. Depth of Facility: 1/2 ft. stone + 1.3 ft. = 1.8 ft.	Type of Facility: N/A Volume of Facility*: N/A Area of Facility: N/A Depth of Facility: N/A
Additional Calcs/Notes: Facilities have 2:1 horizontal: vertical side slopes. Therefore, actual volumes are greater which provides some additional storage for larger events. Both facilities have 1 foot of freeboard. This volume is additional to the volume provided in the calculations.	Drawdown Time = Depth of Facility / Design Infiltration Rate = 2.3 ft. x 12 in. / 0.5 in/hr = 55.2 hrs	Drawdown Time = Depth of Facility / Design Infiltration Rate = 1.8 ft. x 12 in./0.5 in/hr = 43.2 hrs	Drawdown Time = Depth of Facility / Design Infiltration Rate = N/A
	Loading Ratio = Impervious Area Controlled : Area of Facility = 5,000 sq. ft. : 500 sq. ft. = 10:1	Loading Ratio = Impervious Area Controlled : Area of Facility = 3,000 sq. ft. : 300 sq. ft. = 10:1	Loading Ratio = Impervious Area Controlled : Area of Facility = N/A
	Existing Discharge Point (Inlet/Sewer/Stream): Stream	Existing Discharge Point (Inlet/Sewer/Stream): Inlet/Sewer System	Existing Discharge Point (Inlet/Sewer/Stream): N/A
	Discharge Method for Runoff in Excess of 2 in.: Spillway Capacity**: 50cfs	Discharge Method for Runoff in Excess of 2 in.: Orifice Outlet Capacity**: 77 cfs	Discharge Method for Runoff in Excess of 2 in.: N/A Capacity**: N/A
* Infiltration facilities with stone beds: 40% void space, multiply volume in stone portion by 0.4. Calculations: Facility # 1 has 1 ft. of stone: 500 sq. ft. x 1 ft. stone x 0.4 = 200 cu. ft. in stone portion; Volume = 500 cu. ft. stone + (833 - 200) = 1,133 cu. ft. Depth = 1 ft. stone + (833 - 200)/500 sq. ft. = 1 ft. + 1.3 ft = 2.3 ft. Facility #2 has 1/2 ft. of stone: 300 sq. ft. x 1/2 ft. stone x 0.4 = 60 cu. ft. in stone portion; Volume = 150 cu. ft. stone + (500 - 60) = 590 cu. ft. Depth = 1/2 ft. stone + (500 - 60)/300 sq. ft. = 1/2 ft. + 1.3 ft. = 1.8 ft.			
**If a grass spillway is used: Capacity (cfs) = 2.5 x Length x Freeboard^{1.5} **If an orifice structure is used: Capacity (cfs) = 0.6 x Orifice Area x (2 x 32.2 x Flow Depth Above Orifice)^{0.5} Capacity Calculations: Facility # 1 spillway: Capacity = 2.5 x (20 ft.) x (1 ft.) ^{1.5} = 50 cfs Facility #2 orifice outlet: Use 1 ft. high by 2 ft. wide orifice; Capacity = 0.6 x (2 sq. ft.) x (2 x 32.2 X 1) ^{0.5} = 77 cfs			

Project Sketch

(Ord. 2012-2, 5/10/2012, App. D)

APPENDIX E**STORMWATER MANAGEMENT FOR SMALL PROJECTS**

Applicability: Stormwater management procedures for projects between 1,000 sq. ft. and 5,000 sq. ft. of proposed impervious area or total earth disturbance between 5,000 sq. ft. and 10,000 sq. ft. for which site conditions prevent the use of Chapter 23, Appendix C.1 - Disconnected Impervious Area (DIA) as a BMP.

Note: This small projects document is not to be used to plan for multiple lots without obtaining prior written approval from the Municipality. Approvals and actions associated with this document do not relieve the applicant of the responsibility to secure required permits or approvals for activities regulated by any other code, law or ordinance.

(Ord. 2012-2, 5/10/2012, App. E)

E.1 Introduction

These methods have been developed to allow homeowners to comply with stormwater management criteria for new projects to meet the requirements of the Act 167 Stormwater Management Ordinance of the Municipality including sizing, designing, locating, and installing on-lot measures, referred to herein as “Best Management Practices” (BMPs). Pennsylvania Act 167 was authorized on October 4, 1978 (32 P.S., P.L. 864) and gave Pennsylvania municipalities the power to regulate activities that affect stormwater runoff and surface and groundwater quantity and quality.

Individual home construction projects on single-family lots which result in 1,000 sq. ft. to 5,000 sq. ft. of proposed impervious area (including the building footprint, driveway, sidewalks, and parking areas) are not required to submit formal stormwater management (SWM) site plans to the Township or county; however, they must address water quality and infiltration goals, and submit the worksheet as outlined in this small projects document. If the guidelines presented in this brochure are followed, the individual homeowner will not require professional services to comply with these water quality and infiltration goals.

Appendix E.2 presents options of BMPs that can be considered for on-lot stormwater management. Appendix E.3 describes requirements and outlines the method for designing a suitable BMP, and a description of what needs to be included on the simple sketch plan, and the Small Projects Worksheet in Table E.4. Appendix E.4 contains an example of how to obtain the size and dimensions of the BMPs, complete the site sketch, and prepare the Small Project Worksheet.

The stormwater management method for small projects requires:

- The first one inch of rainfall runoff from proposed impervious surfaces to be captured (see definition of captured in Part 2 of Chapter 23).

The purpose of this small projects document is to help reduce stormwater runoff in the community, to maintain groundwater recharge, to prevent degradation of surface and groundwater quality, and to otherwise protect water resources and public safety.

What needs to be sent to the Municipality?

Stormwater computations and a sketch plan must be submitted to the Municipality. The small projects worksheet found in Table E.4 and a simple sketch plan containing the features described in Step 5 of Appendix E.3 is provided as an example, or may be used for submission to the Municipality, and if applicable, the contractor prior to construction.

(Ord. 2012-2, 5/10/2012, App. E.1)

E.2 Description of BMPs

The following is a description of several types of BMPs that could be implemented. Refer to Chapter 6 of the PA BMP Manual which can be found on the PA Department of Environmental Protection's website for specifications and steps for construction for the following BMPs. A list of routine maintenance for each of the BMPs described below is also included at the end of this Section.

Rain Barrels/Cisterns

- Rain barrels and cisterns are large containers that collect drainage from roof leaders and temporarily store water to be released to lawns, gardens, and other landscaped areas; rain barrels are typically less than 50 gallons in size, and cisterns typically have volumes of up to 1,000 gallons or more, and can be placed on the surface or underground.

Figure E.1. Rain Barrels.

Source (left): <http://www.rfcity.org/Eng/Stormwater/YourProperty/YourProperty.htm>
Source (right): <http://www.floridata.com/tracks/transplantedgardener/Rainbarr.cfm>

Figure E.2. Cisterns.

Source: Pennsylvania Stormwater Best Management Practices Manual.

Rain Garden/Bioretention Area

- A rain garden/bioretention area is an excavated depression area on the surface of the land in which native vegetation is planted to filter and use stormwater runoff; depths of 1.0 foot or less are recommended. Planting species should be native to Pennsylvania.

Figure E.3. Typical Rain Garden/Bioretention Area.**Table E.1. Sample Plant List for Use in a Rain Garden/Bioretention Area.**

Common Name	Scientific Name	Plant Type
Red Maple	<i>Acer rubrum</i>	Tree
Grey Birch	<i>Betula populifolia</i>	Tree
Shadbush Serviceberry	<i>Amelanchier canadensis</i>	Tree
Eastern Cottonwood	<i>Populus grandidentata</i>	Tree
Virginia Sweetspire	<i>Itea virginica</i>	Shrub
Red-Twig Dogwood	<i>Cornus sericea</i> (stolonifera) “Arctic Fire”	Shrub
Southern Arrowwood	<i>Viburnum dentatum</i>	Shrub
Black Choke Berry	<i>Aronia melanocarpa</i>	Shrub
Great Blue Lobelia	<i>Lobelia siphilitica</i>	Perennial
Dwarf Pink false aster	<i>Boltonia asteroides</i> “Nana”	Perennial
White false aster	<i>Boltonia asteroides</i> “Snowbank”	Perennial
Switchgrass	<i>Panicum virgatum</i>	Grass

Source: Pennsylvania Stormwater Best Management Practices Manual.

Dry Wells

- A dry well, also referred to as a seepage pit is a subsurface storage facility that temporarily stores and infiltrates runoff from the roofs of buildings or other impervious surfaces; recommended depth of dry well is between 1.0 and 4.0 feet.
- Dry Well #1 - structural prefabricated chamber; no stone fill.
- Dry Well #2 - excavated pit filled with stone fill.

Figure E.4. Dry Well #1 - Structural Prefabricated Chamber.

Source: <http://www.copelandconcreteinc.net/1800652.html>

Figure E.5. Dry Well #2 - Excavated Pit Filled with Stone Fill.

Source: <http://www.seagrant.sunysb.edu/pages/BMPsForMarinas.htm>

Infiltration Trench

- An infiltration trench is a long, narrow, rock-filled trench with or without a perforated pipe that receives stormwater runoff and has no outlet.
- Runoff is stored in the void space between the stones and in the pipe and infiltrates through the bottom and into the underlying soil matrix.
- The width is limited to between three and eight feet, and the depth ranges from two to five feet.

Source: Pennsylvania Stormwater Best Management Practices Manual.

Routine Maintenance for BMPs

- Vegetation along the surface of an infiltration trench should be maintained in good condition, and any bare spots should be revegetated as soon as possible.
- Vehicles shouldn't be parked or driven on an infiltration trench, and care should be taken to avoid excessive compaction by mowers.
- Any debris such as leaves blocking flow from reaching an infiltration trench or bioretention/rain garden should be routinely removed.
- While vegetation is being established, pruning and weeding may be required for a bioretention/rain garden.
- Mulch in a bioretention/rain garden needs to be re-spread when erosion is evident. Once every two to three years or after major storms the entire area may require mulch replacement.
- At least twice a year the landowner needs to inspect the bioretention/rain garden for sediment buildup and vegetative conditions.
- During periods of extended drought, the bioretention/rain garden requires watering.
- Trees and shrubs in a bioretention/rain garden need to be inspected at least twice per year by the landowner to evaluate their health. If they are in poor health, they need to be replaced.
- Dry wells need to be inspected by the landowner at least four times a year and after significant rainfalls, and debris/trash, sediment, and any other waste material need to be removed and disposed of at suitable disposal/recycling sites and in compliance with local, state, and federal waste regulations.
- For dry wells, gutters need to be regularly cleaned out, and proper connections must be maintained to facilitate the effectiveness of the dry well.
- The filter screen for the dry well that intercepts roof runoff must be replaced as necessary.
- Dry wells that are damaged need to be fixed or replaced immediately.
- If an intermediate sump box exists in conjunction with a dry well, it must be cleaned out at least once per year.
- Rain barrels and cisterns need to be cleared of debris routinely at least every three months and after significant storms to allow stormwater from gutters to enter them.
- Gutters that directly convey rain water to dry wells, rain barrels, and cisterns need to be routinely cleared of trash and debris at least every three months and after significant storms.
- Rain barrels and cisterns must be kept covered.
- Rain barrels and cisterns should be routinely emptied so that they are only one-fourth of the way full to allow for storage of additional rainwater.

-
- Overflow outlets from rain barrels and cisterns must be kept free and clear of debris.
 - Rain barrels and cisterns that are damaged need to be fixed or replaced immediately.

(Ord. 2012-2, 5/10/2012, App. E.2)

E.3. Determination of BMPs and Volume Requirements

All proposed impervious areas must be included in the determination of the amount of new impervious areas and the size of proposed BMPs needed to control stormwater.

Proposed impervious areas on an individual residential lot include:

- Roof area
- Pavement
- Sidewalks
- Driveways
- Patios
- Porches
- Permanent pools
- Parking areas

Sidewalks, driveways, or patios that are constructed with gravel or pervious pavers that will not be converted to an impervious surface in the future need not be included in this calculation. Therefore, the amount of proposed impervious area can be reduced for proposed driveways, patios, and sidewalks through the use of gravel, pervious pavement, and turf pavers. All proposed impervious areas must be constructed so that runoff is conveyed to a BMP; no runoff can be directed to storm sewers, inlets, or other impervious areas (i.e., street).

All new construction should incorporate design techniques that include: minimizing the amount of land disturbance, reducing impervious cover, disconnecting gutters and directing runoff to vegetated areas to infiltrate, and redirecting the flow of runoff from impervious driveways to vegetated areas instead of to the street or gutter.

Below are the steps that must be undertaken to meet the Chapter requirements. The results obtained for each step must be included in the Small Projects Worksheet found in Table E-4:

STEP 1 - Determine the total area of all proposed impervious surfaces (square feet) that will need to drain to one or more BMPs.

STEP 2 - Determine locations where BMPs need to be placed, and the contributing impervious area “**I**” (square feet) to each.

STEP 3 - Select the BMPs to be used and determine the requirements of each from Section E.3.

STEP 4 - Obtain the required storage volume “**V**” (cubic feet) and surface area “**A**” (square feet) needed for each of the proposed BMPs from the appropriate heading below.

Note: all calculations are based on 1 inch of rainfall.

For Rain Barrels/Cisterns

- The typical volume of a rain barrel is less than 50 gallons; if a greater volume is required, more than one rain barrel will be needed or a cistern may be used.
- For calculations, assume the rain barrel is already 25 percent full.
- Calculate volume in Cubic Feet:

- Convert to Gallons:

For Rain Gardens/Bioretenention or Dry Well #1:

- Rain gardens and bioretention areas are only used for depths less than or equal to 1.0 feet; a dry well #1 is used for depths between 1.0 and 4.0 feet.
- Select the depth “**D**” (feet) for the facility.
- For calculations, assume the facility is empty (zero percent full).
- Calculate volume in Cubic Feet:

- Calculate surface area of the facility in Square Feet:

For Dry Well #2 or Infiltration Trench:

- A dry well #2 is used for depths between 1.5 feet and 4.0 feet; an infiltration trench is used

for depths between 2.0 and 5.0 feet.

- Select the depth “**D**” (feet) for the facility.
- For calculations, assume the void ratio of the stone is 40 percent.
- Calculate volume in Cubic Feet:

- Calculate surface area of the facility in Square Feet:

- Determine the dimensions of the facility based on “**A**” calculated.

STEP 5 - Sketch a simple site plan that includes:

- Name and address of the owner of the property, and or name and address of the individual preparing the plan, along with the date of submission.
- Location of proposed structures, driveways, or other paved areas with approximate size in square feet.
- Location, orientation, and dimensions of all proposed BMPs. For all rain gardens/bioretention, infiltration trenches, and dry wells, the length, width, and depth must be included on the plan. For rain barrels or cisterns the volume must be included.
- Location of any existing or proposed on-site septic system and/or potable water wells showing rough proximity to infiltration facilities.
- Location of any existing waterbodies such as; streams, lakes, ponds, wetlands, or other waters of the Commonwealth within 100 feet of the project site, and the distance to the project site and/or BMPs. It is recommended that the project or BMPs be located at least than fifty (50) feet away from a perennial or intermittent stream. If an existing buffer is legally prescribed (i.e., deed, covenant, easement and the like), the existing buffer shall be maintained.
- Location of all existing structures including buildings, driveways, and roads within fifty (50) feet of the project site.

Fill in the small projects worksheet found in Table E.4, then submit the worksheet and the simple site sketch (or equivalent) to the Municipality.

(Ord. 2012-2, 5/10/2012, App. E.3)

Table E.4. Small Projects Worksheet.

Small Projects Worksheet					
STEP 1					
Component #1 of Project	Impervious Area from Component #1	Component #2 of Project	Impervious Area from Component #2	Component #3 of Project	Impervious Area from Component #3
	sq. ft.		sq. ft.		sq. ft.
Total Impervious Area = sq. ft.					
STEP 2					
BMP#1		BMP #2		BMP #3	
Captures:		Captures:		Captures:	
Impervious Area I1:	sq. ft.	Impervious Area I2:	sq. ft.	Impervious Area I3:	sq. ft.
STEP 3					
BMP#1		BMP #2		BMP #3	
Type:		Type:		Type:	
STEP 4					
BMP#1		BMP #2		BMP #3	
Volume:		Volume:		Volume:	
Dimensions:		Dimensions:		Dimensions:	
Note: For additional BMPs, use additional sheets					

E.4. Example

Joe Homeowner wants to build an 800 sq. ft. two car garage, and a 700 sq. ft. impervious driveway. Site conditions in the urban setting prevent the use of Disconnected Impervious Area (DIA) as a BMP.

STEP 1 - Determine the total area of all proposed impervious surfaces that will need to drain to one or more BMPs.

- Garage roof: 20 ft. x 40 ft. = 800 sq. ft.
- Driveway: 50 ft. x 14 ft. = 700 sq. ft.
- Total proposed impervious surface = 800 + 700 = **1,500 sq. ft.**

STEP 2 - Determine locations where BMPs need to be placed, and the contributing impervious area “*I*” to each.

- Use BMP #1 to capture runoff from the garage (*I*₁ = 800 sq. ft.)
- Use BMP #2 to capture runoff from the driveway (*I*₂ = 700 sq. ft.).

STEP 3 - Select the BMPs to be used and determine the requirements of each from Section E.3.

- BMP #1 - rain barrel/cistern
- BMP #2 - infiltration trench

STEP 4 - Obtain the required storage volume “*V*” and surface area “*A*” needed for each of the proposed BMPs from the appropriate heading below.

For Rain Barrel/Cistern (BMP #1)

- Calculate volume in cubic feet:

$$\begin{aligned} V_{cf} &= (1 \text{ inch} \times 1/12 \times I_1/0.75) \\ &= (1 \text{ inch} \times 1/12 \times 800)/0.75 \\ &= \mathbf{88.89 \text{ cubic feet}} \end{aligned}$$

- Convert to gallons:

$$\begin{aligned} V_{gal} &= V_{cf} \times 7.48 \\ &= 88.89 \times 7.48 \\ &= \mathbf{664.8 \text{ gallons} \rightarrow \text{round up to 665 gallons}} \end{aligned}$$

For Infiltration Trench (BMP #2)

- Select depth “***D***” for the facility of 2 feet (between 2.0 feet and 5.0 feet).
- Calculate volume in cubic feet:

$$\begin{aligned}V_{cf} &= (1 \text{ inch} \times 1/12 \times I_2) / 0.4 \\&= (1 \text{ inch} \times 1/12 \times 700) / 0.4 \\&= 145.8 \text{ cubic feet} \rightarrow \text{round up to 150 cubic feet}\end{aligned}$$

- Calculate surface area of the facility in square feet:

$$\begin{aligned}A_{sf} &= V_{cf} / D \\&= 150 / 2 \\&= 75 \text{ square feet}\end{aligned}$$

- The driveway is 50 feet long, so using the upper 30 feet of the driveway as length of the infiltration trench, the width of the trench =

$$75 \text{ square feet} / 30 \text{ feet} = 2.5 \text{ feet}$$

- Use a **2.5 ft. wide x 30 ft. long x 2 ft. deep** infiltration trench.

STEP 5 - Prepare a simple site sketch (Figure E.7) and complete Small Projects Worksheet (Table E.4) to send to Municipality.

Figure E.4. Simple Site Sketch of Proposed Project and Proposed BMPs.

Table E.4. Small Projects Worksheet.

Small Projects Worksheet					
STEP 1					
Component #1 of Project	Impervious Area from Component #1	Component #2 of Project	Impervious Area from Component #2	Component #3 of Project	Impervious Area from Component #3
Garage Roof	800 sq. ft.	Driveway	700 sq. ft.	N/A	N/A
Total Impervious Area = 1,500 sq. ft.					
STEP 2					
BMP#1		BMP #2		BMP #3	
Captures:	Garage Roof	Captures:	Driveway	Captures:	N/A
Impervious Area I ₁ :	800 sq. ft.	Impervious Area I ₂ :	700 sq. ft.	Impervious Area I ₃ :	N/A
STEP 3					
BMP#1		BMP #2		BMP #3	
Type:	Cistern	Type:	Infiltration Trench	Type:	N/A
STEP 4					
BMP#1		BMP #2		BMP #3	
Volume:	88.89 cu. ft.	Volume:	150 cubic feet	Volume:	N/A
Dimensions:	665 gallons	Dimensions:	2.5 ft. W x 30 ft. L x 2 ft. D	Dimensions:	N/A
Note: For additional BMPs, use additional sheets					

(Ord. 2012-2, 5/10/2012, App. E.4)