

Easttown *Township*

CHAPTER 99

NATURAL RESOURCE PROTECTION ORDINANCE # 370.06

ARTICLE I

General

§ 99-1. Title.

This Chapter shall be known as and may be cited to as the "Easttown Township Natural Resource Protection Ordinance".

§ 99-2. Purpose.

- A. These regulations are intended to protect the rights of the residents of Easttown Township to enjoy clean air, pure water and the natural, scenic, historic and aesthetic values of the environment through the preservation of woodlands, wetlands, aquifers and floodplains, as set forth in the Pennsylvania Constitution and in other Commonwealth and Federal statutes. In particular, it is the Township's purpose, through this Chapter, to conserve the following natural resources:
1. Natural resources identified as land or water resource areas, e.g., groundwater recharge zones (aquifers), springs, streams, wetlands, woodlands, prime wildlife habitats and areas constituting high recreational and other amenity value which exist on developed or undeveloped land.
 2. Natural resources performing beneficial ambient air quality or microclimate functions, e.g., by abating glare and noise, entrapping dust and other particulates and contributing to the reduction of climate stress and energy costs.
- B. To accomplish this, the ensuing standards are intended to:
1. Define and delineate selected natural resources within the Township and establish resource protection standards to mitigate potential hazards associated with land use activity.
 2. Protect natural resources within the Township in accordance with the goals and objectives of the Easttown Township Comprehensive Plan, the Easttown Open Space, Recreation and Environmental Resources Plan, and the applicable provisions of Article VI of the Pennsylvania Municipalities Planning Code, Act 247.
- C. No such provision of these regulations shall be construed to deny the right of any property owner to use his/her land as may be permitted by the Township's land use codes. Rather, it is the purpose of these regulations to ensure that such uses minimize disturbances to natural resources and those reasonable measures are taken to mitigate any adverse impacts of such uses. Property owners may use their land as permitted in the Township's Zoning Ordinance and Subdivision and Land Development Ordinances, provided that the regulations enclosed herein are also adhered to.

§ 99-3. General Applicability

The natural resource protection standards set forth in this Chapter shall apply to all land development, site preparation and site disturbance activities.

- A. All uses shall be developed in a manner consistent with the preservation of the quality of the existing environment and of any natural amenities present on the site. Such uses shall provide for the preservation and proper management of natural drainage systems, minimizing of grading and removal of scenic vegetation, preservation of woodlands and substantial stands of trees and the preservation of scenic vistas, historic landscapes and any other natural resources and features existing on the site.
- B. For the purposes of this Ordinance, the Sections within this Chapter shall be overlays to the underlying districts as shown on the Easttown Zoning Map, and as such, the provision for each of these Sections shall serve as additional requirements to the underlying zoning district provisions. In the event that a conflict exists between a Section of this Chapter and the underlying district(s), the more restrictive provision shall apply.
- C. Should the boundaries or delineations of any Section of this Chapter be revised as a result of legislative or administrative actions or judicial decision, the zoning requirements of the underlying zoning district and other applicable Section of this Chapter shall continue to apply.

§ 99-4. Interpretation.

In the interpretation and application of this Chapter, the provision hereof shall be held to be the minimum requirements for the promotion of the public health, safety and general welfare. Where the provisions of this Chapter impose greater restrictions than those of any other ordinance or regulation, the provisions of this ordinance shall be controlling. Where the provisions of any statute, other ordinance or regulation impose greater restrictions than this Chapter, the provisions of such statute, ordinance or regulation shall be controlling.

§ 99-5. Severability.

The provisions of this Chapter shall be severable, and if any of the provisions hereof shall be held to be unconstitutional, invalid or illegal by a court of competent jurisdiction, such decision shall not affect the validity of any of the remaining provisions of this chapter. It is hereby declared to be the intent of the Board of Supervisors that this chapter would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein. Nothing in this chapter shall be construed to affect any suit or proceeding pending in any court or any rights acquired or liability incurred or any permit issued or any cause or causes of action existing under the Easttown Township Code prior to this amendment.

§ 99-6. Definitions.

Unless otherwise expressly stated, the following terms, words and phrases shall be construed throughout this Ordinance to have the meaning herein stated. Applicable regulations, stated in conjunction with these definitions shall be complied with. The singular shall include the plural, and the plural shall include the singular. The present or past tense shall include the future tense. The masculine gender includes the feminine and neuter genders. The word "shall" and "must" are mandatory; the words "may" and "should" are permissive. The words "used for" shall include "designed for".

BUFFER, PERIMETER – Plantings placed along the boundary of a tract and around stormwater management basins, to diminish and mitigate views of a development from off-site.

BUFFER, SCREEN – Plantings placed between incompatible land uses or zoning districts to obscure views of the adjacent property or use.

BUFFER PLANTING STRIP – A strip of required yard space adjacent to the boundary of a property or district, not less in width than is designated in the Zoning Ordinance, which is landscaped for the full width and on which is placed a screen of sufficient density not to be seen through and of sufficient height to constitute an effective screen and give maximum protection and immediate visual screening to an abutting property or district. The required screen shall be permanently maintained and shall constitute a planting of dense evergreen trees or a compact evergreen hedge, or, where specifically designated in this Ordinance, and appropriate wall, fence, suitable planting or combination thereof. All planting shall comply with the provisions of this Ordinance.

CALIPER - The diameter of a tree trunk measured at a point six (6) inches above the ground, for trees up to and including four (4) inches in caliper size. For trees of larger size caliper, the measurement is taken twelve (12) inches above the ground level.

CLEARCUTTING - The complete removal of all trees on a site, or any portion thereof, greater than one-half (0.5) acre in contiguous area, during a single timber harvesting operation or within a three (3) year period.

CONSERVATION – The planned management of a natural resource to prevent its exploitation, destruction or neglect.

DBH (Diameter at Breast Height) - The diameter of a tree trunk measured at a point four and one-half (4.5) feet from the ground surface at the point of the highest elevation in contact with the trunk of such tree.

DRAINAGE – The movement of water from an area by stream or sheet flow and removal of excess water from soil by downward flow.

DRIPLINE - The line on the ground marking the outer edges of the branches of a tree.

FLOOD HAZARD AREA - The area is: (1) the bed or channel of any perennial stream, river, or other of water course, or any lake, pond impoundment, or other contained body of water (provided such lake, pond, impoundment or other body of water is in excess of one (1) acre in area); (2) the lands adjacent to the foregoing that must be reserved in

order to discharge a flood of a 100-year frequency; and (3) all areas designated as being within the 100-year floodplain in the Flood Insurance Study prepared for Easttown Township, Chester County, Pennsylvania by the Federal Emergency Management Agency-Federal Insurance Administration and shown on the accompanying maps. Prior to any change in this floodplain area, the approval of the Federal Insurance Administrator shall be obtained.

FORESTRY (Timber Harvesting Operation) – The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling of trees for profit, which does not involve any land development, specifically the uprooting or removal of more than four (4) trees of greater than six (6) inches dbh per acre from any lot which has a gross area of more than three (3) acres, and when required is undertaken in compliance with an approved timber management plan. Forestry, as defined by the Municipalities Planning Code, as amended, shall be considered a timber harvesting operation and shall require the submittal and approval of a timber management plan. Timber harvesting does not include the clearing of land for approved construction or the creation or maintenance of approved roads.

HEDGEROW - A linear plant community dominated by trees and/or shrubs. Hedgerows often occur along roads, fence lines, property lines, or between fields, and may occur naturally or be specially planted (e.g., as a windbreak). For the purposes of this Ordinance, hedgerows are considered woodlands and regulated as such, regardless of area or tree size.

HYDRIC SOIL - A soil that is saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions that favor the growth and regeneration of wetlands vegetation. For the purposes of this Ordinance, hydric soil includes any soil inventoried or described as hydric according to the *Soil Survey of Chester and Delaware Counties, Pennsylvania* (Soil Survey), or other information provided by the U.S Soil Conservation Service (SCS). In Easttown Township, hydric soils shall include, but are not limited to: Wehadkee silt loam (We), Worsham silt loam (Wo), and Chewacla silt loam (Ch).

IMPERVIOUS SURFACES – Land that is occupied by principal and accessory structures, buildings, streets, extended roofs, eaves, overhangs, asphalt, concrete, driveways, parking areas, grass pavers, pervious paving, and other man-made cover that prohibit or slow the percolation and infiltration of water into the soils.

INVASIVE PLANT SPECIES - Predominantly non-native, non-indigenous, alien tree, shrub, vine, or herbaceous species that grow or reproduce aggressively, usually because they have or no natural predators, and which can so dominate an ecosystem that they kill off or drive out many indigenous plant species. Invasive trees, shrubs, vines, or herbaceous species include, but are not limited to:

Norway Maple (*Acer platanoides*), Tree-of-Heaven (*Ailanthus altissima*), Paper Mulberry (*Broussonetia papyrifera*), White Mulberry (*Morus alba*), Empress Tree (*Paulownia tomentosa*), White Poplar (*Populus alba*), Multiflora Rose (*Rosa multiflora*), Japanese Barberry (*Berberis thunbergii*), European Barberry (*Berberis vulgaris*), Autumn Olive (*Eleagnus umbrella*), Border Privet (*Ligustrum obtusifolium*), Common Privet (*Ligustrum vulgare*), Morrow's Honeysuckle (*Lonicera morrowii*),

Tartarian Honeysuckle (*Lonicera tatarica*), Japanese Honeysuckle (*Lonicera japonica*), Common Buckthorn (*Rhamnus cathartica*), Wineberry (*Rubus phoenicolasius*), Japanese Spiraea (*Spiraea japonica*), Linden Viburnum (*Viburnum dilatatum*), Guelder Rose (*Viburnum opulus*), Oriental bittersweet (*Celastrus orbiculatus*), Leatherleaf Clematis (*Clematis terniflora*), Mile-a-Minute Weed (*Polygonum perfoliatum*), Kudzu (*Pueraria lobata*), Garlic Mustard (*Alliaria petiolata*), Canada Thistle (*Cirsium arvense*), Crown Vetch (*Coronilla varia*), Tall Fescue (*Festuca elatior*), Purple Loosestrife (*Lythrum salicaria*), Sweet Clover (*Melilotus affinalis*), Japanese Stilt Grass (*Microstegium vimineum*), Reed Canary Grass (*Phalaris arundinacea*), and Johnson Grass (*Sorghum halepense*).

LAKES AND PONDS - Natural or artificial bodies of water which retain water year-round. Artificial bodies of water may be created by dams, or result from excavation. Lakes are bodies of water two (2) or more acres in area. Ponds are bodies of water less than two (2) acres in area.

LAND DISTURBANCE – A construction or other human activity which disturbs the surface of land including, but not limited to, clearing and grubbing, grading, excavations, embankments, land development, agricultural plowing or tilling, timber harvesting activities, road maintenance activities, mineral extraction, and the moving, depositing, stockpiling, or storing of soil, rock, or earth materials.

LANDSCAPE ARCHITECT – A landscape architect registered in the Commonwealth of Pennsylvania or any other state having a reciprocal registration agreement with Pennsylvania.

MITIGATION – Any action taken to lessen the specified undesirable impacts of a proposed land use or land disturbance activity, including those which would adversely affect the health or longevity of a natural feature, pose a visual intrusion or conflict or otherwise be deemed incompatible with surrounding properties.

NATURAL RESOURCES – A component of a landscape existing or maintained as a part of the natural environment and having ecological value. Such resources include those, which, if disturbed, may cause hazards or stress to life, property and the natural environment. For the purposes of this Chapter, natural resources shall include, but not be limited to wetlands, floodplain, steep slopes, and woodlands.

OPEN SPACE – An area of land and/or water, substantially free of structures and paved areas, permanently restricted for common enjoyment and recreational use by residents of a development and possibly the general public, but not including individually owned private yards.

REFORESTATION – The restocking of an area with forest trees, including natural regeneration as well as by tree planting.

RIPARIAN BUFFER - An area surrounding a watercourse, floodplain or wetland, containing trees and other vegetation that intercepts surface water runoff, wastewater, subsurface flow, and/or deep groundwater flows from upland sources and function to remove or buffer the effects of associated nutrients, sediment, organic matter, pesticides, or other pollutants prior to entry into surface waters. This transition area between aquatic

and terrestrial environments may also provide wildlife habitat, control water temperature, attenuate flood flow, and provide opportunities for passive recreation.

RIPARIAN BUFFER ZONE – The total area encompassing the riparian buffer and the natural resources the buffer protects, which may include watercourses, ponds and lakes, wetlands, and floodplains.

ROUTINE PROPERTY MAINTENANCE – Periodic cutting, killing and/or removal of entire plants or portions of plants, which may include lawn mowing, weed and vine control, the removal of invasive plants and the removal of dead trees or limbs.

SELECTIVE LOGGING AND WOODCUTTING – The removal of single, scattered, mature trees or other trees from unevenly aged tree stands to preserve and enhance healthy woodlands.

SPECIMEN TREE – Any healthy tree with a trunk diameter of thirty-six (36) inches and greater dbh.

STEEP SLOPES - Those areas of land, whether natural or man-made, where the average grade is fifteen (15) percent or greater. For the purposes of this Chapter, slopes shall be divided into the following two categories:

1. **Moderately Steep Slopes:** Those areas of land where the grade is fifteen to twenty-five percent (15-25%).
2. **Very Steep Slopes:** Those areas of land where the grade is twenty-five percent (25%) or greater.

TIMBER HARVESTING PLAN – A description, by means of text and maps, of proposed actions involving the removal of trees from a tract of land. Such plan shall have been prepared by a PA Certified Forester with demonstrable expertise in forest management, and shall document specific measures to be taken to: control erosion and sedimentation; protect water quality; minimize impacts from skid timber and logging roads, land areas, and the tree removal process; and ensure site restoration. A timber-harvesting plan shall include the minimum contents requirements (Section 5) and be consistent with the minimum forest practices (Section 6) of the Pennsylvania Model Forestry Regulations published by the Penn State School of Forest Resources. (Note: A copy of the model regulations can be obtained at the Township office.)

TREE PROTECTION ZONE – An area surrounding a tree or tree mass in which no construction, construction activity or other disturbance shall take place. The tree protection zone shall be measured from the outermost drip line of any tree or all the trees in a tree mass, tree line or hedgerow.

UNDERSTORY TREE – Any single or multi-stemmed woody plant, which typically achieves a mature height of between ten (10) feet and thirty (30) feet, and is usually found growing beneath larger, canopy trees in its natural habitat.

WATERCOURSE - A stream, creek, run, or other body of running water with a defined bed and banks in which water flows in a definite direction or course, whether natural or artificial, with perennial or intermittent flow, as depicted on the most current USGS Quadrangle Map, or more accurate information, as available. Field verification to

determine evidence and location of natural channelized flow may be required for specific determinations.

WETLANDS - Those areas that are inundated and saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas. Any area meeting the official wetland definition of the US Army Corps of Engineers, the US Environmental Protection Agency, or the Pennsylvania Department of Environmental Protection, shall be considered a wetland for the purposes of this Ordinance. In the event the definition of a wetland conflicts between any of these agencies, the more restrictive definition shall apply.

WILDLIFE HABITAT – A community of plants that provide food, water, cover, nesting and foraging or feeding conditions necessary to maintain population of animals.

WOODED LOT – Any building lot up to two (2) acres in size, having more than one (1) viable tree, six (6) inches or greater in diameter dbh, per 1,500 square feet of lot area.

WOODLAND – A plant community, of one-quarter (0.25) acre or larger in area, well-stocked and comprised predominantly of healthy trees, six (6) inches and greater in diameter dbh, and other woody vegetation, growing more or less closely together, the branches of which form a complete or nearly complete aerial canopy. For the purposes of this Chapter, the extent of any woodland shall be measured from the drip line of the outer trees. Woodlands do not include orchards, commercial nurseries, Christmas tree farms, or old fields, where more than seventy-five (75) percent of the trees are smaller than six (6) inches dbh.

WOODLAND DISTURBANCE - Any activity which alters the existing structure of a woodland or hedgerow; disturbances include the cutting or removal of canopy trees, sub-canopy trees, understory shrubs and vines, woody and herbaceous woodland floor species. Woodland disturbance also includes any activity, which constitutes a land disturbance (exposes soils, alters topography, destroys habitat) within a woodland or hedgerow. Woodland disturbance does not include the selective cutting of trees, or removal of invasive plant species.

ARTICLE II Conservation Plan Requirements

§ 99-7. Plan Information and Delineation of Protected Resources.

To ensure compliance with the natural resource protection standards of this Ordinance, the following information shall be submitted by the applicant when land disturbance of a protected natural resource is contemplated in conjunction with a zoning or building permit, conditional use or special exception approval, zoning variance, or subdivision and land development approval. When applicable, such information shall be included with a preliminary plan application, as required in the Subdivision and Land Development Ordinance.

- A. In addition to the requirements of Section 510 of the Subdivision and Land Development Ordinance, the Conservation Plan shall be provided with Preliminary and Final Plan submissions, and shall include the following information:

1. The limits of each of the natural resources on the site, including 100-year floodplain, wetlands, watercourses, soil types, existing vegetation and woodlands, steep slopes, and other significant natural or man-made features within the site and at least one hundred (100) feet beyond its boundaries.
 2. The name of the watershed and the water quality designation of the watershed in which the site is located.
 3. Riparian buffer zones and tree protection zones, if applicable.
 4. Land uses and zoning of adjacent properties.
 5. The proposed use of the site, including any existing or proposed structures, designations of historic resources, and existing and proposed easements and deed restrictions.
 6. All encroachments and disturbances necessary to establish the proposed use on the site.
 7. On-site sewage disposal systems and reserve areas.
- B. Land disturbance activities which propose less than 2,000 square feet of impervious area or less than 5,000 square feet of land disturbance are not required to submit formal plans to the Township. However, plans shall be submitted in accordance with Section 99-8.
- C. Calculations indicating the area of the site with natural resources and the amount of post-development natural resource protection. The calculation shall be shown on the plan as indicated in Figure 99-1. Calculations indicating the area of the site with natural resources and the area of natural resources that would be disturbed or encroached upon.

Figure 99-1: Site Disturbance Calculations.

Protected Resource	A Area of Protected Resource* (SF)	B Maximum Disturbance Allowance** (percent)	C Maximum Amount of Permitted Disturbance (SF)	D Proposed Disturbance (SF)
Floodplain		0%		
Wetlands		0%		
Watercourses		0%		
Riparian Buffer		0%		
Steep Slopes · 15% to 25% · Greater than 25%		50% 15%		

- * Where resources overlap, the overlapping area should be included under the more restrictive resource category (i.e., where woodlands overlap with wetlands, include the area of overlap in the wetlands category).
- ** Disturbance allowances may be modified where federal or state permits have been obtained by the applicant and provided to the Township.

D. General Provisions

1. In the event that two (2) or more natural resource areas identified in this Section overlap, the resource with the most restrictive standard shall apply to the area of overlap.
2. It shall be a violation of this Ordinance to regrade, fill, pipe, channel, divert, build upon or otherwise alter a natural resource protected by this Section prior to the submission and approval of an application for a zoning permit, building permit, conditional use, special exception, zoning variance, or subdivision or land development plan.
3. Where disturbance of a natural resource is permitted, it shall not take place until it has been determined that such disturbance is consistent with the provisions of this Section and other applicable provisions of this Ordinance.
4. Restrictions to disturbance of resources shall apply whether or not construction is proposed on a site and, where proposed, before, during, and after the construction takes place.
5. Plan information required by this Article shall be verified as complete by the Township Engineer or other qualified professional as determined by the Township.
6. All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, and water pollution, whether during or after construction.

§ 99-8. Plan Information for Minor Site Disturbance

Land disturbance activities which propose less than two-thousand (2,000) square feet of impervious surface area or less than five-thousand (5,000) square feet of total land disturbance are subject to full compliance with the resource protection standards of this Chapter, however, may provide less plan information.

- A. Applications for minor site disturbance activities shall include a plan of the area and notes providing the following information:
 1. Where less than the entire site is to be shown on the plan, the application shall be accompanied by a written explanation from the applicant as to why it is not necessary to include the entire site with the plan information.
 2. The total area of the site or lot, even if the boundaries are not shown on the plan.

3. Proposed changes in elevation relative to existing topographic contours.
4. Any protected resources (streams, floodplains, steep slopes and trees) lying within fifty (50) feet of the proposed land disturbance, along with information necessary to adequately demonstrate compliance with the natural resource protection standards of this Chapter.
5. If a riparian buffer zone lies within fifty (50) feet of the proposed land disturbance, it shall be protected and planted in accordance with Article V; however, a Riparian Buffer Zone Management Plan shall not be required.
6. Information about existing vegetation and potential tree disturbance or removal, including the following:
 - a. If the proposed land disturbance is within twenty-five (25) feet of a woodland area or hedgerow, the edge of the tree canopy shall be shown, along with an approximation of the total wooded area of the site.
 - b. If the proposed land disturbance is within twenty-five (25) feet of a tree that is six (6) inches or greater dbh, a calculation must be provided indicating whether the site is a wooded lot, as defined.
 - c. If the proposed land disturbance necessitates the removal of trees, or encroaches upon the tree protection zone, the size, species and location of the affected trees shall be provided.
 - d. If the proposed tree removal exceeds twenty-five percent (25%) of the total number of trees or wooded area, replacement trees shall be provided in accordance with Article VII.

§ 99-9. Continued Protection of Identified Natural Resources.

To ensure the continued protection of identified natural resources, the following requirements shall apply:

A. Protected Resources on Individual Lots.

1. For natural resource protection areas on individual lots, restrictions meeting Township specifications shall be placed in the deeds for each site or lot that has natural resource protection areas within its boundaries. It shall be clearly stated in the individual deeds that the maintenance responsibility lies with the individual property owner. The restrictions shall provide for the continuance of the resource protection areas in accordance with the provisions of this Chapter.
2. Other mechanisms for ensuring the continued protection of identified resources, such as conservation easements, may also be considered and used if approved by the Township.

B. Protected Resource Areas Held in Common.

For natural resource protection areas held in common, the applicable provisions of Section 630 of the Subdivision and Land Development Ordinance shall apply. In addition to the provisions of Section 630, restrictions meeting Township specifications shall be placed on the natural area to be held in common. The party or organization responsible for the maintenance of the natural area shall be clearly identified in the deed. The restrictions shall provide for the continuance of the natural resource protection areas in accordance with the provisions of this Chapter. In addition, restrictions on protected areas shall be included in the development's declaration of covenants, easements, or restrictions or similar documents regulating the use of property and setting forth methods for maintaining open space. A copy of such documents shall be provided to the Township.

C. Changes to Approved Plans.

All applicable plans and deeds shall include the following wording: "Any structures, infrastructure, utilities, sewage disposal systems, or other proposed land disturbance indicated on the approved final plan shall only occur at the locations shown on the plan. Changes to such locations shall be subject to additional review and re-approval and shall be consistent with the natural resource protection standards of the Easttown Township Zoning Ordinance."

ARTICLE III Flood Hazard Area

§ 99-10. Findings of Fact.

A. Losses Resulting from Periodic Flooding.

The Flood Hazard areas of Easttown Township are subject to periodic inundation which would result, or has resulted, in loss of property, damage to structures, loss of soils and other detrimental effects of erosion, which may result in loss of life, injury to people, disruption of public and private activities and services, burdensome public expenditures for flood protection, and impairment of the tax base, all of which do or may adversely affect the public health, safety and general welfare.

B. General Causes of These Flood Losses. These flood losses are or will be caused by:

1. The cumulative effect of obstructions in Flood Hazard Areas causing increases in flood heights and velocities.
2. The occupancy of flood hazard areas by uses vulnerable to floods.

§ 99-11. Statement of Purpose.

- A. It is the purpose of this Article to promote the public health, safety, and general welfare and to minimize those losses described in Section 99-10. A., above by provisions designated to:

1. Restrict or prohibit uses which are dangerous to health, safety or property in time of flood, or which could cause increased flood heights or velocities, or be a threat to life or property upstream or downstream, or danger of damage to the project, or adjacent property owners.
2. Protect the quality and quantity of surface and subsurface water supplies adjacent to and underlying Flood Hazard Areas.
3. Provide areas for the deposition of flood-borne sediment.
4. Require that uses vulnerable to floods, including public facilities, be constructed so as to be protected against flood damage.

§ 99-12. General Provisions.

A. Definitions of Flood Hazard Area.

1. The area is: (1) the bed or channel of any perennial stream, river, or other of water course, or any lake, pond impoundment, or other contained body of water (provided such lake, pond, impoundment of other body of water is in excess of one (1) acre in area); (2) the lands adjacent to the foregoing that must be reserved in order to discharge a flood of a 100-year frequency; and (3) all areas designated as being within the 100-year floodplain in the Flood Insurance Study prepared for Easttown Township, Chester County, Pennsylvania by the Federal Emergency Management Agency-Federal Insurance Administration and shown on the accompanying maps. Prior to any change in this floodplain area, the approval of the Federal Insurance Administrator shall be obtained. The Flood Hazard Area consists of all land in the flood area and this Article shall apply to all land within the Flood Hazard Area.

B. Flood Hazard Area Map.

The Flood Hazard Area shall be shown on both the Township Flood Hazard Area Map and the Flood Boundary and Floodway Map and Flood Insurance Rate Maps that accompany the Flood Insurance Study. These maps are incorporated herein by reference. The maps, together with the Flood Insurance Study and other explanatory material, shall be available for inspection at the Township's principal office.

C. Overlay.

The Flood Hazard Area shall not be deemed to be an independent zoning district, but rather shall be deemed a district overlay to the end that to the extent any building, use, or structure is permitted by the terms of this Article, special relief, variance, or other order of any administrative office, agency, or body, or any judicial determination, the same shall be governed by the general terms of this Chapter, applicable to the uses, structures, and other regulations pertaining to the zoning district in which the building, use or structure is situated.

D. Rules for Determination of District Boundaries and 100-Year Flood Elevations.

The initial determination of the boundaries of the Flood Hazard Area shall be made by scaling distances on the maps. In the event of any dispute as to the accuracy of the boundaries of said district and their precise location, as for example, where there appears to be a conflict between the mapped boundary and actual field conditions, the data contained in the Flood Insurance Study shall be the determining factor. Where the study has utilized approximate methods, or in areas that are not included in the Study, the following methodology shall be utilized as deemed appropriate by a professional engineer:

Among the data which should be gathered to estimate extreme runoff are statistics of rainfall, temperature, physical characteristics of the watershed and previously measured (if available) flow data and high-water marks. Methods taking into consideration the amount, duration, and intensity of rainfall, and the nature of the watershed with reference to area, shape, slope, porosity of soil, and state of cultivation, antecedent moisture conditions, and degree of urbanization of the drainage basin should be employed. Calculation of flood flows shall assume the watershed to be completely urbanized for drainage areas of less than 1.5 square miles. Consideration of urbanization factors must be done for watersheds of more than 1.5 square miles.

In all cases a safety factor shall be used in calculating the design flood. The computed or measured flood flow is multiplied by a safety factor or a formula developed from the criteria in this subsection to obtain the design flood flow based on the following criteria:

<u>Resulting Backwater or Loss of Structure will Cause</u>	<u>Safety Factor (Multiply Calculated Runoff By)</u>
No or negligible damage	1.0
Minor damage	1.3
Moderate damage	1.5
Great damage	2.0
Catastrophe, probably loss of human life	2.5

If a formula is used to determine the design flood, it should include all or some of the following factors:

- Risk.
- Development or urbanization factor.
- Undeveloped area or woods factor.
- Limestone factor (negative or reducing factor).
- Other factors peculiar to the site.

The following method or methods are recommended for computing runoff for ungauged streams.

- a. For the small drainage area:

- Rational Method (for watersheds of 1.5 square miles or less). Available in many engineering handbooks.
 - Method outlined in "Urban Hydrology for small watershed" (for watersheds of less than 2,000 acres) Technical Release No. 55, from Soil Conservation Service.
 - Soil Conservation Service Method outlined in USDA Soil Conservation Service "Hydrology", National Engineering Handbook, Section 4, January 1971.
 - "Potter's Method", developed by Federal Highway Administration, listed as Alternate Method in PennDOT Design Manual (for watersheds of 0.5 square miles to 25 square miles).
- b. For larger drainage areas:
- Method outlined in "Flood Peak Frequency Design Manual - P.S.U. III" by Reich, King and White, The Pennsylvania State University, June 1971.
 - United States Geological Survey Method outlined in "Floods in Pennsylvania; Frequency and Magnitude" by Busch and Shaw (for watersheds over 10 square miles).
 - U.S.G.S. Method outlined in Water-Supply Paper 1672, Magnitude and Frequency of Floods in U.S. Part 1-b, North Atlantic Slope Basins New York to York River" by Richard H. Tice (for watersheds over five square miles).
 - U.S.G.S. Method outlined in Water-Supply Paper 1675, "Magnitude and Frequency of Flood in U.S. Part 3-A, Ohio River Basin Except Cumberland and Tennessee River Basins; by Paul R. Speer and Charles R. Gamble (for watersheds over 30 square miles).
 - Design criteria data referred in Section 3-(4) herein extrapolated from the Water Obstruction Manual #45 published in 1976 by Bureau of Water Quality Management, Pennsylvania Department of Environmental Protection, Harrisburg, PA.
- E. The Flood Hazard Area data so compiled including plans and runoff computations.

As involved for single lot or subdivision of less than 25 acres shall be submitted by the applicant to the Zoning Officer for processing by the Township Engineer who shall render an opinion thereon to the Zoning Officer. The Zoning Officer shall thereupon be bound by the opinion of the Township Engineer with respect to the location of the Flood Hazard Area, but the Zoning Officer, the applicant, or any person aggrieved by such determination may appeal to the Zoning Hearing Board for a review thereof. In any proceeding before the Zoning Hearing Board, the party contesting the Township Engineer's determination as certified to the Zoning Officer shall have the burden of proof data for areas over 25 acres shall be submitted by the applicant to the Pennsylvania Department of Environmental Protection, Conshohocken, PA, for processing, approval and permit requirements as required by that authority.

- F. Compliance.

No development may occur, and no building or other structure may be erected or used, or substantially improved, and no lot may be used or occupied within the Flood Hazard Area without full compliance with Chapter.

G. Abrogation and Greater Restrictions.

It is intended by this Section of the Zoning Ordinance to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Section imposed greater restrictions, the provisions of this Section shall prevail. All other Ordinances inconsistent with this Section are hereby repealed to the extent of the inconsistency only and to the extent that this Section imposes greater restrictions than do other Articles of this Zoning Ordinance, this Section shall prevail. However, to the extent not inconsistent with this Section, land within Flood Hazard Areas shall also be deemed to be in and subject to the Classification shown on the Zoning Map and restrictions applicable thereto.

H. Warning and Disclaimer of Liability.

The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on available scientific study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes. In such instances, areas outside the Flood Hazard Area or land uses permitted within the Flood Hazard Area may be subject to flooding or flood damage. This Section shall not create liability on the part of the Township or any officer or employee thereof for any damages that result from reliance on this Section or any administrative decision lawfully made hereunder.

§ 99-13. Use Regulations.

- A. A lot located in the Flood Hazard Area may be used or occupied for any of the following purposes and no other, and then only to the extent that they are not prohibited by any other ordinance.
1. Agricultural uses, such as general farming, pasture, orchard, grazing, outdoor plant nurseries, truck farming, forestry, and wild crop harvesting.
 2. Recreation uses that do not require structures such as park, picnic grounds, golf courses, archery, hiking and riding trails, fishing areas, as well as game farm, fish hatchery, wildlife sanctuary, nature preserve and swimming areas.
 3. For a lot partially within a contiguous District and partially within a Flood Hazard Area, no land disturbance or structure may be placed less than fifty (50) feet from the boundary of any Flood Hazard Area, except as permitted by Section 99-20.B.
 4. Parking areas and roads, constructed of gravel or other permeable material, to serve permitted uses in a Flood Hazard Area, or where required by regulations of any contiguous District.
 5. Boundary fences.

6. Applications for permitted uses requiring changes in the flood plain should include after development use calculations. The Water Obstructions Act, as written in Chapter 105 of Title 25 of the Pennsylvania State Code, regulates dams, obstructions, and other structures "along, across or projecting into all streams and bodies of water", as well as changes in the course current, cross-section or location of any stream in the Commonwealth of Pennsylvania. Submission of plans and calculations in accordance with Department of Environmental Protection criteria must be made to DEP and a permit obtained whenever an alteration or obstruction of a stream or body of water is contemplated. The DEP definition of stream is "all bodies or channels of conveyance of surface waters and parts thereof. The stream or watercourses need not flow constantly."
 7. Prior to any alteration or relocation of a watercourse, adjacent communities and the Pennsylvania Department of Community and Economic Development shall be notified. Copies of the notifications shall be submitted to the Federal Insurance Administrator. The developer shall assure that the flood carrying capacity within the altered or relocated portion is maintained.
- B. The following uses when authorized as a Special Relief and provided that such uses are compatible with those permitted in an adjacent District, and further provided that any grading or filling of the soil does not substantially alter or reduce the cross-sectional area of the stream basin at the point of the proposed use and will not result in increasing the elevation of a one-hundred-year frequency flood:
1. Circuses, festivals, and similar transient amusement enterprises, provided all required permits are obtained.
 2. Waterlines and sealed wells.
 3. Railroads, roads, bridges, and utility transmission lines.
 4. Storm sewer outlet and sanitary sewer treatment plant outlet, which shall take the shortest route across the Flood Hazard Area to point of discharge, and sewage pumping stations provide construction in flood proof.
 5. Dams and impoundment basins where approved by appropriate public agencies.
 6. Docks and piers for boating.
 7. Accessory uses customarily incidental to any of the foregoing.
- C. Prohibited Uses and Activities:
- The following uses and activities are specifically prohibited in any Flood Hazard Area:
1. Sod Farming.

2. Removal of topsoil.
3. Cutting or removal of living trees except necessary clearing for construction permitted by special relief.
4. Outdoor storage.
5. Construction and maintenance of septic tanks and cesspools.
6. Tennis courts with fencing.
7. Any development in the Floodway Area as delineated on the Flood Insurance Rate Map accompanying the Flood Insurance Study, which would cause a rise in flood heights unless a rise is offset, by stream or other improvements.
8. Under no circumstances will the following activities and/or development be located within a Flood Hazard Area since they present a special hazard to the health and safety of the public:
 - a. Hospitals (public or private)
 - b. Continuing care retirement community (public or private)
 - c. Jails or prisons.
 - d. Individual mobile homes, new mobile home parks, mobile home subdivisions and substantial improvements thereto, as well as individual mobile homes.
 - e. The production, storage, or maintenance of a supply of the following materials and substances as being dangerous to human life:
 - Acetone
 - Ammonia
 - Benzene
 - Calcium carbide
 - Carbon disulfide
 - Celluloid
 - Hydrochloric acid
 - Hydrocyanic acid
 - Magnesium
 - Nitric acid and oxides of nitrogen
 - Petroleum products (gasoline, fuel oil, etc.)
 - Phosphorus
 - Potassium
 - Sodium
 - Sulphur and Sulphur products
 - Pesticides (including insecticides, fungicides and rodenticides)
 - Radioactive substances, insofar as such substances are not otherwise regulated.

D. Grading, Filling, and Storage of Material:

1. A change in grade by either cut or fill, or combination of both, may be permitted as a special exception, but only upon the following conditions:
 - a. The effect is not to increase the elevation of the one-hundred year frequency flood; and
 - b. The effect is not to increase the runoff characteristics of the area disturbed.
 - c. No storage of any material that may be hazardous to the health and welfare of the surrounding population or which is in violation of the Clean Streams Act or regulations of the Department of Environmental Protection and the "Pennsylvania Flood Plain Management Act (Act 166-1978) and regulations of the Pennsylvania Department of Community and Economic Development" shall be permitted with a Flood Hazard District.
- E. All permitted utilities shall be designed and constructed to minimize or eliminate flood damage.
- F. Riparian Buffer Zone. Floodplains are subject to protection by a fifty (50) foot wide, undisturbed riparian buffer zone, in accordance with Article V, Riparian Buffer Zone.

§ 99-14. Uses by Special Relief – Standards and Procedures for Review

- A. Any use permitted within the zoning district where-in the lot may lie not specifically prohibited in Section 99-13.C. shall be permitted within a Flood Hazard Area if and only if the Zoning Hearing Board affirmatively finds the following enumerated criteria are met.
 1. That there is no danger to life or property due to increased flood heights or velocities caused by any encroachment permitted by such granting of special relief. No development shall be permitted by special relief or variance that would cause a rise in flood heights in the floodway unless the rise is offset by stream or other improvements.
 2. That there is no danger that materials may be swept onto other lands or downstream to the injury of others.
 3. That the proposed water supply and sanitation systems are safe and adequately protected from flood and that the systems are capable of avoiding the spread of disease, contamination or unsanitary conditions when the lands are inundated to the base flood level.
 4. That during inundation to base flood level there is safe and convenient access to the property for ordinary and emergency vehicles.
 5. That the proposed use is not susceptible to flood damage when the lands are inundated to the base flood level.

6. That the lowest floor (including basement) of all new construction and substantial improvements of residential structures is elevated eighteen (18) inches above the base flood level.
7. That all new construction and substantial improvements of nonresidential structures have the lowest floor (including basement) elevated to or above the base flood level or together with attendant utility and sanitary facilities be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Structures, which are not adequately elevated, should be designed to be completely or essentially dry in accordance with the classifications W1 and W2 in the publication entitled "Floodproofing Regulations" (U.S. Army Corps of Engineers, June 1972) or some other equivalent standard.
8. All new construction and substantial improvements (including the placement of prefabricated buildings and mobile homes) shall: (a) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement (b) be constructed with materials and utility equipment resistant to flood damage (c) be constructed by methods and practices that minimize flood damage.
9. Manufactured homes, including those substantially damaged and any improvements thereto, must meet the following requirements:
 - a) Over-the-top ties must be provided at each of the four (4) corners of the manufactured home, with two (2) additional ties per side at intermediate locations. Manufactured homes less than fifty (50) feet long require one (1) additional tie per side.
 - b) Frame ties must be provided at each corner of the manufactured home with five (5) additional ties per side at intermediate points. Manufactured homes less than fifty (50) feet long requiring four (4) additional ties per side.
 - c) All components of the anchoring system must be capable of carrying a force of forty-eight hundred (4,800) pounds.
 - d) Stands or lots must be elevated on a permanent foundation so that the lowest floor of the manufactured home will be at or above the base flood level.
 - e) Adequate surface drainage and access for a hauler must be provided.
 - f) In the instance of elevation on pilings, lots must be large enough to permit steps. Piling foundations must be placed in stable soil no more than ten (10) feet apart. Reinforcement must be provided for pilings more than six (6) feet above ground level.

10. Where floodproofing is utilized for a particular structure, a registered professional engineer or architect shall certify that the floodproofing methods are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood and a record of such certificates indicating the specific elevation to which structures are elevated and/or floodproofed shall be maintained in the Township.
11. That the granting of special relief will not alone or cumulatively with other relief granted along the same watercourse impair the Township's eligibility to participate in the National Flood Insurance Program or render the Township or its inhabitants subject to any of the sanctions such as loss of federal aid by reason of non-compliance with the National Flood Insurance Program regulations or any of the other applicable regulations promulgated by the Federal Emergency Management Agency with reference to the National Flood Insurance Program.
12. Variances shall only be issued in accord with Article 15 of this ordinance, which requires that the criteria in Section 912 of the Pennsylvania Municipalities Planning Code be met. In addition, variances shall only be issued provided that there is:
 - a) A determination that the variance is the minimum necessary, considering the flood hazard to afford relief.
 - b) A determination that failure to grant the variance would result in exceptional hardship to the applicant.
 - c) A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances. The Zoning Hearing Board shall notify the applicant that:
 - (1) The issuance of a variance to construct a structure below the base floor level will result in increased premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage.
 - (2) Such construction below the base flood level increases risks to life and property. Such notification shall be maintained along with a record of all variance actions, including justification for their issuances. All variances issued shall be reported in the annual report submitted to the Federal Emergency Management Agency.

B. Procedure:

1. Prior to development in the Flood Hazard Area, a development permit, a use and occupancy permit, or special relief, whichever shall first be requested, or within such time thereafter, as to permit the Township adequate opportunity to review the application prior to a hearing or action thereon, the applicant shall furnish such of the following material as are necessary for a complete consideration of the matter:

- a) Plans in triplicate drawn to scale showing the nature, location, dimensions and elevation of the lot and proposed lowest floor, including basement, elevation, photographs where necessary or appropriate to demonstrate existing uses and vegetation; and soil overlay showing the soil types and other pertinent information.
 - b) 100-year flood elevations as contained in the flood profiles of the Flood Insurance Study and/or additional cross-sections as may be necessary, showing the stream channel, lake or pond bottom, elevation of adjoining land areas to be occupied by proposed uses and high water information.
 - c) Profile showing the slope of the bottom of the channel, lake or pond.
 - c) Specifications for building materials and construction, floodproofing, filling, dredging, grading, storage water supply, and sanitary facilities.
 - d) Computation of the increase in the water surface elevation of the base flood, if any, which would be attributable to the proposed development. This is so that it can be determined that the development, particularly if proposed for the floodway, will not cause a rise in flood heights.
 - f) Evidence that all required State and Federal permits have been obtained, including that required under Act 537, the Pennsylvania Sewage Facilities Act, the Pennsylvania Water Obstructions Act of 1913 as amended and the Federal Water Pollution Control Act Amendments of 1972, Section 404, 33, U.S.C. 1334.
2. All information filed shall be forwarded to the Township Engineer for review prior to any action or hearing and a copy of any report prepared by the Township Engineer shall be forwarded in advance of the hearing to the applicant.

C. Conditions.

Upon consideration of an application under the terms of this Section, the Board may attach such conditions to the granting of special relief, as it deems necessary to further the purposes of this Section. Among such conditions without limitation because of specific enumeration, may be included:

1. Modification or flood proofing of waste disposal and water supply facilities.
2. Limitations on periods of use and operation.
3. Flood proofing measures of any nature or kind deemed necessary by the Township Engineer, which would prevent or lessen damage to a building located in the Flood Hazard District or to the safety of the occupant thereof.
4. Imposition of operational controls, surety or guarantee for completion of any floodproofing measures and deed restrictions.

ARTICLE IV Wetlands and Watercourses

§ 99-15. Purpose.

To protect water quality and quantity of wetlands and watercourses within the Township, reduce flood potential and stream bank erosion, provide visual buffers, and provide for biotic diversity and natural areas through the preservation of these resources.

§ 99-16. Wetland and Water Course Delineation.

- A. The applicant shall identify, delineate, and provide the limits of any wetlands, lakes, ponds, and permanent and intermittent streams on the site and within one hundred (100) feet of the site on the Conservation Plan, in accordance with Section 99-7. In addition, the following information shall be provided to the Township Zoning Officer for confirmation:
1. A full wetland report conducted by a qualified wetland biologist, or other professional of demonstrated qualifications, shall be submitted to the Township.
 2. Certification from such qualified professional, that the methods used correctly reflect currently accepted technical concepts, including identification and analysis of wetland vegetation, hydric soils, and/or hydrologic indicators.
 3. Determination within the wetland report of whether wetlands are present on site and a full delineation, area measurement (in square feet), and a description of any wetlands determined to be present. The study shall be approved by the Township Board of Supervisors on the recommendation of the Township Engineer.
 4. Where applicable, evidence that the contacts required by Section 99-17.B. have been made.
 5. If no wetlands are found on the site, or within one-hundred (100) feet of the site, a note shall be added to the preliminary and final plans stating that "This site has been examined by (name and address with a statement of submitted qualifications), and no wetlands as defined by the *U.S. Army Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, January 1987*, were found to exist."
 6. If there is a question as to the accuracy of the wetland delineation report, the Township may hire a qualified consultant to review the delineation and recommend revisions at the applicant's expense or require a Jurisdictional Determination from the U.S. Army Corps of Engineers.

§ 99-17. Resource Protection Standards.

- A. Wetlands and watercourses shall not be regraded, filled, piped, diverted, built upon, or otherwise altered or disturbed, except where state and federal permits have been obtained.

- B. Any applicant proposing a use, activity, or improvement which would entail the regrading, filling, building upon, or altering of wetlands shall provide the Township with proof that the Pennsylvania Department of Environmental Protection (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the US Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations.
- C. Relocated/replaced wetlands, when permitted, shall be at least as large as the original wetlands, of the same composition, within Easttown Township, and close to the original site as possible, all subject to Township approval, and additional state and federal approval, as necessary.
- D. Wetlands, floodplains and watercourses are subject to further protection by a fifty (50) foot wide riparian buffer zone, in accordance with Article V, Riparian Buffer Zone, below.

ARTICLE V

Riparian Buffer Zone

§ 99-18. Purpose.

- A. To protect stream banks, water quality, sensitive soils, natural habitat and scenic vistas through the provision and protection of a vegetated strip of land surrounding the resource.
 - 1. Regulating uses and structures, and providing transitional provisions, at or near watercourses, floodplains, wetlands and other bodies of water.
 - 2. Establishing continuous vegetated strips along water bodies that serve to filter and remove pollution laden runoff from entering water bodies and protecting against stream bank erosion and tree loss.
 - 3. Promoting and protecting stabilized stream banks, which will reduce downstream transport of eroded sediment and pollutants.
 - 4. Preserving species-rich vegetative communities along and adjacent to water bodies.
 - 5. Providing shade for streams and other water bodies that reduce direct sunlight and lower water temperatures.

§ 99-19. Delineation.

- A. An undisturbed vegetated area shall extend a minimum of fifty (50) feet, measured horizontally, outward from the edge of a protected wetland, floodplain, or watercourse, and completely surround the protected natural resource(s).
- B. In the case of a stream or pond, the minimum buffer width shall be measured from the top of the bank.

- C. In the case of an intermittent stream, it shall be measured from the center of the channel.
- D. The riparian buffer zone shall also apply to the perimeter of approved wetland mitigation areas where all state and federal permits have been received.
- E. The riparian buffer zone shall not be designated along industrial ponds, sewerage treatment lagoons, man-made irrigation ditches, stormwater management basins and other artificial features with similar water quality or storage facility.
- F. The limit of the hydric soils shall be as defined in this Chapter, unless reclassified by a Certified Soil Scientist.
- G. The riparian buffer zone shall be delineated on the Conservation Plan, in accordance with Section 99-7.

§ 99-20. Resource Protection Standards.

- A. With the exception of those uses or activities listed below, the riparian buffer zone shall not be regraded, filled, built upon, or otherwise altered or disturbed. Any permanent disturbance shall be of a design and so located so as not to conflict with the purpose of a RBZ to protect water quality.
 - 1. Regulated activities permitted by the Commonwealth, e.g. a permitted stream or wetland crossing;
 - 2. Selective removal of diseased, hazardous or invasive plant species;
 - 3. A soil or stream conservation project approved by the Chester County Conservation District, including stream bank stabilization and restoration;
 - 4. Vegetation installation and management in accordance with an approved Landscape Plan and Riparian Buffer Zone Management Plan;
 - 5. Trails, composed of pervious surfaces, however, such trail shall not come within fifteen (15) feet of any stream bank.
- B. Non-conforming uses or structures are subject to the following:
 - 1. Where existing non-conforming structures occupy properties on which less than two thousand (2,000) square feet of additional impervious surface area or less than five thousand (5,000) square feet of total land disturbance is proposed, a one-time encroachment into the RBZ of up to twenty-five (25) feet for such improvements is permitted, without seeking a variance or conditional use approval.
 - 2. In the event that fifty percent (50%) or more of an existing non-conforming structure is voluntarily demolished, the area of impervious surface and land disturbance shall fully conform to the requirement of Section 99-19 of this Article.

- C. Minimally invasive disturbance associated with stormwater management, or the installation of sealed water supply wells, water pipelines, and storm and sanitary sewer lines, provided they are designed and constructed to eliminate infiltration of flood water into the system and discharges from the system into waters of the Commonwealth, may be permitted as a Conditional Use, with proof of minimal disturbance and restoration practices of exposed earth, with approval from the Board of Supervisors.
- D. The planting, supplementing, or re-establishment of vegetation that will slow stormwater runoff velocities, filter silt and pollutants from runoff, form a fibrous root system to hold soil in place and prevent erosion, shade streams, and stabilize eroded stream banks shall be provided, in accordance with a Riparian Buffer Zone Management Plan, as required by this Chapter.

§ 99-21. Riparian Buffer Zone Plantings

A riparian buffer provides the following benefits: reduces the amount of nutrients, sediments, pesticides, and other harmful substances that reach watercourses, wetlands, and other surface water bodies; provides for shading of the aquatic environment to moderate temperatures and protect fish habitat; provides organic matter which provides food and habitat for bottom dwelling organisms essential to the food chain; increases stream bank stability and reduces stream bank erosion and sediment production; conserves natural features important to land and water features (e.g., headwater areas, ground water recharge zones, streams and prime wildlife habitat); and conserves natural, scenic and recreation areas and promotes the functioning of greenways.

- A. At a minimum, the first twenty-five (25) feet adjacent to the natural resource that does not contain existing trees shall be planted in accordance with Section 99-33. This is in order to establish a fibrous root system, to protect the stream banks from erosion, and to shade watercourses.
- B. Any areas of woodland disturbance, for any purpose, within the entire width of the RBZ shall be reforested in accordance with Section 99-33, even if the amount of disturbance falls within that permitted by Section 99-30.B.
- C. If replacement plantings are required by Article VIII, Woodlands and Wooded Lots, of this Chapter, all or part of the required replacement plantings may be used to accomplish the planting requirements of this section. The plantings, which may include trees, shrubs, and seedling trees, should complement and extend the existing surrounding vegetation and natural systems.
- D. The remainder of the RBZ and the area between newly installed plants shall be stabilized and established with meadow grasses and wildflowers.

§ 99-22. Riparian Buffer Zone Management Plan Requirements

- A. A Riparian Buffer Zone Management Plan shall be submitted as part of preliminary and final plan application. In the case of a conditional use, the RBZ Management Plan shall be submitted along with the application for conditional use approval. The Plan may be provided on a separate sheet in the

development plan set or may be a separate bound document, and shall include the following information:

1. A narrative describing the development of the subject property;
 2. A description of the existing natural resources on the property;
 3. A narrative describing the significance and purpose of the RBZ;
 4. A description of any proposed impacts within the delineated RBZ;
 5. Plant lists, notes, details and any other pertinent information needed to fully describe the proposed procedures and methods necessary to accomplish the establishment of a healthy, vegetated RBZ; and
 6. The maintenance activities that will be performed to ensure the control of erosion and the continued health and vigor of the plants within the RBZ. Such activities may change over the course of plant establishment, and may include mowing schedules.
- B. The preparation and planting procedures may include, but shall not be limited to, invasive plant removal and control; stream bank stabilization; the provision of animal browse protection, such as plastic tubes for seedling trees; erosion control matting; the provision of any markers or signs identifying the RBZ; and mowing schedules for meadow grass establishment.
- C. The maintenance narrative shall include, but shall not be limited to, the following provisions:
1. A list of prohibited activities that may lead to excessive erosion or pollution, which may include restrictions on traffic, the removal of plant material, and the use of chemicals;
 2. An annual inspection and report by a qualified professional;
 3. Inspections immediately following severe storm events to monitor erosion and sedimentation;
 4. Procedures for corrective action to erosion;
 5. A timeframe for removal of planting aids, such as staking and tree tubes;
 6. A guarantee and procedures for replacement and/or supplement of plantings that die or do not become well established in perpetuity.

ARTICLE VI Steep Slopes

§ 99-23. Purpose.

- A. The purposes of this Article are as follows:
1. To permit only those uses of steep slope areas which are compatible with the conservation of natural resources and which maintain stable soil conditions by minimizing disturbances to vegetative ground covers and restricting the regrading of steep slope areas.
 2. To protect watersheds by minimizing soil erosion and the resultant destruction of the land, siltation of streams and property damage.
 3. To protect low-lying areas from flooding by limiting the increase in stormwater runoff caused by the grading of sloped areas, changes in ground cover vegetation, and the erection of structures.
 4. To allow the continuing replenishment of groundwater resources and the maintenance of springs.
 5. To maintain the ecological integrity and habitat value of steeply sloped areas.

§ 99-24. Delineation of Steep Slopes.

- A. For the purposes of this Chapter, slopes shall be divided and delineated into the following two categories:
1. Moderately Steep Slopes: Those areas of land where the grade is fifteen to twenty-five percent (15-25%).
 2. Very Steep Slopes: Those areas of land where the grade is twenty-five percent (25%) or greater.
- B. Slope shall be measured as the change in elevation over the horizontal distance between consecutive contour lines. For the purposes of this Chapter, slope shall be measured over three (3) or more two (2) foot contour intervals (six (6) cumulative vertical feet of slope).

§ 99-25. Resource Protection Standards.

- A. Steep slope areas shall be preserved in their natural state. Disturbance shall be kept to a minimum, and in no case shall exceed the following permitted disturbance allowances:
1. Moderately Steep Slopes: No more than fifty percent (50%) of moderately steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed. The maximum impervious surface coverage shall be fifteen percent (15%).
 2. Very Steep Slopes: No more than fifteen percent (15%) of very steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed. The maximum impervious surface coverage shall be five percent (5%). The permitted fifteen percent (15%) disturbance on Very Steep Slopes shall be limited to the following activities:

- B. Grading for the minimum portion of a driveway necessary for access to the principal use, and sewer, water, and other utility lines when it can be demonstrated that no other route is feasible.
- C. Forestry (timber harvesting), when conducted in compliance with a required timber-harvesting plan.
- D. Clear cutting of trees is prohibited on slopes greater than fifteen percent (15%).
- E. There shall be no grading or filling on Very Steep Slopes within one hundred (100) feet of any stream, wetland, lake, or pond, except to protect the stream bank or shoreline and prevent erosion.
- F. There shall be no storage of toxic materials, including petroleum-based products, within seventy-five (75) feet of the top of slope in steep slope areas.
- G. Mineral extraction and the removal of topsoil are prohibited on Very Steep Slopes.
- H. On-lot sanitary disposal systems are prohibited on Very Steep Slopes.
- I. Emergency vehicle access roads may be permitted on Moderately Steep Slopes. Such design shall be subject to review by the, Township Engineer, Fire Marshal or their designee.

§ 99-26. Erosion Control Standards.

- A. Where permitted, each building or structure shall be constructed in such a manner as to provide the least disturbance necessary of the existing grade and natural soils condition.
- B. Where a disturbance is proposed, a grading plan shall be provided identifying the existing contours of the site, proposed finished grades, and the proposed location of all buildings and structures.
- C. Any disturbance of land shall be in compliance with the erosion and sedimentation control and soil stabilization standards in Section 626, Erosion and Sedimentation Control of the Subdivision and Land Development Ordinance, Section 403, Erosion and Sediment Control During Regulated Earth Disturbance Activities of the Stormwater Management Ordinance, and any other applicable regulations.
- D. No topsoil shall be removed from a site unless a sufficient amount is retained to provide at least six (6) inches of topsoil cover over all of the site's exposed earth surfaces. Topsoil removed by grading operations shall be redistributed and stabilized as quickly as possible following the completion of a project or project phase.

ARTICLE VII Forestry

§ 99-27. Timber Harvesting Plan.

- A. Timber harvesting, when permitted, shall be in compliance with a timber-harvesting plan.
- B. Timber harvesting shall be conducted in such a manner as to provide the least disturbance necessary to the existing woodland.
- C. Timber harvesting that would threaten the growth of remaining trees shall be avoided.
- D. Woodlands and other natural vegetation that remain interconnected with abutting woodlands or wooded areas of adjacent properties, should be preserved to maintain continuous woodland corridors and allow for the normal movement, dispersion, and migration of wildlife. The applicant shall, within the timber management plan, justify the necessity of separating or dividing woodlands or extensive habitat areas, especially woodlands exceeding ten (10) acres in area.
- E. No accumulation of slash shall be left within fifty (50) feet of any public roadway.
- F. Felling or skidding on or across any public road is prohibited without the express written consent of the Township or the Pennsylvania Department of Transportation whichever is responsible for the maintenance of such roads.
- G. Skid trails, log yards, and other sites, where the operation of harvesting machinery results in the exposure of soil, shall be left in a condition suitable for natural reforestation and in a condition that will not promote soil erosion.
- H. A PA Certified Forester or other certified professional approved by the township, shall clearly mark all trees, six (6) inches or greater dbh, that are to be harvested.
- I. Tree removal shall not create single clear-cut openings greater than five-thousand (5,000) square feet in the forest canopy. Where such openings exceed twenty-five hundred (2,500) square feet, they shall be at least one hundred (100) feet apart. Such clear-cut openings shall be included in the calculation of total volume removal.
- J. When the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be reforested in accordance with the requirements of Article XX of this Chapter.
- K. Cleared openings legally in existence on the effective date of this Ordinance may be maintained, but shall not be enlarged, except as permitted by this Ordinance.
- L. Litter resulting from a timber harvesting operation shall be removed from the site before vacated by the operator.

ARTICLE VIII Woodlands and Wooded Lots

§ 99-28. Purpose.

To maintain woodland areas and protect mature trees, mitigate the impacts of development by encouraging the establishment of trees and other vegetation, protect natural habitats, control soil erosion and contribute to visual amenities and the character of the community.

§ 99-29. Delineation.

- A. All tree masses, hedgerows, and individual freestanding trees over six (6) inches in diameter dbh shall be inventoried on the Conservation Plan as follows:
 - 1. The outermost edge of the canopy (drip line) shall be shown for woodlands, tree masses and hedgerows.
 - 2. The canopy, trunk location, trunk diameter and species shall be noted for all other individual freestanding trees, and for all trees on a wooded lot.
 - 3. A calculation shall be provided on the plan indicating whether or not the proposed building lot is a wooded lot, as defined.
- B. Parcels or building lots up to two (2) acres in area shall be subject to the regulations pertaining to Wooded Lots.
- C. Parcels that are two (2) acres in area and over shall be subject to the regulations pertaining to Woodlands.

§ 99-30. Resource Protection Standards.

Woodland disturbance and the disturbance of trees on Wooded Lots, including alteration or removal of any hedgerows and clear cutting, shall be performed in accordance with the standards of this section. Regulations regarding tree protection shall not extend to deadwood, diseased trees or forestry operations conducted in compliance with a timber-harvesting plan.

- A. Establishment of Tree Protection Zone. All trees, tree masses and their associated vegetation layers located twenty-five (25) feet away from a building, parking area, swimming pool, stormwater management system or other proposed improvement shall be considered within a Tree Protection Zone. These trees shall be protected from damage during construction activities with approved fencing, or other barrier, to the limits of the tree protection zone.
 - 1. The limits of tree protection fencing shall be clearly delineated on the Soil Erosion and Sedimentation Control plans. Its installation, prior to earth movement, and its removal, following construction activities, shall be listed in the sequence of construction notes. Details noting placement and materials shall be provided on the plans.

2. There shall be no encroachment and/or compaction of soil and roots within the tree protection zone by excavation or trenching, change of grade, or storage of materials, soil, debris or vehicles. Feeder roots shall not be cut closer than twenty-five (25) feet from tree trunks. The use of geotextiles or boards, over a layer of mulch or straw shall be required to protect tree roots from compaction when machinery cannot avoid passing under trees, subject to approval by the Township Engineer or Landscape Architect.
 3. Tree protection zone fencing is subject to periodic monitoring by the Township. Any downed fencing shall be replaced immediately.
 4. Where possible, the applicant is encouraged to retain additional trees that are approved for removal, outside of the tree protection zone as "living barriers" to construction vehicles. These trees would be removed after major construction activity has ceased, but before fine grading and finishing.
- B. Clearing of trees for any purpose shall not result in the removal of more than twenty-five percent (25%) of any existing tree mass, hedgerow or individual freestanding trees, without approval from the Board of Supervisors.
1. Where the applicant demonstrates to the satisfaction of the Planning Commission and/or the Board of Supervisors that additional tree or woodland removal beyond the permitted twenty-five percent (25%) disturbance allowance is necessary to permit development in accordance with the Zoning Ordinance, tree replacement shall be provided in accordance with Article VIII of this Chapter, for the portion of tree removal beyond the twenty-five percent (25%) allowance.
- C. Disturbance to woodlands and existing vegetation shall be minimized as follows:
1. When disturbance or tree-cutting is to occur in a woodland, an effort shall be made, with consultation from a forester or another qualified professional and the Township Engineer, to retain as much of the woodland as possible, of a size and configuration which would promote its growth and natural regeneration. Where possible, undisturbed woodlands to remain shall interconnect with existing woodlands or wooded areas of adjacent properties to preserve continuous woodland corridors and allow for the natural movement and migration of wildlife and the dispersion of native vegetation.
 2. Disturbance or removal of vegetation occupying Riparian Buffer Zones, areas of natural resources, and steep slopes shall be undertaken only when necessary and on a limited, selective basis to minimize the adverse impacts of such actions. Such vegetation removal may include removal of diseased, hazardous or invasive plant materials, and minimal disturbance necessary to construct improvements permitted in these sensitive areas.
 3. All cartways, buildings, driveways and utility easements shall be located in such a manner so as to minimize disturbances to existing vegetation. Developers shall harmonize their plans with the preservation of existing trees. Clearing of woodland to provide for construction access shall be minimized by locating access clearings so as to coincide with ultimate cartway and driveway locations.

Otherwise, access clearings should be located such that each clearing serves two or more adjacent lots.

4. The applicant shall demonstrate to the satisfaction of the Township that the removal of specimen vegetation, thirty-six (36) inches or greater dbh, is essential to permit development in accordance with the Zoning Ordinance. Where permitted, removal of specimen vegetation shall be kept to a minimum.
- D. The following tree protection standards are applicable to all types of development and land disturbance activities.
1. Grade changes to occur at any location on the property shall not result in an alteration to soil or drainage conditions which would adversely affect existing vegetation to be retained following site disturbance, unless adequate provisions are made to protect such vegetation and its root systems.
 2. There shall be no storage of toxic materials, including petroleum-based products, within seventy-five (75) feet of a tree protection zone.
 3. Trees shall not be used for roping, cables, signs or fencing. Nails and spikes shall not be driven into trees.
 4. Trees that are to be removed shall not be felled, pushed or pulled into a tree protection zone.
 5. Tree limbs damaged during construction shall be properly pruned and treated immediately.

ARTICLE IX Tree Replacement

§ 99-31. Applicability.

Tree replacement shall be provided where the applicant demonstrates to the satisfaction of the Planning Commission and/or the Board of Supervisors that additional woodland or tree removal beyond the permitted twenty-five percent (25%) disturbance allowance is necessary to permit development in accordance with the Zoning Ordinance; where trees within the tree protection zone or Riparian Buffer Zone are removed; and where specimen trees are removed from any location on the site.

§ 99-32. Replacement Planting.

A. For properties two (2) acres in area or greater, replacement plantings shall be provided at a ratio of:

1. One (1) shade tree for each one thousand (1,000) square feet of woodland removed beyond the permitted twenty-five percent (25%) disturbance allowance.

2. One (1) shade tree for each tree six (6) inches up to thirty-six (36) inches dbh removed within the tree protection zone during the course of project construction.
 3. Three (3) shade trees for each specimen tree thirty-six (36) inches or greater dbh removed from any location on the site. This includes trees located within areas to receive improvements and trees subject to the permitted twenty-five percent (25%) disturbance allowances.
- B. For properties that are less than two (2) acres in area, replacement plantings shall be provided at a ratio of:
1. One (1) shade tree for each tree six (6) inches up to thirty-six (36) inches dbh removed beyond the permitted twenty-five percent (25%) disturbance allowance.
 2. One (1) shade tree for each tree six (6) inches up to thirty-six (36) inches dbh removed within the tree protection zone during the course of project construction.
 3. One (1) shade tree for each specimen tree thirty-six (36) inches or greater dbh removed from any location on the site.
- C. Replacement planting shall be provided as shade trees, reforestation planting, or any combination thereof, comprised of the following plant types:
1. One (1) shade tree, of two to two and one-half (2-2.5) inches in caliper, or
 2. Two (2) evergreen or deciduous understory trees or ten (10) shrubs per required shade tree, for up to fifty percent (50%) of the requirement, or
 3. Reforestation plantings, in accordance with Section 99-33.
- D. Shade trees shall be two to two and one-half (2-2.5) inches in caliper; evergreen trees shall be eight to ten (8-10) feet in height; deciduous understory trees shall be two to two and one-half (2-2.5) inches in caliper for single-stemmed trees, and eight to ten (8-10) feet in height for multi-stemmed trees, and shrubs shall be twenty-four (24) inches in height. All plants shall conform to the standards contained within Section 99-38.
- D. Replacement plantings are in addition to other required plants, such as street tree, buffer or parking lot plantings, etc.
- E. A chart tabulating the number of trees or area of woodland being removed, and the number and type of replacement plantings shall be placed on the plans.
- F. Replacement plantings may be placed in any suitable location on the site, including riparian buffer zones, and may be used to enhance other requirements, such as buffering. Replacement plantings should be identified by a symbol or note. Reforestation areas shall be clearly outlined; individual seedlings need not be shown.

- G. In the event that the applicant demonstrates to the satisfaction of the Board of Supervisors that constraints incident to the land itself render it impractical to locate on the lot the required number of replacement plantings, then, at the election of the Board, the applicant shall:
1. Install a portion of the requirement, or
 2. Install fewer, larger or more valuable replacement trees.

§ 99-33. Reforestation.

Reforestation is encouraged as an option for replacement planting on those sites large enough to support a minimum reforestation area of one-half (1/2) acre. Reforestation areas should be designed and placed so they will mature into healthy woodlands, with priority given to locations adjacent to existing woodlands, within riparian buffer zones, or where forest creation is desirable.

- A. Reforestation plantings shall conform to the following:
1. Trees shall be container grown with a minimum height of four to six (4-6) feet.
 2. The trees shall be planted at a rate of 300 trees per acre of reforestation area, with an on-center spacing of twelve (12) feet.
 3. The planting mixture shall contain a minimum of sixty percent (60%) native canopy trees and a maximum of forty percent (40%) understory tree species.
- B. Plant material shall be subject to the quality, selection and placement criteria of Section 99-38, and the guarantee of Section 99-40.
- C. Planting procedures shall be listed on the plans.
- D. Maintenance and management guidelines shall be provided for reforestation areas, to ensure their continued survival. The property owner, or homeowners association, is responsible for long-term care and management of reforestation areas.
- E. Reforestation plans, procedures and management guidelines shall be submitted to the Township Landscape Architect for review.

**ARTICLE X
Landscaped Buffers**

§ 99-34. Applicability.

Landscaped buffers shall be provided along the perimeter tract boundaries of all proposed subdivisions and land developments. Buffer plantings are in addition to other required plantings, such as street trees, parking lot and replacement plantings, except as noted herein, although these other plantings may lie within yard areas.

§ 99-35. Buffer Types.

- A. The intensity level of buffering shall be determined by adjacent land use, or zoning classification in the case where the adjacent land is vacant.
 - 1. Screen buffers. The purpose of screen buffers is to minimize adverse views between incompatible land uses.
 - 2. Perimeter buffers. The purpose of perimeter buffers is to filter views between complementary land uses.
 - 3. Screen (“S”) and perimeter (“P”) buffers shall be provided between proposed (PROP) and abutting land uses in accordance with the following chart. Buffer planting shall be provided in accordance with Section 99-38.

Figure 99-2: Buffer Intensity Chart

Existing Abutting Land Use/ Zoning District.

		SFR	MFR	MH	INS	COM	IND	AG/R	ROW
P	SFD	P	P	P	P	P	P	P	P
R	MFD	S	P	P	P	P	P	S	P
O	MH	S	S	P	S	P	P	S	S
P	INS	S	S	S	P	P	P	S	P
U	COM	S	S	S	S	P	P	S	P
S	IND	S	S	S	S	S	P	S	S
E	REC	P	P	P	P	P	P	P	P

- B. Key to land uses:
 - “SFR” indicates any type of existing single-family residential land use.
 - “MFR” indicates any type of existing multi-family residential land use.
 - “SFD” indicates proposed single-family residential developments of greater than or equal to five (5 dwelling units).
 - “MFD” indicates proposed multi-family residential developments of greater than or equal to five (5 dwelling units).
 - “MH” indicates mobile home land use.
 - “INS” indicates any type of institutional land use.
 - “COM” indicates commercial and office land uses outside of the Village of Berwyn.
 - “IND” indicates industrial land uses.
 - “AG/R” indicates agriculture, conservation or recreational land uses.
 - “ROW” indicates buffering required against all existing street lines or cartways.
 - “REC” indicates recreational land uses.

§ 99-36. General Buffer Requirements.

- A. Buffers may occur within any yard area, including the front yard, when applicable. Buffers shall be comprised of a variety of plant material, in accordance with

Section 99-42. Earthen berms shall also be included, where topographically feasible and where such berms will not increase run-off or cause water to flow onto adjacent landowner's property.

- B. If a reduction in buffer width is granted pursuant to an application before the Zoning Hearing Board, the proposed buffer shall meet the functional requirements of this article. This may necessitate the provision of additional screening elements, such as fences or evergreen shrubs.

ARTICLE XI Landscaping

§ 99-37. Applicability.

The requirements of this Article shall apply to all proposed subdivisions, land developments or lot improvements regulated by the Zoning Ordinance. The requirements and standards prescribed herein shall be considered the minimum requirements and standards for all Landscape Plans. All portions of a property not covered by buildings or paved surfaces shall be landscaped utilizing combinations of existing vegetation, trees, shrubs, lawns, ground cover and mulch in accordance with this Article. Landscaping and its maintenance should help preserve the resources of Easttown Township by utilizing such methods as specifying native plants, xeriscaping (using drought-tolerant plants), using drip irrigation systems and sustainable materials.

§ 99-38. General Landscape Provisions.

All proposed landscape material shall conform to the following standards:

- A. Nursery grown plant material shall conform to those listed in the "American Standard for Nursery Stock", ANSI Z60.1, current edition, published by the American Nursery and Landscape Association (ANLA).
1. Deciduous trees shall have a minimum caliper of three to three and one-half (3-3.5) inches, measured at a point six (6) inches above finish grade.
 2. Single-stemmed ornamental and understory trees shall have a minimum caliper of two (2) inches, measured at a point six (6) inches above finish grade, and a minimum height of eight (8) feet. Multi-stemmed trees shall have a minimum height of eight (8) feet. Multiple-stemmed trees should be identified as such in the plant list, and shall be counted as one tree.
 3. Evergreen trees shall have a minimum height of eight (8) feet.
 4. Shrubs utilized for buffering and screening purposes shall be a minimum of twenty-four (24) inches in height.
 5. Shrubs proposed in other areas of the site, including parking lot islands and foundation plantings, shall be a minimum of eighteen (18) inches in height or spread, depending on normal growth characteristics of the species.

6. Ground covers, perennials and annuals shall be appropriate to type.
- B. Plant materials selected shall be suitable to the site's microclimate, be appropriate for the intended function, be proportional to site features, reflect natural landscape characteristics existing prior to site disturbance, promote diverse natural plant associations, and minimize the amount of maintenance required. To promote diversity, no more than thirty percent (30%) of any plant type (e.g. trees, shrubs) shall be of one species. Requirements for minimum percentages of native plant material are included within each section herein.
- C. Plants that interfere with the function of utilities, compromise safety, obstruct views in clear sight triangles, are easily susceptible to disease or pest infestations, or are aggressively invasive in nature shall be avoided.
- D. Plant materials shall be spaced appropriate to their species and function in the landscape. Trees shall be offset a minimum of fifteen (15) feet from overhead utility lines, light poles, traffic signs and fire hydrants, ten (10) feet from underground utility lines and, where possible, five (5) feet from sidewalks and driveways.

§ 99-39. Plan Requirements.

- A. Landscape Plans shall be submitted at the time of Preliminary and Final Plan applications, and shall contain the following information:
 1. The signature and seal of the registered Landscape Architect who prepared the plans.
 2. Approximate finished grades and drainage patterns of topography after project construction.
 3. Description of existing vegetation conditions on the tract and measures to be taken to protect such vegetation during and following construction, as described in Section 99-30 of this Chapter.
 4. Proposed locations and description of plant materials and other landscape materials or elements to be installed at the project.
 5. A plant list, which shall include the quantity, botanical and common names of the plants, their size at installation, and the method of root containment.
 6. Charts indicating compliance with the requirements of this article.
 7. Standard specifications for installation, including a guarantee note and planting distances from utilities.
 8. A note indicating that shrubs shall be placed in continuous mulched beds.
 9. Details for landscape installation, including any specialty features.
 10. Irrigation system layout and pipe sizing, if applicable.

11. Berm contours, referenced to existing and proposed grades, if applicable.

B. The landscape design shall reflect the following considerations:

1. The definition of spaces within the proposed development, e.g., by creating enclosures, open areas and landmarks. Particular attention shall be given to creating privacy for individual residences by the creative use of plants and structural materials harmonious with the overall architectural theme of the proposed development.
2. The provision of landscaping to help improve human comfort and to serve as a means of energy conservation. Measures to be considered shall include the use of plant materials to reduce the chilling effects of strong prevailing winter winds and to provide shade during the hot summer months.
3. The use of landscape structural materials in the construction of fences, walls and other improvements, which are relatively durable and will not present unusual expense in maintenance or replacement.

§ 99-40. Guarantee and Maintenance.

All landscape materials depicted on the approved landscape plan shall be financially secured, guaranteed and maintained for a period of two (2) years following final written acceptance by the Township. The guarantee shall provide for timely removal and replacement of plantings that do not survive. This guarantee shall be applicable to existing plant material that is contributing to the minimum planting requirements stated herein. The Township at its discretion may require a bond or other similar escrow to enforce the guarantee, and require the applicant to pay for the services of the Township Landscape Architect to monitor and report on that compliance to the Township.

All landscape improvements shall be installed and continuously maintained by accepted practices as recognized by the American Nursery and Landscape Association. Planting and maintenance of vegetation shall include, as appropriate, but not necessarily be limited to provisions for surface mulch, guy wires and stakes, irrigation, fertilization, insect and disease control, pruning, mulching, weeding and watering.

§ 99-41. Credit for Existing Preserved Plant Material.

- A. Where preserved, existing trees and shrubs that lie within a required planting area, e.g. in a buffer yard, or along a right-of-way, may be credited toward the minimum planting requirement, subject to the following criteria:
4. The plants must be of reasonable health and character.
 5. Shade trees must be capable of reaching a mature height of thirty (30) feet and width of fifteen (15) feet.
 6. Plant material being considered for credit must be located in the area of the required landscape plantings for that improvement (e.g. existing, preserved vegetation within buffer yards may be credited toward that landscape

requirement. However, any existing trees in excess of the buffer requirement may not be credited toward interior parking lot planting, because they do not lie within the parking lot area).

7. Vegetation shall be considered preserved when the plans provide for a minimum of seventy-five percent (75%) of the ground area within the drip line of the tree be maintained at the existing grade level and covered in a pervious surface.
8. Existing plants found to be in poor health or lacking normal growth habit during the two-year guarantee period shall be replaced with nursery-grown plant material, capable of meeting the minimum requirements toward which the existing material was credited. Plants with fifty percent (50%) or more dead vegetation or wood are considered dead and require replacement. Replacement plants are subject to the two (2) year guarantee. A note to this effect shall be placed on the plans.

§ 99-42. Buffer Planting.

Buffer yards shall be provided as required in Section 99-35, and planted in accordance with the following standards:

- A. The following is the minimum amount of plant material required per one hundred (100) linear feet of un-vegetated buffer length for each buffer type and plant category. The standard shall be pro-rated for portions of buffers less than one hundred (100) feet in length.
 1. Screen Buffers:
 - Two (2) shade trees,
 - Eight (8) evergreen trees, and
 - Twenty-five (25) shrubs
 - a. Screen buffers shall be designed to minimize all adverse impacts that the proposed development may have on the adjacent land use.
 - b. Screen buffers shall be provided along the right-of-way of the higher street classification on a reverse frontage lot.
 - c. Example: A screen buffer is required between a proposed commercial and existing residential land use, along a property line that is a 200' in length. A portion of the deciduous wooded area will be retained along a 100' length of the buffer yard; the remainder of the yard is open. The full buffer requirement must be applied to the unvegetated length, but only the evergreen tree and shrub component need to be provided for the wooded length.
 2. Perimeter Buffers:
 - Three (3) shade trees,
 - Three (3) evergreen trees, and
 - Fifteen (15) shrubs

- a. The shade tree component may be eliminated along street rights-of-way subject to the street tree-planting requirement.
 - b. The evergreen tree requirement may be eliminated along rights-of-way in the PBO and VB zoning districts, and when parking lot screening, in accordance with Section 99-44 is provided.
 - c. Perimeter buffer plantings may be grouped or clustered to provide views of project identification signs or prominent site features; however, no more than one hundred (100) feet shall be permitted between any two plants.
 - d. Example: A convenience store is proposed in the PBO district along Route 30. The parking lot will be screened with an evergreen hedge, and street trees will be provided along Route 30. The shrub component of the perimeter buffer will be satisfied with the evergreen hedge. No additional perimeter buffer plantings are required.
- C. Buffer plantings may be placed anywhere within the required buffer yard, except that no plant may be placed within three (3) feet of a property line. Naturalistic placement and vertical layering of plant material is encouraged. Buffers shall be designed to complement and integrate with existing buffer plantings and natural areas on adjacent properties. Buffer plantings may be increased at the discretion of the landowner of the proposed development.
- D. Preserved, existing plant material may be counted toward satisfying the minimum buffer requirements for that portion of the buffer in which they are present. The quantity of required buffer plants shall not be reduced by the quantity of existing plants within the vegetated length of the buffer. To be considered as buffer material, the existing vegetation must be of reasonable health and character, woody, non-invasive, and collectively able to meet the desired buffer intensity level. Supplemental plant material shall be required where the existing vegetation is lacking. For example, if the existing vegetation is comprised of deciduous trees and shrubs, then the evergreen tree element must be provided.
- E. A minimum of sixty percent (60%) of the required buffer plant material shall be native to the region.
- F. To encourage diversity in design, and to accommodate changes in availability of plant material, shade trees may be substituted at the rate of two (2) ornamental or understory trees per shade tree, for up to fifty percent (50%) of the shade tree requirement.
- G. Shrubs shall consist of a mixture of evergreen and deciduous types, according to site conditions. Shrub plantings that provide a mixture of mature heights and four seasons of interest are encouraged. Shrubs shall be clustered and placed in continuous mulched beds.
- H. Earthen berms shall be provided as an integral component of buffers, where topographic conditions permit their construction. Other non-vegetative elements, such as fences, walls and garden features, as determined by the Township

Landscape Architect, may be used in conjunction with required plantings and berms to enhance the buffer's functionality, or to improve the site's security or aesthetics. Non-vegetative elements shall comply with the following requirements:

1. They shall not impede stormwater runoff, nor divert it off site, nor interfere with natural drainage patterns.
 2. They shall be placed outside of clear sight triangles, and shall not impair the function of utilities.
 3. Earthen berms shall average from three to five (3-5) feet in height, with side slopes not exceeding twenty-five percent (25%). They shall be placed in a manner that is complementary to the surrounding environment, generally undulating within the buffer width.
- I. If walls or fences are placed along the property line, the finished side shall face outward. Gates may be needed to facilitate maintenance or access. If these features are set within the buffer yard, plant material should be placed on both sides to break up their linear appearance.
 - J. Landscape features, such as gazebos, flagpoles or water features may be placed within the buffer yards, so long as the intensity of screening is not compromised by these features.
 - K. The remainder of the buffer area shall be covered with grass, ground covers, mulch or other pervious surfaces suitable to the level of anticipated stormwater runoff and appropriate erosion control.
 - L. Plant material shall conform to the standards of Section 99-38. Plant material that may become a nuisance to neighboring properties or that will threaten the ecological balance of adjacent woodlands and natural areas shall be avoided.
 - M. All elements within buffer areas are to be perpetually, continually and regularly maintained by the property owner. A note to this effect shall be placed on the plans.

§ 99-43. Street Trees.

- A. Street trees shall be provided along existing and proposed streets and driveways as follows:
 1. Along both sides of all proposed public and private streets that lie within any proposed subdivision or land development;
 2. Along any existing street right-of-way line that abuts the site, including streets proposed for extension or widening into the site.
 3. Along access driveways serving five (5) or more residential units, or two (2) or more non-residential properties.

- B. Street trees are in addition to other required plantings, such as screen buffer, parking lot and compensatory plantings.
- C. Street trees shall be provided at a ratio of at least one (1) tree per fifty (50) linear feet, or fraction thereof, of right-of-way line or cartway edge. In the case of cul-de-sac streets, the measurement is taken around the outside of the bulb. The widths of driveway cuts shall not be excluded from the total measurement.
- D. The trees may be arranged either formally or informally, as best suits the character of the development and the surrounding streetscape.
 - 1. In a formal arrangement, the trees shall be arranged so they are relatively evenly spaced. They shall be staggered on opposite sides of the street, so that a tree is located approximately every twenty-five (25) linear feet, as measured along the centerline of the street.
 - 2. In an informal arrangement, the trees may be clustered in groups along the length of the right-of-way. The groupings should be staggered on opposite sides of the street, so that the entire street may benefit from their shade. The setback distance from the right-of-way line should be staggered from two (2) feet to ten (10) feet. Trees within the clusters should be spaced no closer than twenty (20) feet apart, to allow for canopy development. The maximum distance between clusters of street trees on the same side of the street shall be no greater than one hundred (100) feet.
 - 3. Other alternate arrangements, meeting the intent of this Chapter, may be approved by the Board of Supervisors in appropriate consultation with the Planning Commission.
- E. The trees shall be placed a minimum of two (2) feet outside of the existing or proposed right-of-way line. Where a right-of-way line is not proposed, the trees shall be placed a minimum of five (5) feet away from the edge of the cartway. Street trees shall not be placed within clear sight triangles. See Article XI for additional planting requirements for street trees within the Village of Berwyn District.
- F. Street trees shall be limbed up to a height of six (6) feet above grade. This shall be noted on the plant list and in the planting notes or specifications.
- G. Plant material shall conform to the standards of Section 99-38.
- H. To control problems associated with monoculture, a variety of trees shall be used in each street tree planting. Generally, no more than twenty (20) trees of a single species should be placed in a planting arrangement. Changes in species should occur at street intersections, changes in horizontal alignment, or at natural interruptions, such as a stream crossing. Fifty percent (50%) of the proposed street tree species shall be native to the region. Tree species that are tolerant of pollution, salt and soil compaction are preferable. Long-lived tree species and those that do not drop nuisance or hazardous fruits and seedpods are preferable.

- I. When existing preserved trees are utilized to satisfy part of the street tree requirement, the total length of right-of-way or cartway subject to calculation may be reduced by the length of right-of-way containing existing trees meeting these requirements. The quantity of required street trees shall not be reduced by the quantity of existing trees within the vegetated length of right-of-way.

§ 99-44. Parking Areas.

All parking lots and vehicle storage areas accommodating five (5) or more vehicles shall be designed and effectively landscaped with trees and shrubs to provide shade, mitigate the temperatures of paved areas and break up large expanses of pavement, in accordance with the following:

- A. Landscaped areas totaling not less than ten percent (10%) of the area within the proposed parking lot shall be provided as raised planting islands and be continually maintained. The area within the proposed parking lot shall be defined to include access aisles, landscape islands and parking spaces or storage areas suitable for parking. Driveways, stacking lanes for drive-through businesses and gasoline service areas, where no parking is proposed, shall not be included in this calculation. Perimeter planting strips shall not be considered as part of the required interior parking lot landscaping; however, planting islands abutting the perimeter of the parking lot shall be considered.
- B. A raised planting island, a minimum of ten (10) feet in width and the length of the parking stall, shall be spaced not more than every fifteen (15) parking stalls, and at the ends of rows of parking stalls. Interior islands shall be placed opposite each other in adjacent rows of parking, to reduce the number of raised islands, and to increase the area available for tree roots.
- C. Additional raised planting islands shall be provided as necessary to guide vehicle movement, to separate rows or parking spaces, and to provide adequate space for plant growth, pedestrian circulation, and vehicle overhang. Curbs of such islands shall be designed so as to facilitate surface drainage.
- D. Shade trees shall be provided within the required islands and adjacent to the parking lot or vehicle storage area at a ratio of one (1) tree per ten (10) parking spaces. When adjacent to parking stalls and pedestrian use areas, the trees shall be limbed up to a height of six (6) feet above grade. This shall be noted on the plant list and in the planting notes or specifications.
- E. A minimum of thirty (30%) of the proposed shade trees shall be native to the region.
- F. To encourage diversity in design, and to accommodate changes in availability of plant material, shade trees may be substituted at the rate of two (2) ornamental or understory trees per shade tree, for up to fifty percent (50%) of the shade tree requirement.
- G. At least fifty percent (50%) of the total planting island area shall be covered by mulched planting beds, containing a variety of shrubs and ground cover

- plantings. The remaining area within the planting islands may be covered by lawn grass. Unplanted mulch beds are not permitted.
- H. The plantings within the islands, where clear visibility must be maintained, shall grow lower than, or be maintained at, a maximum height of thirty (30) inches. A note to this effect shall be placed on the plans. Plantings in divider islands or along the perimeter, where visibility is not compromised, may grow taller.
- I. Plant material shall conform to the standards of Section 99-38. They are encouraged to be of species resistant to road de-icing salts.
- J. Parking lot plantings are in addition to other plantings required by this Chapter. Where it can be demonstrated that proposed buffer plantings, required by Section 99-42 of this Article, will screen proposed parking lots to the standards of this Section, this requirement may be partially or completely waived by the Board of Supervisors.
- K. Except within the Village of Berwyn District, the following regulations shall apply:
1. The perimeter of parking areas, including access drives and stacking lanes for drive-through businesses and gasoline service, shall be landscaped to soften the feature's appearance, in accordance with the following:
 - a. A planting strip a minimum of ten (10) feet in width shall be provided around the perimeter of these features. When the feature abuts a buffer yard required by the Zoning Ordinance, and where the proposed buffer yard plantings are sufficient to meet the criteria of this section, additional plantings are not required. This should be noted on the plan.
 - b. The planting strip may contain a variety of plant material, capable of providing a continuous screen at a minimum height of twenty-four (24) inches.
 - c. The plant material shall be placed a minimum of two (2) feet from the edge of pavement to allow for vehicle overhang and door opening. Required plantings shall be set far enough away from the edge of pavement in areas anticipated for snow removal storage, to avoid crushing the plants.
 - d. Earthen berms may be a component of the perimeter-planting strip, but shall not reduce the plant material requirement.
- L. Parking lots within the Village of Berwyn District shall conform to the following:
1. A landscape strip, at least five (5) feet in width, shall separate the parking lot from the right-of-way line or sidewalk fronting the parking lot; the side property lines; and the rear property lines, except at points of access.
 2. Raised planting islands at least five (5) feet in width and the length of the parking stall, shall be spaced not more than every fifteen (15) parking stalls, and at the ends of rows of parking stalls.

§ 99-45. Loading and Storage Areas and Site Element Screening.

Views of all loading areas, equipment and storage areas or yards, and utilitarian site elements shall be screened or lessened to the greatest extent possible, especially when such areas are proposed within one hundred (100) feet of residential properties or face public rights-of-way or patron parking areas.

- A. The portions of loading areas that are not enclosed within buildings shall be screened by fences, walls, architectural elements and/or evergreen plantings to a minimum height of ten (10) feet.
- B. The vehicular use, or open, end of loading areas shall be screened from public view as close to the edge of pavement as practicable by fences, walls, architectural elements, at a minimum height of six (6) feet, and/or evergreen plantings provided at a minimum height of ten (10) feet at planting.
- C. Site element screens, providing a year round visual screen, shall be placed around the perimeter of all other utilitarian areas, such as equipment and storage areas or yards, community recreational vehicle parking lots, and the non-accessible sides of trash enclosures, utility boxes and recreational vehicle storage areas on private property, subject to the following requirements:
 1. Site element screens shall be comprised of:
 - a. Opaque architectural elements, walls or fences, a minimum of six (6) feet in height, softened by plantings, or
 - b. Evergreen and dense deciduous plant material, capable of reaching a minimum height of six (6) feet and seventy-five percent (75%) opacity within one year following planting, or
 - c. Other suitable screening materials, meeting these criteria, with approval from the Board of Supervisors.
 2. Screens shall be placed as close to the element being screened as practicable.
 3. Screens surrounding fenced equipment or storage yards shall also contain one (1) shade tree per fifty (50) feet, or fraction thereof, of perimeter fencing.
- D. Plant material shall conform to the standards of Section 99-38.
- E. Where it can be demonstrated that proposed buffer plantings, required by Section 99-42 of this Article, will adequately screen these areas, this requirement may be partially or completely waived by the Board of Supervisors.

§ 99-46. Stormwater Management Areas.

- A. Plantings and fencing shall be provided around all stormwater management areas and structures to soften views of these features, and visually unite them

with the natural or proposed landscape, while providing sufficient access for maintenance, in accordance with the following:

1. Naturalistic groupings of a mixed variety of plantings, conforming to the standards of Section 99-42.A.2., Perimeter Buffer, shall be provided along the visible edges of basins, berms and outflow structures as appropriate to the type and/or construction of such features.
2. Trees and woody plant materials shall not be located on a constructed or natural berm acting as the impoundment structure of a detention/retention basin. Trees shall be located on the downstream side of an impoundment berm a sufficient distance from the toe of the constructed slope to assure that the toe of the slope is outside the drip line of the species planted at maturity.
3. Where possible, outflow structures should be softened by shrubs or perennial plantings.
4. Low maintenance, water purifying, meadow plantings shall be used on the basin floor, and at a minimum, along the inside slopes of the basin. The seed mixture shall contain species appropriate to the anticipated soil moisture content. Additional meadow plantings are encouraged along the outside slopes of proposed basins, especially when such features are proposed adjacent to other natural environmental systems.
5. Basins, which have the potential to retain a minimum of eighteen (18) inches of water at any given time, shall be completely surrounded by fencing, at least three and one-half (3-1/2) feet in height, in conjunction with the required plantings. Gates shall be provided at appropriate locations that are large enough to accommodate maintenance vehicle access.

§ 99-47. Unit Landscaping.

Foundation plantings shall provided to soften the architectural façade of each proposed or expanded commercial, industrial, institutional, or apartment building, in accordance with the following:

- A. Plants shall be provided in the quantities shown below, and placed along the sides of the building intended for occupant, public or customer use.
 1. For each four (4) dwelling units in an apartment building or continuing care facility:
 - One (1) deciduous tree
 - One (1) evergreen tree
 - Twelve (12) shrubs
 2. For each one hundred (100) linear feet of wall on commercial or industrial buildings:
 - One (1) deciduous tree
 - Two (2) evergreen trees
 - Five (5) shrubs

3. For each one hundred (100) linear feet of wall of institutional building or building expansion:
 - Five (5) deciduous trees
 - Two (2) evergreen trees
 - Twenty-five (25) shrubs
- B. Plants are encouraged to be placed near the buildings or between buildings, to create a setting for the building, along blank walls, and in locations where additional landscaping is needed.
- C. Compliance with this section shall be tabulated in a chart, placed on the plans.
- D. Plant material shall conform to the standards of Section 99-38.

ARTICLE XII
Village of Berwyn (Streetscape Design Standards)

§ 99-48. Streetscape Design Standards.

The design and planting of streetscapes within the Village of Berwyn shall take into consideration the scale and architectural character of the space, in accordance with the following guidelines:

- A. Paving.
 1. A minimum of ten percent (10%) of all proposed paving in pedestrian areas shall be decorative or specialty paving.
 2. Materials may include, but shall not be limited to brick, concrete pavers, and colored, stamped concrete.
 3. All paving materials shall be ADA compliant.
 4. Paving shall be designed to avoid uneven edges resulting from heaving and subsiding, and drainage and erosion problems.
 5. Pavement materials resistant to de-icing salts should be used.
 6. Sidewalks shall be provided to connect bus stop areas with commercial and office properties.
- B. Lighting.
 1. Pedestrian-scaled light standards of a "vintage" style shall be provided where required along the streetscape. In order to control glare, the lamps shall be concealed within the hood of the fixture.
 2. The same light standard shall be used throughout the district.
 3. Banners and holiday lighting may be permitted on light poles.

4. Lighting shall conform to the requirements of Section 805 of the Zoning Ordinance.

C. Site Furnishings.

1. Site furniture, including, but not limited to, benches, kiosks, gazebos, outdoor dining furniture, and trash receptacles, shall be provided throughout the District.
2. Site furnishings shall be of a scale and placement appropriate to use, e.g. benches should be placed in areas where people might congregate, or near building entrances and bus stops, and in sufficient quantity for the anticipated use level.
3. Site furnishings shall be firmly anchored to the pavement surface, or imbedded in a concrete footing, for stability.

D. Fencing.

1. Fencing may be installed to define pedestrian space, courtyards, and to screen and separate uses and activities.
2. Solid fencing utilized for the purpose of screening views may be subject to additional requirements of Section 802 of the Zoning Ordinance.

E. Street Trees.

1. Street trees, as required by Section 99-43, shall be provided in planting pits with an expanded root zone area, such as is provided by continuous trenches beneath sidewalk pavement.
2. Additional systems shall be utilized to ensure the provision of adequate air and water exchange areas, such as is provided by structural soil and/or piping.
3. The soil in the planting pits shall be protected from excessive compaction. This may be accomplished through the use of tree grates, porous pavement, physical barriers, such as fencing or bollards, and ground cover plantings.
4. If utilized, tree grates, shall be expandable and vandal resistant.
5. The expanded planting pit systems shall be designed to avoid uneven pavement edges at changes in materials. They shall be designed to minimize heaving and subsistence.

F. Planters

1. The provision of planters throughout the Village of Berwyn District is encouraged.
2. Planters may be pots, urns or boxes, placed at ground level, in windowsills, or provided as hanging baskets. The bottoms of hanging baskets shall be at least eight (8) feet above the pavement surface, to provide for pedestrian clearance and clear visibility.
3. All planters shall be located to avoid conflicts with pedestrians, vehicular passage and access to parking lots, drainage flow, and the ability to open doors of vehicles parked in on-street parking spaces.

G. General Provisions

1. All street furnishings shall be located to avoid conflicts with pedestrians, vehicular passage and access to parking lots, drainage flow, and the ability to open doors of vehicles parked in on-street parking spaces.
2. A detail sheet shall be provided, listing manufacturer and specifications for each streetscape element.
3. Maintenance of pavement and street furnishing shall be the responsibility of the property owner.
4. Any furnishing, structure and/or other improvement, which is damaged, destroyed or otherwise nonfunctional, shall be repaired or replaced within 60 days of receipt of notice from the township.

**Article XIII
Administration and Enforcement**

§ 99-49. General Provisions; enforcement of specific provisions

- A. It shall be contingent upon anyone proposing land disturbance activities as herein defined and described to consider the standards contained in this Chapter. Unless otherwise directed herein, applications pursuant to the requirements of this Chapter which are required as part of submissions pursuant to the Zoning Ordinance and the Subdivision and Land Development Ordinance, shall conform to the provisions of said chapter for plan submission and review, inspections, fees, plan amendments, violations and penalties and appeals.
- B. Article III, Flood Hazard Area, Article IV, Wetlands and Watercourses, Article V, Riparian Buffer Zone, Article VI Steep Slopes, Article VIII, Woodlands and Wooded Lots, and Article X, Landscaped Buffers as directed herein, shall be administered and enforced pursuant to Chapter 13, Zoning.


- C. Article II, Conservation Plan Requirements, Article VII, Forestry, Article IX, Tree Replacement, Article XI, Landscaping, and Article XII, Village of Berwyn, as directed herein, shall be administered and enforced pursuant to Chapter 118, Subdivision and Land Development.
- D. For those site disturbance activities not related to submissions pursuant to Chapter 118, Subdivision and Land Development, or Ordinance 358.05, Stormwater Management, the following shall apply:
1. Any person proposing site disturbance activities shall submit a narrative and/or map, which clearly indicates how the standards enclosed herein, will be addressed. Such narrative and/or map shall be considered an accompanying document to the permit submissions for those activities requiring a permit under Article 4, Plan and permit required for certain activities, of Section 105.
 2. Provisions regarding the application for a permit, approval and issuance of a permit, Article 4; inspections, Article 5; fees, Article 6; revocation or suspension of a permit, Section 904; performance bond, Section 701; remedies, violations and penalties, Section 905 shall also apply to the narrative and/or map required herein as an accompanying document to the permit application.

§ 99-50. Uses and Structures Rendered Non-conforming by Adoption of Ordinance

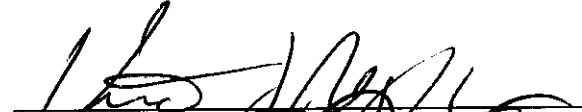

Following the adoption of this Chapter, any use or structure which does not conform to the use provisions of Section 99-19 and Section 99-20 shall become a non-conforming use or structure, regardless of its conformance without consideration of this Chapter. The expansion or continuance of said non-conforming use or structure shall be governed by the requirements of Article 1600 of the Zoning Ordinance of Easttown Township. However, the Zoning Hearing Board shall also ensure that the standards contained in this Chapter are applied to the expansion or continuance of said non-conforming use or structure.

ENACTED AND ORDAINED this 2nd day of October, 2006.

ATTEST:

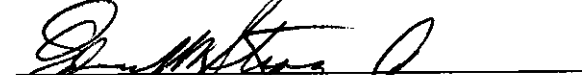

Secretary

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EASTTOWN TOWNSHIP**


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