

ARTICLE XIV

SPECIAL OVERLAY DISTRICTS

1400. AH Airport Hazard

The purpose of the A-H Airport Hazard District is to regulate and restrict the height of structures and objects of natural growth, and otherwise regulate the use of property in the vicinity of the Carlisle Airport so as to encourage the safe operation of aircraft using the airport and to minimize the risk of accident and injury both to persons in the air and on the ground.

(1.) Definition of District

The A-H Airport Hazard District is defined and established as the area adjoining the Carlisle Airport as shown in the official records and navigation charts promulgated by the Federal Aviation Administration and as more particularly set forth in provisions below.

(2.) Zoning Map: Overlay

The A-H Airport Hazard District, as hereinabove defined, shall be shown on maps, charts and other documents described in Section 1400. (6.), which are hereby made a part of this Ordinance. For the purpose of defining the application of this map to any specific area, the maps, data and other sources of materials described in Section 1406 shall be available and shall be proof of the intended limits of the A-H Airport Hazard District. Any change in the A-H Airport Hazard District as may from time to time be determined to be proper under Subsections of this Section shall be forthwith reflected on said documents, maps and charts.

The A-H Airport Hazard District shall be deemed an overlay on all other zoning districts now or hereafter applicable to any lot. Should any part of the A-H Airport Hazard District be declared inapplicable to any tract by reason of action of (1) the Board of Supervisors in amending this Ordinance; (2) the Zoning Hearing Board, or any court of competent jurisdiction in interpreting same; or (3) the Zoning Hearing Board, or any court of competent jurisdiction in determining the legal effect of same; the zoning applicable to such lot shall be deemed to be the district in which it is located without consideration of this Section and shown on the Official Zoning Map.

(3.) Permitted Uses

Those uses permitted by the Zoning Districts over which the A-H Airport Hazard District is overlaid, except as limited by the height restrictions of this Section.

(4.) Prohibited Uses

All structures, buildings and objects of natural growth that exceed in height the heights permitted by this Section.

(5.) Definitions

- (a.) Airport: Means Carlisle Airport
- (b.) Airport Elevation: 515.0 feet above mean sea level.
- (c.) Approach Surface: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in this Ordinance. In plane, the perimeter of the approach surface coincides with the perimeter of the approach zone.
- (d.) Approach, Transitional, Horizontal, and Conical Zones: These zones are set forth in Section 1406 of this Ordinance.
- (e.) Conical Surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
- (f.) Hazard to Air Navigation: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
- (g.) For the purpose of determining the height in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
- (h.) Horizontal Surface: A horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

- (i.) Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this Ordinance.
- (j.) Person: An individual, firm, partnership, corporation, company, association, joint stock association, or governmental entity: includes a trustee, a receiver, an assignee, or a similar representative of any of them.
- (k.) Primary Surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 1406 of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
- (l.) Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.
- (m.) Structure: An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation, and overhead transmission lines.
- (n.) Transitional Surfaces: These surfaces extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.
- (o.) Tree: Any object of natural growth.
- (p.) Utility Runway: A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
- (q.) Visual Runway: A runway intended solely for the operation of aircraft using visual approach procedures.

(6.) Airport Zones

- (a.) In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to the Carlisle Airport. Such zones are shown on the Carlisle Airport Zoning Map that is attached to this Ordinance and made a part hereof. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:
- (b.) Utility Runway Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 250 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- (c.) Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.
- (d.) Horizontal Zone - The horizontal zone is established by swinging arcs of 5,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
- (e.) Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

(7.) Airport Zone Height Limitations

Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

- (a.) Utility Runway Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
 - (b.) Transitional Zones - Slope seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 515.0 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface.
 - (c.) Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 250 feet above sea level.
 - (d.) Conical Zone - Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
 - (e.) Excepted Height Limitations - Nothing in this Ordinance shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land.
- (8.) Use Restrictions

Notwithstanding any other provisions of this Ordinance, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(9.) Nonconforming Uses

- (a.) Regulations not retroactive - The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date of this Ordinance, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.
- (b.) Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Federal Aviation Administration or the Pennsylvania Bureau of Aviation to indicate to the operators of aircraft in the vicinity of the Airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the agency or bureau requiring them.

(10.) Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any tree in excess of any of the height limits established by this Ordinance except as set forth in Section 1400 (7.)(e).

(11.) Variances

Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property, not in accordance with the regulations prescribed in this Ordinance, may apply for a variance. The application for a variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances shall be allowed where it is duly found that a literal application or enforcement of the regulations will result in unnecessary hardship or relief granted, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance. Additionally, no application for variance to the requirements of this Ordinance may be considered unless a copy of

the application has been furnished to the Airport Manager, if one exists, for advice as to the aeronautical effects of the variance. If the Airport Manager does not respond to the application within 15 days after receipt, the Zoning Hearing Board may act on its own to grant or deny said application.

(12.) Obstruction Marking and Lighting

Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Zoning Hearing Board, this condition may be modified to require the owner to permit a governmental agency, at its own expense, to install, operate and maintain the necessary markings and lights.

1401. FH Flood Hazard District

(1.) Purpose.

The purpose of these provisions is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, the impairment of the tax base and the protection of landowners in and adjacent to flood hazard areas by:

- (a.) Regulating uses, activities and development which, acting alone or in combination with other existing or future uses, activities and development, will cause unacceptable increases in flood heights, velocities and frequencies.
- (b.) Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding.
- (c.) Requiring all those uses, activities and developments that do occur in flood-prone areas to be protected and/or flood-proofed against flooding and flood damage.
- (d.) Protecting individuals from buying lands and structures that are unsuited for intended purposes because of flood hazards.

- (2.) Applicability. The provisions of this Section shall apply to all lands and land developments within South Middleton Township which are flood prone or located within the boundary of a flood plain area delineated in the Flood Insurance Study and on the accompanying maps prepared by the Federal Emergency Management Agency, Federal Insurance Administration, (FIA), dated January 5, 1996, or the most recent revision thereof which maps are incorporated herein.
- (3.) Abrogation and Greater Restrictions. This Section supplements other Sections of this Zoning Ordinance. To the extent that this imposes greater requirements or more complete disclosures in any respect, or to the extent that the provisions of this Section are more restrictive, it shall be deemed and interpreted to control other provisions of the Zoning Ordinance and the South Middleton Township Subdivision and Land Development Ordinance.
- (4.) Compliance. No structure or land shall hereafter be used, and no structure shall be located, relocated, constructed, reconstructed, enlarged or structurally altered except in full compliance with the terms and provisions of this Section, and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this Ordinance.
- (5.) Warning and Disclaimer of Liability. The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes, and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that land outside the flood plain areas, or that land uses permitted within such areas, will be free from flooding or flood damages. This Ordinance shall not create liability on the part of South Middleton Township, or any officer or employee thereof, for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.
- (6.) Establishment of Flood Hazard Areas.
 - (a.) Basis of Flood Hazard Areas - All land subject to inundation shall be considered a flood hazard area subject to this Section including both flood prone land and land located within the boundary of a delineated flood plain. The basis for the delineated flood plain areas shall be the Flood Insurance Study and on the accompanying maps prepared by the

Federal Emergency Management Agency, Federal Insurance Administration, (FIA), dated January 5, 1996, or the most recent revision thereof which maps are incorporated herein.

- (i.) The Floodway Area (FW) is delineated for purposes of this Ordinance using the criteria that a certain area within the flood plain must be capable of carrying the waters of the 100-year flood without increasing the water surface elevation of that flood more than one (1) foot at any point. The floodway is as depicted on the FEMA maps.
- (ii.) The Flood-Fringe Area (FF) shall be that land located within the delineated 100-year flood plain not included in the Floodway Area. The boundaries of this area are as depicted on the FEMA maps unless said maps can be shown to be less encompassing as they should be.
- (iii.) The General Flood Plain Area (FA) shall be that flood plain area for which no detailed flood profiles or elevations have been provided. They are shown on the Maps accompanying the FIS prepared by FIA. Where the specific 100-year flood boundary cannot be determined for this area by the Zoning Officer to his satisfaction, using available floodway data or other sources, then the Zoning Officer may require the applicant for the proposed use, development or activity to determine this boundary in accordance with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, or computations shall be submitted in sufficient detail to allow a thorough technical review by the Township.
- (iv.) The Flood Prone Area shall be that land shown by substantial competent evidence to be subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual or rapid accumulation of surface waters from any source, whether or not depicted upon the Flood Boundary and Floodway

Map. All such Flood Prone Areas shall be subject to the provisions and requirements of this Section.

- (b.) Overlay Concept
 - (i.) The Flood Hazard Areas described above shall be overlays to the existing underlying districts, as shown on the Official South Middleton Township Zoning Map, and, as such, the provisions of the Flood Hazard Areas shall serve as a supplement to the underlying district provisions.
 - (ii.) In the event of any conflict between the provisions or requirements of any of the Flood Hazard Areas and those of any underlying zoning district, the more restrictive provisions shall apply.
 - (iii.) In the event any provision concerning a Flood Hazard Area is declared inapplicable or illegal as a result of any legislative or administrative actions or judicial decision, the regulations of the underlying district shall remain applicable.
- (c.) Flood Plain Boundary Map. The boundaries of the floodway, flood fringe and general flood plain areas shall be as depicted on the Flood Insurance Study and on the accompanying maps dated January 5, 1996, or the most recent revision thereof. The Flood Insurance Study and accompanying maps shall be presumed to be accurate and controlling as to the location of the boundaries delineated therein; provided however, that said map shall be subject to amendment in accordance with the procedures hereinafter set forth.
- (d.) Interpretation of Flood Hazard Area Boundaries. Initial interpretations of the boundaries of the Flood Plain Areas shall be made by the Zoning Officer by reference to the Flood Boundary and Floodway Map. Should an applicant dispute the boundaries of any of the Areas, or the interpretation of the Zoning Officer, the landowner or other interested party shall file a written appeal to the Zoning Hearing Board setting forth the grounds for relief in detail. The Zoning Hearing Board shall hold a hearing pursuant to public notice, shall make the necessary determination and shall issue its decision in accordance with Article XXIII of this Ordinance.

- (e.) Boundary Changes. The delineation of any of the Flood Plain Areas may be revised by the Board of Supervisors where natural or man-made changes have occurred, or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, River Basin Commission, or other qualified agency or individual, and such studies provide the basis for such change. However, prior to any such change, the landowner or any other person seeking such change must obtain approval from the Federal Insurance Administration (FIA).

- (7.) Flood Hazard Area Regulations.
 - (a.) General. Building Permits shall be required before any construction or development is undertaken within any area of the Township of South Middleton, Cumberland County. All uses, activities and development shall be undertaken only in strict compliance with Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1334), the Pennsylvania Water Obstruction Act of 1913, and the Pennsylvania Floodplain Management Act of 1978. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch or any other facility or system. No permits shall be issued until this determination has been made. Prior to any proposed alteration or relocation of any stream or watercourse within the Township, any required permit shall be obtained from the Pennsylvania Department of Environmental Protection, Dams and Encroachment Division. Further, documentation shall be provided substantiating that notification of the proposal has been given to all affected adjacent municipalities. The Federal Insurance Administration and the Pennsylvania Department of Community Affairs shall also be notified in advance of any such alteration or relocation.

 - (b.) Floodway Area (FW). In the Floodway Area (FW) no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate local and state authorities, as required above.
 - (i.) Permitted Uses - In the Floodway Area the following uses and activities are permitted, provided that they

are in compliance with the provisions of the underlying district and are not prohibited by any other ordinance, and provided that they do not require structures, fill or storage of materials and equipment:

- (1.) Agricultural uses, such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming and wild crop harvesting.
 - (2.) Public and private recreational uses and activities such as parks, day camps, picnic grounds, golf courses, boat launching and swimming areas, hiking and horseback riding trails, wildlife and nature preserves, game farms, fish hatcheries, trap and skeet game ranges, and hunting and fishing areas.
 - (3.) Accessory residential uses such as yard areas, gardens, play areas and porous paving areas.
 - (4.) Accessory industrial and commercial uses, such as yard areas, porous paving and loading areas, airport landing strips, etc.
- (ii.) Uses Permitted by Special Exception - The following uses and activities may be permitted by Special Exception, as allowed by the Zoning Hearing Board, provided that they are in compliance with the provisions of the underlying district and are not prohibited by any other provision of the South Middleton Township Zoning Ordinance:
- (1.) Structures, except manufactured homes, accessory to the uses and activities of Section (i.) above.
 - (2.) Utilities and public facilities and improvements such as railroads, streets, bridges, transmission lines, pipelines, water and sewage treatment plants, and other similar or related uses.
 - (3.) Water-related uses and activities such as marinas, docks, wharves, piers, etc.

- (4.) Extraction of sand, gravel and other materials.
 - (5.) Temporary uses such as circuses, carnivals and similar activities.
 - (6.) Storage of materials and equipment provided that they are not buoyant, flammable or explosive, and are not subject to major damage by flooding, or provided that such material and equipment is firmly anchored to prevent flotation or movement, or can be readily removed from the area within the time available after flood warning.
- (c.) Flood-Fringe Area (FF). In the Flood-Fringe Area (FF), the development and use of land shall be permitted in accordance with the regulations of the underlying district, provided that all such uses, activities or development shall be undertaken in strict compliance with the floodproofing and related provisions contained in all other applicable codes and ordinances, and further provided that manufactured homes shall not be permitted in Flood-Fringe Areas.
- (d.) General Flood Plain Area (FA). In the General Flood Plain Area (FA), development or use of land shall be permitted in accordance with the regulations of the underlying zoning district, provided that all such uses, activities or development shall be undertaken in strict compliance with floodproofing and related provisions contained in all other applicable codes and ordinances.
- (e.) Flood Prone Area. In the Flood Prone Area, development or use of land shall be permitted in accordance with the regulations of the underlying zoning district, provided that all such uses, activities or development shall be undertaken in strict compliance with floodproofing and related provisions contained in all other applicable codes and ordinances.
- (8.) Special Exceptions and Variances - Additional Factors To Be Considered.
 - (a.) In passing upon application for Special Exceptions and Variances, the Zoning Hearing Board shall consider all relevant factors and procedures specified in other sections of the Zoning Ordinances and:

- (i.) The danger to life and property due to increased flood heights or velocities caused by encroachments. No special exceptions or variances shall be granted in any Floodway for any proposed use, development or activity that will cause any increase in flood levels during the 100-year flood.
- (ii.) The danger that materials may be swept onto other lands or downstream to the injury of others.
- (iii.) The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.
- (iv.) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owners.
- (v.) The importance of the services provided by the proposed facility to the community.
- (vi.) The requirements of the facility for a waterfront location.
- (vii.) The availability of alternative locations not subject to flooding for the proposed use.
- (viii.) The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
- (ix.) The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
- (x.) The safety of access to the property in times of flood for ordinary and emergency vehicles.
- (xi.) The expected heights, velocities, duration, rate of rise and sediment transport of the floodwaters expected at the site.
- (xii.) The effect upon the Township Flood Insurance Program.

- (xiii.) Such other factors which are relevant to the purposes of this Ordinance.
 - (b.) The Zoning Hearing Board may refer any application and accompanying documentation pertaining to any request for a special exception or variance to any engineer or other qualified person or agency for technical assistance in evaluating the proposed project in relation to flood heights and velocities, and the adequacy of the plans for protection and other related matters. Whenever a variance is granted, the Township shall notify the applicant in writing that the granting of the variance may result in increased premium rates for flood insurance. In reviewing any request for a variance the Township shall consider that the failure to grant the variance would result in exceptional hardship to the applicant.
 - (c.) Special exceptions and/or variances shall only be issued after the Zoning Hearing Board has determined that the granting of such will not result in (a) unacceptable or prohibited increased flood heights, (b) additional threats to public safety, (c) extraordinary public expense, (d) create nuisances, (e) cause fraud or victimization of the public, (f) jeopardy to the Township Flood Insurance Program, or (g) conflict with local laws or ordinances.
 - (d.) A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.
- (9.) Existing Structures in Flood Plain Areas.

A structure or use of a structure or premises which lawfully existed before the enactment of these provisions, but which is not in conformity with these provisions, may be continued subject to the following conditions:

- (a.) Existing structures or uses located in any floodway area shall not be expanded or enlarged unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.
- (b.) Any modification, alteration, repair, reconstruction or improvement of any kind to a structure or use located in any

flood plain area to an extent or amount of less than fifty percent (50%) of its market value, shall be elevated and/or flood-proofed to the greatest extent possible regardless of its location in the flood plain area.

- (c.) The modification, alteration, repair, reconstruction or improvement of any kind to a structure and/or use, regardless of its location in a flood plain area, to an extent or amount of fifty percent (50%) or more of its market value, shall be undertaken only in full compliance with the provisions of this ordinance and any other applicable ordinances.

(10.) Prohibited Uses.

The following uses shall be prohibited in the Floodway Area (FW), the Flood-Fringe Area (FF), and the general Floodplain Area (FA):

- (a.) Hospitals (public or private)
- (b.) Nursing Homes (public or private)
- (c.) Jails or Prisons
- (d.) New Manufactured Home Parks and Manufactured Home Subdivisions and substantial improvements to existing Manufactured Home Parks
- (e.) Any New or Substantially Improved Structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substances) or any of the following dangerous materials or substances on the premises:
 - (i.) Acetone
 - (ii.) Ammonia
 - (iii.) Benzene
 - (iv.) Calcium Carbide
 - (v.) Carbon Disulfide

- (vi.) Celluloid
- (vii.) Chlorine
- (viii.) Hydrochloric Acid
- (ix.) Hydrocyanic Acid
- (x.) Magnesium
- (xi.) Nitric Acid and Oxides of Nitrogen
- (xii.) Petroleum Products (gasoline, fuel oil, etc)
- (xiii.) Phosphorus
- (xiv.) Potassium
- (xv.) Sodium
- (xvi.) Sulfur and Sulfur Products
- (xvii.) Pesticides (including insecticides, fungicides and rodenticides)
- (xviii.) Radioactive substances, insofar as such substances are not otherwise regulated.

1402. VH Village - Historic District

(1.) Purposes

The V-H Village - Historic District is intended to assist in the orderly development of the Boiling Springs Historic Area in which there exists a large number of older structures of historic significance, by permitting conversions or adaptive uses thereof under conditions which will serve to protect the historic and architectural character of the neighborhood. This district is intended to stabilize and improve the existing values inherent in the already built environment and encourage upkeep of existing and development of new properties in keeping therewith. It is further intended to promote the use of properties for residential and compatible trade and service activities.

(2.) General Provisions

General provisions relating to the Village - Historic District are as follows:

- (a) No area within the Village - Historic District shall hereafter be used without full compliance with the terms of this Section and other applicable regulations.
- (b) The Village - Historic District established hereby shall be an overlay on any zoning district(s) now or hereafter enacted to regulate the use of land in South Middleton Township.
 - (i) The Village - Historic District shall have no effect on the permitted uses in the underlying zoning district, except where said uses are intended to be located within the boundaries of the Village - Historic District, as defined herein, and said uses are in conflict with the permitted uses in the Village - Historic District.
 - (ii) In those areas of the Township where the Village - Historic District applies, the requirements of the Village - Historic District, if more restrictive, shall supersede the requirements of the underlying zoning district(s).
 - (iii) Should the Village - Historic District boundaries be changed or eliminated as a result of legislative or administrative actions or judicial decision, the zoning requirements applicable to the area in question shall revert to the requirements of the underlying zoning district(s) without consideration of the provisions relating to the Village - Historic District.
 - (iv) For any parcel or any part thereof on which the Village - Historic District is an overlay, should the underlying zoning classification(s) be changed as a result of legislative or administrative actions or judicial decision, such change(s) in classification shall have no effect on the boundaries of the Village - Historic District, unless an amendment to said boundaries was included as part of the proceedings from which the subsequent change(s) originated.
- (c) The provisions hereof relating to the Village - Historic District shall not repeal, abrogate, or impair any existing easements,

covenants, or deed restrictions. However, where the provisions relating to the Village - Historic District impose greater restrictions, such provisions shall prevail.

(3.) Designation and Interpretation of District Boundary

- (a) The Village - Historic District consists of the historic area of the Village of Boiling Springs, which is delineated and defined on a map(s), which is hereby made a part of this Ordinance.
- (b) Boundary Interpretation and Appeals Procedure.
 - (i) Each application for construction, land development or subdivision containing land within the Village - Historic District shall be submitted in accordance with such other provisions of the Ordinances of South Middleton Township as are applicable thereto. Any area of the Village - Historic District that falls within the subject lot or lots shall be shown on the site plan through shading of such area or areas.
 - (ii) Any party seeking land development and/or subdivision approval in what might be a Village - Historic District shall have the burden to present evidence of the boundaries of the District in the area in question. This presentation must include applicable geographic data with respect to the property and any other pertinent documentation for consideration.

(4.) Permitted Uses in the Village - Historic District

Uses Permitted in the Village - Historic District. The following are the only uses permitted as of right in the Village - Historic District, provided they also are in compliance with the base zoning district and all other provisions of this Ordinance:

- (a) Single-family detached dwellings.
- (b) Two-family detached and single-family semi-detached dwellings.
- (c) Single-family attached dwellings (townhouses).

- (d) Churches and similar places of worship.
 - (e) Government offices.
 - (f) Libraries and community activity buildings.
 - (g) Public schools.
 - (h) Greenways and trails.
 - (i) Municipal Buildings and Services.
 - (j) Customary accessory buildings and uses, except outdoor storage, incidental to any principal permitted use, including advertising signs subject to the provisions of Article XVII of this Ordinance; providing, however, that such signs shall not detract from the general intended purpose of this District.
- (5.) Conditional Uses in accordance with Article XX, Article XVI and the following:

Any of the following uses shall be permitted in the Village - Historic District as a conditional use when approved by the Board of Supervisors, subject to requirements of this Section.

- (a) Private schools such as nursery schools and business colleges.
- (b) Any retail business whose principal activity is the sale of new merchandise in an enclosed building, excepting uses such as the following which tend to detract from or interfere with a high intensity of pedestrian shopping activity: Automobile sales, boat sales, mobile home sales, motorcycle sales.

- (c) Retail sales in which both a workshop and a retail outlet or showroom are required (such as plumbing, electrician, interior decorating, dressmaking, tailoring, upholstering, photographic reproducing, radio and home appliance and similar establishments of no more objectionable character, subject to the following provision: not more than 25 percent of the total usable floor area of the establishment shall be used for servicing, repairing, manufacturing, or processing activities.
 - (d) Restaurants, tearooms, cafes and other establishments serving food and beverages, except those having the character of a "drive-in" type.
 - (e) Bed and Breakfast Inns.
 - (f) Personal services such as barbershops, laundromats, and dry cleaning pickup stations.
 - (g) Enclosed theaters, assembly halls, concert halls, and similar places of assembly or entertainment.
 - (h) Professional offices and banking facilities.
 - (i) Essential Services, excluding cellular telephone towers and other such communication towers and their facilities and accessory buildings.
 - (j) Uses that, in the opinion of the Board of Supervisors are of the same general character as those listed as permitted uses and which will not be detrimental to the intended purpose of this district.
- (6.) Special Exceptions
- (a) Customary Home Occupations in accordance with Section 1609 and Article XXIII.
 - (b) Conversion Apartments subject to Article XVI.
- (7.) Uses and/or Structures Rendered Nonconforming to the Village - Historic District.

Following the effective date of the Ordinance adopting the Village - Historic District, any use or structure which is situated within the boundaries of the Village - Historic District and which does not

conform to the permitted uses specified in Sections 1402 (4.), 1402 (5.) or 1402 (6.) shall become a nonconforming use or structure, regardless of its conformance to the District in which it is located without consideration of the Village - Historic District. The expansion or continuance of said nonconforming use or structure shall be governed by the requirements of Article XXIII of this Ordinance. However, the Zoning Hearing Board shall also ensure that the standards contained in this Section are applied to the expansion or continuance of said nonconforming use or structure.

(8.) Minimum Lot Area and Dimensional Standards

The Village - Historic District shall have the same minimum lot area and dimensional standards as the underlying zoning district(s).

1403. SS Steep Slope Conservation District

(1.) Purposes and General Provisions

The purposes of the establishment and control of the Steep Slope Conservation District are as follows:

- (a.) To promote the public health, safety and welfare by the protection of steep slope areas, which are subject to erosion when disturbed and which exacerbate stormwater run-off problems during and following construction.
- (b.) To permit only those uses of steep slope areas which are compatible with the conservation of natural conditions and which maintain stable soil conditions by (a) minimizing disturbances to vegetative ground covers; and (b) restricting the regrading of steep slope areas.
- (c.) To limit soil erosion, siltation of streams, and damage to private and public property.
- (d.) To protect low-lying areas from flooding by limiting the increase in stormwater run-off caused by grading of sloped areas, changes of ground cover, or the erection of structures.
- (e.) To maintain the ecological integrity of steeply sloped areas that could be adversely affected by disturbances.

- (f.) To foster the continuing replenishment of groundwater resources and the maintenance of springs.
- (2.) General provisions relating to the Steep Slope Conservation District are as follows:
- (a.) No area within the Steep Slope Conservation District shall hereafter be used without full compliance with the terms of this Section and other applicable regulations.
 - (b.) The Steep Slope Conservation District established hereby shall be an overlay on any zoning district(s) now or hereafter enacted to regulate the use of land in South Middleton Township.
 - (i.) The Steep Slope Conservation District shall have no effect on the permitted uses in the underlying zoning district, except where said uses are intended to be located within the boundaries of the Steep Slope Conservation District, as defined herein, and said uses are in conflict with the permitted uses in the Steep Slope Conservation District.
 - (ii.) In those areas of the Township where the Steep Slope Conservation District applies, the requirements of the Steep Slope Conservation District, if more restrictive, shall supersede the requirements of the underlying zoning district(s).
 - (iii.) Should the Steep Slope Conservation District boundaries be changed or eliminated as a result of legislative or administrative actions or judicial decision, the zoning requirements applicable to the area in question shall revert to the requirements of the underlying zoning district(s) without consideration of the provisions relating to the Steep Slope Conservation District.
 - (iv.) For any parcel or any part thereof on which the Steep Slope Conservation District is an overlay, should the underlying zoning classification(s) be changed as a result of legislative or administrative actions or judicial decision, such change(s) in classification shall have no effect on the boundaries of the Steep Slope Conservation District, unless an amendment to said

boundaries was included as part of the proceedings from which the subsequent change(s) originated.

- (c.) The provisions hereof relating to the Steep Slope Conservation District shall not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the provisions relating to the Steep Slope Conservation District impose greater restrictions, such provisions shall prevail.
 - (d.) Any determination that a proposed use complies with the provisions of the Steep Slope Conservation District, or any approval of a subdivision or land development plan, or any issuance of a building permit within or near the Steep Slope Conservation District shall not constitute a representation, guarantee, or warranty of any kind by the Township, or by any official or employee thereof, of the practicability or safety of the proposed use and shall create no liability upon the Township, its officials or employees. The provisions relating to the Steep Slope Conservation District do not imply that areas outside the Steep Slope Conservation District boundaries or land uses permitted within said District will be free from the adverse effects of erosion.
- (3.) Designation and Interpretation of District Boundary
- (a.) The Steep Slope Conservation District consists of two areas which are delineated and defined as follows:
 - (i.) Prohibitive Slope - Prohibitive slopes are those of greater than twenty-five (25) percent slope.
 - (ii.) Precautionary Slope - Precautionary slopes are those of fifteen (15) to twenty-five (25) percent slope.
 - (b.) Boundary Interpretation and Appeals Procedure.

- (i.) Each application for construction, land disturbance or subdivision containing land within the Steep Slope Conservation District shall be submitted in accordance with such other provisions of the Ordinances of South Middleton Township as are applicable thereto. Any area of the Steep Slope Conservation District that falls within the subject lot or lots shall be shown on the site plan through shading of such area or areas.
 - (ii.) Any party seeking land development and/or subdivision approval in what might be a Steep Slope Conservation District shall have the burden to present evidence of the boundaries of the District in the area in question. This presentation must include applicable topographic data with respect to the property and any other pertinent documentation for consideration.
 - (iii.) Whenever there is a difference between any Zoning Map and the applicable United States Geological Survey Topographic Map, the Topographic Map shall determine the boundaries of the Steep Slope Conservation District.
- (4.) Permitted Uses in the Steep Slope Conservation District
- (a.) Standards Applicable to All Uses within Steep Slope Conservation Districts.
 - (i.) All grading shall be minimized.
 - (ii.) Finished slopes of all cuts and fills shall not exceed 33%, unless the applicant can demonstrate that steeper slopes can be stabilized and maintained adequately.
 - (b.) Uses Permitted in Areas of Prohibitive Slope. The following are the only uses permitted as of right in areas of Prohibitive Slope. Such uses also shall comply with the base-zoning district, and shall not involve the erection of buildings, construction of streets, installation of sewage disposal systems, or permanent removal of topsoil.

- (i.) Parks and outdoor recreational uses, consistent with the goals of watershed protection.
 - (ii.) Logging and woodcutting, where such activity is limited to highly selective removal of trees. Maximum precautions shall be taken to avoid destruction of or injury to under-story brush and trees.
 - (iii.) Grading for the minimum portion of a driveway necessary to access a single-family dwelling when it can be demonstrated that no other routing which avoids slopes exceeding 25 percent is feasible.
 - (iv.) Yard areas of a building not within the Steep Slope Conservation District, so long as no building is within the Prohibitive Slope area.
 - (v.) Greenways and trails.
- (c.) Uses Permitted in Areas of Precautionary Slope. The following are the only uses permitted as of right in areas of Precautionary Slope, provided they also are in compliance with the base zoning district and all other provisions of this Ordinance:
- (i.) Any use permitted in the area of Prohibitive Slope.
 - (ii.) Tree farming, forestry, and other agricultural uses when conducted in conformity with conservation practices, including minimum tillage methods, approved by the Cumberland County Conservation District, or the U.S. Department of Agriculture.
 - (iii.) Single-family detached dwellings.
 - (iv.) Yard areas of a building not within the Steep Slope Conservation District, so long as no building other than that permitted in Section 1403 (4.) is permitted within the Precautionary Slope area.
 - (v.) Greenways and trails.
- (5.) Uses by Conditional Use in the Steep Slope Conservation District.

Any of the following uses shall be permitted in areas of Precautionary Slope as a conditional use when approved by the

Board of Supervisors, subject to requirements of this Section. Consideration for granting of a conditional use shall include the extent to which the requested uses will disrupt the stability of soils and natural vegetation and contribute to erosion during and after construction.

- (a.) Sealed public water supply wells, where approved by all regulatory agencies.
 - (b.) Access roads that shall be suitable for the passage of emergency vehicles in case of fire or accident. Such roads shall be constructed only when no viable alternative for emergency access exists.
- (6.) Administration of the Steep Slope Conservation District.
- (a.) Application Procedures. Before a permit is issued for any construction or land disturbance activity on land within or affecting the Steep Slope Conservation District, the following material, in full or in pertinent parts, shall be submitted for review by the Township:
 - (i.) An engineered site plan of the property, consistent with the applicable requirements of the South Middleton Township Subdivision and Land Development Ordinance, indicating existing grades with contour lines at ten (10) foot intervals and proposed grades within the area of the proposed construction. All areas of Prohibitive and/or Precautionary Slope as defined above shall be shaded accordingly.
 - (ii.) Landscaping plan indicating proposed impervious surfaces, storm drainage facilities, retaining walls, and ground cover, as well as trees and ornamental shrub locations.
 - (iii.) A statement signed and sealed by a registered architect or engineer, explaining the building methods to be used in overcoming foundation and other structural problems created by any slope conditions.
 - (iv.) Location and slopes of sides of all proposed cuts and fills.

- (v.) Plan, profile, and typical cross-sections of any proposed driveway, with the seal of a registered professional engineer thereon.
 - (vi.) Plan for on-site sewage disposal facilities if use of a public sanitary sewer system is not contemplated.
 - (vii.) No approval or building permit shall be authorized by the Township, and no conditional use shall be granted by the Board of Supervisors, without the Township Engineer's review of this submitted material and his recommendation thereon. If a prohibitive steep slope area extends to the boundary of a proposed site, the slopes on adjacent sites for a distance of two hundred (200) feet in all directions from the boundaries of the site in question shall be additionally presented.
- (b.) Additional Criteria for Review of Conditional Uses. In evaluating any application for conditional use, the Board of Supervisors shall consider the following factors:
- (i.) The percent of steep slope on the total site.
 - (ii.) The extent and proposed disturbance of the existing vegetative cover on the site.
 - (iii.) The soil types and underlying geology of the site.
 - (iv.) The length of extent of the slope both on the site in question and on adjacent lands within 200 feet of the site.
 - (v.) Evidence that the proposed development, any impervious ground cover and the resultant disturbance to the land and existing vegetative cover will not cause an increase in the rate of runoff and/or related environmental problems on or off the site.
- (7.) Uses and/or Structures Rendered Nonconforming to the Steep Slope Conservation District.

Following the effective date of the Ordinance adopting the Steep Slope Conservation District, any use or structure which is situated within the boundaries of the Steep Slope Conservation District and which does not conform to the permitted uses specified in Sections 1403 (4.) or 1403 (5.) shall become a nonconforming use or

structure, regardless of its conformance to the District in which it is located without consideration of the Steep Slope Conservation District. The expansion or continuance of said nonconforming use or structure shall be governed by the requirements of Article XXIII of this Ordinance. However, the Zoning Hearing Board shall also ensure that the standards contained in this Section are applied to the expansion or continuance of said nonconforming use or structure.

1404. SR SCENIC RIVER DISTRICT

Because of the historical, environmental and cultural nature of certain rivers, streams and waterways located within the boundaries of South Middleton Township, the following standards and provisions shall be applicable to waterways specified herein. The purpose of this district shall be the protection and management of the aesthetic, ecological and cultural values of the said waterways for the benefit of present and future citizens.

(1.) Designated Stream Segments

The following waterway segments within or adjacent to South Middleton Township are designated as scenic waterways subject to the provisions of this Section:

| <u>Stream Name</u> | <u>Segment Limits</u> |
|-------------------------------------|--|
| (a.) Letort Spring | Entire length from State Route 34 bridge to the Borough Line |
| (b.) Left Branch, Letort Spring Run | Springs on Spring Garden Street Extended to Borough Line |
| (c.) Yellow Breeches Creek | Entire length from Western to Eastern Township Line |

(2.) Scenic River Corridor Delineation

- (a.) For the purpose of this Section, the Letort Spring Run Scenic River Corridor shall be delineated as an area five hundred (500) feet from the centerline of the designated stream segments identified in Section 1404 (1.) above.
- (b.) The Scenic River Corridor for the Yellow Breeches Creek shall be five hundred (500) feet from the centerline of the main creek bed.

(3.) Design Standards

(a.) Clearing of Lots

- (i.) No living or viable trees, shrubs or vegetation within one hundred (100) feet of a waterway designated in Subsection 1404 (1.) herein, shall be cut, removed, or cleared from the land adjacent to or along said waterway; provided however that the pruning, trimming, or cutting of weeds, dead trees or shrubs, and undergrowth shall not be prohibited.
- (ii.) The maximum area permitted to be cleared on any lot adjacent to a designated waterway shall be as established by the impervious coverage requirements applicable to the Zoning District in which the lot is located.

(b.) Timber Harvest

Where permitted by this Ordinance and the Township Subdivision and Land Development Ordinance, timber harvest in the designated stream segments shall be by selective cut method and in accordance with Pennsylvania Department of Forestry standards. Clear-cutting and the utilization of logging roads or skid trails on slopes of fifteen percent (15%) and above shall be prohibited. On slopes of less than fifteen percent (15%) clear-cutting may be permitted for wildlife management, reforestation to a more desirable commercial tree type, removal of diseased trees, or clearing land for agricultural purposes. Clear-cutting shall be prohibited within one hundred (100) feet of any designated stream segment, except for safety or access purposes.

(4.) Screening

Any new building or structure within the designated stream segments shall be screened from view from any designated stream segment by vegetative screen according to the screening requirements of Section 1607. The screen shall provide a year-round, fifty percent (50%) visual screen. Species used as part of a vegetative screen shall be selected based on their ability to provide the required screening within ten (10) years of planting.

(5.) Access

In addition to the requirements of this Ordinance and the Township Subdivision and Land Development Ordinance, any new road, street, or bridge within the designated stream segments shall be located, designed, and constructed according to the "Guidelines to Improve the Aesthetic Quality of Roads in Pennsylvania," prepared by the Pennsylvania Departments of Transportation and Environmental Protection, June 1978.

(6.) Grading and Earthmoving

No grading or earthmoving shall be permitted which alters or changes any natural ridgeline within the designated stream segments.

(7.) Sludge Disposal

The disposal of sludge generated from public or community sewage disposal systems shall be prohibited within the designated stream segments.

(8.) Protection of Water Quality

No landowner, developer or occupant of property adjacent to a waterway specified as a designated stream segment in Section 1404 (1.) herein shall cause or permit the pollution or degradation of the water quality of a designated waterway by any means including, but not limited to, erosion, siltation or the disposal or dumping of waste, foreign matter or toxic materials of every nature.

(9.) Greenways and trails shall be considered a permitted use within the Scenic River District.

1405. WP Wellhead Protection District

The Wellhead Protection District as established in the Wellhead Protection Ordinance No. 12 of 1998, shall be incorporated herein and made a part of by reference, as an overlay zone.

(1.) Purpose

The purpose of the Wellhead Protection District is to safeguard the public health, safety and welfare, by providing regulation of land use and the manufacture, use, storage, transport, or disposal of hazardous and other substances which pose a threat to the quality and quantity of groundwater being extracted from the South Middleton Township municipal wells. It is the further intent of this District to recognize and protect a uniquely vulnerable groundwater resource area, defined by a carbonate geologic formation which is prone to the development of sinkholes and fractures that allow rapid infiltration of contaminants to these wells.

(2.) Objective

The objective of this District as it applies to delineated wellhead protection areas are:

- (a.) To limit land uses and activities involving the generation, use, transport, or storage of hazardous substances;
- (b.) To regulate other land uses and activities with the potential to pollute groundwater;
- (c.) To assure appropriate nutrient management practices;
- (d.) To establish siting standards to guide development onto the least environmentally-sensitive portions of property;
- (e.) To preserve vegetated buffer areas and establish setbacks for uses around streams, water bodies, springs, and sinkholes;
- (f.) To provide for maximum lot coverage standards to minimize impervious surfaces and reduce stormwater runoff;
- (g.) To provide for stormwater management that maximizes groundwater recharge;

- (h.) To protect and enhance surface and groundwater quality from the impacts of development on stormwater quality with Best Management Practices;
- (i.) To establish disturbance standards for wetlands, woodlands and steep slopes to minimize sedimentation of waters and to maximize water recharge;
- (j.) To require the regular maintenance of on-lot sewage disposal systems to minimize the potential for contamination of groundwater; and,
- (k.) To alert landowners, potential buyers, appraisers, assessors and lessees of the legal restrictions inherent in certain land uses and activities in this Overlay District.

(3.) Statutory Authority

Section 1428 of the Federal Safe Drinking Water Act Amendments of 1986 requires the States to establish Wellhead Protection Programs to protect groundwater from contamination. In Pennsylvania, the responsibilities for development and implementation of Wellhead Protection Programs is shared between water suppliers, the Commonwealth and local municipal governments. The Pennsylvania Department of Environmental Protection (DEP) recognizes that, in Pennsylvania, DEP is responsible for regulating water suppliers and discharges of contaminants. DEP also recognizes that it is the responsibility of local governments to regulate land use. South Middleton Township is empowered, under the provisions of the Pennsylvania Municipalities Planning Code (MPC), as amended, 53 P.S. § 10101, to enact ordinances regulating development and land uses.

(4.) Definitions

For the purpose of implementing the requirements of the Wellhead Protection Overlay District, the following definition shall apply:

- (a.) Abandonment of Well - An abandoned or unused well may be defined as one or more of the following:
- (i.) A well, other than a monitoring well, which has been out of service continuously for one year or more, and does not meet the definition of a standby well.
 - (ii.) A monitoring well from which no measurement or sample has been taken for a period of three years.
 - (iii.) A well that is in such a state of disrepair that it cannot be made operational for its intended purpose.
 - (iv.) A test hole or exploratory boring 24 hours after construction and testing work has been completed.
 - (v.) A cathodic protection well that is no longer functional for its original purpose.
 - (vi.) Any boring that cannot be satisfactorily completed as a well.
 - (vii.) An inactive geothermal groundwater heat exchange system.

- (b.) Alteration of Natural Features - Any earth moving, clearcutting, filling, mining, dredging, grading, paving, excavating or drilling activities which require a permit or approval from Federal, State or local officials.
- (c.) Best Management Practices (BMPs) - State-of-the-art recommended practices for controlling stormwater runoff, or handling hazardous substances.
- (d.) Carbonate - A sedimentary bedrock made up of limestone and/or dolomite that is highly permeable and prone to fractures, solution channels and the formation of sinkholes.
- (e.) Community or Package Sewage Disposal System - A private sewage disposal system releasing treated effluent either into the ground or a surface water source. A large-scale system is intended to serve over 25 equivalent dwelling units (EDUs); a small-scale system is intended to serve between 2 and 24 EDUs.
- (f.) Existing Land Use - The use of a property as of the date this ordinance was adopted.
- (g.) Fracture Trace - Natural, linear-drainage, soil-tonal and topographic alignments, usually visible on aerial photographs, which are commonly the surface manifestations of corresponding zones of fracture concentration within underlying bedrock. Particularly in soluble rocks (e.g., limestone and dolomite), fracture zones cause increased bedrock porosity and permeability, resulting in rates of groundwater movement that are greater than the surrounding bedrock.
- (h.) Impermeable - Impervious, impenetrable to moisture.
- (i.) Integrated Pesticide Management Plan - A plan that provides for the use of multiple pest management tactics that minimize the risk of undesirable environmental and health effects.
- (j.) Junked Materials - The accumulation of used and/or discarded materials with the potential for leaching pollutants into the groundwater, including, but not limited to, trash, appliances, machinery, vehicles, or parts thereof, whether on the land surface, into a sinkhole or into a stream, wetland or other water body.

- (k.) Karst - A type of topography characterized by closed depressions and/or sinkholes, caves, rock pinnacles, fracture traces, and underground drainage, resulting from solution of limestone and dolomite bedrock.
- (l.) Nutrient Management Act - The PA Nutrient Management Act of 1993, which is applicable to agricultural operations with over 2,000 pounds of animal weight per acre which generate or utilize manure. The Act requires the development of a plan demonstrating that nutrients that are land applied do not exceed crop uptake.
- (m.) Sinkhole - A closed, generally circular, depression in the land surface of variable depth and width, characterized by a distinct breaking of the ground surface, and formed by solution of carbonate bedrock and downward movement of soil into bedrock voids or by collapse of underlying caves.
- (n.) Storage Tank - Aboveground - A tank which contains hazardous or petroleum substances as regulated under the Storage Tank and Spill Prevention Act (STSPA), as amended, and which meets the following criteria: a stationary tank with 250 gallons or more of capacity with greater than 90% of its capacity above ground. Specific exceptions to this definition are included within the STSPA, and include, among others, on-premise heating fuel tanks, and farm or residential motor fuel tanks with a capacity of 1,100 gallons or less.
- (o.) Storage Tank - Exempted - Any tank or container which contains hazardous or petroleum substances, either above or underground, which is otherwise unregulated by the Storage Tank and Spill Prevention Act (STSPA), as amended, to include exclusively the following: on premise heating fuel tanks, farm or residential motor fuel tanks with a capacity of 1,100 gallons or less, and tanks, drums or containers with a capacity of less than 110 gallons which contain hazardous substances.
- (p.) Storage Tank - Underground - A tank which contains hazardous or petroleum substances as regulated under the Storage Tank and Spill Prevention Act (STSPA), as amended, and which meets the following criteria: a tank with 110 gallons or more of capacity with 10% or greater of its capacity beneath the ground surface. Specific exceptions to this definition are included within the STSPA, and include,

among others, on-premise heating fuel tanks, farm or residential motor fuel tanks with a capacity of 1,100 gallons or less.

- (q.) Underground Injection Well - A bored, drilled, driven or dug well for the emplacement of fluids into the ground (except geothermal exchange systems and drilling muds and similar materials used in well construction).
 - (r.) Wellhead Protection Area (WHPA) - Zones 1, 2 and 3 adjacent to and surrounding a municipal water wellfield as delineated on maps set forth in the Wellhead Protection Study: "Production Wells 1, 2 and 3 (September, 1997), R. E. Wright Environmental, Inc. and included in Appendix A, which are hereby made a part of this Ordinance.
- (5.) General Provisions

General provisions relating to the Wellhead Protection District are as follows:

- (a.) No area within the Wellhead Protection District shall hereafter be used without full compliance with the terms of this Section and other applicable regulations.
- (b.) The Wellhead Protection District established hereby shall be an overlay on any zoning district(s) now or hereafter enacted to regulate the use of land in South Middleton Township.
 - (i.) The Wellhead Protection District shall have no effect on the permitted uses in the underlying zoning district, except where said uses are intended to be located within the boundaries of the Wellhead Protection District, as defined herein, and said uses are in conflict with the permitted uses in the Wellhead Protection District.
 - (ii.) In those areas of the Township where the Wellhead Protection District applies, the requirements of the Wellhead Protection District, if more restrictive, shall supersede the requirements of the underlying zoning district(s).
 - (iii.) The land use restrictions and the land development regulations set forth herein have been carefully determined through engineering and scientific study

to be the minimum restriction or regulation necessary to protect the future quality and quantity of this Township's public water supply. Therefore, there shall be no change in the underlying zoning districts or zoning regulations, such that density and impervious coverage limitations are affected, without further engineering and scientific study documenting that any such change will not adversely affect this Township's public water supply.

- (iv.) In the event of a judicial decision(s) which modifies, changes, or reduces any: (1) restriction on the use or development of land, (2) boundary for the zones or Wellhead Protection Districts, or (3) underlying zoning classifications within the Wellhead Protection Districts, such modification, change or reduction shall be to the minimum extent necessary to satisfy both the judicial objection and the purpose of this Ordinance.
- (c.) The provisions hereof relating to the Wellhead Protection District shall not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the provisions relating to the Wellhead Protection District impose greater restrictions, such provisions shall prevail.
- (d.) The following activities and land uses are exempt from the provisions of this District:
 - (i.) Retail sales establishments that store and handle hazardous substances for resale in their original, unopened containers.
 - (ii.) Office use where there is no storage and handling of hazardous substances.
 - (iii.) The transportation of any hazardous substance through the WHPAs provided the transporting vehicle is in transit.
 - (iv.) Storage and use of hazardous substances in conjunction with municipal water supply and treatment activities.
 - (v.) Existing Land Uses - All lawfully existing land uses located within a Wellhead Protection Area at the time this Ordinance is adopted shall be exempt from the

application of this Ordinance, except Section 1645 (Reporting Requirements) and except as described in Section 1108(2.)(c.) of the Subdivision and Land Development Ordinance. Nothing herein shall be deemed to exempt such existing land uses from compliance with any other statute, ordinance or rule of common law.

- (e.) Disputes regarding boundary designations of or within the Wellhead Protection District or any zone shall be with the Township Engineer and the Zoning Hearing Board. All other disputes, and the authority for the administration and enforcement of this Ordinance, shall be with the governing body of the Township.
 - (f.) In any dispute arising under the provisions of this Ordinance, the burden of proof shall be on the person(s) challenging the Ordinance, or provisions therein, upon presentation of clear and convincing evidence. The governing body and the Zoning Hearing Board shall have the right to consult with independent consultants for purposes of testing, analysis, opinion, or the like. All costs associated with such consultation shall be shared equally by the parties to the dispute.
- (6.) Designation and Interpretation of District Boundary
- (a.) The Wellhead Protection District consists of all lands located within Wellhead Protection Areas (WHPAs). The Wellhead Protection Area Zones are described in narrative form below. Where there may be a discrepancy between the narrative description of a Zone and the maps referenced in Section 1405 (4.)(r) above, the maps shall be used to delineate the WHPA Zone.
 - (i.) Zone 1 is the protective area immediately surrounding each well. Because the location of all three wells is in carbonate geology, a minimum 400-foot radius from the wellhead was established. Zone 1 boundaries were extended an additional 400 feet along the fractures intersecting the perimeter of the 400-foot radius. Justification for a minimum 400-foot radius and extending the Zone 1 protection along these fractures is documented in the Wellhead Protection Study: "Production Wells 1, 2 and 3 (September, 1997), R. E. Wright Environmental, Inc.

- (ii.) Zone 2 is the area encompassing the portion of the aquifer through which water is diverted to a well. A minimum radius of 2,500 feet from the wellhead was established for Zone 2. Zone 2 boundaries were extended to encompass fracture traces intersecting wellheads, as well as clusters of fractures intersecting a fracture on which a well is located, and certain observation wells. Justification for extending the Zone 2 boundary to encompass fractures intersecting a fracture on which a well is located is documented in the Wellhead Protection Study: "Production Wells 1, 2 and 3 (September, 1997), R. E. Wright Environmental, Inc.
 - (iii.) For purposes of regulating certain land uses and activities, a Zone 2 fringe area is hereby created which shall consist of a 200-foot radius beyond the Zone 1 boundary, within which a greater level of protection will be provided than for the remainder of the Zone 2 area. Justification for extending the Zone 1 protection is documented in the Wellhead Protection Study: "Production Wells 1, 2 and 3 (September, 1997), R. E. Wright Environmental, Inc.
 - (iv.) Zone 3 is the area beyond Zone 2 that contributes surface water and groundwater to Zones 1 and 2. Zone 3 boundaries were determined using annual average recharge rates, maximum rated yield capacity and topographic drainage divides.
- (b.) Boundary Interpretation
- (i.) Each application for land development or subdivision containing land within the Wellhead Protection District shall be submitted in accordance with such other provisions of the ordinances of South Middleton Township as are applicable thereto. Any area of the Wellhead Protection District that falls within the subject lot or lots shall be shown on the site plan through shading of such area or areas.
 - (ii.) Any party seeking land development and/or subdivision approval in what might be a Wellhead Protection District shall have the burden to present evidence of the boundaries of the District in the area in question. This presentation must include applicable

geographic data with respect to the property and any other pertinent documentation for consideration. The Township Engineer, or other appointed agent, shall review the information and shall make determination regarding the boundaries of lands within a Wellhead Protection Area.

- (iii.) In situations where a property may have parts lying within more than one (1) WHPA Zone, each part of the property shall be governed by the restrictions applicable to the WHPA Zone in which that part of the property is located. The same rule shall apply to properties lying only partially within the Wellhead Protection District.

(7.) Regulated Land Uses and Activities

The Table contained in this Section (Table 1405 (7) - Regulated Land Uses and Activities) sets forth various land uses/activities and the extent of regulation permitted in each of the Zones in the Wellhead Protection Areas. In the event of judicial decision affecting any of the land uses/activities or regulations set forth herein, it is the intent of this Ordinance that any provision found to be illegal shall be stricken, and the remaining provisions shall remain in full force and effect.

The land uses and activities set forth herein shall be considered conditional uses. Full authority for the administration/application of all criteria, terms and conditions of this Section shall be with the governing body. Land uses and activities shall be regulated as follows:

Table 1405(7)

| REGULATED LAND USES AND ACTIVITIES | | | |
|--|---------------|---------------|--|
| Land Uses and Activities | Zone 1 | Zone 2 | Zone 3 |
| 1. Manufacture, Use or Storage of Hazardous Substances as a Principal Activity | Not Permitted | Not Permitted | Not Permitted |
| 2. Open Burning of Materials Containing Hazardous Substances | Not Permitted | Not Permitted | Not Permitted |
| 3. Quarries & Mining Operations | Not Permitted | Not Permitted | Not Permitted |
| 4. Sanitary Landfills & Junkyards | Not Permitted | Not Permitted | Not Permitted |
| 5. Junked Materials Whether on the Land Surface, in Sinkholes, Streams, Wetlands or Other Water Bodies | Not Permitted | Not Permitted | Not Permitted |
| 6. Collection & Transfer Facilities for Solid Waster or Hazardous Substances, Including Battery & Drum Recycling & Reprocessing | Not Permitted | Not Permitted | Not Permitted |
| 7. Commercial Truck or Rail Tanker Cleaning Operations Where Hazardous Substances Are Involved | Not Permitted | Not Permitted | Not Permitted |
| 8. Commercial Slaughtering, Rendering, Tanneries | Not Permitted | Not Permitted | Not Permitted |
| 9. Land Application of Sewage Sludge | Not Permitted | Not Permitted | Not Permitted |
| 10. Sewage Treatment Plants & Large-scale Community or Package Sewage Disposal Systems (not including municipally-owned & operated pump stations or service lines) | Not Permitted | Not Permitted | Not Permitted |
| 11. Underground Injection Wells | Not Permitted | Not Permitted | Not Permitted |
| 12. Alteration of Natural Site Features Prior to Receiving All Required Permits & Approvals | Not Permitted | Not Permitted | Earth moving activities can be conducted prior to Township approval provided all required DEP and County Conservation District permits have been issued. |
| 13. Liquid Petroleum Product Transmission Lines | Not Permitted | Not Permitted | Not Permitted |
| 14. Commercial or Municipal Solid Waste Recycling & Composting Facilities | Not Permitted | Not Permitted | Storage facilities shall be designed to: a. Have an impervious storage & loading surface. b. Prevent infiltration of rain and surface water into storage areas. c. Provide diking to prevent runoff from storage & loading areas. |
| 15. Cemeteries | Not Permitted | Not Permitted | All caskets shall be encased in concrete grave liners as defined by the Federal Trade Commission in regulations at Part 453, as amended. |

Table 1405 (7) Continued

| REGULATED LAND USES AND ACTIVITIES | | | |
|--|---------------|---|---|
| Land Uses and Activities | Zone 1 | Zone 2 | Zone 3 |
| 16. Industrial, Commercial or Institutional Facilities Which Use, Store, Transport, or Dispose of Hazardous Substances | Not Permitted | <p>a. No such facilities shall be permitted within 200 feet of the WHPA Zone 1 boundary.</p> <p>b. All such facilities shall be connected to a public wastewater treatment facility.</p> <p>c. The use, storage and transportation of hazardous substances shall be in accordance with best Management practices.</p> <p>d. All storage of hazardous substances shall 1) be indoors, 2) comply with applicable storage tank requirements set forth in this table, and 3) be temporary only.</p> <p>e. On-site disposal of hazardous substances is prohibited.</p> | (Same as for Zone 2, b-d only) |
| 17. Golf Courses | Not Permitted | Not Permitted | <p>The Township encourages:</p> <p>a. Coordination with Penn State Cooperative Extension Service to develop and implement an Integrated Pest Management Plan.</p> <p>b. Coordination with the Cumberland County Conservation District to reduce any excess application of nutrients.</p> |
| 18. Small-scale Community or Package OLDSS | Not Permitted | Not Permitted | <p>a. Testing, approval & reservation of second absorption field.</p> <p>b. Submittal of evidence of pumping of septic tanks every 3 years.</p> <p>c. Prior to the expansion or conversion of the land use, & prior to any transfer of property ownership, submittal of evidence by the SEO of inspection & any necessary repairs or maintenance.</p> |
| 19. Geothermal Exchange Systems (groundwater & ground loop) | Not Permitted | <p>a. No such systems shall be permitted within 200 feet of the WHPA Zone 1 boundary.</p> <p>b. Submittal of evidence that</p> <p>1) the landowner is aware that only food-based antifreeze may be used in piping, 2) professionally designed & installed piping will be encased to prevent leakage, & 3) the recommendations in DEP's Ground Source Heat Pump Manual for protecting water quality will be utilized.</p> | (Same as for Zone 2, b only) |
| 20. Above & Underground Storage Tanks ² | Not Permitted | <p>a. Underground storage tanks not permitted.</p> <p>b. No aboveground storage tanks permitted within 200 feet of the WHPA Zone 1 boundary.</p> <p>c. Submittal of an approved registration form indicating compliance with STSPA standards.</p> <p>d. All leaking tanks must be immediately emptied by the owner or operator & all released substances removed within 7 days of detection, or sooner if required by DEP.</p> | Above and Underground Storage Tanks - (Same as for Zone 2, c & d only) |

¹ For a listing of industrial, commercial and institutional uses which commonly generate use, store, or transport hazardous substances at greater than threshold quantities, see Appendix B. This Appendix conveys the threshold levels at which various substances are considered hazardous.

Table 1405 (7) - Continued

| REGULATED LAND USES AND ACTIVITIES | | | |
|---|---------------|---|---|
| Land Uses and Activities | Zone 1 | Zone 2 | Zone 3 |
| 21. Exempted Storage Tanks | Not permitted | <p>a. Underground tanks are prohibited.</p> <p>b. Aboveground tanks shall: 1) be stored; 2) be enclosed by a permanent dike of impermeable construction, the volume of which shall be equal to or greater than the capacity of the tanks within the dike, & 3) be covered by a roof adequate to prevent rainwater from entering the dike.</p> <p>c. All leaking tanks must be immediately emptied by the owner or operator & all released substances removed within 7 days of detection.</p> | <p>a. Only farm & commercial motor fuel tanks & commercial on-premise heating fuel tanks are permitted as underground tanks; these shall 1) be double-hulled steel or fiberglass encased, 2) be enclosed by a concrete vault, the volume of which shall be equal to or greater than the capacity of the tanks within the vault, & 3) utilize piping that is protected from internal & external corrosion.</p> <p>b. Aboveground tanks (same as for Zone 2)</p> <p>c. Leakage (same as for Zone 2)</p> |
| 22. Nonbagged Bulk (1+ ton) Storage & Application of Road Salt & De-icing Chemicals | Not permitted | <p>a. The Township encourages the use of traditional snow & ice removal methods such as snowplow, hand shoveling & sand. The use of salt and de-icing chemicals should be used only as absolutely necessary.</p> <p>b. Storage is not permitted.</p> | <p>a. Same as for Zone 2.</p> <p>b. Storage facilities shall be designed 1) to have an impervious storage & loading surface, 2) to prevent infiltration of rain & surface water into storage areas, & 3) to provide diking to prevent runoff from storage & loading areas.</p> |
| 23. On-lot Sewage Disposal Systems (OLDS) | Not permitted | <p>a. No such systems shall be permitted within 200 feet from the WHPA Zone 1 boundary.</p> <p>b. Testing approval & reservation of second absorption field.</p> <p>c. Submittal of evidence of pumping of OLDS every 3 years.</p> <p>d. Prior to the expansion or conversion of the land use, & prior to any transfer of property ownership, submittal of evidence by the SEO of inspection & any necessary repairs or maintenance.</p> | (Same as for Zone 2, b-d only) |
| 24. Agricultural Land Application of Manure, Fertilizer & Pesticides | Not permitted | <p>a. a fifty-foot (50') agricultural filter strip from the outermost edge of all streams, water bodies, springs, and sinkholes shall be maintained within which no nutrients or pesticides shall be applied.</p> <p>b. The Township encourages farmers having operations with over 2,000 lbs. of animal weight to work with the Cumberland County Conservation District toward compliance with the 1993 Nutrient Management Act.</p> <p>c. For operations with 2,000 lbs. of animal weight per acre or less, the Township encourages farmers to work with the Conservation District to reduce any excess application of nutrients to farm fields.</p> <p>d. For operations in which pesticides are used, the Township encourages farmers to work with the Penn State Cooperative Extension Service in the development & implementation of an Integrated Pest Management Plan.</p> <p>e. The Township encourages farmers to work with the Conservation District to develop a Conservation Plan.</p> | (Same as for Zone 2) |

² See Section 1405(4.) Definitions and Use 21.

Table 1405 (7) - Continued

| REGULATED LAND USES AND ACTIVITIES | | | |
|--|--|--|--|
| Land Uses and Activities | Zone 1 | Zone 2 | Zone 3 |
| 25. Manure Storage Facility | Not permitted | Not permitted | Submittal of approved plan meeting the standards of U.S. Natural Resources Conservation Service. |
| 26. Well Construction | Only municipal water supply wells may be constructed | Grouting shall be utilized and a sanitary seal shall be provided for all at- or below -grade well openings. | (Same as for Zone 2) |
| 27. Abandonment of Wells | a. Wells shall be sealed within 30 days of abandonment b. A zoning permit demonstrating planned compliance with DEP's water well abandonment guidelines shall be required prior to the sealing of a well. c. Certification by a licensed well driller, professional engineer or registered professional geologist of the sealing of the well consistent with DEP guidelines shall be required. | (Same as for Zone 1) | (Same as for Zones 1 & 2) |
| 28. The Withdrawal of 100,000 GPD or More of Water from Wells or Springs | Not permitted | Not permitted | a. The withdrawal of water for commercial water, soft drink or brewery bottling purposes is prohibited. b. The withdrawal of 100,000 GPD or more of water utilizing one or more wells for any single use is prohibited. |
| 29. Residential Dwellings | Not Permitted | Public outreach and education programs to encourage the proper use of pesticides, herbicides, fertilizers and disposal of household hazardous waste. | Public outreach and education programs to encourage the proper use of pesticides, herbicides, fertilizers and disposal of household hazardous waste. |

1406. SSM Special Stormwater Management District

The Special Stormwater Management District as established in the Special Stormwater Management Ordinance No. 17 of 1998, as amended, and Special Stormwater Management Ordinance No. 4 of 2002, as amended, shall be incorporated herein and made part of by reference, as an overlay zone.

- (1.) General provisions relating to the Special Stormwater Management District are as follows:
 - (a.) The authority for the administration and enforcement of this Section shall be with the governing body of the Township, except as stated in Section 1406 (4). (Boundary Disputes).
 - (b.) No area within the Special Stormwater Management District shall hereafter be used without full compliance with the terms of this Section and other applicable regulations.
 - (c.) The Special Stormwater Management District established hereby shall be an overlay on any zoning district(s) now or hereafter enacted to regulate the use of land in South Middleton Township.
 - (d.) The Special Stormwater Management District shall have no effect on the permitted uses in the underlying zoning district.
 - (e.) In those areas of the Township where the Special Stormwater Management District applies, the requirements of the Special Stormwater Management District, if more restrictive, shall supersede the requirements of the underlying zoning district(s).
 - (f.) The land use restrictions and the land development regulations set forth herein have been carefully determined through engineering and scientific study to be the minimum restriction or regulation necessary to protect the health, safety, and welfare of the citizens, as well as the future quality and quantity of this Township's groundwater supply. Therefore, there shall be no change in the underlying zoning districts or zoning regulations, such that density and impervious coverage limitations are affected, without further engineering and scientific study documenting that any such change will not adversely affect the health, safety, and welfare and the future quality and quantity of this Township's groundwater.

The following are excepted here from:

- (i.) Land disturbance associated with existing one and two family dwellings, subject to conditions described in 1406 (4.)(a) above.
 - (ii.) Use of land for gardening for home consumption.
- (g.) In the event of a judicial decision(s) which modifies, changes, or reduces any: (1) restriction on the use or development of land, (2) boundary for the zones or Special Stormwater Management Districts, or (3) underlying zoning classifications within the Special Stormwater Management Districts, such modification, change or reduction shall be to the minimum extent necessary to satisfy both the judicial objection and the purpose of this Section.
- (h.) The provisions hereof relating to the Special Stormwater Management District shall not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where the provisions relating to the Special Stormwater Management District impose greater restrictions, such provisions shall prevail.
- (i.) The following activities and land uses are exempt from the provisions of this District:
- (i.) Agriculture when operated in accordance with a conservation plan or erosion and sedimentation control plan prepared by the Conservation District. The agricultural activities such as growing crops, rotating crops, filling of soil and grazing animals and other such activities are specifically exempt from complying with the requirements of this Ordinance when such activities are conducted in accordance with a conservation plan prepared by the County Conservation District. The construction of buildings, parking lots or any activity that may result in impervious surface which increases the rate and volume of stormwater runoff shall comply with the requirements of this Section.

- (ii.) Forest Management operations that are following the Department of Environmental Protection management practices contained in its publication “Soil Erosion and Sedimentation Control Guidelines for Forestry” and are operating under an erosion and sedimentation control plan.
- (iii.) This Ordinance shall only apply to permanent stormwater management facilities constructed as part of any of the Regulated Activities listed in this Section. Stormwater management and erosion and sedimentation control during construction activities are specifically not regulated by this Ordinance, but shall continue to be regulated under existing laws and ordinances.
- (j.) The following activities are defined as “Regulated Activities” and shall be regulated by this Ordinance:
 - (i.) Land development.
 - (ii.) Subdivision
 - (iii.) Construction of new or additional impervious or semi-pervious surfaces (driveways, parking lots, etc.).
 - (iv.) Construction of new buildings or additions to existing buildings.
 - (v.) Diversion or piping of any natural or man-made stream channel.
 - (vi.) Installation of stormwater management facilities or appurtenances thereto.

(2.) Overlay District Boundary

The Special Stormwater Management District consists of all lands located within the drainage areas established for the specified watersheds. These areas are described in detail below.

- (a.) **Hogestown Run** - Hogestown Run is the watershed area documented in the Hogestown Run/Trindle Spring Run Act 167 Stormwater Management Plan (March 1994), prepared for the Cumberland County Commissioners by Hartman & Associates, Inc. This study is incorporated herein by reference.

- (b.) **Upper Yellow Breeches Creek** - Upper Yellow Breeches Creek is the watershed area as defined in the Upper Yellow Breeches Creek Act 167 Stormwater Management Plan (May 2002), prepared for the Cumberland County Commissioners by Skelly & Loy, Inc. This study shall be incorporated herein by reference.

(3.) Boundary Interpretation

- (a.) Each application for a regulated activity within the Special Stormwater Management District shall be submitted in accordance with such other provisions of the ordinances of South Middleton Township as are applicable thereto. Any area of the Special Stormwater Management District that falls within the subject lot or lots shall be shown on the site plan through shading of such area or areas.
- (b.) Any party seeking land development and/or subdivision approval in what might be a Special Stormwater Management District shall have the burden to present evidence of the boundaries of the District in the area in question. This presentation must include applicable geographic data with respect to the property and any other pertinent documentation for consideration. The Township Engineer, or other appointed agent, shall review the information and shall make determination regarding the boundaries of lands within a Wellhead Protection Area.
- (c.) In situations where a property may have parts lying within more than one Special Stormwater Management District, each part of the property shall be governed by the restrictions applicable to the Special Stormwater Management District in which that part of the property is located. The same rule shall apply to properties lying only partially within the Special Stormwater Management District.

(4.) Boundary Disputes

- (a.) Disputes regarding boundary designations of or within the Special Stormwater Management District or any zone shall be with the Township Engineer and the Zoning Hearing Board. All other disputes, and the authority for the administration and enforcement of this Ordinance, shall be with the governing body of the Township.

- (b.) In any dispute arising under the provisions of this Ordinance, the burden of proof shall be on the person(s) challenging the Ordinance, or provisions therein, upon presentation of clear and convincing evidence. The governing body and the Zoning Hearing Board shall have the right to consult with independent consultants for purposes of testing, analysis, opinion, or the like. All costs associated with such consultation shall be shared equally by the parties to the dispute.