

**CODE OF THE
TOWNSHIP OF SOMERSET,
PENNSYLVANIA, v0**
Updated 09-15-2009

Township of Somerset

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PREFACE

The Township of Somerset has, over the years, passed through a process of legislative change common to many American communities. While only a few simple laws were necessary at the time of the establishment of the Township, subsequent growth of the community, together with the complexity of modern life, has created the need for new and more detailed legislation for the proper function and government of the Township. The recording of local law is an aspect of municipal history, and as the community develops and changes, review and revision of old laws and consideration of new laws, in the light of current trends, must keep pace. The orderly collection of these records is an important step in this ever-continuing process. Legislation must be more than mere chronological enactments reposing in the pages of old records. It must be available and logically arranged for convenient use and must be kept up-to-date. It was with thoughts such as these in mind that the Board of Supervisors ordered the following codification of the Township's legislation.

Contents of Code

The various chapters of the Code contain all currently effective legislation of a general and permanent nature enacted by the Board of Supervisors of the Township of Somerset, including revisions or amendments to existing legislation deemed necessary by the Board of Supervisors in the course of the codification.

Division of Code

The Code is divided into parts. Part I, Administrative Legislation, contains all Township legislation of an administrative nature, namely, that dealing with the administration of government, that establishing or regulating municipal departments and that affecting officers and employees of the municipal government and its departments. Part II, General Legislation, contains all other Township legislation of a regulatory nature. Items of legislation in this part generally impose penalties for violation of their provisions, whereas those in Part I do not.

Histories

At the end of the Scheme (list of section titles) in each chapter is located the legislative history for that chapter. This History indicates the specific legislative source from which the chapter was derived, including the enactment number (e.g., ordinance number, local law number, bylaw number, resolution number, etc.), if pertinent, and the date of adoption. In the case of chapters containing parts or articles derived from more than one item of legislation, the source of each part or article is indicated in the text, under its title. Amendments to individual sections or subsections are indicated by histories where appropriate in the text.

General References; Editor's Notes

In each chapter containing material related to other chapters in the Code, a table of General References is included to direct the reader's attention to such related chapters. Editor's Notes are used in the text to provide supplementary information and cross-references to related provisions in other chapters.

Appendix

Certain forms of local legislation are not of a nature suitable for inclusion in the main body of the Code but are of such significance that their application is community-wide or their provisions are germane to the conduct of municipal government. The Appendix of this publication is reserved for such legislation and for any other material that the community may wish to include.

Derivation Table

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and articles of the 1990 Code have been included in the 2009 Code, or the reason for exclusion.

Disposition List

The Disposition List is a chronological listing of legislation, indicating its inclusion in the publication or the reason for its exclusion. The Disposition List will be updated with each supplement to the Code to include the legislation reviewed with said supplement.

Index

The Index is a guide to information. Since it is likely that this publication will be used by persons without formal legal training, the Index has been formulated to enable such persons to locate a particular section quickly. Each section of each chapter has been indexed. The Index will be supplemented and revised from time to time as new legislation is added.

Instructions for Amending the Code

All changes to the Code, whether they are amendments, deletions or additions, should be adopted as amendments to the Code. In doing so, existing material that is not being substantively altered should not be renumbered.

Adding new sections. Where new sections are to be added to a chapter, they can be added at the end of the existing material (continuing the numbering sequence) or inserted between existing sections as decimal numbers (e.g., a new section between §§ 65-5 and 65-6 should be designated § 65-5.1).

Adding new chapters. New chapters should be added in the proper alphabetical sequence in the appropriate division or part (e.g., Part I, Administrative Legislation, or Part II, General Legislation), utilizing the reserved chapter numbers. New chapter titles should begin with the key word for the alphabetical listing (e.g., new legislation on abandoned vehicles should be titled "Vehicles, Abandoned" under "V" in the Table of Contents, and a new enactment on coin-operated amusement devices should

be "Amusement Devices" or "Amusement Devices, Coin-Operated" under "A" in the Table of Contents). Where a reserved number is not available, an "A" chapter should be used (e.g., a new chapter to be included between Chapters 166 and 167 should be designated Chapter 166A).

Adding new articles. New articles may be inserted between existing articles in a chapter (e.g., adding a new district to the Zoning Regulations) by the use of "A" articles (e.g., a new article to be included between Articles XVI and XVII should be designated Article XVIA). The section numbers would be as indicated above (e.g., if the new Article XVIA contains six sections and existing Article XVI ends with § 166-30 and Article XVII begins with § 166-31, Article XVIA should contain §§ 166-30.1 through 166-30.6).

Supplementation

Supplementation of the Code will follow the adoption of new legislation. New legislation or amendments to existing legislation will be included and repeals will be indicated as soon as possible after passage. Supplemental pages should be inserted as soon as they are received and old pages removed, in accordance with the Instruction Page which accompanies each supplement.

Acknowledgment

The assistance of the Township officials is gratefully acknowledged by the editor. The codification of the legislation of the Township of Somerset reflects an appreciation of the needs of a progressive and expanding community. As in many other municipalities, officials are faced with fundamental changes involving nearly every facet of community life. Problems increase in number and complexity and range in importance from everyday details to crucial areas of civic planning. It is the profound conviction of General Code that this publication will contribute significantly to the efficient administration of local government. As Samuel Johnson observed, "The law is the last result of human wisdom acting upon human experience for the benefit of the public."

PART I ADMINISTRATIVE LEGISLATION

Chapter 1, GENERAL PROVISIONS

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Adoption of Code

[An ordinance adopting the Code of the Township of Somerset and making certain substantive changes to existing ordinances of the Township is presently proposed before the Board of Supervisors. Upon final adoption, it will be included here as Article I of this chapter.]

Chapter 5, AGREEMENTS

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Public Water Line System [Adopted 2-20-1991 by Ord. No. 2-1991]

§ 5-1. Authorization.

Somerset Township, by and through its Board of Supervisors, hereby authorizes the appropriate Township officials to execute an Agreement with the Water Company, a proposed copy of which is attached hereto and marked as Exhibit A.^{iEN}

ARTICLE II, Water Line Conveyance [Adopted 4-15-1991 by Ord. No. 6-1991]

§ 5-2. Authorization.

The appropriate Township officials are hereby authorized to prepare, execute and deliver to the Water Company a deed of conveyance relating to the aforestated project^{iiEN} as installed in the rights-of-way as indicated in Chapter 173, Water, Article I, of this Code, with said deed being prepared in a manner consistent with the applicable law and consistent with the requirements of the Water Company.

§ 5-3. Deed form.

The form of said deed shall, by resolution, be included herewith and be made a part hereof when prepared and approved by the Water Company.

Chapter 11, AUTHORITIES

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Water and Sewer Authority [Adopted 3-17-1971 by Ord. No. 3-1971 (Ch. 1, Part 1, of the 1990 Code)]

§ 11-1. Intent.

It is the desire of the Board of Supervisors of the Township of Somerset, Washington County, Pennsylvania, and the Board of Supervisors hereby signifies its intention to organize an Authority under the Municipality Authorities Act of May 2, 1945, P.L. 382, as amended.^{iiiEN}

§ 11-2. Name of authority.

The name of the proposed Authority shall be "Somerset Township Water and Sewer Authority."

§ 11-3. Appointed members.

The following persons are hereby appointed members of the Board of Somerset Township Water and Sewer Authority for the terms of office indicated:

[Hereafter followed the names and addresses and terms of office of the appointed members]

§ 11-4. Articles of Incorporation.

Pursuant to said desire and intention of the Board of Supervisors and in conformance with the terms and provisions of said Municipality Authorities Act of 1945 and its amendments, the proposed Articles of Incorporation are hereby set forth in full, as follows:

Articles of Incorporation

To: The Secretary of the Commonwealth of Pennsylvania Harrisburg, Pennsylvania

In compliance with requirements of the Municipality Authorities Act of May 2, 1945, P.L. 382, as amended, and pursuant to Ordinance adopted by the municipal authorities of the Township of Somerset, Washington County, Pennsylvania, signifying their desire and intention to form a Municipality Authority and that a Certificate of Incorporation be issued to said Authority, the Township of Somerset does hereby certify:

1. The name of the Authority shall be: Somerset Township Water and Sewer Authority.
2. The Authority is formed under the Act of May 2, 1945, P.L. 382, as amended.
3. The following other Authorities have been organized under the provisions of this Act or the Act approved the 28th day of June, 1935, P.L. 463, and are in existence within said Township.
None
4. The name of the incorporating municipality is the Township of Somerset, Washington County, Pennsylvania.
5. The names and addresses of the Chairman of the Board of Supervisors and of all its members are as follows: [Hereafter followed the names and addresses of the Chairman of the Board of Supervisors and all its members].
6. The names, addresses and terms of office of the first members of the Board of said Authority are: [Hereafter followed the names, addresses and terms of the first members of the Board.] all of whom are residents and citizens of the Township of Somerset, Washington County, Pennsylvania.

§ 11-5. Authority to effect the incorporation of authority.

The proposed Articles of Incorporation of the said Authority shall be executed by and on behalf of the Township of Somerset by the Chairman of the Board of Supervisors, and the Seal of said Township shall be thereto affixed and attested by the Township Secretary, and filed with the Secretary of the Commonwealth. The Solicitor is hereby authorized and directed to cause to be published the notice of intention to file the Articles of Incorporation with the Secretary of Commonwealth as required by the aforementioned Act. No additional publication of this article is required.

Chapter 18, FIREMEN'S RELIEF ASSOCIATION

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 8-13-1990 by Ord. No. 4-1990 (Ch. 1, Part 2, of the 1990 Code). Amendments noted where applicable.]

§ 18-1. Recognition of Firemen's Relief Association.

- A. The specific associations actively engaged will be determined annually by resolution. [Amended 3-26-1991]
- B. The associations as determined by the Board of Supervisors are designated the proper associations to

receive such funds as are due and payable to the Township Treasurer by the Treasurer of the State of Pennsylvania from the tax on premiums from foreign fire insurance companies.^{ivEN}

§ 18-2. Certification to Auditor General.

The Board of Supervisors shall annually certify to the Auditor General of the commonwealth the name(s) of the active associations and the percentage of service they contribute to the protection of the Township of Somerset. Such certification shall be on forms prescribed by the Auditor General.

§ 18-3. Annual appropriation.

There is annually appropriated from the Township Treasury all such sums of money that may hereafter be paid into the Township Treasury by the Treasurer of the State of Pennsylvania on account of taxes paid on premiums of foreign fire insurance companies in pursuance of 1984 Act of December 18, No. 205, § 701 et seq.^{vEN} as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania. Such monies received by the Township Treasurer from the State Treasurer shall be distributed to the duly recognized association(s) within 60 days of receipt. The funds shall be distributed on the basis of the percentage of service established in the certification to the Auditor General and with other provisions of the Act.

Chapter 22, LOCAL GOVERNMENT INVESTMENT TRUST

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 4-15-1991 by Ord. No. 5-1991. Amendments noted where applicable.]

§ 22-1. Declaration of Trust.

This governmental unit shall join with other local governmental units in accordance with the Intergovernmental Cooperation Act^{viEN} and other similar acts by becoming a settlor of the Pennsylvania Local Government Investment Trust (the "Trust") and entering into the Declaration of Trust, which is adopted by reference with the same effect as if it had been set out verbatim in this section and a copy of which shall be filed with the minutes of the meeting at which this chapter was adopted.

§ 22-2. Purchase and redemption of shares.

This governmental unit is authorized to purchase shares in the Trust from time to time with available funds, and to redeem some or all of those shares from time to time as funds are needed for other purposes, subject to the terms and restrictions of the Declaration of Trust referred to in § 22-1. These actions are to be taken by the officers designated for this purpose, pursuant to general or specific instructions by the governing body of this governmental unit.

§ 22-3. Custody of funds.

The Trustees of the Trust are designated as having official custody of this governmental unit's funds which are invested by the purchase of shares in the Trust.

§ 22-4. Findings and determinations.

As required by the Intergovernmental Cooperation Act the following matters are specifically found and determined:

A. The conditions of the agreement are set forth in the Declaration of Trust referred to in § 22-1;

- B. This governmental unit's participation in the Trust shall be terminable at any time by ordinance/resolution, subject to the terms and restrictions of the Declaration of Trust referred to in § 22-1;
- C. The Declaration of Trust and the purchase of its shares are for the purpose of investing this governmental unit's funds in obligations which are otherwise legal investments, as part of a pooled arrangement with other local governmental units, thereby achieving economic and other advantages of pooled investments, and the powers and scope of authority delegated are set forth in the Declaration of Trust referred to in § 22-1;
- D. It is not necessary to finance the agreement authorized herein from funds of this governmental unit except through the purchase of shares in the Trust;
- E. The Trust shall be managed by a Board of Trustees as set forth in the Declaration of Trust and the bylaws provided for therein;
- F. Shares may be repurchased and redeemed from time to time as this governmental unit may determine to be necessary or appropriate to meet its cash investment requirements in accordance with the terms and restrictions of the Declaration of Trust referred to in § 22-1; and
- G. The Trust shall be empowered to enter into contracts for policies of group insurance and employee benefits, including social security, for its employees.

Chapter 25, MANAGER

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 8-23-1999 by Ord. No. 2-1999. Amendments noted where applicable.]

§ 25-1. Creation of office.

The office of Township Manager is hereby created by the Township of Somerset. This appointment is made pursuant to the provisions of 53 P.S. § 66301.

§ 25-2. Appointment and removal.

The Manager shall be appointed by resolution for an indefinite term by a majority of the Board of Township Supervisors ("Supervisors"). The Manager shall serve at the pleasure of the Supervisors and may be removed at any time by a majority vote of the Supervisors.

§ 25-3. Qualifications.

The Manager shall be chosen solely on the basis of executive and administrative abilities, with special reference to actual experience and knowledge of accepted practices in respect to the duties of office as herein outlined. The Manager need not be a resident of the Township or of the Commonwealth of Pennsylvania at the time of appointment, but the Supervisors may require that within 30 days after appointment, the Manager shall become and during the tenure of the office shall remain a resident of the Township. The Supervisors, by resolution, shall state a job description for the position of Manager, which shall include job duties and responsibilities.

§ 25-4. Bond.

Before entering upon the duties of Manager, the Manager shall give a bond to the Township with a bonding company as surety, to be approved by the Township, in the sum of \$100,000 conditioned for the

faithful performance of Manager duties. The premium shall be paid by the Township. This amount, if necessary, shall be changed by resolution.

§ 25-5. Compensation.

The salary of the Township Manager shall be fixed by the Supervisors by resolution.

§ 25-6. Powers and duties.

- A. The Manager shall be the Chief Administrative Officer of the Township and shall be responsible to the Supervisors as a whole for the proper and efficient administration of the affairs of the Township. The powers and duties shall relate to the general management of all Township business not expressly by statute imposed or conferred upon other Township officers.
- B. Subject to recall by ordinance of the Supervisors, the powers and duties of the Township Manager shall include the following:
- (1) The Manager shall supervise and be responsible for the activities of all municipal departments as so delegated by the Board of Supervisors by resolution.
 - (2) The Manager shall recommend to the Supervisors the employment or discharge of any municipal employee; however, the authority to employ or discharge the same shall be vested in the Supervisors.
 - (3) The Manager shall prepare and submit to the Supervisors before the close of each fiscal year, or on such alternative date as the Supervisors shall determine, a budget for the next fiscal year and an explanatory budget message. In preparing the budget, the Manager, or an official designated by the Manager shall obtain from the head of each department, agency, board or office, estimates of revenues and expenditures and other supporting data as the Manager requests. The Manager shall review such estimates and may revise them before submitting the budget to the Supervisors; provided, however, that the Manager concomitantly submit to the Board a written explanation of his revisions and the reason(s) therefor.
 - (4) The Manager shall be responsible for the administration of the budget after its adoption by the Supervisors.
 - (5) The Manager shall hold such other municipal offices or head one or more of the municipal departments as the Supervisors may from time to time direct.
 - (6) The Manager shall attend all meetings of the Supervisors and the Somerset Township Planning Commission (Planning Commission) and their committees with the right to take part in the discussion and shall give notice of all special meetings of its committees.
 - (7) The Manager shall prepare the agenda for each meeting (regular or special) of the Supervisors and Planning Commission and shall supply facts pertinent thereto.
 - (8) The Manager shall keep the Supervisors informed as to the conduct of Township affairs, submit periodic reports on the condition of Township finances and such other reports as the Supervisors request and make such recommendations to the Supervisors as the Manager deems necessary.
 - (9) The Manager shall submit to the Supervisors, as soon as possible after the close of each fiscal year, a complete report on the financial and administrative activities of the Township for the preceding year.
 - (10) Unless the duties are imposed elsewhere by law, ordinance or resolution, the Manager, when directed by the Supervisors, shall see that the provisions of all franchises, leases, permits,

licenses, privileges and agreements granted by the Township are observed.

- (11) The Manager may employ, by and with the approval of the majority of the Supervisors, experts and consultants to perform work and to advise the Manager in connection with any of the functions of the Township.
- (12) The Manager shall attend to the letting of contracts duly approved by the Supervisors and the Township Solicitor and shall supervise the performance and faithful execution of the same, except insofar as such duties are expressly imposed upon some other Township officer by statute.
- (13) Unless the duties are imposed elsewhere by law, ordinance or resolution, the Manager shall see that all monies owed the Township are promptly paid and that, subject to approval by the Township Solicitor and the Supervisors, proper proceedings are taken for the preserving and collection of all the Township's claims.
- (14) The Manager shall be the purchasing officer of the Township and shall purchase, in accordance with the provisions of the Second Class Township Code, any applicable ordinances and resolutions of the Supervisors, all supplies and equipment for the various agencies, boards, departments and other offices of the Township. The Manager shall keep an account of all purchases and shall from time to time, when directed by the Supervisors, make a full written report thereof. The Manager shall also issue rules and regulations, subject to the approval of the Supervisors, governing the requisition and purchasing of all municipal supplies and equipment.
- (15) All complaints regarding services or personnel of the Township shall be referred to the office of the Manager, except those pertaining to the Manager which shall be referred to one or more Supervisors. The Manager shall make a report of complaints regarding services or personnel of the Township to the Supervisors who may authorize the Manager to investigate further and report the results of his investigation to the Board for such disposition as the Board may deem necessary or, alternatively, the Board may authorize the Manager to dispose of such complaints and report as to the final disposition to the Township Supervisors.

§ 25-7. Disability or absence.

If the Manager shall, in the sole discretion of the Supervisors, become ill, disabled or for some other reason must be absent from the Township, the Supervisors shall designate one qualified person to perform the duties of the Manager during the illness, disability or absence of the Manager. The person so designated shall not perform the Manager's duties for a period longer than three weeks without approval of the Supervisors.

Chapter 32, PENSIONS

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Nonuniformed Employees Pension Plan [Adopted 2-22-1990 by Ord. No. 1-1990 (Ch. 1, Part 5, of the 1990 Code); amended in its entirety 12-9-2002 by Ord. No. 1-2003]

§ 32-1. Purpose.

The purpose of this amendment is to authorize the Board of Supervisors to enter into an agreement with American Funds to provide for pension benefits under a defined contribution pension plan, for all qualified nonuniformed employees of Somerset Township who are or may be qualified to participate in such a plan.

§ 32-2. Administration.

The resulting agreement will be administered consistent with the provisions of Act 205 of 1984, 53 P.S. § 895.101 et seq.

§ 32-3. Participation.

The subject plan will provide benefits to all participants of said plan subject to the conditions set forth in the agreement.

§ 32-4. Amendments.

Any amendments or changes to the agreement will be made by resolution.

§ 32-5. Definitions. [Added 5-13-2009 by Ord. No. 2-2009]

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

COMPENSATION -- The total compensation paid to the employee by the employer within the prior plan year which is reportable on his Internal Revenue Service W-2 form. This definition specifically excludes all other compensation.

Chapter 37, PLANNING COMMISSION

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 8-13-1990 by Ord. No. 4-1990 (Ch. 1, Part 3, of the 1990 Code). Amendments noted where applicable.]

§ 37-1. Creation of Commission.

A Township Planning Commission, to be composed of three members, appointed as provided by law (53 P.S. § 10202), is hereby created in and for the Township. The Planning Commission shall perform all duties and may exercise all powers conferred by law upon Township planning agencies; provided, the Planning Commission previously created in and for the said Township shall constitute the tenure of any of the members thereof, but any and all vacancies in the said Commission, hereafter occurring, shall be filled in the manner and for the term provided in the law governing Township Planning Commissions in effect at the time of the happening of the said vacancy.

Chapter 44, SALARIES AND COMPENSATION

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Supervisors [Adopted 10-30-1989 by Ord. No. 1989-2 (Ch. 1, Part 4, of the 1990 Code); amended in its entirety 12-28-1995 by Ord. No. 1-1996]

§ 44-1. Salary established.

Each Supervisor of Somerset Township elected or appointed to office on or after the effective date of this article shall receive compensation as a Supervisor in an annual amount of \$1,875.

§ 44-2. Payment.

Such compensation shall be paid in monthly or quarterly installments.

**PART II
GENERAL LEGISLATION**

Chapter 53, AMUSEMENT DEVICES

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 5-2-1983 by Ord. No. 14-1983 (Ch. 13, Part 1, of the 1990 Code). Amendments noted where applicable.]

§ 53-1. License required for certain electronic or mechanical devices.

No person shall set up, establish, or maintain any mechanical device, machine, or apparatus of any kind by the insertion of a coin or other metal disc, slug, or token, including, but not limited to, pinball machines, jukeboxes, video games, poker machines that have been declared legal by a Pennsylvania appellate court, coin-operated pool tables, coin-operated motion picture machines, and any and all games operated as games of skill or played for amusement or entertainment without a license. Application to the Township is required within 15 days after the effective date of this chapter. Application thereafter shall be made by January 15 of the following year.

§ 53-2. License fees. [Amended 2-10-1997 by Ord. No. 1-1997^{vii}EN]

- A. License fees shall be as set by resolution of the Board of Supervisors.
- B. The license shall not be transferable from one owner to another.
- C. If one machine is replaced by another, a new license will not be required, provided the total number of machines is not increased.

§ 53-3. License application.

The license application and payment shall be made to the Township Secretary. Upon receipt of application and payment, the necessary license will be issued.

§ 53-4. Violations and penalties. [Amended 8-13-1990 by Ord. No. 4-90^{viii}EN]

Any person who violates or permits a violation of this chapter, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

Chapter 60, BRUSH, GRASS AND WEEDS

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 10-12-1998 by Ord. No. 4-1998. Amendments noted where applicable.]

§ 60-1. Unlawful growths; declaration; exemptions.

- A. No person, firm or corporation or any agent, servant, representative or employee of any such person, firm or corporation owning or occupying any property within Somerset Township (Township) shall permit:
- (1) Any grass, weeds or any other vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to:
 - (a) Exceed a height of eight inches.
 - (b) Throw off any unpleasant or noxious odor.
 - (c) Conceal any filthy deposit.
 - (d) Create or produce pollen.
 - (2) Poison ivy, ragweed or other poisonous plants, or plants detrimental to health, to grow or remain upon such premises in such manner that they shall extend or border upon, or overhang any street, sidewalk, or other public place.
- B. Any grass, weeds or other vegetation growing upon any premises in the Township in violation of any of the provisions of Subsection A above is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Township.
- C. Excluded from application of these provisions are wooded areas and open fields or acreage to within 100 feet of any building or structure.

§ 60-2. Cutting and removal required by owner or occupant.

The owner of any premises, as to vacant premises or premises occupied by the owner, or the occupant thereof, in the case of premises occupied by other than the owner thereof, shall trim, cut or remove all grass, weeds or other vegetation growing or remaining upon such premises as often as may be necessary to bring such premises into compliance with the provisions of § 60-1. Provided, however, that cutting, trimming or removing such weeds, grass or other vegetation at least twice a month in the months of May, June, July, August and September and the removal of the weeds, grass and other vegetations so cut shall be deemed evidence that no violation of this section shall have been created.

§ 60-3. Duties of owner or occupant.

The owner of any vacant premises or premises occupied by the owner and the occupant thereof, in the case of premises occupied by other than the owner thereof, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of any of the provisions of § 60-1 of this chapter.

§ 60-4. Notice to comply; noncompliance.

The Code Enforcement Officers (CEO) of Somerset Township, or any officer of the Township designated thereby for the purpose, is hereby authorized to give notice, by personal service or by United States mail, to the owner or occupant, as the case may be, of any premises whereof grass, weeds or other

vegetation is growing or remaining in violation of any of the provisions of this chapter, directing and requiring such owner or occupant to remove, trim or cut such grass, weeds or other vegetation so as to conform to the requirements of this chapter within five days after the issuance of such notice. In case any person shall neglect, fail or refuse to comply with such notice within the period of time stated therein, the Township may cause such grass, weeds or other vegetation to be removed, trimmed or cut, and the cost thereof, with an additional charge of 10%, shall be collected by the Township from such person in default, in the manner provided by law.

§ 60-5. Violations and penalties.

Any person who shall violate any provisions of this chapter shall, upon conviction thereof for each violation, be subject to a fine of up to \$600, plus costs of prosecution.

Chapter 65, BUILDING PERMITS

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 4-15-1983 by Ord. No. 6-1983; amended in its entirety 8-13-1990 by Ord. No. 4-1990 (Ch. 4, Part 1, of the 1990 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Unsafe buildings -- See Ch. 69.

Uniform construction codes -- See Ch. 81.

§ 65-1. Title.

This chapter shall be known as the "Building Permit Ordinance."

§ 65-2. Permit required.

It shall be unlawful for any person or persons, partnership or corporation, to erect or construct any new building, either for residential or commercial purposes, within the limits of Somerset Township, Washington County, Pennsylvania, or to alter, repair, enlarge, as hereafter defined, any existing building or remove any existing building within such limits until there has first been secured by the owner or owners of said building a permit issued by the Code Enforcement Officer of Somerset Township. For purposes of this chapter, to alter, repair or enlarge means any external construction intending to increase the building's living or use area and when complete said area will be totally enclosed.

§ 65-3. Procedure.

Prior to the issuance of a permit required under this chapter, the owner or owners of said premises or building shall furnish to the Code Enforcement Officer of Somerset Township an application, in writing, which shall include a copy of the plans and specifications, together with the name of the architect, engineer or contractor, if applicable, a statement of the estimated costs of said building or alteration, enlargement or repair thereof and their mailing addresses.

§ 65-4. Permit lapse; reissuance of lapsed permit. ^{ixEN}

Any work not commenced within six months after issuance of a permit will result in a lapse of that permit which will require reapplication and payment of a reissuance fee as set by resolution of the Board of Supervisors.

§ 65-5. Building time period.

All work shall be subject to all federal, commonwealth, county and Township codes, ordinances, rules and regulations and must be completed within one year from date of issuance of permit unless an extension is granted by the Township, in writing, upon application duly made.

§ 65-6. Permit fees.

All new construction or the raising, repairing, altering, enlarging or removing any existing building within the limits of Somerset Township shall require a building permit which shall cost upon application \$5. In addition thereto:

- A. Any residential construction which through repair, alteration or enlargement (as defined above), increases the living or use area of an existing building in an amount up to 150 square feet will not be assessed an additional fee.
- B. Any residential construction which is intended to repair, alter or enlarge an existing building (as defined above) in an amount greater than 150 square feet will be assessed a fee of \$0.02 per one square foot of construction thereinabove.
- C. Any commercial and agricultural construction which repairs, alters or enlarges an existing building (as defined above) shall be charged a fee of \$0.06 per one square foot of construction.
- D. Any new residential construction will be assessed a fee based on \$0.02 per one square foot of living or use space.
- E. Any new commercial and agricultural construction will be assessed a fee based on \$0.06 per one square foot of usable space.
- F. No fee, with the exception of the \$5 permit fee, will be charged for any personal use of agricultural outbuilding under 1,800 square feet in size.
- G. A permit will be required relative to the installation of an inground swimming pool with the fee therefor, in addition to the \$5 permit fee, assessed at a rate \$1 per \$1,000 of construction costs.

§ 65-7. Violations and penalties. xEN

Any person who violates or permits a violation of this chapter, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

Chapter 69, BUILDINGS, UNSAFE

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 4-15-1983 by Ord. No. 8-1983; amended in its entirety 8-13-1990 by Ord. No. 4-1990 (Ch. 4, Part 2, of the 1990 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Uniform construction codes -- See Ch. 81.

§ 69-1. Definitions.

A. As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

BUILDING -- An independent structure having a roof supported by columns or walls resting on its own foundation and includes dwelling, garage, barn, stable, shed, greenhouse, mobile home, plant, factory, warehouse, school or similar structure.

DANGEROUS BUILDING -- All buildings or structures which have any or all of the following defects shall be deemed dangerous buildings:

- (1) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base;
- (2) Those which, exclusive of the foundation, show damage or deterioration to 33% of the supporting member or members, or damage or deterioration to 50% of the nonsupporting enclosing or outside walls or covering;
- (3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;
- (4) Those which have been damaged by fire, wind or other causes so as to be dangerous to life, safety, or the general health and welfare of the occupants or the public;
- (5) Those which are so damaged, dilapidated, decayed, unsafe, unsanitary, vermin infested or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein;
- (6) Those which have parts thereof which are so attached that they may fall and injure property or members of the public;
- (7) Those which lack illumination, ventilation or sanitation facilities or because of another condition are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the occupants or the public;
- (8) Those which because of their location are unsanitary, or otherwise dangerous, to the health or safety of the occupants or the public;
- (9) Those existing in violation of any provision of the building code, fire prevention code, or other ordinances of the Township.

DWELLING -- Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

DWELLING UNIT -- Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living or sleeping by human occupants.

EXTERMINATION -- Control and elimination of insects, rodents or other pests by eliminating their harborage places, removing or making inaccessible materials that may serve as their food, poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods.

GARBAGE -- Animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

INFESTATION -- Presence, within or around a dwelling, of any insects, rodents or other pests.

OWNER -- Person who, alone or jointly or severally with others:

- (1) Shall have legal title to any dwelling, or dwelling unit, with or without accompanying actual possession thereof; or
- (2) Shall have charge, care or control of any dwelling or dwelling unit, as owner or agent of the

owner, or as executor, executrix, administrator, administratrix, or guardian of the estate of the owner. Any such person thus representing the actual owner shall be bound to comply with the provisions of this chapter and with rules and regulations adopted pursuant thereto, to the same extent as if he were the owner.

PERSON -- Any individual, firm, corporation, association or partnership, or other legal entity.

PROPERTY -- A piece, parcel, lot or tract of land.

RUBBISH -- Combustible and noncombustible waste materials, except garbage, including residue from the burning of wood, coal, coke, and other combustible material, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

STRUCTURE -- Anything constructed or erected with a fixed or ascertainable location on the ground or in water, whether or not affixed to the ground or anchored in the water, including buildings, walls, fences, platforms, docks, wharves, billboards, signs and walks.

B. Whenever the words "dwelling," "dwelling unit" or "premises" are used in this chapter, they shall be construed as though they were followed by the words "or any part thereof."

§ 69-2. Dangerous buildings declared nuisances.

All dangerous buildings within the terms of § 69-1 of this chapter are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as herein provided.

§ 69-3. Standards for repair, vacation or demolition.

The following standards shall be followed in substance by the Enforcement Officer of the Township in ordering repair, vacation, or demolition:

- A. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered to be repaired.
- B. If the dangerous building is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants or the public, and is so placarded, it shall be ordered to be vacated within such length of time, not exceeding 30 days, as is reasonable.
- C. No dwelling or dwelling unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Enforcement Officer. The Enforcement Officer shall remove such placard whenever the defect or defects upon which the placarding action were based have been eliminated.
- D. If a dangerous building is 50% or more damaged or decayed, or deteriorated from its original condition; if a dangerous building cannot be repaired, so that it will no longer exist in violation of the terms of this chapter; or if a dangerous building is a fire hazard existing or erected in violation of the terms of this chapter or any ordinance of the Township or statute of the Commonwealth of Pennsylvania, it shall be ordered to be demolished; provided, the cost of repairs to rectify or remove the conditions constituting the nuisance exceed 50% of the market value of the building at the time demolition is proposed.

§ 69-4. Duties of Enforcement Officer.

- A. The Enforcement Officer shall inspect on a regular basis dwellings, buildings and structures to determine whether any conditions exist which render such premises dangerous buildings within the terms of § 69-1 above.
- B. Whenever an inspection discloses that a dwelling, building or structure has become a public

nuisance, the Enforcement Officer shall issue a written notice to the person or persons responsible therefor. The notice:

- (1) Shall be in writing.
 - (2) Shall include a statement of the reasons it is being issued.
 - (3) Shall state a reasonable time to rectify the conditions constituting the nuisance or to remove and demolish the dwelling, building or structure.
 - (4) Shall be served upon the owner, or his agent, or the occupant, as the case may require.
 - (a) Except in emergency cases and where the owner, occupant, lessee, or mortgagee is absent from the Township, all notices shall be deemed to be properly served upon the owner, occupant or other person having an interest in the dangerous building, if a copy thereof is served upon him personally, or if a copy thereof is posted in a conspicuous place in or about the structure affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of the commonwealth.
 - (b) Except emergency cases, in all other cases where the owner, occupant, lessee, or mortgagee is absent from the Township, all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, and all other persons having an interest in said building, as shown by the records of the County Recorder of Deeds, to the last known address of each, and a copy of such notice shall be posted in a conspicuous place on the dangerous building to which it relates. Such mailing and posting shall be deemed adequate service.
 - (5) May contain an outline of remedial action which, if taken, will effect compliance with the provisions of this chapter and with the rules and regulations adopted pursuant thereto.
- C. Appear at all hearings conducted by the Board of Supervisors and testify as to the condition of dangerous buildings.

§ 69-5. Hearings.

- A. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter may request and shall be granted a hearing on the matter before the Board of Supervisors; provided that such person shall file with the Township Secretary a written petition requesting such hearing and setting forth a brief statement of the grounds therefor within 10 days after the day the notice was served. Upon receipt of such petition, the Township Secretary shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than 30 days after the day on which the petition was filed.
- B. After such hearing the Board of Supervisors shall sustain, modify or withdraw the notice. If the Board of Supervisors sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this chapter shall automatically become an order if a written petition for a hearing is not filed with the Township Secretary within 10 days after such notice is served.
- C. Any aggrieved party may appeal the final order to the Court of Common Pleas in accordance with the provisions of the Judicial Code.

§ 69-6. Removal of notice prohibited.

No person shall remove or deface the notice of dangerous building, except as provided in § 69-3C.

§ 69-7. Emergency cases.

Whenever the Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, he may, without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding the other provisions of this chapter, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Enforcement Officer shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this chapter have been complied with, the Enforcement Officer shall continue such order in effect, or modify, or revoke it. The costs of such emergency repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided herein for other cases.

§ 69-8. Abatement by municipality.

If the owner, occupant, mortgagee, or lessee fails to comply with the order of the Enforcement Officer within the time specified in the notice issued by him and no petition for a hearing is filed within 10 days thereafter, or following a hearing by the Board of Supervisors where the order is sustained thereby, the Enforcement Officer shall cause such building or structure to be repaired, vacated, or demolished, as determined by the Board of Supervisors in accordance with the standards hereinbefore provided. The Township may collect the cost of such repair, vacation or demolition together with a penalty of 10% of such cost, in the manner provided by law. Or the Township may seek injunctive relief in a court of competent jurisdiction pursuant to the rules of civil procedure.

§ 69-9. Violations and penalties. ^{xiEN}

Any person who violates or permits a violation of this chapter, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

Chapter 76, CONDUCT

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Lewd Material [Adopted 5-6-1977 by Ord. No. 2-1977 (Ch. 6, Part 1, of the 1990 Code)]

§ 76-1. Definitions.

For the purpose of this article, the words and phrases set forth below shall have the meaning respectively ascribed to them:

AUDIENCE -- One or more persons who are permitted to view a performance (a) for valuable consideration or (b) in or from a public place.

DISPLAY PUBLICLY -- The exposing, placing, posting, exhibiting, or in any other fashion displaying in any location, whether public or private, material or a performance in such a manner that it may be readily seen and its content or character distinguished by viewing it in or from a public place or vehicle.

DISSEMINATE -- To manufacture, issue, publish, sell, lend, distribute, transmit, broadcast, exhibit or present material or to offer or agree to do the same, or to have in one's possession with intent to do the same.

HARMFUL TO MINORS -- That quality of any description or representation in whatever form of nudity, sexual conduct, sexual excitement or sadomasochistic abuse, when it: [Added 7-14-1997 by Ord. No. 2-1997]

- A. Predominately appeals to the prurient, shameful and morbid interest of minors;
- B. Is patently offensive to prevailing standards of the adult community as a whole with respect to what is suitable material for minors; and
- C. Is utterly without redeeming social importance for minors.

KNOWINGLY -- Having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry, or both: [Added 7-14-1997 by Ord. No. 2-1997]

- A. The character and content of any material described herein which is reasonably susceptible of examination by the defendant; and
- B. The age of the minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

LEWD MATERIAL -- Any material or performance in which all of the following elements are present:

- A. Considered as a whole, by the average person, applying the contemporary community standards of Somerset Township, it appeals to the prurient interest in sex;
- B. It depicts, describes or represents in a patently offensive way, sexual conduct, as hereinafter defined; and
- C. Taken as a whole, it lacks serious literary, artistic, political or scientific value.

MATERIAL -- Any printed matter, visual representation, or sound recording, and includes but is not limited to books, magazines, motion picture films, pamphlets, newspapers, pictures, photographs, drawings, three-dimensional forms, sculptures, and phonograph, tape or wire recordings.

MINOR -- Any person under the age of 18 years. [Added 7-14-1997 by Ord. No. 2-1997]

NUDITY -- Uncovered, or less than opaquely covered, postpubertal human genitals or pubic area, the postpubertal human female breast below a point immediately above the top of the areola or the covered human male genitals in a discernibly turgid state. For the purpose of this definition, a female breast is considered uncovered if the nipple only or the nipple and the areola only are covered.

OBSCENE -- See definition of "lewd material," above. [Added 7-14-1997 by Ord. No. 2-1997]

PANDER -- Advertising or propagandizing in connection with the sale of material, the offering of a service, or the presentation or exhibition of a performance by appealing to the prurient interest of potential customers.

PERFORMANCE -- Any play, dance or other live exhibition performed before an audience. [Amended 7-14-1997 by Ord. No. 2-1997]

PERSON -- Any individual, partnership, firm, association, corporation or other legal entity.

PRURIENT INTEREST -- Desire or craving for sexual stimulation or gratification. In determining "prurient interest," the material or performance shall be judged with reference to average persons, unless it appears from the character of the material or performance that it is designed to appeal to the prurient interest of a particular group of persons, including, but not limited to, homosexuals or sadomasochists. In that case, it shall be judged with reference to the particular group for which it was designed.

PUBLIC PLACE OR VEHICLE -- Any of the streets, alleys, parks, boulevards, schools or other public property in the Township, or any dance hall, rental hall, theater, amusement park, liquor establishment, store, depot, place of public accommodation, or other private property generally frequented by the public for the purposes of education, recreation, amusement, entertainment, sport, shopping or travel; or any vehicle for public transportation, owned or operated by government, either directly or through a public corporation or authority, or owned or operated by any nongovernmental agency for the use, enjoyment or transportation of the general public.

SADOMASOCHISTIC ABUSE -- Flagellation or torture by or upon a person who is nude or clad in undergarments or in a sexually revealing or bizarre costume, or the condition of such person being fettered, bound or otherwise physically restrained, in an apparent act of sexual stimulation or gratification.

SEXUAL CONDUCT

- A. Masturbation;
- B. Sexual intercourse, whether genital-genital, oral-genital, oral-anal, or anal-genital;
- C. Any erotic fondling or touching of the covered or uncovered genitals; buttocks, pubic area, or any part thereof the breasts of the female; whether the conduct described in Subsection A through C is engaged in alone or between members of the same or opposite sex, or between humans and animals or humans and inanimate objects;
- D. Actual or simulated display or exhibition of the human pubic area or genitals or any part thereof;
- E. Sexual excitement, as hereinafter defined; or
- F. Sadomasochistic abuse as hereinafter defined.

SEXUAL EXCITEMENT -- The facial expressions, movements, utterances or any other physical responses of a human male or female, whether alone or with others, whether clothed or not, who is in an apparent state of sexual stimulation or arousal, or experiencing the physical or sensual reactions of humans engaging in or witnessing sexual conduct.

§ 76-2. Disseminating and/or promoting lewd material.

It shall be unlawful for any person, as defined in this article, to disseminate and/or promote and/or display publicly lewd material in the Township. A person shall be guilty of the offense of disseminating and/or promoting and/or displaying publicly lewd material if, knowing its content and character, he:

- A. Disseminates or causes to be disseminated any lewd material in or from a public place or vehicle, or for valuable consideration; or has in his possession any lewd material with intent to so disseminate; or knowingly allows the use of any business, building, vehicle or place owned, leased, conducted or managed by him, for such dissemination of lewd material;
- B. Sells an admission ticket or pass to premises where there is being exhibited or is about to be exhibited lewd material or a performance which contains lewd material;
- C. Admits, by accepting a ticket or pass, a person to premises where there is being exhibited or is about to be exhibited material or a performance which contains lewd material;
- D. Produces, presents, directs, or knowingly allows the use of any business, building, vehicle or place, owned, leased, conducted or managed by him to be used for a performance which contains lewd material before an audience;
- E. Participates in that portion of a live performance before an audience which makes the performance contain lewd material; or
- F. Panders, displays publicly, or disseminates door-to-door, any lewd material, or causes such

pandering, public display or door-to-door dissemination.

§ 76-3. Dissemination to minors. [Added 7-14-1997 by Ord. No. 2-1997]

No person shall knowingly disseminate by sale, loan or otherwise explicit sexual materials to a minor.

"Explicit sexual materials" as used in this section means materials which are lewd or obscene or:

- A. Any picture, photograph, drawing, sculpture, motion picture or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sadomasochistic abuse and which is harmful to minors; or
- B. Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in Subsection A above, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sadomasochistic abuse and which, taken as a whole, is harmful to minors.

§ 76-4. Admitting minor to show. [Added 7-14-1997 by Ord. No. 2-1997]

It shall be unlawful for any person knowingly to exhibit for monetary consideration to a minor or knowingly to sell to a minor admission, ticket or a pass or knowingly to admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture show or other presentation which, in whole or in part, depicts nudity, sexual conduct, sadomasochistic abuse and which is harmful to impart to minors except that the foregoing shall not apply to any minor accompanied by his parents.

§ 76-5. Violations and penalties. [Amended 8-13-1990 by Ord. No. 4-1990^{xiiEN}]

Any person who violates or permits a violation of this article, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

Chapter 81, CONSTRUCTION CODES, UNIFORM

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 4-12-2004 by Ord. No. 1-2004. Amendments noted where applicable.]

GENERAL REFERENCES

- Building permits -- See Ch. 65.**
- Unsafe buildings -- See Ch. 69.**
- Floodplain management -- See Ch. 88.**

§ 81-1. Election to administer and enforce.

Somerset Township ("Township") hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§ 7210.101 through 7210-1103, as amended from time to time, and its regulations.

§ 81-2. Adoption and incorporation by reference.

The Uniform Construction Code ("Code"), contained in 34 Pa. Code, Chapters 401-405, as amended from time to time, is hereby adopted and incorporated herein by reference as the Municipal Building Code of Somerset Township.

§ 81-3. Administration and enforcement methods.

Administration and enforcement of the Code within the Township shall be undertaken in any of the following ways as determined by its governing body of the Township from time to time by resolution:

- A. By the designation of an employee of the Township to serve as the Municipal Code Officer to act on behalf of the Municipality.
- B. By the retention of one or more Construction Code Officers or third-party agencies to act on behalf of the Township.
- C. By agreement with one or more other municipalities for the joint administration and enforcement of this chapter through an intermunicipal agreement.
- D. By entering into a contract with another municipality for the administration and enforcement of this chapter on behalf of the Township.
- E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

§ 81-4. Board of Appeals.

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

§ 81-5. Effect of other regulations.

- A. All building code ordinances or portions of ordinances which were adopted by the Township on or before July 1, 1999, and which equal or exceed the requirements of the Code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the Code, as amended from time to time.
- B. All building code ordinances or portions of ordinances which are in effect as of the effective date of this chapter and whose requirements are less than the minimum requirements of the Code are hereby amended to conform with the comparable provisions of the Code.
- C. All relevant ordinances, regulations and policies of the Township not governed by the Code shall remain in full force and effect.

§ 81-6. Fees.

Fees assessable by the Township for the administration and enforcement undertaken pursuant to this chapter and the Code shall be established by the governing body by resolution from time to time.

Chapter 88, FLOODPLAIN MANAGEMENT

GENERAL REFERENCES

**Uniform construction codes -- See Ch. 81.
Zoning -- See Ch. 180.**

ARTICLE I, General Provisions

§ 88-1. Statement of intent.

The intent of this chapter is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents by preventing development in areas subject to flooding.

§ 88-2. Applicability.

- A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township of Somerset unless an approved building permit has been obtained from the Code Enforcement Officer.
- B. A building permit shall not be required for minor repairs to existing buildings or structures, provided that no structural changes or modifications are involved.

§ 88-3. Abrogation and greater restrictions.

This chapter supersedes any provisions currently in effect in floodplain areas. However, any underlying ordinance shall remain in full force and effect to the extent that those provisions are more restrictive.

§ 88-4. Municipal liability.

- A. The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes in the identified floodplain area(s). Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside any identified floodplain area, or that land uses permitted within such areas will be free from flooding or flood damages.
- B. This chapter shall not create liability on the part of the Township or any officer or employee thereof for any flood damage that result from reliance on this chapter or any administrative decision lawfully made thereunder.

§ 88-5. Floodplain area provisions. [Amended 8-13-1990 by Ord. No. 4-1990]

- A. No construction or development shall take place within an identified floodplain area of the Township, except when inconsistent with Chapter 180, Zoning.
- B. For the purposes of this chapter, the identified floodplain area shall be those areas of the Township which have been identified as being subject to flooding by a one-hundred-year flood. These areas are shown on the Flood Hazard Boundary Map for Somerset Township, Washington County, Pennsylvania, dated January 3, 1975, and prepared by the Federal Insurance Administration.
- C. The identified floodplain area may be revised or modified by the Board of Township Supervisors where studies or information provided by a qualified agency or person documents the need for such revision or modification. However, prior to any such change, approval must be obtained from the Federal Insurance Administration.
- D. Should a dispute concerning any identified floodplain boundary arise, the determination shall be made by the Board of Township Supervisors.

§ 88-6. Issuance of building permit.

- A. The Code Enforcement Officer shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- B. Prior to the issuance of any building permit the Code Enforcement Officer shall review the application for permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended);^{xiii}EN the Pennsylvania Dam Safety and Encroachment Act (Act 1978-325, as amended);^{xiv}EN the U.S. Clean Water Act, Section 404, 33 U.S.C. § 1334. No permit shall be issued until this determination has been made.
- C. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Township and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams and Waterway Management.
- D. In addition, the Federal Insurance Administrator and Pennsylvania Department of Community and Economic Development, Bureau of Community Planning, shall be notified by the Township prior to alteration or relocation of any watercourse.

§ 88-7. Application procedures.

Application for such a building permit shall be made, in writing, to the Code Enforcement Officer on forms supplied by the Township. Such application shall contain at least the following:

- A. Name and address of applicant.
- B. Name and address of owner of land on which proposed construction is to occur.
- C. Name and address of contractor.
- D. Site location.

- E. Brief description of proposed work and estimated costs.
- F. A plan of the site showing the exact size and location of the proposed construction as any existing buildings or structures.

§ 88-8. Other permit issuance requirements.

- A. Prior to any proposed alteration or relocation of any stream or watercourse within the municipality, a permit shall be obtained from the Department of Environmental Protection, Dams and Encroachment Division, as specified in the Water Obstruction Act of 1913, as amended. Further, notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the Federal Insurance Administration and the Department of Community and Economic Development.
- B. Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

§ 88-9. Changes.

After the issuance of a building permit by the Code Enforcement Officer, no changes of any kind shall be made to the application, permit, or any of the plans, specifications or other documents submitted with the application without the consent or approval of the Code Enforcement Officer.

§ 88-10. Placards.

In addition to the building permit, the Code Enforcement Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Code Enforcement Officer.

§ 88-11. Start of construction.

Work on the proposed construction shall begin within six months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Code Enforcement Officer. Construction shall be considered to have started with the first placement of permanent construction on the site, such as the pouring of slabs or footing or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation, or the affixing of any prefabricated structure or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, grading, filling, excavation for basement footings, piers, or foundations, erection of temporary forms, the installation of sewer, gas, and water pipes or electrical or other service lines from the street.

§ 88-12. Inspection and revocation.

During the construction period, the Code Enforcement Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable Township laws and ordinances, or that there has not been a false statement or misrepresentation by any applicant. If the inspection determines that there has been a violation, then the Code Enforcement Officer shall revoke the building permit and report such fact to the Board of Township Supervisors for whatever action it considers necessary.

§ 88-13. Fees. [Amended 8-13-1990 by Ord. No. 4-1990]

Application for a building permit shall be accompanied by a fee, payable to the Township, based upon the estimated cost of the proposed construction as determined by the Code Enforcement Officer at the rate to be determined by the Township Board of Supervisors from time to time, by resolution.

§ 88-14. Enforcement. [Amended 8-13-1990 by Ord. No. 4-1990]

- A. Notices. Whenever the Code Enforcement Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provision of this chapter, or of any regulations adopted pursuant thereto, such authority shall give notice of such alleged violation as hereinafter provided. Such notice shall:
- (1) Be in writing;
 - (2) Include a statement of the reasons for its issuance;
 - (3) Allow a reasonable time for the performance of any act it requires;
 - (4) Be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state;
 - (5) Contain an outline of remedial action which, if taken, will affect compliance with the provisions of this chapter, or any part thereof, and with the regulations adopted pursuant thereto.
- B. Hearings. Any person affected by any notice which has been issued in connection with the enforcement of any provision of this chapter, or of any regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Board of Township Supervisors, provided that such a person shall file with the Township Secretary a written petition requesting such hearing and setting forth a brief statement of the grounds therefore within 10 days after the notice was served. The filing of the request for a hearing shall operate as a stay of the notice and the permit suspension. Upon receipt of such petition, the Township Secretary shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice shall be modified or withdrawn. The hearing shall be commenced not later than 10 days after the day on which the petition was filed; provided that upon application of the petitioner, the Township Secretary may postpone the date of the hearing for a reasonable time beyond such ten-day period when, in his judgment, the petitioner has submitted good and sufficient reason for such postponement.
- C. Findings and order. After such hearing, the Board of Township Supervisors shall make findings as to compliance with the provisions of this chapter and regulations issued thereunder and shall issue an order, in writing, sustaining, modifying or withdrawing the notice which shall be served as provided in Subsection A.
- D. Record of hearing. The proceedings at such a hearing, including the findings and decision of the Board of Township Supervisors and together with a copy of every notice and order related thereto shall be entered as a matter of public record in the Township, but the transcript of the proceedings need not be transcribed unless judicial review of the decision is sought as provided by this § 88-14.
- E. Penalties. Any person who fails to comply with any or all of the requirements or provisions of this chapter or who fails or refuses to comply with any notice, order, or direction of the Code Enforcement Officer or any other authorized employee of the municipality, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more

than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense. In addition to the above penalties all other actions are hereby reserved, including an action in equity for the proper enforcement of this chapter. The imposition of a fine or penalty for any violation of, or noncompliance with, this chapter shall not excuse the violation or noncompliance or permit it to be continued; and all such persons shall be required to correct or remedy such violations and noncompliances within a reasonable time. Any structure or building constructed, reconstructed, enlarged, altered or relocated in noncompliance with this chapter may be declared by the Board of Township Supervisors to be a public nuisance and abatable as such.^{xvEN}

§ 88-15. Appeals.

Any person aggrieved by any decision of the Board of Township Supervisors may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this commonwealth.

ARTICLE III, Existing Structures in Identified Flood-Prone Areas

§ 88-16. General.

Structures existing in any identified flood-prone area prior to the enactment of this chapter, but which are not in compliance with these provisions, may continue to remain subject to the following:

- A. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of 50% or more of its market value, shall be prohibited.

ARTICLE IV, Variances

§ 88-17. General.

If compliance with any of the requirements of this chapter would result in an exceptional hardship to a prospective builder, developer or landowner, the Township Supervisors may, upon request, grant relief from the strict application of the requirements.

§ 88-18. Variance procedures and conditions.

- A. Request for variances shall be considered by the Board of Township Supervisors in accordance with the procedures contained in § 88-5 and the following:
 - (1) Notwithstanding the provisions of this article, no variance shall be granted for the following obstructions and activities if located entirely or partially within an identified floodplain area:
 - (a) Hospitals (public or private).
 - (b) Nursing homes (public or private).
 - (c) Jails or prisons.
 - (d) New mobile home parks and mobile home subdivisions, and substantial improvements to

existing mobile home parks.

- (e) Any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substances) of any of the following dangerous materials or substances on the premises.

[1] Acetone.

[2] Ammonia.

[3] Benzene.

[4] Calcium carbide.

[5] Carbon disulfide.

[6] Celluloid.

[7] Chlorine.

[8] Hydrochloric acid.

[9] Hydrocyanic acid.

[10] Magnesium.

[11] Nitric acid and oxides of nitrogen.

[12] Petroleum products (gasoline, fuel oil, etc.).

[13] Phosphorus.

[14] Potassium.

[15] Sodium.

[16] Sulphur and sulphur products.

[17] Pesticides (including insecticides, fungicides, and rodenticides).

[18] Radioactive substances, insofar as such substances are not otherwise regulated.

- (2) If granted, a variance shall involve only the least modification necessary to provide relief.
- (3) In granting any variance, the Board of Township Supervisors shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this chapter.
- (4) Whenever a variance is granted, the Board of Township Supervisors shall notify the applicant in writing that:
- (a) The granting of the variance may result in increased premium rates for flood insurance.
- (b) Such variances may increase the risks to life and property.
- (5) In reviewing any request for a variance, the Board of Township Supervisors shall consider, at a minimum, the following:
- (a) That there is good and sufficient cause.

- (b) That failure to grant the variance would result in exceptional hardship to the applicant.
- (c) That the granting of the variance will neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense; nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

(6) A complete record of all variance requests and related actions shall be maintained by the Board of Township Supervisors. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.

B. Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-hundred-year flood.

ARTICLE V, Definitions

§ 88-19. Interpretation.

Unless specifically defined below, words and phrases used in this chapter shall be interpreted so as to give this chapter its most reasonable application.

§ 88-20. Definitions.

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

BOARD OF TOWNSHIP SUPERVISORS -- Governing body of Somerset Township.

BUILDING -- A combination of materials to form a permanent structure having walls and a roof. Included shall be all mobile homes and trailers to be used for human habitation.

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

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

FLOOD -- A temporary inundation of normally dry land areas.

FLOODPLAIN AREA -- A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

MOBILE HOME -- A transportable, single-family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term does not include recreational vehicles or travel trailers.

ONE-HUNDRED-YEAR FLOOD -- A flood that, on the average, is likely to occur once every 100 years (i.e., that has a one-percent chance of occurring each year, although the flood may occur in any year).

PERSON -- Any person, persons, partnerships, business or corporation.

STRUCTURE -- Anything constructed or erected on the ground or attached to the ground, including but not limited to buildings, sheds, mobile homes and other similar items.

TOWNSHIP -- Somerset Township, located in Washington County, Pennsylvania.

Chapter 95, JUNK DEALERS

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 4-15-1983 by Ord. No. 11-1983; amended in its entirety 8-13-1990 by Ord. No. 4-1990 (Ch. 13, Part 2, of the 1990 Code). Amendments noted where applicable.]

§ 95-1. Definitions.

A. As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

FARM MACHINERY -- All types of machinery and equipment which were originally manufactured for farm use, which are retained on farm properties, either as operable equipment or for the purpose of salvaging repair parts.

JUNK -- Any discarded or salvageable article or material, including, but not limited to, scrap metal, paper, rags, glass, containers, scrap wood, motor vehicles, trailers, machinery and equipment, with the exceptions of farm machinery and mobile homes or house trailers which are occupied or are properly placed and planned for occupancy.

JUNK DEALER -- Any person who buys, sells, salvages, stores, or in any way deals in junk; or owns, leases, operates or maintains a junkyard within the municipality.

JUNKYARD -- Any place where junk as herein defined is stored or accumulated. Any premises as herein defined having two or more unlicensed motor vehicles and/or unlicensed trailers thereon shall be deemed to be a junkyard, except that the foregoing shall not apply to duly licensed automobile dealers having operable vehicles on their premises for resale. Such exception shall not apply to inoperable vehicles being stored primarily for salvage purposes.^{xviEN}

MOTOR VEHICLE -- All types of automobiles, trucks and tractors, including self-propelled machinery of all kinds, with the exception of farm machinery.

PERSON -- Any natural person, partnership, firm, company, corporation or other legal entity.

PREMISES -- Any parcel of land situated in the Township of Somerset, having a separate tax map parcel number for county assessment purposes.

SOLID WASTE -- Any waste, including but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous material.

TRAILER -- Any wheeled vehicles not self-propelled, drawn by a motor vehicle.

B. In this chapter, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

§ 95-2. License required; fees.

No person may be a junk dealer as herein defined within the municipality without first obtaining a license to operate as herein described.

A. Any person desiring to be a licensed junk dealer in the Township of Somerset shall first make written application to the Board of Supervisors. Such application shall be in the form established by the Board of Supervisors and shall set forth the applicant's name and address, include an accurate description of the premises on which the junkyard is to be located, including the Washington County tax map parcel number(s), and a statement that the applicant will comply with this chapter and any regulations adopted pursuant to this chapter, and such other information as the Board of Supervisors may require.

B. An application for license under this chapter shall be examined by the Board of Supervisors or duly authorized agent thereof and license issued or refused within 60 days of submission to the Board of Supervisors. Examination of the application shall include consideration of the suitability of the property proposed to be used for the purpose of the license, the character of nearby properties, and the effect of the proposed use upon the Township of Somerset. When the application is found in compliance with the provisions herein given, the Board of Supervisors or its agent shall issue a

license to the junk dealer applicant for operation of the junkyard as described in the application.

- C. The license fee, as set by resolution of the Board of Supervisors, shall consist of two parts: the application fee, which is not returnable in case of refusal of license; and the annual license fee. All fees are due, payable to and for the use of the Township of Somerset, at time of application. The Board of Supervisors or its agent may waive the application fee when issuing renewed licenses. The period of any license issued under this chapter shall be for one calendar year or portion thereof, and shall terminate on December 31 of the year in which issued.^{xvii}EN
- D. Licenses issued under this chapter are required to be renewed on or before January 1 of the year in which it is desired to continue operations. Permit automatically renewed when otherwise notified by the Board of Supervisors 30 days before renewed on January 1 of each year. Two or more violations and license will be revoked. Renewal applications are subject to complete reexamination and consideration by the Board of Supervisors or its agents for continued compliance with the terms of this chapter.^{xviii}EN
- E. No person licensed under this chapter shall, by virtue of one license, operate more than one business or junkyard within the municipality. No person shall engage in business or operate a junkyard at any place other than the place designated by his license. Licenses are nontransferable, both as to junk dealer and junkyard premises. Licenses are transferable if property is sold. The permitted size of a junkyard shall be fixed at the time of license issuance, with due regard for the existing and proposed uses of the surrounding area and properties and shall not be in excess of 435,600 square feet, 10 acres, excluding setback areas.

§ 95-3. Posting of junkyard licenses; operating procedures.

The license under which the junkyard is operated shall at all times be conspicuously posted on the licensed premises, and the operating requirements as herein provided shall be complied with.

- A. Permanent records of all junk received in or removed from any junkyard shall be kept by the junk dealer on the premises, containing the name and address from whom received or to whom delivered, the date thereof, and a description of the junk. Such records shall be open to inspection at all reasonable times by the Board of Supervisors or its agent, and by any law enforcement officer.

§ 95-4. Manner of storage of junk in junkyards.

All junk in junkyards licensed under this chapter shall be stored as herein provided:

- A. All junk shall be set back at least 40 feet from any adjoining premises and at least 60 feet from the nearest right-of-way of any public street, road or highway.
- B. All junk shall be stored and arranged so as to permit access by fire-fighting equipment. Junked motor vehicles shall be spaced in rows with at least 12 feet between double rows; other junk shall be stored in piles or tiers which shall be separated by aisles or cleared areas of no less than 12 feet.
- C. Junk shall be arranged so as to prevent the accumulation of stagnant water, and shall be stacked to a height of not more than 10 feet from the ground.
- D. Paper, rags, plastics and similar materials for salvage shall be stored indoors.
- E. All gasoline and oil shall be drained from junked vehicles according to state and federal regulations.

§ 95-5. Time limit for allowing certain materials to remain on premises.

Paper, rags, plastic and similar materials for salvage shall not be accumulated or remain on the junkyard

premises for more than 60 days. Materials separated as solid waste shall not be accumulated for more than 30 days.

§ 95-6. Burning restricted.

Not more than one motor vehicle or its equivalent may be burned at any one time. Gasoline, grease, oil, tires or similar materials which could be dangerous or tend to produce obnoxious smoke or odors shall not be burned at any time. Any and all burning or melting on junkyard premises shall be properly attended and controlled at all times.

§ 95-7. Certain materials not to be received or stored in junkyard.

Garbage, organic waste, or plain solid waste shall not be received or stored in any junkyard. Materials designated as solid waste may be received only as mixed with salvageable materials and shall be promptly disposed of as herein provided.

§ 95-8. Fencing and screening; maintenance.

Every junk dealer licensed under this chapter shall enclose and maintain his junkyard as herein provided:

- A. Every junkyard premises shall be completely enclosed by a fence. Such fences shall be set back in accordance with the provisions of § 95-4A of this chapter, shall be six to eight feet in height, and shall be of wood or wire with maximum lineal openings of three inches. Entrance gates shall be of similar material, well constructed, and shall be kept securely locked except during business hours. Fencing shall be maintained in good condition throughout its length at all times.
- B. Junkyard premises which have open-wire fence enclosures visible from an abutting public thoroughfare or from an abutting residential property within 500 feet of the fence shall have a landscaped screen of trees and/or shrubs, of varieties capable of attaining a continuous height of six feet within two years, planted along such fence or section of fence. All required open areas between fence and lot lines of the premises shall be maintained continuously in good order, free of weeds and scrub growth.
- C. The area inside the fence and lot lines of any junkyard premises shall have weeds mowed regularly and not permitted to go to seed.
- D. All junkyard premises shall be maintained in such manner so as not to cause a public or private nuisance. Nor shall they cause any menace to the health or safety of persons off the premises. Nor shall they cause any excessive or offensive or noxious odors or sounds. Nor shall they cause the breeding, harboring or infesting of rats, rodents or vermin. Nor shall they be in violation of any health or sanitation law or ordinance or regulation of any governmental body.

§ 95-9. Right of entry for inspection; additional regulations authorized.

Every junk dealer and junkyard licensed under this chapter is subject to inspection and regulation as herein provided:

- A. Any member of the Board of Supervisors or the agent of the Board may at any reasonable time enter upon the premises currently licensed or for which a license application is pending.
- B. The Board of Supervisors may from time to time pursuant to resolution adopt regulations to carry out the provisions of this chapter, upon giving notice to licensees affected by such regulations.

§ 95-10. Exceptions for existing junkyards.

The Board of Supervisors may waive the setback requirements as established by § 95-4A, and the planting requirements as established by § 95-8B, for those junkyards in existence at the time of the enactment of this chapter, if such junkyard is in compliance with the other requirements as provided by this chapter, and if, in the Board of Supervisors' discretion, compliance with said setback and planting requirements would cause undue hardship to such existing junkyard.

§ 95-11. Time limit for existing establishments to comply and obtain license.

- A. Junk dealers and junkyards operating and existing in the Township of Somerset on the effective date of this chapter shall be required to comply with the provisions of and obtain a license under this chapter within six months from the effective date.
- B. However, an extension of the time allotted in complying with the terms of this chapter may be granted at the discretion of the Board of Supervisors. Such extension shall be for good reason, and shall not exceed six months.

§ 95-12. Violations and penalties. ^{xixEN}

Any person who violates or permits a violation of this chapter, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

§ 95-13. Enforcement remedies.

The Board of Supervisors may take any appropriate action at law or equity, civil or criminal, to enforce the provisions of this chapter, and this chapter shall in no way restrict any remedies otherwise provided by law.

Chapter 102, LITTERING

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 4-15-1983 by Ord. No. 10-1983 (Ch. 6, Part 2, of the 1990 Code). Amendments noted where applicable.]

§ 102-1. Littering prohibited.

It shall be unlawful for any person, partnership, corporation, or association to deposit or throw any house, kitchen, store or shop refuse, obnoxious liquids, semi-liquids, any offal or refuse from butcher shops or stables, any garbage, dead animals, fruit, vegetable matter, sweepings from stores, shops or buildings whatsoever, night soil, contents of wells, vaults or sinks, or any garbage or rubbish whatsoever, sewage, sludge and septic tank or holding tank waste upon any street, road, lane, alley, private or public land or on any vacant lot, or in any open ditch, drain, or gutter within the limits of this Township; and no materials, substances or liquids enumerated in this section shall be permitted to remain upon any premises by the owner.

§ 102-2. Littering declared a public nuisance.

Any violation of this chapter is declared to be a public nuisance and any person, partnership, corporation, or association violating the same shall, in addition to paying the fine and costs imposed, pay the cost of removing and abating said nuisance.

§ 102-3. Violations and penalties. [Amended 8-13-1990 by Ord. No. 4-1990^{xxEN}]

Any person or persons violating § 102-1 or 102-2 of this chapter or causing or helping others to violate it shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

Chapter 109, MOBILE HOMES AND MOBILE HOME PARKS

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset by Ord. No. 1-1966; amended in its entirety 8-13-1990 by Ord. No. 4-1990 (Ch. 14 of the 1990 Code). Amendments noted where applicable.]

GENERAL REFERENCES

- Building permits -- See Ch. 65.**
- Uniform construction codes -- See Ch. 81.**
- Floodplain management -- See Ch. 88.**
- Subdivision and land development -- See Ch. 138.**
- Zoning -- See Ch. 180.**

§ 109-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

LICENSE -- The written approval as issued by the Township Secretary, authorizing a person to operate and maintain a mobile home park under the provisions of this chapter.

MOBILE HOME -- A single-family dwelling which is designed, after assembly and fabrication, for transportation on streets and highways on its own running gear, and which may be temporarily affixed to real estate, used for nontransient residential purposes, and constructed with the same, or similar, electrical, plumbing, and sanitary facilities as immobile housing.

MOBILE HOME PARK -- Any plot of ground which is leased or rented, and upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located.

MOBILE HOME SPACE -- A plot of ground within a mobile home park designated for the accommodation of one mobile home and leased or rented for that purpose.

OWNER -- Any individual, firm, trust, partnership, corporation, company, association, or other legal entity which rents or leases spaces in a mobile home park.

SERVICE BUILDING -- A structure which contains operational, office, recreational, sanitary, maintenance, or other facilities built for the use of the mobile home park residents or owner.

SEWER CONNECTION -- All pipes, fittings and appurtenances from the drain outlet of the mobile home to the inlet of the corresponding sewer riser pipe.

SEWER RISER PIPE -- That portion of the sewer lateral which extends vertically to the ground elevation and terminates at each mobile home space.

WATER CONNECTION -- All pipes, fittings, and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within the mobile home.

WATER RISER PIPE -- That portion of the water service pipe which extends vertically to the ground

elevation and terminates at a designated point on each mobile home lot.

WATER SERVICE PIPE -- All pipes, fittings, valves and appurtenances from the water main of the park distribution system to the water outlet of the distribution system within the mobile home.

§ 109-2. License; sale of mobile home space.

- A. License required. It shall be unlawful for any person to maintain, construct, alter or extend any mobile home park within the limits of the Township of Somerset unless he holds a license issued by the Code Enforcement Officer in the name of such person for the specific maintenance, construction, alteration, or extension proposed. The municipal license shall be conspicuously posted in the office or on the premises of the mobile home park at all times.
- B. Application to Township. The applicant shall also submit an application to the Code Enforcement Officer using a form furnished by the Board of Supervisors for a license to operate a mobile home park in the Township of Somerset.
- C. License renewal. The license shall be renewed by the Code Enforcement Officer upon furnishing of proof by the applicant that his park continues to meet the standards prescribed by this chapter.
- D. Inspection of mobile home parks. The Code Enforcement Officer may inspect a mobile home park at reasonable intervals, and at reasonable times, to determine compliance with this chapter.
- E. Compliance of existing mobile home parks.
 - (1) Mobile home parks in existence at the date of adoption of this chapter may be continued so long as they otherwise remain lawful.
 - (2) Any subsequent new construction, alteration or extension of an existing mobile home park shall comply with the provisions of Chapter 138, Subdivision Land Development, and Chapter 180, Zoning.
 - (3) Any existing mobile home park which in the opinion of the Code Enforcement Officer creates a safety hazard shall be required to comply with this chapter within a reasonable period of time as determined by the Board of Supervisors.
- F. Individual mobile homes.
 - (1) Individual mobile homes permitted in areas as set forth in Chapter 180, Zoning, and not located in a mobile home park shall not be required to obtain a mobile home park license; however, they shall be required to obtain zoning and building permits as prescribed by the Township ordinances.
 - (2) Individual mobile homes shall comply with all other applicable municipal ordinances and regulations governing single-family homes.
- G. Inspection; revocation of license; appeals. Whenever, upon inspection of any mobile home park, it is determined that conditions or practices exist which are in violation of any provision of this chapter, or of any regulations adopted pursuant thereto, the Code Enforcement Officer shall give notice in writing in accordance with the provisions of this chapter to the person to whom the license was issued, advising him that unless such conditions or practices are corrected within a reasonable period of time specified in the notice, the license to operate in the Township shall be suspended. At the end of such period, such mobile home park shall be inspected and, if such conditions or practices have not been corrected, the Code Enforcement Officer shall suspend the license and give notice in writing of such suspension to the person to whom the license is issued. The licensee or applicant may appeal the decision of the Code Enforcement Officer by petitioning for a hearing within 10 days of the decision. Within 30 days of the petition the Board of Supervisors shall hold a hearing and

render its decision.

§ 109-3. Fees.

A schedule of fees for applications, licenses and/or inspections shall be established by the Board of Supervisors pursuant to resolution.

§ 109-4. Application for license.

Application for the mobile home park license shall be filed in triplicate with the Township Secretary. The application shall be in writing, signed by the owner, and shall include the following:

- A. Name and address of the owner;
- B. Location and legal description of the mobile home park;
- C. Plans and specifications of all buildings, improvements and facilities constructed or to be constructed within the mobile home park; and
- D. Such further information as may be requested by the various municipal agencies to enable them to determine if the proposed park will comply with legal requirements.

§ 109-5. Water supply.

- A. General requirements. An adequate supply of water shall be provided for mobile homes, service buildings, and other accessory facilities as required by this chapter. Where a public water supply system of satisfactory quantity, quality and pressure is available, connection shall be made thereto and its supply shall be used exclusively. Where a satisfactory public water supply system is not available, the development of a private water supply system shall be approved by the Pennsylvania Department of Environmental Protection or other authorities having jurisdiction over water supply systems.
- B. Fire hydrants. Where a public supply of water is provided, fire hydrants shall be installed as agreed upon by the Township Secretary and the agency responsible for supplying water.
- C. Individual water riser pipes and connections.
 - (1) Individual water riser pipes shall be located within the confined area of the mobile home stand at a point where the water connection will approximate a vertical position, thereby insuring the shortest water connection possible and decreasing susceptibility to water pipe freezing.
 - (2) The water riser pipe shall have a minimum inside diameter of 3/4 inch and terminate at least four inches above the ground surface. The water outlet shall be provided with a cap when a mobile home does not occupy the lot.
 - (3) Adequate provisions shall be made to prevent freezing of service lines, valves and riser pipe and to protect risers from heaving and shoving actions of ground during freezing weather. Surface drainage shall be diverted from the location of the riser pipe.
 - (4) A shutoff water valve below the frost line shall be provided near the water riser pipe in each mobile home lot. Underground stop-and-waste valves are prohibited unless their types of manufacture and their method of installation are approved by the Board of Supervisors.

§ 109-6. Sewage disposal.

- A. General requirements. An adequate and safe sewerage system shall be provided in all parks for conveying and disposing of sewage from mobile homes, service buildings and other accessory facilities.
- B. Individual sewer connections.
 - (1) Each mobile home stand shall be provided with at least a four-inch diameter sewer riser pipe. This sewer riser pipe shall be imbedded in poured concrete, minimum twelve-inch diameter and minimum eighteen-inch depth. The rim of the riser pipe shall extend at least 1/2 inch above ground elevation. The sewer riser pipe shall be so located on each stand that the sewer connection to the mobile home drain outlet will approximate a vertical position.
 - (2) The sewer connection (see § 109-1 for definition) shall have a nominal inside diameter of not less than three inches, and the slope of any portion thereof shall be at least 1/4 inch per foot. All joints shall be watertight.
 - (3) All materials used for a sewer connection shall be semirigid, corrosive resistant, nonabsorbent and durable. The inner surface shall be smooth.
 - (4) Provisions shall be made for plugging the sewer riser pipe when a mobile home does not occupy the lot. Surface drainage shall be diverted away from the riser.

§ 109-7. Electrical distribution system.

- A. General requirements. Every park shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances which shall be installed and maintained in accordance with the Township ordinances regulating such systems.
- B. Power distribution lines. Main power lines not located underground shall be suspended at least 18 feet above the ground, and shall have a minimum vertical clearance of eight feet above any mobile home, service building or other structure.

§ 109-8. Service buildings and other community service facilities.

- A. The requirements of this section shall apply to service buildings, recreation buildings and other community service facilities when constructed, such as: management offices, repair shops, and storage areas, laundry facilities, indoor recreation areas.
- B. All structural requirements shall be in accordance with the Township ordinances regulating same.

§ 109-9. Refuse disposal.

The storage, collection, and disposal of refuse in the mobile home park shall be so managed as to not create health hazards, rodent harborages, insect-breeding areas, accident or fire hazards or air pollution, and shall be in accordance with the Township ordinances.

§ 109-10. Fire protection.

Fire protection provisions shall be in accordance with the Township ordinances.

§ 109-11. Fuel.

All piping from outside fuel storage tanks or cylinders to mobile homes shall be copper or other

acceptable metallic tubing and shall be permanently installed and securely fastened in place. All fuel storage tanks or cylinders shall be securely fastened in place and shall not be located inside or beneath the mobile home or less than five feet from any mobile home exit.

§ 109-12. Supervision; responsibilities of park management.

- A. The person to whom a license for a mobile home park is issued shall operate the park in compliance with this chapter and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
- B. The park management shall supervise the placement of each mobile home on its mobile home stand, which includes securing its stability and installing all utility connections.
- C. The park management shall give the Township Secretary free access to all mobile home lots, service buildings and other community service facilities for the purpose of inspection.
- D. The management shall maintain a register containing the names and addresses of all park occupants. Such register shall be available to any authorized person inspecting the park.
- E. The management shall notify the local Pennsylvania Department of Health immediately of any suspected communicable or contagious disease within the park.

§ 109-13. Revocation of license.

Whenever, upon inspection of any mobile home park, it is determined that conditions or practices exist which are in violation of any provision of this chapter, or of any regulations adopted pursuant thereto, the Code Enforcement Officer shall give notice in writing to the person to whom the license was issued, advising them that unless such conditions or practices are corrected within the period of time specified in the notice, the license to operate shall be suspended. At the end of such period, such mobile home park shall be reinspected and, if such conditions or practices have not been corrected, the Code Enforcement Officer shall suspend the license and give notice in writing of such suspension to the person to whom the license is issued. An aggrieved party may file an appeal to the Board of Supervisors in accordance with the Local Agency Law.^{xxiEN}

§ 109-14. Violations and penalties. ^{xxiiEN}

Any person who violates or permits a violation of this chapter, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

Chapter 112, NUISANCES, STORAGE OF

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 4-15-1983 by Ord. No. 9-1983; amended in its entirety 8-13-1990 by Ord. No. 4-1990 (Ch. 10, Part 1, of the 1990 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Junk dealers -- See Ch. 95.

§ 112-1. Definitions.

A. As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

LESSEE -- Owner for the purpose of this chapter when the lessor holds the lessee responsible for maintenance and repairs.

NUISANCE -- Any condition, structure, or improvement which shall constitute a threat or potential threat to the health, safety, or welfare of the citizens of the Township.

OWNER -- The actual owner, agent or custodian of the property on which machinery, equipment or materials are stored, whether individual or partnership, association, or corporation.

PERSON -- A natural person, firm, partnership, association, corporation, or other legal entity.

B. In this chapter, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine and the neuter.

§ 112-2. Storage of nuisances prohibited.

It shall be unlawful for any person to store or maintain abandoned, unused, stripped, damaged and generally unusable appliances, machinery or equipment, or construction materials in the open on private property. Such storage shall constitute a nuisance and/or health hazard if any of the following conditions exist:

A. Broken glass or metal parts with sharp or protruding edges.

B. Containers which are conducive to the harboring and growth of vermin or animals.

C. Storage in any manner which would allow the equipment, machinery, material or any parts thereof to easily shift, tilt, or fall from its original storage position.

D. Containers of any liquid or material of a hazardous or potentially hazardous nature, including, but not limited to, gasoline, oil, battery acids, refrigeration agents, and poisons.

E. Refrigerators with the doors remaining attached.

F. Any other condition which shall threaten the health, safety or welfare of the citizens.

§ 112-3. Storage requirements.

A. Storage of such items as listed in § 112-2 hereof on private property shall be permitted only in strict compliance with the regulations provided herein or with stricter regulations in other Township ordinances, or in state or federal laws. Each person, owner or lessee desiring to store items described in § 112-2 shall apply for a permit for either temporary or permanent storage and pay a fee to the Township pursuant to a resolution of the Board of Supervisors. Such nuisance(s) must be stored within a garage or other enclosed building or outside, within an opaque fence at least six feet high which is locked at all times when unattended.

B. With the special approval of the Board of Supervisors nuisances may also be stored outside in an area enclosed by a chain link fence, at least six feet high, screened by shrubbery around the perimeter to the height of the fence, with an unobstructed gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended. In addition, the appliances, machinery, equipment, or construction materials shall be kept free of vermin infestation while being stored; and all gas, oil or other potentially hazardous substances shall be removed. The total area of storage of such nuisances may not exceed 500 square feet.

C. Nothing herein shall be construed to permit the storage of appliance, machinery, equipment, or material nuisances contrary to the provisions of Chapter 180, Zoning.

§ 112-4. Inspection of premises; notice to comply.

- A. The Code Enforcement Officer is hereby empowered to inspect private property on which appliances, machinery, equipment, and/or various construction materials are stored to determine if there is compliance with the provisions of this chapter. If noncompliance with the provisions of this chapter constitutes a nuisance, or if any condition, structure, or improvement poses a danger to the health, safety, or welfare of the public, he shall issue a written notice to be served by registered or certified mail upon the owner of said premises, or, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.
- B. Said notice shall specify the condition considered to be a hazard and/or nuisance and shall require the owner to commence to remove or otherwise rectify the condition as set forth in the notice within 10 days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

§ 112-5. Authority to remedy noncompliance.

If the owner of property on which appliances, machinery, equipment, and/or construction materials are stored does not comply with the notice to abate the nuisance, within the time limit prescribed, the Township shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus 10% of all costs. The Township, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

§ 112-6. Hearing.

- A. Any person aggrieved by the decision of the Code Enforcement Officer may request and shall then be granted a hearing before the Board of Supervisors, provided that he files with the Board of Supervisors within 10 days after notice of the Code Enforcement Officer's decision a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The hearing shall commence not later than 30 days after the date on which the petition was filed unless postponed for sufficient cause.
- B. After such hearing, the Board of Supervisors shall sustain, modify or overrule the action of the Code Enforcement Officer.

§ 112-7. Violations and penalties. ^{xxiii}EN

Any person who violates or permits a violation of this chapter, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.

§ 112-8. Remedies not mutually exclusive.

The remedies provided herein for the enforcement of this chapter, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Board of Supervisors.

Chapter 116, SEWERS

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Individual Sewer Systems [Adopted 9-18-1972 by Ord. No. 3A-1972 (Ch. 18, Part 3, of the 1990 Code); amended in its entirety 6-6-1995 by Ord. No. 2-1995]

§ 116-1. Definitions.

All words and phrases used in this article shall have the same meaning as set forth in the Pennsylvania Sewage Facilities Act, Act No. 537 of 1966,^{xxiv}EN as now in force or as hereafter amended except in those instances where the contents clearly indicate otherwise. The singular shall include the plural and the masculine shall include the feminine and neuter.

§ 116-2. All rules and regulations of Washington County Sewage Council adopted.

Somerset Township, as a member of the Washington County Sewage Council, hereby adopts all rules and regulations of the said Washington County Sewage Council as well as the Rules and Regulations of the Pennsylvania Department of Health, Chapter 73.

§ 116-3. Application for individual sewage system required.

Any person seeking to implement an individual sewage system within the Township of Somerset, Washington County, Pennsylvania, shall secure an application therefore at the office of the Washington County Sewage Council.

§ 116-4. Application fee.

The completed application shall be submitted to the Washington County Sewage Council along with a plot plan of the proposed site for the individual sewage system. A fee in the amount approved by resolution of the Township shall also be tendered to the Washington County Sewage Council.

§ 116-5. Sewage Enforcement Officer.

The sanitarian for the Washington County Sewage Council is hereby designated as the approved Sewage Enforcement Officer (SEO) for the Township of Somerset, Washington County, Pennsylvania.

§ 116-6. Inspection of the site.

The SEO shall then inspect the site for the said individual sewage system, perform any necessary percolation or other soils tests, and complete the aforesaid application form for final approval of the said permit to implement an individual sewage system. Upon performance of the percolation or other soils tests by the SEO, the Township is to be informed in writing of the test results.

§ 116-7. Installation and inspection.

After the approval of the proposed sewage system by the SEO, a system may be constructed and/or otherwise installed. The installation of the system must be inspected by the SEO prior to the Township's issuance of an occupancy permit.

§ 116-8. Ten-acre exemption. [Added 9-9-2002]

- A. Somerset Township hereby exempts from those limitations and actions specified above residential property of 10 acres or larger. To qualify for this exemption, application, on a form prescribed by the Township, must be made to the Township with the Township then determining whether the property and property owner meet all the following requirements:
- (1) The municipality in which the property is located does not have an ordinance in effect that requires the issuance of on-lot sewage disposal permits regardless of lot size.
 - (2) The proposed on-lot sewage disposal system must be planned to serve a residential structure.
 - (3) The residential structure is to be occupied by the property owner or a member of the property owner's immediate family (brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father or mother of the property owner). The occupant will provide an affidavit to this effect. In the event the property is sold or otherwise transferred to someone not qualified under this article, the new owner must comply with the requirements outlined in § 116-3 through 116-7, inclusive, and make whatever corrections needed to satisfy the requirements of the SEO.
 - (4) The proposed residential structure and on-lot sewage disposal system are to be located on a contiguous tract of land 10 acres or more in size. No subsequent subdivision to create less than a ten-acre parcel of this tract shall be approved by the Township.
 - (5) The property owner owned the property as of January 10, 1987, or transferred ownership of one lot of 10 acres or more subdivided from the parent tract after January 10, 1987, to a member of the property owner's immediate family (as defined above). Only one ten-acre tract can be created from one parent tract.
 - (6) Every subsequent contract for the sale of the lot must state that the lot contains a sewage system which was not permitted by the local agency and that the correction of any malfunctions is the responsibility of the lot owner.
- B. If both the lot and the property owner meet the above criteria, the only technical standards the on-lot sewage disposal system must meet are certain isolation distances from the perimeter of the treatment tank and absorption area. The SEO or other Somerset Township designee must verify these isolation distances before the system is installed.

§ 116-9. Application and verification fees. xxvEN

Upon application for the exemption referred to in § 116-8 above, the applicant or property owner must remit to Somerset Township a fee as set by resolution of the Board of Supervisors. The Washington County Sewage Council may, in addition, charge a separate fee for those services outlined in § 116-6.

§ 116-10. Violations and penalties. xxviEN

Any person who violates or permits a violation of this article, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to

imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

ARTICLE II, Public Sewers [Adopted 5-10-1976 by Ord. No. 3-1976 (Ch. 18, Part 2, of the 1990 Code)]

§ 116-11. Connection required. [Amended 11-13-2006 by Ord. No. 3-2006]

Every owner of property in the Township of Somerset whose property is accessible to any line of any public sanitary sewer presently in existence or to be constructed in the future by Pigeon Creek Sanitary Authority (hereinafter called the "Authority") shall connect, at his own cost, the house, buildings or other structures located on said property with the aforementioned public sanitary sewers for the purpose of disposing of all acceptable sanitary sewage emanating from said property unless exempted in writing by the Authority.

§ 116-12. Owners required to connect. [Amended 11-13-2006 by Ord. No. 3-2006]

It shall be unlawful for any owner, lessee or occupier of any property and whose principal building is accessible to any line of the aforementioned public sanitary sewers to employ any means, either by septic tank, cesspool, privy vault, mine hole or otherwise, for the disposal of acceptable sanitary sewage other than into and through said public sanitary sewers. If the property owner feels that the distance from the above-noted buildings to a public sanitary sewer line is excessive, said property owner may appeal the required connection to the Pigeon Creek Sanitary Authority. The Authority must provide a written decision to the property owner regarding the requested exemption.

§ 116-13. Notification to owner.

Where any house, building or structure in the Township located on the aforementioned property is now or hereafter may be using any method for the disposal of acceptable sanitary sewage other than through the aforementioned public sanitary sewers, it shall be the duty of the Township Secretary, or upon the written direction of the Township, an authorized representative of the Authority, to notify the owner, lessee or occupier of such structure in writing, either by personal service, certified mail or registered mail, to disconnect the same and make proper connection for the discharge and disposal of all acceptable sanitary sewage through the said public sanitary sewers, as herein provided, within 60 days after receipt of such notice. Any owner or lessee or occupier of a structure who cannot comply with the provisions of this section as to connection within the sixty-day period stipulated above due to cause beyond his control shall apply to the Authority within said sixty-day period for a time extension of up to six months in duration. Said application shall be made on a form to be furnished by the Authority and shall contain a voluntary agreement on the part of the applicant under which the applicant shall agree to commence paying the regular monthly sewer rates immediately even though actual connection to the said public sanitary sewers will not be accomplished until some stated later date within the said six months' extension period.

§ 116-14. Privy vaults, cesspools, septic tanks and mine holes prohibited.

- A. No privy vault, cesspool, septic tank, mine hole or similar receptacle for human excrement shall at the present time or at any time hereafter be connected with the aforementioned public sanitary sewers.
- B. No privy vault, cesspool, septic tank or similar receptacle for human excrement shall hereafter be

maintained upon any property from which connection with any of the aforementioned public sanitary sewers shall have been made. Any such privy vault, cesspool, septic tank or other receptacle not abandoned as required by this section shall constitute a nuisance and may be abated on order of the Board of Supervisors as provided by law, at the expense of the owner of such property.

§ 116-15. Unlawful to connect any roof drain to public sewer system.

It shall be unlawful for any person, firm or corporation whose property is connected to any aforementioned public sanitary sewers to connect any roof drain thereto or permit any roof drain to remain connected thereto, or to permit, allow or cause to enter into said public sanitary sewers any stormwater, foundation drain water, spring water, or surface water, or any sewage or industrial waste from any property other than that for which a permit is or has been issued.

§ 116-16. Connection requirements.

Henceforth, no person, firm or corporation shall make or cause to be made any connection with any of the aforementioned public sanitary sewers until he has fulfilled all of the following conditions:

- A. He shall make application to the Township, or the Authority, as the Township's agency, upon a permit form to be formulated and supplied by the Authority for permission to connect to the aforementioned public sanitary sewers. Among other things, the applicant must state the character and use of each structure located upon his property.
- B. No work shall commence before the issuance of the aforementioned connection permit.
- C. He shall give the designated inspector of the Township or the Authority at least 24 hours' notice of the time when such connection shall be made in order that said inspector can be present to inspect and approve the work of connection. The inspector shall signify his approval of the connection by endorsing his name and the date of approval on the aforementioned connection permit in the possession of the permittees.
- D. At the time of inspection of the connection, the owner or owners of properties shall permit the inspector full and complete access to all sanitary and drainage arrangements and facilities in each building and in and about all part of the property. No new building sewer line shall be covered over, or in any manner concealed, until after it is inspected and approved by said inspector.

§ 116-17. Regulating the construction of new sewer lines.

The construction of all new building sewer lines or house service sewers shall be done in accordance with the specifications, plans and procedures established by the Authority in its Sewage Collection and Disposal System Rules and Regulations, as the same may be from time to time published and amended, copies of which, upon adoption by the Authority, shall be maintained on file with the Township Secretary and the Authority.

§ 116-18. Individual connections to public sewer system required.

Unless written permission is obtained from the Authority, separate connections will be required for each individual occupied building whether constructed as a detached unit or as one of a pair or row, but a single connection will be permitted to serve a school, factory, apartment house or other permanent multiple unit structure whose individual apartments or units may not be subject to separate ownership. The Authority, however, does not assume any obligation or responsibility for damages caused by or resulting from any permitted single connection for multiple units as aforementioned.

§ 116-19. Regulating all sanitary sewage discharge.

All sanitary sewage discharged in the aforementioned public sanitary sewers shall meet the requirements of the aforesaid Rules and Regulations to be established by the Authority. The discharge of industrial wastes into said public sanitary sewers, without the prior written consent of the Authority, is hereby prohibited. An industrial establishment desiring to discharge industrial wastes into said public sanitary sewers shall make application to the Authority for a permit therefor. The applicant for such permit shall furnish the Authority with such information as is required for the purpose of determining whether the proposed discharge of industrial wastes will conform with the requirements of the said Rules and Regulations of the Authority. The granting of such permit may be made contingent upon the applicant providing and maintaining, at the expense of the applicant, apparatus for regulating the rate of discharge and/or pretreating such wastes prior to discharge and for the proper sampling thereof, from time to time, as the Authority may deem necessary.

§ 116-20. Refusal by owner to connect to public sewer system. [Amended 11-13-2006 by Ord. No. 3-2006]

In case any owner of property whose principal building is accessible to the aforementioned public sanitary sewers shall neglect or refuse to comply with the provisions of this article or the written notice as prescribed in § 116-13 hereof, the Township or the Authority, as its agent, may perform or cause to be performed such work and labor and furnish or cause to be furnished such material as may be necessary to comply with the provisions of this article at the cost and expense of such owner or owners, together with 10% additional thereof and all charges and expenses incidental thereto, which sum shall be collected from said owner or owners for the use of the Authority as debts are by law collectible, or the Township or the Authority, as its agent, may, by its proper officer, file a municipal claim or lien therefor against such premises as provided by law.

§ 116-21. Violations and penalties. [Amended 8-13-1990 by Ord. No. 4-90^{xxvii}EN]

In addition to any penalty hereinabove prescribed, any person, firm or corporation who violates or permits a violation of this article, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

ARTICLE III, Holding Tanks [Adopted 4-11-1988 by Ord. No. 1-1988 (Ch. 18, Part 1, of the 1990 Code)]

§ 116-22. Purpose.

The purpose of this article is to establish procedures for the use and maintenance of holding tanks designed to receive and retain sewage whether from residential or commercial uses and it is hereby declared that the enactment of this article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of the Township.

§ 116-23. Definitions.

The following words and/or phrases used herein are defined as follows:

BOARD -- The Board of Supervisors of Somerset Township, Washington County, Pennsylvania.

HOLDING TANK -- A watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. The minimum capacity of said tanks are to be 1,000 gallons. Holding tanks include but are not limited to the following:

- A. **CHEMICAL TOILET** -- A toilet using chemicals that discharge into a holding tank.
- B. **RETENTION TANK** -- A holding tank where sewage is conveyed thereto by a water carrying system.
- C. **VAULT PIT PRIVY** -- A holding tank designed to receive sewage where water under pressure is not available.

IMPROVED PROPERTY -- Any property within the Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure, sewage is being or may be discharged.

OWNER -- Any person vested within ownership, legal or equitable, sole or partial, of any property located in the Township.

PERSON -- Any individual, partnership, company, association, corporation or other group or entity.

SEWAGE -- Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substance being harmful or inimical to the public health, or to animal or aquatic life or to the use of water for domestic water supply or for recreation.

§ 116-24. Limitation.

The authority and/or power of the Board to authorize and/or approve the installation, use, servicing and maintenance of holding tanks within the Township is limited by, and to the extent applicable, governed by the rules, regulations, statutes, ordinances and laws of the Washington County Sewage Council and of the Department of Environmental Protection of the Commonwealth of Pennsylvania.

§ 116-25. Rights and privileges granted.

The Board is hereby authorized and empowered to undertake, oversee and/or approve within the Township the control and methods of holding tank sewage disposal and the collection and transportation thereof.

§ 116-26. Rules and regulations.

The Board is hereby authorized and empowered to adopt, by motion or otherwise, such rules and regulations, to include but not be limited to, the requirement of an appropriate bond, concerning the installation, use, servicing and maintenance of holding tanks within the Township, and sewage disposal therefrom, which the Board may deem necessary from time to time to effect the purposes herein stated.

§ 116-27. Rules and regulations to be in conformity with applicable law.

All such rules and regulations adopted by the Board shall be in conformity with the provisions herein, other ordinances of the Township and all other applicable rules, regulations and laws of any and all administrative agencies of the Commonwealth of Pennsylvania.

§ 116-28. Rates and charges.

The Board shall have the right and power to fix, alter and collect rates, assessments and other charges relative to the installation, use and servicing of holding tanks within the Township. Said rates, assessments and other charges shall be fixed or altered by motion duly made and adopted.

§ 116-29. Exclusiveness of rights and privileges.

The collection and transportation of all sewage from any improved property utilizing a holding tank shall be done by or subject to the approval, direction and control of the Board, and the disposal thereof shall be made only at such site or sites as may be approved by the Department of Environmental Protection of the Commonwealth of Pennsylvania.

§ 116-30. Duties of improved property owners.

The owner of an improved property that utilizes a holding tank shall:

- A. Maintain the holding tank in conformance with this or any other ordinance of the Township, and all other rules, regulations and laws of Somerset Township and of any administrative agency of the Commonwealth of Pennsylvania.
- B. Permit only the Board or Board-approved persons to collect, transport and dispose of the contents therein.

§ 116-31. Violations and penalties. [Amended 5-9-1988 by Ord. No. 1988-2; 8-13-1990 by Ord. No. 4-1990]

Any person who violates any provision of § 116-30, above, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

§ 116-32. Abatement of nuisances.

In addition to any other remedy provided by this article, any violation of § 116-30, above, shall constitute a nuisance and shall be abated by the Township by seeking appropriate equitable or legal relief from a court of competent jurisdiction.

ARTICLE IV, Small Flow Sewer Facilities [Adopted 11-10-2003 by Ord. No. 3-2003]

§ 116-33. Title.

This article shall be known as the "Small Flow Sewage Facilities Ordinance" of Somerset Township.

§ 116-34. Definitions.

- A. General terms. As used in this article, words in the singular include the plural, and those in the plural include the singular. The words "shall" and "will" for the purpose of this article are defined as mandatory.
- B. Specific terms. As used in this article, additional specific terms or words shall be defined as follows. Unless otherwise expressly stated, the following definitions shall for the purpose of this article have the meaning herein indicated. Any pertinent word or term not a part of this article shall be construed to have the meaning attributed to it under the Sewage Facilities Act and the regulations promulgated thereunder:

BOARD OF SUPERVISORS -- The Board of Supervisors of Somerset Township, Washington County, Pennsylvania.

EFFLUENT -- Liquid sewage discharged as waste.

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

OFFICIAL SEWAGE FACILITIES PLAN -- A comprehensive plan for the provision of adequate sewage disposal system, adopted by the Board of Supervisors and approved by the DEP, pursuant to the Pennsylvania Sewage Facilities Act.

REGULATIONS -- The current regulations of the DEP, as set forth in Pa. Code, Title 25, and all future regulations of the DEP pertaining to small flow sewage facilities.

SMALL FLOW SEWAGE FACILITY -- An individual or community sewerage system designed to adequately treat sewage flows not greater than 2,000 gallons per day for final disposal using stream discharge or discharge to the surface of the ground, 25 Pa. Code § 71.1.

SYSTEM -- The small flow sewage facility to be designed, installed, operated and/or maintained by a landowner upon any property in the Township.

TOWNSHIP OFFICIAL -- A Sewage Enforcement Officer (Washington County Sewage Council), Code Enforcement Officer, certified sewage treatment plant operator, employee or designee of the Township, professional engineer, plumbing inspector, or any other qualified or licensed person who is authorized to function within specified limits as an agent of the Township to administer or enforce the provisions of this article.

§ 116-35. Design standards.

The system shall be in accordance with the design standards and requirements of the DEP. In addition to all other requirements, the design standards shall include the following:

- A. Easy access for inspection and periodic maintenance shall be provided for all treatment units. A readily accessible effluent sampling point, located at the discharge end of the chlorine contact tank shall be provided.
- B. An alarm shall be provided for all pumps and aeration devices. Alarms shall include both visual and audible devices located so as to be readily noticeable by occupants of property. An appropriate high level alarm in the dosing tank and an alarm for the aeration motor (if used) are needed.
- C. Reasonable vehicular access shall be provided to the system for periodic removal of sludge.

§ 116-36. Application and fees.

- A. Any person seeking to install a system under this article shall secure and complete an application form supplied by the Township. With the submission of an application and all necessary preconstruction submittals, the landowner shall pay an application fee in an amount to be set by resolution of the Board of Supervisors. If the costs incurred by the Township are greater than the fee paid, then the landowner shall be responsible for any deficiency.
- B. Additionally, the landowner shall be responsible for paying any assessments or charges imposed by the Washington County Sewage Council or DEP relative to the approval and inspection process.

§ 116-37. Preconstruction approvals and permits.

The landowner must submit a sewage planning module to the Township official. The planning module must be approved by the Township official and DEP. Thereafter, the landowner must obtain required

DEP permits. No building or system construction may occur until a preconstruction meeting has been held with the Township official, the system contractor, the landowner and the factory representative if an aerobic treatment unit is used.

§ 116-38. Preoperation inspection.

Upon completion of the system installation and prior to system covering, the registered professional engineer for the landowner, Township official and factory representative if an aerobic treatment unit is used, shall conduct an inspection and certify in writing that the construction/installation of the system is in conformance with the permit issued by DEP. Notice of the system inspection shall also be given to DEP 72 hours prior to inspection. A copy of written certification signed by all parties will be sent to DEP within 10 days of completion of inspection. A service contract consistent with the requirements of the National Sanitation Foundation must be signed and a copy sent to DEP when aerobic treatment units are used.

§ 116-39. Plans.

Landowner shall provide to the Township a complete set of "as-built" plans for the system as finally approved by DEP.

§ 116-40. Inspections.

A Township official shall inspect the system at least three times per year. At least two of those inspections will be conducted between April 1 and September 30 of each year. At least one inspection will be conducted during the remaining portion of the year.

- A. Inspection shall include testing for an adequate chlorine residual at levels required by the DEP permit. Landowners are required to test chlorine residual on a weekly basis and keep a written record of the date and results of the test. The landowner must ensure that the chlorine residual levels are in compliance with all relevant DEP standards.
- B. The inspector may collect a sample for fecal coliform analysis at any time. An EPA approved laboratory must perform the bacteriological analysis.
- C. The Township must retain copies of all written inspection reports and lab results in a permanent file. The records shall be available to DEP upon request.

§ 116-41. Repairs and replacement of system.

In the event the Township or DEP inspections indicate the need for repair or replacement of any component part or all of the system in order to bring the system into compliance with DEP permit or regulations, the landowner shall complete such repairs or replacement and obtain certification from the landowner's engineer or Township official that the work has been completed in accordance with appropriate standards. Certification must be provided within 30 days of the date of Township or DEP notice.

§ 116-42. Maintenance on system.

In the event the Township or DEP inspections indicate the need for maintenance on any component part or all of the system in order to bring the system into compliance with DEP permit or regulations, the landowner shall complete such maintenance and obtain certification from the landowner's engineer or Township official that the work has been completed in accordance with appropriate standards. The necessary maintenance and request for certification must occur with 72 hours of the date of the Township or DEP notice.

§ 116-43. Failure to undertake repairs, replacement and maintenance.

In the event the landowner fails or refuses to achieve timely compliance with the provisions for system repair, replacement and/or maintenance as described in §§ 116-40 and 116-41, the Township or its designee shall have the right to enter upon the premises and to perform any repairs, replacement and/or maintenance with respect to the system, all of which shall be made at the cost and expense of the landowner. The Township action to effectuate needed repairs or replacement of any component parts or the entire system shall occur no sooner than 30 days or later than 45 days after notice was sent to the landowner. The Township action to effectuate needed maintenance on any component parts or the entire system shall occur no sooner than 72 hours or later than one week after notice as sent to the landowner.

§ 116-44. Effluent removal.

During the period of time when the system is inoperable or incapable of treating the discharged effluent so as to meet or exceed those standards of DEP as aforesaid, landowner shall make the necessary arrangements to remove said effluent and arrange for the appropriate disposition of same at a DEP permitted sewage disposal facility. In the event the landowner shall fail to make the necessary arrangements for the removal of said effluent within the time specified by the Township official, not to exceed 48 hours, the Township shall have the right, upon 48 hours written notice to landowner sent to the last known address by first-class mail, to enter upon the premises and cause said effluent to be removed. Where the landowner causes the effluent to be removed, he shall, upon request of the Township, provide an agreement with a hauler providing for the removal and submission of all pumping receipts. The landowner shall continue hauling effluent until such time as the system has been properly certified as being operable by the Township or DEP.

§ 116-45. Inspection fee.

The landowner shall pay the Township or designee an annual fee for inspection of the system as set by the Board of Supervisors at their annual reorganization meeting.

§ 116-46. Recovery of costs incurred by Township.

Landowner shall pay for any and all costs incurred by the Township for inspections in excess of the mandatory annual three inspections, repairs, replacement, and/or maintenance of the system or its component parts. The landowner shall pay the Township for any and all costs incurred by Township in the removal of effluent in accordance with the terms of the article. In the event the landowner, or his/her heirs, successors or assigns, shall fail to pay the Township for such costs or expenses, the Township shall institute suit against the said landowner in a civil action or cause a lien to be recorded on the property in accordance with the Municipal Lien Law for all costs and expenses incurred in the enforcement of this article, including reasonable attorney fees.

§ 116-47. Escrow.

In order to secure costs which may be incurred by the Township and which are recoverable as herein provided, the landowner contemporaneously with permit approvals shall deposit the sum of \$1,000 or 10% of the system's construction costs, whichever is less, with the Township, which shall be held by the Township in an interest bearing escrow account. Said sum will be maintained of the Township until said time as the system is no longer needed. Said sum may be used by the Township for system repair, replacement or maintenance at the sole discretion of the Township. Should the escrow fund fall below the above amount, landowners shall deposit sums necessary to replenish the account.

§ 116-48. Violations and penalties.

Pursuant to 53 Pa.C.S.A. § 66601, any person who shall violates any provision of this article shall, upon conviction thereof before a District Justice, be subject to a penalty or fine of not less than \$300, but no more than \$600, together with the costs of prosecution for each such violation. Said fines and penalties may be collected by suit or summary proceeding brought in the name of the Township. Each day of violation shall be considered a separate and distinct offense. The landowner shall provide the Township with any and all documentation necessary to determine the system's construction costs.

§ 116-49. Remedies.

Landowners, for themselves, their heirs, administrators, executors, successors and assigns, shall at all time hold the Township harmless from any claims, suits, legal expenses or judgments which may be brought against the Township or against any Township official and/or against the landowner or any of their successors in title for any adverse conditions causally and directly related to the operation by landowner of the system. The landowner shall have the duty to defend the Township, its officials and employees against any claim or suit made by any person who alleges that adverse conditions have been caused by the operation by the landowner of the system. In the event the landowner fails to undertake the defense of the Township as to any such claim and the Township is required to enter upon its own defense, landowner shall reimburse the Township for any expenses it may incur, including legal fees, engineering fees and other expert witness fees and shall pay any judgment rendered against the Township as a result of such suit. As to damages alleged to have been caused by reason of the operation of the system, landowner shall have the right and option to join the Township in the defense and/or compromise of such claim and landowner shall only be required to pay those damages and expenses for which the landowner agrees to pay, it being the express understanding of the parties hereto that the landowner shall not be responsible for any conditions occurring that cannot be demonstrated to be due to the operation and/or malfunction of the system installed by the landowner. In the event the landowner, or its heirs, successors or assigns, shall fail to pay the costs, legal fees, other expenses or damages as herein provided and the Township is required to pay same, the Township shall have the right to recover said funds it has expended either by a civil action against the landowner, or his heirs, successors or assigns, or by causing a lien to be recorded on the property in an amount equal to the sums required to be expended.

§ 116-50. Conveyance or transfer.

If title to property upon which a system is located is conveyed or transferred in any manner, the transferee (new landowner) shall provide the Township with an escrow account as herein required in § 116-47 within 30 days of the conveyance or transfer. The existing financial security (escrow money held in name of the transferor landowner) will not be released to the transferor until the transferee complies with § 116-47.

§ 116-51. Effect on other ordinances.

Nothing in this article shall be construed to waive, effect or alter any requirements of Chapter 180, Zoning, Chapter 138, Subdivision and Land Development, or other ordinances of the Township, and nothing contained herein empowers any Township official to waive any requirements of such ordinances. It is expressly understood and agreed that installation of the system upon the property does not constitute approval for any land development of the property.

§ 116-52. Effective date.

This article shall become effective immediately upon enactment and shall apply prospectively and retroactively to all small flow sewage facilities in operation in the Township.

§ 116-53. Affirmation.

Somerset Township affirms the delegation to the Washington County Sewage Council to administer the requirements of Act 537 and Somerset Township's ordinances governing all aspects of on-lot sewage collection, treatment and discharge.

§ 116-54. Definitions.

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

ACT 537 -- The Act of January 24, 1966, P.L. 1535, as amended, 53 P.S. § 750.1 et seq., known as the "Pennsylvania Sewage Facilities Act."

ALTERNATE ON-LOT SYSTEMS -- Any on-lot sewage system so designated as an alternate type by the Pennsylvania Department of Environmental Protection.

AUTHORIZED AGENT -- A certified sewage enforcement officer, professional engineer, plumbing inspector, municipal secretary, or any other qualified or licensed person who is delegated by Somerset Township to function within the specified limits as the agent of Somerset Township to carry out the provisions of this article as adopted by Somerset Township.

BOARD -- The Board of Supervisors of Somerset Township, Washington County, Pennsylvania.

CODE ENFORCEMENT OFFICER (CEO) -- An individual employed by Somerset Township to administer and enforce ordinances in Somerset Township.

COMMUNITY SEWAGE SYSTEM -- Any system whether publicly or privately owned, for collection of sewage from two or more lots, and the treatment and/or disposal of the sewage on one or more lots or at any other site.

DEPARTMENT -- The Pennsylvania Department of Environmental Protection.

INDIVIDUAL SEWAGE SYSTEM -- A system of piping, tanks or other facilities serving a single lot and collecting and disposing of sewage in whole or in part into the soil or into any waters of the Commonwealth of Pennsylvania.

MALFUNCTION -- The condition which occurs when an on-lot sewage disposal system discharges into groundwaters of the commonwealth, into surface waters of the commonwealth, backs up into the building connected to the system, or otherwise causes a nuisance hazard to the public health or pollution of ground or surface water or contamination of public or private drinking wells. Systems shall be considered malfunctioning if any of the conditions noted above occur for any length of time during any period of the year.

MARGINAL SOIL CONDITIONS -- Anytime a municipality's certified Sewage Enforcement Officer determines a parcel or lot as having marginal soils after properly testing said parcel or lot.

MUNICIPALITY -- Somerset Township, Washington County, Pennsylvania.

OFFICIAL SEWAGE FACILITIES PLAN -- A comprehensive plan for the provision of adequate sewage disposal systems, adopted by Somerset Township and approved by the Department of Environmental Protection, as described in and required by the Pennsylvania Sewage Facilities Act.

ON-LOT DISPOSAL SYSTEM -- Any system for disposal of sewage involving pretreatment and subsequent disposal of the clarified sewage into the soil for final treatment and disposal, including both individual sewage systems and community sewage systems, including, but not limited to, drip irrigation systems, AB out systems, small stream discharge systems, community on-lot systems and any other currently DEP approved and sewage disposal systems which may be approved by DEP in the future, it being the intent of this article to address all such systems.

PERSON -- Any individual, association, public or private corporation for profit or not for profit, partnership, firm, trust, estate, department, board, bureau or agency of the commonwealth, political subdivision, municipality, district, authority, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, the term shall include the members of an association, partnership or

firm, and the officers of any local agency or municipal, public or private corporation for profit or not for profit.

REHABILITATION -- Work done to modify, alter, repair, enlarge or replace an existing on-lot sewage disposal system.

REPLACEMENT AREA -- A portion of a lot or a developed property, sized to allow installation of a subsurface sewer disposal area, which is reserved to allow that installation in the event of the malfunction of the originally installed on-lot sewer disposal system.

SEWAGE -- Any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substances being harmful or inimical to the public health, or to animal or domestic water supply or for recreation, or which constitutes pollution under the Act of June 22, 1937 (P.L. 1987, No. 394), known as the "Clean Streams Law," as amended.^{xxviii}EN

SEWAGE ENFORCEMENT OFFICER (SEO) -- The designated official of Somerset Township who issues and reviews permit applications and conducts such investigations and inspections as are necessary to implement Act 537 and the rules and regulations promulgated thereunder which includes the WCSC/Council.

SEWAGE MANAGEMENT DISTRICT -- Any area or areas of Somerset Township for which a sewage management program is recommended by Somerset Township's adopted Act 537 Official Sewage Facilities Plan. A sewage management district may, or may not, encompass the entire municipality.

SEWAGE MANAGEMENT PROGRAM -- A comprehensive set of legal and administrative requirements encompassing the requirements of this article and other administrative requirements adopted by Somerset Township to effectively enforce and administer this article.

WASHINGTON COUNTY SEWAGE COUNCIL (WCSC) -- The Washington County Sewage Council is an intergovernmental cooperative organization which provides certain services to member municipalities.

§ 116-55. Applicability.

From the effective date of this article, its provisions shall apply to the portions of Somerset Township identified in Peters Creek Sanitary Authority's Act 537 Official Sewage Facilities Plan as a sewage management district. Within such areas the provisions of this article shall apply to all persons owning any property serviced by a new on-lot sewage disposal system and to all persons installing or rehabilitating or repairing on-lot sewage systems with new alternate type systems. If necessary an entire municipality may be identified as a sewage management district.

§ 116-56. Replacement area.

- A. Any supplements or revisions to Somerset Township's Official Sewage Facilities Plan which are prepared pursuant to the applicable regulations of the Pennsylvania Department of Environmental Protection for a subdivision or development of land within an identified sewage management district shall provide for the testing, identification, and reservation of an area of each lot or developed property suitable for the installation of replacement on-lot sewage disposal system. This requirement is in addition to the testing, identification and reservation of an area for the primary sewage disposal system.
- B. No permit shall be issued for any proposed on-lot sewage system on any newly created or subdivided property in any sewage management district that has any lots designated as marginal soils unless and until a replacement area is approved, identified and reserved for the lots with the marginal soils designation. The replacement area must be identified on the land survey at the time of subdivision approval.

§ 116-57. Inspections.

This section applies only when Somerset Township revises its Official Sewage Facilities Plan and is only applicable to the area or areas affected by such revision.

- A. Any on-lot sewage disposal system may be inspected by Somerset Township's authorized agent at any reasonable time after the effective date of this article.
- B. The inspection may include a physical tour of the property, the taking of any samples from surface water, wells, other groundwater sources, the sampling of the contents of the sewage disposal system itself and/or the introduction of a traceable substance into the interior plumbing of the structure served to ascertain the path and ultimate destination of wastewater generated in the structure.
- C. Somerset Township's authorized agent shall have the right to enter upon land for the purposes of inspection described above.
- D. An initial inspection shall be conducted by Somerset Township's authorized agent within one year of the effective date of this article for the purpose of determining the type and functional status of each on-lot sewage disposal system in the sewage management district. A written report shall be furnished to the owner of each property inspected as evidence of said inspection and a copy of said report shall be maintained Somerset Township records.
- E. A schedule of routine inspections may be established by Somerset Township, if necessary, to assure the proper function of the on-lot sewage disposal systems in the sewage management district.
- F. Somerset Township and its authorized agents shall inspect systems known to be, or alleged to be, malfunctioning. Should said inspections reveal that the system is indeed malfunctioning, Somerset Township and its authorized agent shall take action to require the correction of the malfunction. If total correction is not technically or financially feasible in the opinion of the authorized agent and a representative of the Pennsylvania Department of Environmental Protection, then action by the property owner to mitigate the malfunction shall be required.
- G. There may arise geographic areas within Somerset Township where numerous on-lot sewage disposal systems are malfunctioning. A resolution of these area-wide problems may necessitate detailed planning and a Somerset Township sponsored revision to the area's Act 537 Official Sewage Facilities Plan. When a Pennsylvania Department of Environmental Protection authorized Official Sewage Facilities Plan revision has been undertaken by Somerset Township, mandatory repair or replacement of individual sewage disposal systems within the study area may be delayed, at the discretion of Somerset Township, pending the outcome of the plan revision process. However, Somerset Township may compel immediate corrective action whenever a malfunction, as determined by Somerset Township officials and the Pennsylvania Department of Environmental Protection, represents a serious public health or environmental threat.

§ 116-58. Operation.

Only normal domestic wastes shall be discharged into any on-lot sewage disposal system. The following shall not be discharged into the system:

- A. Industrial wastes;
- B. Automobile oil and other nondomestic oil;
- C. Toxic or hazardous substances or chemicals, including but not limited to pesticides, disinfectants, acids, paints, paint thinners, herbicides, gasoline and other solvents; or
- D. Clean surface water or groundwater, including water from roof or cellar drains, springs, basement sump pumps and French drains.

§ 116-59. Additional provisions.

- A. The provisions of this article are not applicable to conventional leech field and sand mound sewage systems.
- B. The provisions of this article are applicable to all new alternate systems currently listed in the DEP Alternate Systems Guidance Manual, as well as other alternate on-lot systems subsequently approved by the Pennsylvania Department of Environmental Protection.
- C. The provisions of this article are applicable to community on-lot sewage disposal systems, small stream discharge systems and holding tanks.
- D. The provisions of this article are applicable to on-lot sewage disposal systems located in subdivisions with marginal condition for long-term use of on-lot sewage disposal.
- E. Somerset Township specifically delegates to the WSCS the enforcement of the provisions of this article, any other Somerset Township and DEP requirements, rules, regulations and provisions regarding municipal governance and enforcement of on-lot sewage systems except as to malfunction of any such systems which shall be addressed by Somerset Township.
- F. Somerset Township and WCSC shall jointly prepare and approve by resolution, rules, regulations and requirements for on-lot septic systems applicable to this article, including permitting approval and maintenance of said systems.

§ 116-60. Violations and penalties.

- A. Any person failing to comply with any provisions of this article shall be subject to a fine of not less than \$300 and costs, and not more than \$500 and costs, or in default thereof shall be confined in the Washington County Correctional Facility for a period of not more than 30 days. Each day of noncompliance shall constitute a separate offense.
- B. The penalty for actual malfunctions of any on-lot sewage septic system will come under the rules and regulations of the Pennsylvania Code, Title 73, Section 73.11(c) and the Pennsylvania Consolidated Statutes (Health & Safety) 35 P.S. § 750.14, Nuisances, and 35 P.S. § 750.13, Penalties.

10 Acre Permit Exemption Confirmation

**Commonwealth of Pennsylvania
Department of Environmental Protection
Bureau of Water Quality Management**

10 Acre Permit Exemption Confirmation

(Complete signature in Sections IV.a and IV.b prior to constructing the system)

Property Owner's Name _____

Property Address _____

Property Location _____ (Municipality, County, Road)

Lot Size _____ Remaining Acreage _____

- I. Section 7 of the Pennsylvania Sewage Facilities Act (Act) provides a planning and permit exemption for the installation of an individual on-lot sewage system when all of the following requirements have been met:
- The municipality in which the on-lot system is to be located does not have a local ordinance requiring a permit regardless of lot size.
 - The on-lot system will serve a residential structure.
 - The residential structure will be occupied by the property owner or a member of the property owner's immediate family (brother, sister, son, daughter, stepson, stepdaughter, grandson, granddaughter, father, or mother of the property owner).
 - The residential structure and on-lot system are to be located on a contiguous tract of land of 10 acres or more.
 - The property owner owned the property as of January 10, 1987 or transferred ownership of one lot 10 acres or more subdivided from the parent tract after January 10, 1987 to a member of the property owner's immediate family.
- II. If a property and property owner qualify for a permit exemption, the only technical standards which must be met are those related to isolation distances. These must be verified by the SEO of the local agency serving the municipality in which the system is located prior to covering the system. The isolation distances are as follows:

Perimeter of the septic tank and absorption area and the perimeter of:

| | |
|-----------------------------|----------|
| Any property line | 200 feet |
| Non-utility right-of-way | 200 feet |
| One-hundred-year floodplain | 200 feet |
| River | 200 feet |
| Stream | 200 feet |
| Creek | 200 feet |
| Impoundment | 200 feet |
| Well | 200 feet |
| Watercourse | 200 feet |
| Storm sewer | 200 feet |

| | |
|-----------------------|----------|
| Lake | 200 feet |
| Dammed water | 200 feet |
| Pond | 200 feet |
| Spring | 200 feet |
| Ditch | 200 feet |
| Wetland | 200 feet |
| Water supply | 200 feet |
| Body of surface water | 200 feet |
| Utility right-of-way | 10 feet |
| | |

III. Section 7(a.2) of the Act states that a person installing a permit-exempt system shall indemnify and hold harmless the Commonwealth, the local agency, the sewage enforcement officer serving the municipality in which the system is located and the municipality where the system is located from and against damages to property or injuries to any persons and other losses, damages, expenses, claims, demands, suits and actions by any party against the Commonwealth, the local agency, sewage enforcement officer and the municipality in connection with the malfunctioning of any on-lot system installed under the permit exemption provisions of the Act. The Act requires that every contract for the sale of a lot which is served by an individual sewage system which was installed under the 10 acre permit exemption provisions of the Act shall contain a statement in the contract that clearly indicates to the buyer that soils and site testing were not conducted and that the owner of the property served by the system, at the time of a malfunction, may be held liable for any contamination, pollution, public health hazard or nuisances which occur as the result of the malfunction of the sewage system installed. Contracts not meeting these requirements are not enforceable by the seller against the buyer. The Act further states that it is the sole responsibility of the property owner who installed or contracted for the installation of a sewage system under the permit exemption provisions of this Act or the property owner who accepted responsibility for the system upon purchase of the property to correct or to have corrected any system malfunction which contaminates surface or groundwater or discharges to the surface of the ground. Malfunctions of systems installed under the provisions of this Act which contaminate ground or surface water or discharge to the surface of the ground constitute a nuisance and shall be abatable in a manner provided by law. Such repairs must be conducted in accordance with the Department's standards under a permit issued by the local agency.

IV. Signatures

Property Owner:

- a. I have read and understand the conditions under which this permit exemption is available as described in Sections I through III of this document.

Property Owner

Date

- b. The property for which a permit exemption is being requested meets the requirements described in Section I of this document.*

Local Agency

Date

- c. I have personally verified the isolation distances listed in Section II of this document and confirm that all isolation distances have been met.*

Sewage Enforcement Officer

Date

* If any of the conditions in Sections I or II of this document have not been met, the permit exemption does not apply and an on-lot system permit is required for the property in question.

**INFORMATION FOR LOCAL AGENCY OFFICIALS
ON THE 10-ACRE PERMIT EXEMPTION**

- I. Local agencies and their sewage enforcement officers are responsible for assuring the proper application of the 10 acre permit exemption. Proper documentation from property owners requesting permit exemptions is necessary to protect your agency from future liability. For these reasons, it is recommended that the local agency request the following information from the property owner prior to initiating construction of either the structure or on-lot system serving the structure so that the local agency can make a determination regarding the permit exemption before expenses are incurred by the property owner:
- a. Copy of a deed or other record documenting ownership (prior to January 10, 1987) of the property for which the permit exemption is being requested and documenting that the property is a contiguous (touching along a boundary or at a point) tract of land of 10 acres or more.
 - b. Confirmation in writing that the structure served by the permit-exempt on-lot system is a residential structure to be occupied by either the property owner or the property owner's immediate family.

When a permit exemption is requested for a subdivided lot or parcel from a larger tract, the same documentation listed above should be provided for the parent tract and newly-subdivided lot, as appropriate, to qualify for the permit exemption. The 10 acre lot subdivided from the parent tract after January 10, 1987 may be owned by either the property owner or a member of his immediate family at the time of the permit exemption. Once such a permit exemption is granted for either an existing 10 acre or larger lot or a subdivided lot, the Act prohibits any additional exemptions to be issued for that lot or the parent tract. The Act does not provide for a permit exemption for more than one structure or system on the same tract, parcel or lot. It is important for the local agency to maintain records of these subdivisions since the law prohibits further permit exemptions after the initial exemption for the subdivided lot.

- II. The Sewage Enforcement Officer may want to accompany the property owner onto the site before construction to help locate the system site. This will avoid violations of the isolation distances from the septic tank and absorption area, eliminating problems with isolation distances discovered after construction of the system and potential disqualification of the property owner from the permit exemption. If the sewage enforcement officer is unable to determine the location of features such as property lines, rights-of-way, floodplains, or wetlands, it is recommended that the local agency require the property owner to provide such information. The sewage enforcement officer and local agency are reminded that protection from liability for these permit-exempt systems is only applicable to properly-granted exemptions. Subsequently-documented violations of isolation distances could be used to support local agency or sewage enforcement officer liability for a malfunctioning system.
- III. The maximum fee permitted to be charged to a property owner by a local agency for work related to the determination of a permit exemption is \$25.

A copy of this form should be retained by the local agency as part of the enforcement program files, and should be sent to the appropriate DEP regional or district office.

The owner of a 10 acre parcel which qualifies for a permit exemption is also exempt from the sewage facilities planning requirements of the Act. If the property owner chooses not to use the permit exemption, the planning exemption still applies.

This permit exemption provision cannot be used in municipalities that have ordinances requiring on-lot sewage system permits be issued regardless of lot size. Municipalities can adopt such an ordinance at any time. Ordinances in effect prior to the Act 537 amendments (which created the exemption) remain in effect.

Chapter 122, SEXUALLY ORIENTED BUSINESSES

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 2-23-1998 by Ord. No. 1-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Lewd materials -- See Ch. 76, Art. I.

§ 122-1. Short title.

This chapter shall be referred to as the "Sexually Oriented Business" regulation provisions.

§ 122-2. Purpose and findings.

A. Purpose:

- (1) Pursuant to the authority granted in the Second Class Township Code to prohibit nuisances, to promote the health, welfare, cleanliness, comfort and safety of the citizens of Somerset Township (hereinafter "Township") and to regulate the time of opening and closing and the conduct of places of public entertainment, amusement and recreation, the Township of Somerset enacts this chapter to minimize and control the adverse secondary effects of sexually oriented businesses and thereby protect the health, safety and welfare of its citizens, to protect the citizens from increased crime, to preserve the quality of life, to preserve the property values and character of surrounding neighborhoods and to deter the spread of blight.
- (2) The Board of Supervisors (hereinafter "Supervisors") has determined that licensing is a legitimate and reasonable means of accountability to insure that operators of sexually oriented businesses comply with reasonable regulations and to insure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- (3) The Supervisors do not intend by this chapter to suppress any speech or expression activities protected by the First Amendment, but to enact a content neutral ordinance which addresses the secondary effects of sexually oriented businesses.

B. Legislative findings. The Supervisors find that:

- (1) Sexually oriented businesses have adverse secondary effects which should be regulated to protect the public health, safety and welfare. These secondary effects include, but are not limited to, the spread of communicable diseases, performance of sexual acts in public places, presence of discarded sexually oriented materials on public and private property, sexual harassment, obscenity, prostitution and other illegal sexual activities, crime and neighborhood deterioration.
- (2) A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the sexually oriented businesses. Further, such a licensing procedure will place a heretofore nonexistent incentive on the operators to see that the sexually oriented business is run in a manner consistent with the health, safety and welfare of its patrons and employees, as well as the citizens of the Township. It is appropriate to require reasonable assurances that the licensee is the actual operator of the sexually oriented business, fully in possession and control of the premises and activities occurring therein.
- (3) Removal of doors on viewing booths and requiring sufficient lighting on premises with viewing booths advances a substantial governmental interest in discouraging illegal and unsanitary sexual activity occurring in adult theatres.
- (4) Requiring licensees of sexually oriented businesses to keep information regarding current employees and certain past employees will help reduce the incident of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.
- (5) The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the sexually oriented business will help limit and control the adverse secondary effects of such businesses.
- (6) It is desirable, for the prevention of the spread of communicable diseases, to obtain a limited amount of information regarding certain employees who may engage in the conduct which this chapter is designed to prevent or who are likely to be witnesses to such activity.

- (7) The fact that an applicant for a sexually oriented business license has been convicted of a sexually related crime leads to the rational assumption that the applicant is likely to engage in that conduct in contravention of this chapter.
- (8) The barring of such individuals from the management of sexually oriented businesses for a period of years serves as a deterrent to and prevents conduct which leads to the transmission of sexually transmitted diseases.
- (9) The general welfare, health and safety of the citizens of the Township will be promoted by the enactment of this chapter.
- (10) The limitation of operating hours of sexually oriented businesses to 10:00 a.m. to 10:00 p.m., Mondays through Saturdays, and closure of such businesses on Sundays and holidays reduces the adverse secondary effects of such businesses, including particularly, but not limited to, late night noise levels, crime and sexually offensive materials and activities in public areas, and promotes the public health, safety and welfare.

§ 122-3. Definitions.

As used in this chapter, the following words and phrases shall have the meanings indicated, unless the context clearly indicates a different meaning.

ADULT ARCADE -- Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still or motion-picture machines, projectors, video or laser disc players, or other image-producing devices are maintained, not located within viewing booths, to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE -- A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, CD ROM discs or other computer software, or other visual representations which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
- B. Instruments, devices or paraphernalia which are designed for use in connection with specific sexual activities.

ADULT CABARET -- A nightclub, bar, restaurant or other commercial establishment which regularly features:

- A. Persons who appear in a state of nudity or seminudity;
- B. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions or visual presentations of any other kind which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT MOTION-PICTURE THEATRE -- A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions or visual presentations of any kind are regularly shown which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

ADULT THEATRE -- A theatre, concert hall, dance hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or seminudity, or live

performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities.

EMPLOYEE -- A person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

ESCORT -- A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY -- A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

ESTABLISHMENT -- Includes any of the following:

- A. The opening or commencement of any sexually oriented business as a new business;
- B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
- C. The addition of any sexually oriented business to any other existing sexually oriented business or to a non-sexually oriented business; or
- D. The relocation of any sexually oriented business.

KNOWINGLY -- Having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

- A. The character and content of any material or performance described herein which is reasonably susceptible of examination by a licensee or person; and
- B. The age of the minor; provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the licensee or person made a reasonable bona fide attempt to ascertain the true age of such minor.

LICENSEE -- A person in whose name a license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a license; and in the case of an employee, a person in whose name a license has been issued authorizing employment in a sexually oriented business.

NUDE MODEL STUDIO -- Any place where a person who appears seminude, in a state of nudity or who displays specified anatomical areas and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. "Nude model studio" shall not include a proprietary school licensed by the State of Pennsylvania or a college, junior college or university supported entirely or in part by public taxation; a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or in a structure:

- A. That no sign visible from the exterior of the structure and no other advertising indicates a nude or seminude person is available for viewing;
- B. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
- C. Where no more than one nude or seminude model is on the premises at any one time.

NUDITY or A STATE OF NUDITY -- The showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple or the showing of the covered

male genitals in a discernibly turgid state.

PERSON -- An individual, proprietorship, partnership, corporation, association or other legal entity.

PUBLIC PLACE -- All outdoor areas owned by or open to the general public, and all buildings and enclosed places owned by or open to the general public, including but not limited to places of entertainment, taverns, restaurants, clubs, theatres, dance halls, banquet halls, party rooms or halls limited to specific members, and party rooms or halls restricted to adults or to patrons invited to attend, whether or not an admission charge is levied.

SEMINUDE or IN A SEMINUDE CONDITION -- The state of dress in which clothing partially or nonopaquely covers specified anatomical areas.

SEXUAL ENCOUNTER CENTER -- A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminudity.

SEXUALLY ORIENTED BUSINESS -- An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

SPECIFIED ANATOMICAL AREAS -- Human genitals, pubic region, anus, buttocks, female breast(s) below a point immediately above the top of the areola or human male genitals in a discernibly turgid state, even if completely covered.

SPECIFIED CRIMINAL ACTIVITY -- Any of the following offenses:

- A. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure; indecency with a child; engaging in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described above under the criminal or penal code or other states or countries;
- B. For which:
 - (1) Less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
 - (2) Less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense; or
 - (3) Less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty-four-month period.
- C. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or a person residing with the applicant.

SPECIFIED SEXUAL ACTIVITIES -- Any of the following:

- A. The fondling or other erotic touching of human genitals, public region, buttocks, anus or female breasts;
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, masturbation or sodomy; or
- C. Excretory functions as part of or in connection with any of the activities set forth in Subsections A

and B above.

TRANSFER OF OWNERSHIP OR CONTROL -- Of a sexually oriented business means and includes any of the following:

- A. The sale, lease, or sublease of the business;
- B. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- C. The establishment of a trust, gift, or other similar legal device which transfer the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

VIEWING BOOTHS -- Booths, stalls, partitioned portions of a room, rooms or other enclosures which are available for viewing:

- A. Films, movies, videos, or visual reproductions of any kind depicting or describing specified sexual activities or specified anatomical areas; or
- B. Persons who appear in a state of nudity or seminudity or who offer performances or presentations characterized by the exposure of specified anatomical areas or by specified sexual activities.

§ 122-4. License required.

A. It is unlawful:

- (1) For any person to operate a sexually oriented business without a valid sexually oriented business license issued by the Township pursuant to this chapter.
- (2) For any person who operates a sexually oriented business to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the Township pursuant to this chapter.
- (3) For any person to obtain employment with a sexually oriented business without having secured a sexually oriented business employee license pursuant to this chapter.
- (4) Beginning on the 60th day after enactment of this chapter, for any person to continue to operate any sexually oriented business in operation at the time of the enactment of this chapter without a valid sexually oriented business license pursuant to this chapter.
- (5) Beginning on the 60th day after enactment of this chapter, for any person who operates a sexually oriented business in operation at the time of the enactment of this chapter to employ a person to work for the sexually oriented business who is not licensed as a sexually oriented business employee by the Township pursuant to this chapter.
- (6) Beginning on the 60th day after enactment of this chapter, for any person to obtain employment with a sexually oriented business in operation at the time of the enactment of this chapter without having secured a sexually oriented business employee license pursuant to this chapter.

B. An application for a license must be made on a form provided by the Township.

C. All applicants must be qualified according to the provisions of this chapter. The application may request and the applicant shall provide such information (including fingerprints) as to enable the Township to determine whether the applicant meets the qualifications established in this chapter.

D. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a 20% or greater interest in the business

must sign the application for a license as applicant. Each applicant must be qualified under this chapter and each applicant shall be considered a licensee if a license is granted.

- E. The completed application for a sexually oriented business license shall contain the following information and shall be accompanied by the following documents:
- (1) If the applicant is:
 - (a) An individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is at least 18 years of age.
 - (b) A partnership, the partnership shall state its complete name, and the name of all partners, whether the partnership is general or limited and a copy of the partnership agreement, if any.
 - (c) A corporation, the corporation shall state its complete name, the date of its incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation and qualified and authorized to conduct business in Pennsylvania, the names and capacity of all officers, directors and principal stockholders, and the name of the registered corporate agent and the address of the registered office for service of process.
 - (2) If the applicant intends to operate the sexually oriented business under a name other than that of the applicant, he or she must state the sexually oriented business' fictitious name and submit the required registration documents.
 - (3) Whether the applicant, or a person residing with the applicant, has been convicted of a specified criminal activity as defined in this chapter, and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.
 - (4) Whether the applicant, or a person residing with the applicant, has had a previous license under this chapter or other similar sexually oriented business ordinance or law from another municipality, state or county denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation and whether the applicant or a person residing with the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the sexually oriented business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.
 - (5) Whether the applicant or a person residing with the applicant holds any other licenses under this chapter or other similar sexually oriented business ordinance or law from another municipality, state or county and, if so, the names and locations of such other licensed businesses.
 - (6) The specific classification of sexually oriented use for which the applicant is filing along with a detailed description of each and every activity encompassed by the proposed sexually oriented business, which description shall thoroughly demonstrate compliance and/or intended compliance with all provisions of this chapter.
 - (7) The location of the proposed sexually oriented business, including a legal description of the property, street address and telephone number(s), if any.
 - (8) The applicant's mailing address and residential address.
 - (9) A recent photograph of the applicant(s).
 - (10) The applicant's driver's permit number, social security number and his/her state or federally issued tax identification number.

- (11) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- (12) A current certificate and straight-line drawing prepared within 30 days prior to application by a registered land surveyor depicting the property lines, the property to be certified, the location of all structures, the depiction of all parking areas, to include the dimensions of each space.
- (13) If an applicant wishes to operate a sexually oriented business, which includes viewing booths, then the applicant shall also comply with the application requirements set forth in Subsection E(11), above, and shall separately apply for and obtain a building and occupancy permit for the installation of the viewing booths.
- (14) The application form shall inform the applicant that separate applications are required for any necessary zoning permits, subdivision and land development approvals or building and occupancy permits and that the applicant may apply for such permits by contacting the Township Code Enforcement Officer (hereinafter "Enforcement Officer") and that Department of Labor and Industry approval is required.
- (15) Before any applicant may be issued a sexually oriented business employee license, the applicant shall submit on a form to be provided by the Township the following information:
 - (a) The applicant's name or any other name (including "stage" names) or aliases used by the individual;
 - (b) Age, date and place of birth;
 - (c) Height, weight, hair and eye color;
 - (d) Present residence address and telephone number;
 - (e) Present business address and telephone number;
 - (f) Date, issuing state and number of driver's license or other identification card information;
 - (g) Social security number; and
 - (h) Proof that the individual is at least 18 years of age.
- (16) Attached to the application form for a sexually oriented business employee license as provided above, shall be the following:
 - (a) A color photograph of the applicant clearly showing the applicant's face, and the applicant's fingerprints on a form provided by any police department. Any fees for the photographs and fingerprints shall be paid by the applicant.
 - (b) A statement detailing the license history of the applicant for the five years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate, in this or any other county, municipality, state, or country any business or has ever had a license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name, the name of the issuing or denying jurisdiction, and describe in full the reason for the denial, revocation or suspension. A copy of any order of denial, revocation or suspension shall be attached to the application.
 - (c) A statement whether the applicant has been convicted of a specified criminal activity as

defined in this chapter and, if so, the specified criminal activity involved, the date, place and jurisdiction of each.

§ 122-5. Issuance of license.

- A. Upon the filing of said application in a fully completed form for a sexually oriented business license or for a sexually oriented business employee license, the application shall then be referred to the Enforcement Officer for review and investigation. The Enforcement Officer shall utilize any available resources through the Pennsylvania State Police, the Commonwealth of Pennsylvania and/or other law enforcement agencies as may be necessary to complete the review and investigation required by this chapter. Within 30 days from the date the completed application is filed, the Enforcement Officer shall issue a license, unless it is determined by the Enforcement Officer that one or more of the following findings is true:
- (1) The applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
 - (2) The applicant is under the age of 18 years.
 - (3) This applicant has been convicted of a "specified criminal activity," as defined in this chapter.
 - (4) The sexually oriented business employee license is to be used for employment in a business prohibited by local or state law, statute, rule or regulation or prohibited by a particular provision of this chapter.
 - (5) The applicant has had a sexually oriented business employee license revoked by the Township within two years of the date of the current application. If the sexually oriented business employee license is denied, the temporary license previously issued is immediately deemed null and void. Denial, suspension or revocation of a license issued pursuant to this section shall be subject to appeal as set forth in § 122-10, hereinafter.
 - (6) The required application, investigation and license fees have not been paid.
 - (7) An applicant's license to operate a sexually oriented business, issued by any jurisdiction, has been revoked within the preceding 12 months.
 - (8) The proposed sexually oriented business is in violation of or is not in compliance with any of the provisions of this chapter.
- B. A license granted pursuant to this section shall be subject to annual renewal upon the written application of the applicant and a finding by the Township that the applicant has not been convicted of any specified criminal activity as defined in this chapter or committed any act during the existence of the previous license, which would be grounds to deny the initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in § 122-6.
- C. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the sexually oriented business and the specific classification of sexually oriented use for which the license is issued. Licenses for sexually oriented businesses shall state that the sexually oriented business shall not commence until all necessary zoning, subdivision and land development, and/or building code approvals and Department of Labor and Industry approvals are obtained. All licenses shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that they may be easily read by any person at any time.
- D. Applications for building and occupancy permits shall be processed and either denied or approved within 30 days of a complete application by the Township.

- E. A sexually oriented business license shall issue for the specific classification of sexually oriented use as permitted by this chapter and applied for.
- F. A license denial shall conform to the provisions of § 122-10D.
- G. Any person aggrieved by the grant of a license may appeal, in writing, within 10 days from the date of issuance of the license, to the Supervisors. The Supervisors shall then hold a Local Agency Law^{xxixEN} hearing within 20 days of the date of filing of the appeal and render a decision within 10 days from the end of the hearing. Appeals from a decision of the Supervisors may be taken to court subject to § 122-10E of this chapter.

§ 122-6. Fees.

- A. Every application for a sexually oriented business license (whether for a new license or for renewal of an existing license) shall be accompanied by a nonrefundable application and investigation fee in an amount set by resolution of the Supervisors.
- B. In addition to the application and investigation fee required above, every sexually oriented business that is granted a license (new or renewal) shall pay to the Township an annual nonrefundable license fee in an amount set by resolution of the Supervisors within 30 days of license issuance or renewal.
- C. Every application for a sexually oriented business employee license (whether for a new license or for renewal of an existing license) shall be accompanied by an annual nonrefundable application, investigation, and license fee in an amount set by resolution of the Supervisors.
- D. All license applications and fees shall be submitted to the office of the Township Secretary/Treasurer, and, thereafter, the applications shall be forwarded to the Enforcement Officer for review and investigation and approval or denial.

§ 122-7. Inspection of premises.

- A. An applicant or licensee shall permit authorized Township officials and their agents or consultants to inspect the premises of a sexually oriented business for the purpose of ensuring compliance with the law, and this chapter, at any time it is occupied or open for business.
- B. A person who operates a sexually oriented business or his agent or employee commits a violation of this chapter if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

§ 122-8. Expiration of license.

- A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in § 122-4. An application for renewal shall be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the date of expiration of the license will not be extended.
- B. When the Township denies renewal of a license, the applicant shall not be issued a license for one year from the date of denial. If, subsequent to denial, the Township finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date denial became final.

§ 122-9. Suspension of license.

The Enforcement Officer shall suspend a license for a period not to exceed 30 days if he determines that a licensee or an employee of a licensee has:

- A. Violated or is not in compliance with any provision of this chapter;
- B. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter; or
- C. Knowingly permitted gambling by any person on the sexually oriented business premises.

§ 122-10. Revocations; appeals of denials, suspensions or revocations.

- A. The Enforcement Officer shall revoke a license if a cause of suspension in § 122-9 occurs and the license has been suspended within the preceding 12 months.
- B. The Enforcement Officer shall revoke a license if he determines that:
 - (1) A licensee gave false or misleading information in the material submitted during the application process;
 - (2) A licensee has knowingly allowed possession, use or sale of controlled substances on the premises;
 - (3) A licensee has knowingly allowed prostitution on the premises;
 - (4) A licensee knowingly operated the sexually oriented business during a period of time when the licensee's license was suspended;
 - (5) A licensee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises; or
 - (6) A licensee is delinquent in payment to the Township for any licensing fees past due.
- C. When the Township revokes a license, the revocation shall continue for one year, and the licensee shall not be issued a sexually oriented business license for one year from the date the revocation became effective. If, subsequent to revocation, the Township finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.
- D. All license application, renewal, suspension or revocation decisions shall be sent in writing to the applicant or licensee. All such decisions which deny, suspend or revoke a permit shall state specifically the chapter requirement not met and any other basis for the decision. After denial of an application, or denial of a renewal of an application, or after suspension or revocation of any license, the applicant or licensee may appeal pursuant to the Local Agency Law to the Supervisors. The Supervisors will then hold a Local Agency Law hearing within 20 days from the date the appeal is filed and will render a written decision within 10 days from the date such hearing concludes. Any such appeal must be filed, in writing, with the Township Secretary/Treasurer, within 10 days from the date of mailing of the decision appealed from. Failure to file said appeal with the Township Secretary/Treasurer within 10 days from the date of the mailing of the decision appealed from shall be deemed a conclusive determination as to the issues or matters addressed by the written decision. In the case of a denial of a license renewal, or in the case of a license suspension or revocation, the licensee may continue to operate to the same extent as immediately prior to the suspension or revocation until the earlier of: the expiration of the ten-day appeal period without filing of an appeal; or the date of a decision dismissing any appeal.
- E. Any person aggrieved by a decision of the Supervisors may appeal to a court of competent jurisdiction. The Township shall, upon filing of such appeal, consent to any request by a licensee

applicant or licensee to the court to give expedited review to such appeal. The Township shall certify any record to the court within 20 days of any request by the court to do so.

§ 122-11. Transfer of license.

A licensee shall not transfer his/her/its license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the application.

§ 122-12. Regulations pertaining to exhibitions in viewing rooms.

A. A person who operates viewing booths or causes them to be operated shall comply with the following requirements:

- (1) Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of interior of the premises to an accuracy of plus or minus six inches. The Township may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- (2) The application shall be sworn to be true and correct by the applicant.
- (3) It is the duty of the licensee of the premises to ensure that at least one licensed employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- (4) The interior of the premises shall be configured in such a manner that there is an unobstructed view from the manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding rest rooms. Rest rooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station. In addition, all viewing booths shall have at least one side fully open so that all of the area inside the booth is open to the view of persons in the public area of the establishment.
- (5) It shall be the duty of the licensees to ensure that the view area specified in Subsection A(4), above, remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials and, at all times, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Subsection A(1), above.
- (6) No viewing room may be occupied by more than one person at a time.
- (7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to

illuminate every place to which patrons are permitted access at an illumination of not less than 5.0 footcandle as measured at the floor level.

- (8) It shall be the duty of the licensees to ensure that the illumination described above is maintained at all times that any patron is present in the premises.
- (9) No licensee shall allow openings of any kind to exist between viewing rooms or booths.
- (10) No person shall make or attempt to make an opening of any kind between viewing booths or rooms.
- (11) The licensee shall, during each business day, regularly inspect the walls between the viewing booths to determine if any openings or holes exist.
- (12) The licensee shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.
- (13) The licensee shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

B. A person having a duty under § 122-12A(1) through (13) above commits a violation of this chapter if he knowingly fails to fulfill that duty.

§ 122-13. Additional regulations for escort agencies.

- A. An escort agency shall not employ any person under the age of 18 years.
- B. A person commits a violation of this chapter if the person acts as an escort or agrees to act as an escort for any person under the age of 18 years.

§ 122-14. Additional regulations for nude model studios.

- A. A nude model studio shall not employ any person under the age of 18 years.
- B. A person under the age of 18 years commits a violation of this chapter if the person appears seminude or in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a rest room not open to public view or visible to any other person.
- C. A person commits a violation of this chapter if the person appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.
- D. A nude model studio shall not place or permit a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

§ 122-15. Additional regulations concerning public nudity.

- A. It shall be a violation of this chapter for a person to knowingly and intentionally, in a public place:
 - (1) Engage in sexual intercourse or to engage in deviate sexual intercourse as defined by the Pennsylvania Crimes Code;

(2) Appear in a state of nudity as that term is herein defined; or

(3) Fondle the genitals of himself, herself or another person.

B. This section shall not apply to:

(1) Any child under 10 years of age.

(2) Any individual exposing a breast in the process of breast feeding an infant under two years of age.

(3) The exercise of free speech or free expression in the form of artistic and theatrical performances. It is the intention of the Township that this section be construed, enforced and interpreted in such a manner as will cause the least possible infringement of the constitutional rights of free speech, free expression, due process, equal protection or other fundamental rights.

C. It shall be a violation of this chapter for a person who knowingly or intentionally in a sexually oriented business appears in a seminude condition unless the person is an employee who, while seminude, shall be at least 10 feet from any patron or customer and on a stage at least two feet from the floor.

D. It shall be a violation of this chapter for an employee, while seminude, in a sexually oriented business, to solicit any pay or gratuity from any patron or customer or for any patron or customer to pay or give any gratuity to any employee, while said employee is seminude in a sexually oriented business.

§ 122-16. Prohibition against children in a sexually oriented business.

A person commits a violation of this chapter if the person knowingly allows a person under the age of 18 years on the premises of a sexually oriented business.

§ 122-17. Hours of operation.

No sexually oriented business shall be open for business before 10:00 a.m., Monday through Saturday, or after 10:00 p.m., Monday through Saturday. Sexually oriented businesses shall be closed at all times on Sundays and legal holidays.

§ 122-18. Exemptions.

It is a defense to prosecution under § 122-15 that a person appearing in a state of nudity did so in a modeling class operated:

A. By a proprietary school, licensed by the Commonwealth of Pennsylvania, a college, junior college or university supported entirely or partly by taxation;

B. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; and

C. In a structure:

(1) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing;

(2) Where, in order to participate in a class a student must enroll at least three days in advance of the class; and

- (3) Where no more than one nude model is on the premises at any one time.

§ 122-19. Violations and penalties. xxxEN

- A. Any person, firm or corporation who violates or permits the violation of any provisions of this chapter or the rules and regulations approved and hereinafter adopted commits a summary offense, and shall, upon conviction, be sentenced to pay a fine not exceeding \$300 or to imprisonment for not more than 90 days, or both, for each violation. Whenever such person shall have been officially notified by the Township that he is committing a violation of this chapter or the rules and regulations approved and hereinafter adopted, each day that he shall continue such violation after such notification shall constitute a separate violation punishable by a like fine.
- B. Any person who violates or permits the violation of this chapter shall pay, in addition to the fine set forth above, all court costs and reasonable attorney's fees incurred by the Township in connection with any summary enforcement proceedings brought to enforce this chapter.
- C. The Township may commence, at any time, appropriate actions in equity or otherwise to prevent, restrain, correct, enjoin or abate violations of this chapter.

Chapter 127, SOLID WASTE

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Littering -- See Ch. 102.
Storage of nuisances -- See Ch. 112.

ARTICLE I, Solid Waste and Burning [Adopted 10-9-2006 by Ord. No. 2-2006]

§ 127-1. Title.

This article shall be known as the "Somerset Township Solid Waste Ordinance."

§ 127-2. Definitions.

The following words and phrases as used in this article shall have the meaning ascribed herein, unless the context clearly indicates a different meaning:

ACT 97 -- The Pennsylvania Solid Waste Management Act of 1980 (P.L. 380, No. 97, July 7, 1980). xxxiEN

ACT 101 -- The Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988. xxxiiEN

BULKY WASTE -- Large items of solid waste, including, but not limited to, appliances, furniture, large auto parts, trees, branches or stumps, which may require special handling due to size, shape or waste.

BURNING PERMIT -- A permit to kindle or maintain such open fires or other nonexempted fires. The Board of Supervisors, upon application, shall issue the permit. A burning permit is valid for one day only. A fee for each burning permit, as established by resolution, shall be charged.

COMMERCIAL ESTABLISHMENT -- Any entity engaging in a nonmanufacturing or nonprocessing

business, including, but not limited to, stores, markets, offices, restaurants, shopping centers and theaters.

COMMERCIAL WASTE -- Any waste generated by normal commercial business activities normally associated with waste removal services, including but not limited to garbage, empty cans and buckets, plastic wraps and bags, paper products, pallets, empty boxes, excelsior, etc.

CONTAINED FIRE -- Any fire contained in an incinerator, fireplace or other contained enclosure designed for outdoor cooking, or a fireproof container. Every contained fire or controlled burn shall be built in and confined to a noncombustible container covered with a screen of 1/2 inch or smaller mesh, or other suitable noncombustible cover.

CONTAINER -- A portable device in which waste is held temporarily for storage or transportation.

CONTROLLED FIRE -- Any fire not included in the definition of "contained fire" and under reasonable control of a competent adult.

DISPOSAL -- The disposition, injection, dumping, spilling, leaking or placing of solid waste into or on the land or water in a manner that the solid waste enters the environment, is emitted into the air or is discharged to the waters of the Commonwealth of Pennsylvania.

DOMESTIC/HOUSEHOLD WASTE -- Solid wastes comprised of garbage and rubbish, which normally originates in the residential private household or apartment.

EXEMPT FIRES -- Fires which are exempt from the burning regulations and may be kindled on any day at any time.

FURNACE -- Any enclosed device specifically designed for burning any material for the production of heat.

GARBAGE -- Solid waste derived from animal, grain, fruit, vegetable matter resulting from handling, preparation, cooking and consumption of food that is capable of being decomposed by microorganisms.

INDUSTRIAL ESTABLISHMENT -- An entity engaged in manufacturing or processing, including, but not limited to, factories, foundries, mills, processing plants, refineries, mines and slaughterhouses.

INSTITUTIONAL ESTABLISHMENT -- An entity engaged in service, including, but not limited to, hospitals, nursing homes, orphanages, day-care facilities, schools and universities.

LEAVES -- Leaves that have fallen from trees due to seasonal change or death of a tree normally gathered by raking, vacuum/blowers or other methods.

LEGAL HOLIDAY -- Any day observed as a holiday by closing of the post office: New Years Day, Martin Luther King, Jr. Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day.

LICENSED WASTE HAULER -- Any waste collector or hauler possessing a current, valid municipal license issued by Somerset Township pursuant to this article.

MUNICIPAL WASTE -- Any garbage, refuse, industrial, lunchroom or office waste and other materials, including solid, liquid, semisolid or contained gaseous material resulting from operation of residential, municipal, commercial or institutional establishments and from community activities; and any sludge not meeting the definition of residual or hazardous waste under Act 97 from any municipal, commercial or institutional water supply, treatment plant, wastewater treatment plant or air pollution control facility. The term does not include any source-separated recyclable materials.

OPEN FIRE -- A fire in which any material is burned in the open or in a receptacle other than a furnace or incinerator.

PERSON -- Any individual, partnership, association, corporation, department, bureau, agency, authority or legal entity recognized by law as the subject of rights and duties. In any provisions of this article prescribing a fine, penalty or imprisonment, or any combination of the foregoing, the term "person" shall include the officers and directors of any legal entity.

RECREATIONAL FIRE -- Any fire used in connection with camping, cooking, picnicking, or other recreational activity. Recreational fires must be clearly used for said purpose at the time of observation and may only be kindled with seasoned wood, charcoal or other man-made material expressly for use in recreational fires.

REFUSE -- Garbage, rubbish and trade waste.

RESIDENTIAL BURNING -- Fires kindled by the owner/occupant of a residential property not

incidental to land development.

RESPONSIBLE ADULT -- An individual 18 years or older who is not under the influence of alcohol or drugs or suffering from any other disability which would impair his or her ability to properly supervise a fire.

RUBBISH -- Solids not considered to be highly flammable or explosive, including, but not limited to, old clothes, leather, carpets, excelsior, furniture, rubber, ashes, bedding, leaves, yard trimmings, tree branches, cans, glass, plastics, crockery, and other similar items.

SALVAGING -- The controlled removal or recycling of material from a solid waste processing or disposal facility.

SCAVENGING -- The unauthorized and uncontrolled removal of material placed for collection or from a solid waste processing or disposal facility.

SOLID WASTE -- Any waste, including, but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous material.

STORAGE -- The containment of any waste on a temporary basis in such a manner as not to constitute disposal of such waste. It shall be presumed that the containment of any waste in excess of one year shall constitute disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

TRADE WASTE -- All solid or liquid material or rubbish resulting from construction, building operations, or the prosecution of any business, trade, or industry, including but not limited to wood products, plastic products, cartons, grease, oil, and other petroleum products, chemicals, cinders and other forms of solid or liquid waste materials; provided, that "trade waste" shall not include any coal refuse associated with mining or preparation of coal.

TRANSPORTATION -- The off-site removal of any solid waste at any time after generation.

YARD AND GARDEN TRIMMINGS -- Leaves (still on the branch), garden residue, tree and shrubbery trimmings and similar materials, including grass clippings.

§ 127-3. Regulations.

A. Burning.

- (1) Residential burning is allowed without permit from Monday through Saturday between the hours of 7:00 a.m. through 7:00 p.m. Fires must be extinguished thoroughly with no smoldering.
- (2) Burning is prohibited on Sundays, legal holidays, ozone action days or fire ban emergency days as proclaimed by Washington County Emergency Management or the Somerset Township Board of Supervisors. No fire shall be permitted to burn whenever drought or extreme weather conditions exist.
- (3) A burning permit is required for all burning to occur at any times other than those specified in the above subsection. The burning permit shall be valid for one burn only. The fee shall be established by resolution.
- (4) All fires shall be attended to at all times by a responsible adult with readily available means of extinguishing the fire.
- (5) Fires shall be used to burn readily combustible materials. Except for the burning of paper, paper materials, dry leaves, branches, wood or wood products, it shall be unlawful for any person to burn any solid waste within the Township; no garbage, offal, or plastics may be burned at any time.
- (6) No fire shall be set, started, fed, permitted to burn or maintained where such fire may endanger any building or property, except where such building or property is used by the Fire Department for training purposes. Contained fire or controlled burn shall not be permitted closer than 20 feet from any building, property line, and/or road line. Open fires shall be maintained at least 50 feet

from any structure.

- (7) Fire used for the burning of waste generated by clearing and grubbing prior to construction, as long as smoke odors, ash, or sparks and embers do not cross onto other properties.
- (8) The following are exceptions:
 - (a) Fire set to abate or prevent a fire hazard or used as a management technique for vegetation management, scientific research or to prevent wildfires.
 - (b) Fire set solely for recreational or ceremonial purposes, or used only for cooking; using natural, untreated wood; such fire can be no more than six feet in circumference.
 - (c) Fire set for the purpose of instructing personnel in fire fighting.
 - (d) Fire set for the prevention and control of disease or pests.
 - (e) Prescribed controlled fire for the conservation and management of unique and natural areas and/or for the reduction of fuel loads.
 - (f) Fire used as a management technique for preventing wildfires, scientific research, or vegetation management.
- (9) Nothing herein shall be construed to permit or encourage the burning of any substance determined by the Commonwealth of Pennsylvania or the United States Environmental Protection Agency to be a hazardous substance, nor shall any fire be permitted to burn by any persons if such burning is in violation of the Air Pollution Control Act^{xxxiiiEN} or other legislation by the Commonwealth of Pennsylvania or the United States of America or any of their legislative agencies.

B. Solid waste.

- (1) It shall be unlawful for any person to collect, transport, or haul any solid waste: domestic, commercial, trade, institutional or industrial, from private or public property without a current, valid license issued by the Township.
- (2) It shall be unlawful to dump or accumulate any garbage, rubbish, or similar waste materials on any public or private property within the limits of this Township, or to carry on the business of disposing of garbage or any similar business on any public or private property within the limits of this Township.
- (3) It shall be unlawful for any person to process and/or dispose of any solid waste in the Township except in accordance with all applicable DEP Rules and Regulation adopted pursuant to Act 97 and Act 101.
- (4) It shall be unlawful for the owner of any property within the Township to use or allow his or their property to be used for dumping and accumulation of any garbage, rubbish, trade waste or any similar waste materials or for the disposing of garbage and burning of any kind of inflammable waste causing offensive or obnoxious fumes or odors.
- (5) It shall be unlawful for any person to scavenge any materials from any solid waste that is stored or deposited for collection within the Township without prior written approval from the Township.
- (6) It shall be unlawful for any reason to salvage or reclaim any solid wastes within the Township except at an approved and permitted resource recovery facility under any applicable DEP Rules and Regulations adopted pursuant to Act 97 and Act 101.

- (7) It shall be unlawful for any person to accumulate or permit to accumulate on any public or private property within the municipality any garbage, rubbish, bulky waste or any other municipal or residual waste except in accordance with all applicable PA Department of Environmental Protection (DEP) Rules and Regulations adopted pursuant to Act 97 and Act 101.

§ 127-4. Standards for storage of solid waste.

- A. The storage of all solid waste shall be practiced so as to prevent the attraction, harborage or breeding of insects or rodents and to eliminate conditions harmful to public health or which create safety hazards, odors, unsightliness or public nuisances.
- B. Any person producing municipal waste shall provide a sufficient number of approved containers to store all waste materials generated during periods between regularly scheduled collections and shall place and store all waste materials therein.
- C. Any person storing municipal waste for collection shall comply with the minimum standards for the storage of municipal waste set forth in the DEP's Title 25, Chapter 285, Subchapter A Regulations for the Storage of Municipal Waste.

§ 127-5. Standards and regulations for collection.

- A. All households, homeowners, commercial, industrial and institutional establishments within the Township shall utilize the services of a licensed collector for disposal of their domestic waste or household waste.
- B. All licensed collectors and waste haulers shall comply with the minimum standards for collection and transportation of municipal waste set forth in the DEP's Title 26, Chapter 296, Subchapter B, Regulations for Collection and Transportation of Municipal Waste.
- C. All municipal waste collected within the Township shall only be conveyed or transported to a transfer station, processing facility, and/or disposal site permitted by the Department of Environmental Protection, and/or other regulatory agencies pursuant to the approved Municipal Waste Management Plan for Washington County.^{xxxiv}EN

§ 127-6. Injunction powers.

The Township may petition the Court of Common Pleas, Washington County, for an injunction, either mandatory or prohibitive, to enforce any of the provisions of the article.

§ 127-7. Violations and penalties. ^{xxxv}EN

It shall be unlawful to burn, ignite, incinerate, maintain or otherwise permit the burning of any materials whatsoever without complying with the requirements of this article. Any person who violates or permits a violation of this article, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

§ 127-8. Additional costs.

- A. In the case of a fire requiring fire fighters and/or equipment and upon conviction of any violation of this article, the violator shall also pay charges in order to cover the fire fighting costs. Charges shall be assessed for use of the following fire fighting equipment:
- (1) Pumpers and tankers.
 - (2) Brush busters. Brush busters are all-wheel-drive vehicles equipped for off-road or wooded area use with a water tank of at least 500 gallons' capacity and an appropriate size pump.
 - (3) Chain saws.
- B. Additional labor charges shall be assessed under this article based upon an hourly rate for all firemen engaged in the fire fighting activities.

§ 127-9. Municipal liability.

The Board of Supervisors, and its agents, officials, and representatives, shall not under any circumstances be liable or responsible for damages caused to any person or property by reason of the conduct of any burning activity in compliance or noncompliance with the terms and provisions hereof. The person, persons, company or companies responsible for any such fire and the permit holder shall bear sole liability for any damages caused as a result thereof.

Chapter 133, STREETS AND SIDEWALKS

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset as indicated in article histories. Amendments noted where applicable.]

ARTICLE I, Street Openings [Adopted 5-17-1974 by Ord. No. 1-1974 (Ch. 21, Part 1, of the 1990 Code)]

§ 133-1. Construction.

In accordance with the provisions of 53 P.S. § 67322, as amended, no railroad or street railway shall hereafter be constructed upon any Township road, nor shall any railroad or street railway crossings, nor any gas pipe, water pipe, electric conduits, or other piping, be laid upon or in, nor shall any telephone, telegraph, or electric light or power poles, or any coal tipples or any other obstructions be erected upon or in, any portion of a Township road except under such conditions, restrictions and regulations relating to the installation and maintenance thereof, as may be prescribed in permits granted by the Township for such purpose.

§ 133-2. Permit application. ^{xxxvi}EN

The application for a permit shall be on a form prescribed by the Township and submitted to the Township in duplicate. The application shall be accompanied by a fee in accordance with the schedule of fees set forth by the Department of Transportation for highway occupancy permits and restoration charges. In addition, the applicant shall submit two copies of a sketch showing such dimensions as the location of the intended facility, width of the traveled roadway, right-of-way lines and a dimension to the nearest intersecting street.

§ 133-3. Issuance of permit.

A permit shall be issued to the applicant after all the aforementioned requirements have been filed.

§ 133-4. Written notice.

Upon completion of the work, the applicant shall give written notice thereof to the Township.

§ 133-5. Inspection. ^{xxxvii}EN

Upon completion of the work authorized by the permit, the Township shall inspect the work and, when necessary, enforce compliance with the conditions, restrictions and regulations prescribed by the permit. In addition to that inspection, the Board of Supervisors or its agents may reinspect the work not more than two years after its completion, and if any settlement of the road surface or other defect appears in the work contrary to the conditions, restrictions and regulations of the Township, the Board of Supervisors may enforce compliance therewith. If the applicant fails to rectify a defect which presents an immediate or imminent safety or health problem within 48 hours or any other defect within 60 days after written notice from the Township to do so, the Township may do the work and impose upon the applicant the cost thereof, together with an additional 20% of such cost.

§ 133-6. Violations and penalties. [Amended 8-13-1990 by Ord. No. 4-1990^{xxxviii}EN]

Any person, firm, corporation or utility who shall violate or permit a violation of this article, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

ARTICLE II, Curb Cuts and Driveway Construction [Adopted 8-13-1990 by Ord. No. 4-1990 (Ch. 21, Part 2, of the 1990 Code)]

§ 133-7. Lot frontage. [Amended 2-23-1998 by Ord. No. 2-1998]

All lots shall have direct access to an existing or proposed public street.

§ 133-8. Lot access. [Added 2-23-1998 by Ord. No. 2-1998]

- A. Residential lots having direct access to an arterial or primary street shall be avoided whenever possible. Where direct access to an arterial or primary street cannot be avoided, adequate turnaround space shall be provided behind the right-of-way line.
- B. Where access is permitted to a state road or highway, authorization from the Pennsylvania Department of Transportation must be proven by the display of a valid highway occupancy permit.
- C. Adequate sight distance shall be provided, subject to review and approval by the Township Engineer. Driveways shall not exceed a slope of 10% within 12 feet of the street right-of-way line.
- D. All driveways or access roads to single-family residences shall intersect streets at angles of no less than 60°.
- E. All other driveways or access roads shall intersect streets at right angles, where practicable, and in no case less than 75°.

- F. Widths of access roads or driveways shall be designed in accordance with the following standards:
- (1) Access roads or driveways, for multifamily residential uses, mobile home parks and all nonresidential uses shall be no less than 24 feet in width at the street line, and shall not exceed 30 feet in width at the street line, and shall be clearly defined by some form of curbing as approved by the Township Engineer.
 - (2) Access roads or driveways for single-family residential uses shall be no less than 10 feet in width at the street line, and shall not exceed 20 feet in width at the street line.
- G. To provide safe and convenient ingress and egress, access road and driveway entrances shall be rounded at the following minimum radii:
- (1) Access road and driveway entrances for multifamily residential uses, mobile home parks and all nonresidential uses shall be rounded at a minimum radius of 10 feet.
 - (2) Driveway entrances for single-family residential uses shall be rounded at a minimum radius of five feet.
- H. Access road grades or driveway grades shall not exceed the following grades within 50 feet of intersection with the street:
- (1) Seven percent when such access is to an arterial or primary street.
 - (2) Ten percent when such access is to a collector or local street.
- I. The center line of an access road or driveway at the point of access to a street shall not be located closer to a street intersection than the following distances:
- (1) One hundred feet for single-family residential uses.
 - (2) For multifamily residential uses, mobile home parks and all nonresidential uses:
 - (a) One hundred fifty feet if either street is an arterial or primary street.
 - (b) One hundred feet if either street is a collector street.
 - (c) One hundred feet if both streets are local streets.
 - (3) The center line of an access road or a driveway shall not intersect a street within 400 feet of an interchange with a limited access highway.

§ 133-9. Off-street parking and access. [Added 2-23-1998 by Ord. No. 2-1998]

Where an existing lot does not adjoin a public or private street, alley or easement of access, an access drive shall be provided leading to the parking area. Access to off-street parking areas shall be limited to well defined locations, and in no case shall there be unrestricted access along the length of a street. The street frontage shall be curbed in accordance with the Township specifications as adopted by resolution or ordinance to restrict access to the lot, except where access drives are proposed. The number of access drives from a single lot or development to any public street shall not exceed two for every 400 feet of street frontage.

§ 133-10. Permit required.

Before any private driveway may be constructed across a sidewalk and before any curb cut may be made, a permit shall be obtained from the Township of Somerset. All driveways shall be laid according to specifications furnished by the Township of Somerset at the time the permit is granted.

§ 133-11. Fee. [Amended 2-23-1998 by Ord. No. 2-1998]

The fee for a driveway or curb cut permit shall be in an amount set by resolution of the Board of Supervisors.

§ 133-12. Sidewalk not to be disturbed.

All paved portions of the sidewalk must not be disturbed, and the height and grade of same must remain the same as before the driveway was constructed. The balance of the pavement shall remain the same height and grade as before the construction of the driveway.

§ 133-13. Rectification of improper work.

In case any person shall construct a driveway or a curb cut and shall not conform to the requirements of this article, the Board of Supervisors may order such person, firm or corporation to remove the improper work and replace the same in compliance with this article. Notice to remove and replace improper work shall be given by registered or certified mail, and shall state that the person, firm or corporation shall have 30 days from receipt of the notice to comply therewith. Upon noncompliance, the municipality may do or cause the requested repairs to be done and may levy the cost of its work on such owner as a property lien to be collected in any manner provided by law.

§ 133-14. Rectification of nonconforming conditions or structures. [Added 2-23-1998 by Ord. No. 2-1998]

In the event any existing structure or condition governed by this article becomes defective or otherwise fails to conform with the provisions hereof, then the Supervisors may order compliance with notice to effect changes or repairs to be given by registered or certified mail and shall state that the person, firm or corporation shall have 30 days from the receipt of the notice to comply therewith. Upon noncompliance, the Township may do or cause the requested repairs to be done and then may levy the cost of such work on the owner as a property lien or be collected in any manner provided by law.

§ 133-15. Violations and penalties. xxxixEN

Any person, firm or corporation who shall fail to obtain a permit before constructing a private driveway or making a curb cut, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

ARTICLE III, Street Naming and Structure Numbering [Adopted 4-11-1994 by Ord. No. 1-1994]

§ 133-16. Intent.

It is the intent of this article to establish a uniform system of address numbering so as to facilitate the implementation of the county-wide 911 system.

§ 133-17. Street names.

The Supervisors, pursuant to the Second Class Township Code, are hereby authorized and empowered to name and/or provide the names of any and all streets, roadways, alleys, thoroughfares or the like within the Township, whether they be Township or state. Furthermore, the Supervisors shall have the exclusive power and authority to name and/or designate the name of any street, roadway, thoroughfare or the like which should hereinafter come into existence, whether they be state or Township.

§ 133-18. Street numbers.

Each structure to which a number has been assigned by the Township shall have that assigned number displayed in a position which is easily observed and readable from the public right-of-way. All numbers shall be in Arabic figures which shall be at least three inches (76 millimeters) high and 1/2 inch (13 millimeters) wide. If said structure to which a number has been assigned is so situated that its distance from the public right-of-way is such that said number would not be visible from same, then and in that event, said number shall, in fact, be so placed on said structure and same shall also be placed or displayed on the mailbox or postal facility that services said property, if there is one in existence or later comes into existence. Thereon, said number shall be in Arabic figures at least three inches (76 millimeters) high and 1/2 inch (13 millimeters) wide.

§ 133-19. Responsibility.

It shall be the responsibility of the titled owner and/or occupant or occupants of said structure to comply with the provisions of this article.

§ 133-20. Maintenance requirements.

The titled owner and/or occupant or occupants of said structure shall be required to maintain the assigned number in a legible condition on a continuing basis.

§ 133-21. Violations and penalties. ^{x1EN}

Any person, firm, entity or corporation who violates or permits a violation of this article, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

Chapter 138, SUBDIVISION AND LAND DEVELOPMENT

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 8-13-1990 by Ord. No. 4-1990 (Ch. 22 of the 1990 Code). Amendments noted where applicable.]

GENERAL REFERENCES

- Planning Commission -- See Ch. 37.**
- Floodplain management -- See Ch. 88.**
- Mobile homes and mobile home parks -- See Ch. 109.**
- Sewers -- See Ch. 116.**
- Water -- See Ch. 173.**
- Zoning -- See Ch. 180.**

§ 138-1. Short title.

This chapter shall be known as the "Somerset Township Subdivision and Land Development Ordinance."

§ 138-2. Purpose.

These regulations are adopted for the following purposes:

- A. To protect and provide for the public health, safety, and general welfare of Somerset Township.
- B. To guide the future growth and development of Somerset Township in accordance with the Comprehensive Plan of Somerset Township.
- C. To provide for adequate light, air, and privacy; to secure safety from fire, flood, and other danger; and to prevent overcrowding of the land and undue congestion of population.
- D. To protect the character and social and economic stability of Somerset Township and to encourage the orderly and beneficial development of Somerset Township.
- E. To protect and conserve the value of land throughout Somerset Township, and the value of buildings and improvements upon the land and to minimize the conflicts among the uses of land and buildings.
- F. To guide public and private policy and action in order to provide adequate and efficient transportation, water supply, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.
- G. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic within Somerset Township, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the various uses of land and buildings, and to provide for the proper location and width of streets and building lines.
- H. To establish reasonable standards of design and procedures for subdivision and resubdivisions, in order to further the orderly layout and use of land; and to insure proper legal descriptions and monumenting of subdivided land.
- I. To insure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
- J. To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the wise use and management of natural resources in order to preserve the community and value of the land.
- K. To preserve the natural beauty and topography of Somerset Township and to ensure appropriate development with regard to these natural features.
- L. To provide for open spaces through efficient design and layout of the land.
- M. And finally, to ensure that documents prepared as part of a landownership transfer fully and accurately describe the parcel of land being subdivided, and the new parcels thus created.

§ 138-3. Authority.

- A. Authority of the Board of Supervisors. The Board of Supervisors of Somerset Township is vested by

law with the control of the subdivision of land and land development within Somerset Township by Act 247 of 1968, the Pennsylvania Municipalities Planning Code, as amended.^{xlii}EN The Board of Supervisors shall retain the authority to approve all subdivision plans and land development plans as required herein.

- B. Authority of the Somerset Township Planning Commission. The Planning Commission is hereby designated by the Board of Supervisors as an agency which shall review and make recommendations on preliminary and final subdivision and land development plans as required herein, prior to action by the Board of Supervisors, and, when provided by ordinance, make other recommendations.
- (1) The Building Officer, in his discretion, may request the Somerset Township Planning Commission or any other Somerset Township official or agency to review the application and make recommendations thereon.

§ 138-4. Application of regulations.

- A. Subdivision control. No subdivision, as herein defined, of any lot, tract or parcel of land shall be effected and no street, alley, sanitary sewer, storm sewer, water main or other facilities in connection therewith, shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of buildings abutting or to abut thereon, except in strict accordance with the provisions of this chapter. No lot in any subdivision may be sold, and no permit to erect, alter or repair any building upon land in a subdivision may be issued; and no building may be erected in a subdivision, unless and until a subdivision plan has been approved and recorded; and until the improvements required by the Board of Supervisors in connection therewith have either been constructed or guaranteed as herein provided in § 138-42.
- B. Land development control.
- (1) Land development, as herein defined, must comply with the regulations contained herein. Such compliance shall include, but not be limited to: the filing of preliminary and final plats, the dedication and improvement of rights-of-way, streets and roads, and the payment of fees and charges as established by the Board of Supervisors.
- (2) Land development plans shall indicate the location of each structure and clearly define each unit and shall indicate public easements, common areas, and improvements, all easements appurtenant to each unit, and improvements to public rights-of-way. Developments are subject to the zoning regulations as they apply to use and density requirements, setbacks, parking and other features, and shall be indicated on the land development plans.

§ 138-5. Interpretation and conflicts.

- A. Interpretation. In interpreting and applying the provisions of this chapter, they shall be held to be minimum requirements for the promotion of public health, safety, comfort, convenience, and general welfare.
- B. Conflict with public and private provisions.
- (1) Public provisions. Where any provision of this chapter imposes restrictions different from those imposed by any other provision of this chapter or any other chapter, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
- (2) Private provisions. This chapter is not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of this chapter are more

restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of this chapter shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, or the determinations of the Board of Supervisors in approving a subdivision or in enforcing this chapter, and such private provisions are not inconsistent with this chapter or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made thereunder.

ARTICLE II, Definitions

§ 138-6. General interpretation.

Unless otherwise expressly stated, the following words shall for the purpose of this chapter, have the meaning herein indicated. The present tense shall include the future, the singular number shall include the plural of the singular, words used in the masculine gender shall include the feminine and the neuter; the word "shall" is always mandatory, the word "may" is always permissive.

§ 138-7. Specific words and phrases.

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

ALLEY -- A minor way, whether or not legally dedicated, intended and used primarily for vehicular service access to the rear of properties which abut on a street, and not intended for the purpose of through vehicular traffic.

APPLICATION FOR DEVELOPMENT -- Every application, whether preliminary, tentative or final required to be filed and approved prior to start of construction or development, including but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan.

BLOCK -- An area, divided into lots, and usually bounded by streets.

BOARD OF SUPERVISORS -- The Board of Supervisors of Somerset Township, Washington County, Pennsylvania.

BUILDING -- A combination of materials to form a permanent structure having walls and a roof, including but not limited to all manufactured homes and trailers.

CARTWAY or ROADWAY -- The portion of a street or alley improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk, berm or shoulder.

CLEAR SIGHT TRIANGLE -- An area of unobstructed vision at street intersections defined by lines of sight between points at a given distance from the intersection of street center lines.

COMMON OPEN SPACE -- A parcel or parcels of land or an area of water, or a combination of land and water, within a development site and designed and intended for the use or enjoyment of residents of a development, not including streets, off-street parking areas, and areas set aside for public facilities.

CONDOMINIUM -- Ownership in common with others of a parcel of land and certain parts of a building thereon which would normally be used by all the occupants, together with individual ownership in fee of a particular unit or apartment in such building or on such parcel of land and may include dwellings, offices and other types of space in commercial and industrial buildings or on real property.

COUNTY -- The County of Washington, Pennsylvania.

COUNTY PLANNING COMMISSION -- The Planning Commission of the County of Washington.

CUL-DE-SAC -- A minor street intersecting another street at one end and terminated at the other by a vehicular turnaround.

CUT -- An excavation. The difference between a point on the original ground and designated point of lower elevation on the final grade. Also, the material removed in excavation.

DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) -- The Pennsylvania Department of Environmental Protection, its bureaus, divisions, departments and/or agencies, as may from time to time be established, or such department or departments as may in the future succeed it.

DESIGNATED FLOODPLAIN DISTRICTS -- Those floodplain districts specifically designated in Chapter 180, Zoning, as being inundated primarily by the one-hundred-year flood. Included would be areas identified as the Floodway District (FW) and the Flood-Fringe District (FF).

DETENTION POND -- An area in which surface water runoff is temporarily stored pending its release at a controlled rate.

DEVELOPER -- Any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

DEVELOPMENT PLAN -- The provisions for development, including a planned residential development, a plat of subdivision, all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, common open space and public facilities. The phrase "provisions of development plan" when used in this chapter shall mean the written and graphic materials referred to in this definition.

DRAINAGE -- The removal of surface water or groundwater from land by drains, grading or other means, and includes control of runoff to minimize erosion and sedimentation during and after construction or development.

DRAINAGE FACILITY -- Any ditch, gutter, culvert, storm sewer or other structure designed, intended or constructed for the purpose of carrying, diverting or controlling surface water or groundwater.

DRAINAGE RIGHT-OF-WAY -- The lands required for the installation of stormwater sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to safeguard the public against flood damage.

DRIVEWAY -- A private vehicular passageway providing access between a street and a private parking area or private garage.

DWELLING -- Any building which is designed for human living quarters, but not including hotels, boardinghouses, tourist cabins, motels and other accommodations used for transient occupancy.

EASEMENT -- A grant of limited use of private land for a public or quasi-public purpose.

ENGINEER -- A registered professional engineer in Pennsylvania designated by Somerset Township.

ENGINEERING SPECIFICATIONS -- The engineering criteria of Somerset Township regulating the installation of any improvement or facility. In the absence of such Somerset Township engineering criteria, the applicable standards of the Washington County Subdivision and Land Development Ordinance shall apply.

EROSION -- The removal of surface materials by the action of natural elements.

EXCAVATION -- Any act by which earth, sand, gravel, rock or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated or bulldozed. It shall include the conditions resulting therefrom.

FILL -- Any act by which earth, sand, gravel, rock or any other material is placed, pushed, dumped, pulled, transported or moved to a new location above the natural surface of the ground or on top of the stripped surface. It shall include the conditions resulting therefrom. The difference in elevation between a point on the original ground and a designated point of higher elevation of the final grade. The material used to make fill.

FLOODPLAIN -- The area along a natural watercourse which may from time to time be overflowed by water therefrom.

FLOODWAY -- The channel of a river or other watercourse and the adjacent land areas required to carry and discharge a flood of the one-hundred-year magnitude.

GRADING AND DRAINAGE PLAN -- A plan showing all existing ground features and proposed grading, including existing and proposed surface and subsurface drainage facilities, described by grades, contours, and topography.

IMPROVEMENTS -- Those physical additions, installations, and changes required to render land suitable for the use intended, including but not limited to grading, paving, curbing, streetlights and signs,

fire hydrants, water mains, electric service, gas service, sanitary sewers, storm drains, sidewalks, crosswalks, driveways, culverts, and street shade trees.

INTERIOR WALK -- A right-of-way or easement for pedestrian use, extending from a street into a block or across a block to another street.

LAND DEVELOPMENT

A. Any of the following activities:

- (1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - (a) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - (b) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (2) A subdivision of land.

B. "Land development" does not include development which involves:

- (1) The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium;
- (2) The addition of an accessory building, including farm building, on a lot or lots subordinate to an existing principal building; or
- (3) The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the proper authorities.

LOT -- A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

LOT, CORNER -- A lot abutting upon two or more streets at their intersection, the front of which shall be considered to be the frontage of least dimension on a street, except that where any two frontages shall each exceed 150 feet in length, either frontage may be designated as the "front" of the lot.

LOT, DOUBLE FRONTAGE -- An interior lot which abuts streets in both the front and rear.

LOT, INTERIOR -- A lot having side lot lines which do not abut on a street.

LOT, MINIMUM WIDTH -- The distance between the side lot lines measured at the building setback line.

LOT, NONCONFORMING -- A lot the area or dimension of which was lawful prior to the adoption or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

LOT OF RECORD -- A lot described in a deed or shown on a plan of lots which has been recorded in the office of the Recorder of Deeds of Washington County, Pennsylvania.

LOT, REVERSE FRONTAGE -- A lot extending between and having frontage on an arterial street and a local access street, and with vehicular access solely from the latter.

MAINTENANCE GUARANTEE -- Any security, other than cash, which may be accepted by Somerset Township for the maintenance of any improvements required by this chapter.

MAJOR SUBDIVISION -- Any subdivision not classified as a minor subdivision.

MANUFACTURED HOME -- A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to

the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION -- A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARKER -- A wood or metal stake placed to designate the boundary and corners of lots in the subdivision of land for the purpose of reference in land and property survey and to facilitate the sale of lots.

MINOR SUBDIVISION -- The subdivision of land into not more than 10 parcels located on an existing improved street that does not involve: installation of improvements as required by this chapter; extension of utilities; frontage on an arterial or collector street; adverse effect to the development of the remaining parcel; adverse effect to adjoining properties; and conflict with Somerset Township's Comprehensive Plan, Chapter 180, Zoning, any portion of this chapter or other state, county or Somerset Township chapters, laws or regulations. [Amended 9-14-1992]

MOBILE HOME -- A transportable, single-family dwelling intended for permanent occupancy, contained in one unit or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

MOBILE HOME LOT -- A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

MOBILE HOME PARK -- A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

MONUMENT -- A concrete, stone, or other permanent object placed to designate boundary lines, corners of property, and rights-of-way of streets and utilities, for the purpose of reference in land and property survey.

MUNICIPAL AUTHORITY -- A body politic and corporate created pursuant to the Act of May 2, 1945 (P.L. 382, No. 164),^{xliiEN} known as the "Municipalities Authority Act of 1945."

MUNICIPALITIES PLANNING CODE -- Act of Assembly of July 31, 1968, P.L. 805, as amended.^{xliiiEN}

ONE-HUNDRED-YEAR FLOOD -- A flood that, on the average, is likely to occur once every 100 years (i.e. that has a one-percent chance of occurring each year, although the flood may occur in any year).

OWNER -- The legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the owner, or other persons having a proprietary interest in the land, shall be deemed to be an owner for the purpose of this chapter.

PERFORMANCE GUARANTEE -- Any security which may be in lieu of a requirement that certain improvements be made before the Board of Supervisors approve a final subdivision or land development plan, including performance bonds, escrow agreements, and other similar collateral or surety agreements.

PERSON -- An individual, partnership, corporation, or other legally recognized entity.

PLAN, FINAL -- A complete and exact subdivision plan or land development plan, prepared for official recording as required by statute, to define property rights and proposed streets and other improvements.

PLANNING COMMISSION -- The Planning Commission of Somerset Township.

PLAN, PRELIMINARY -- A tentative subdivision plan or land development plan, in lesser detail than a final plan, showing approximate proposed street and lot layout as a basis for consideration prior to preparation of a final plan.

PLAN, SKETCH -- An informal plan, subdivision or land development plan, not necessarily to scale, indicating salient existing features of a tract and its surroundings and the general layout of the proposed

subdivision.

PLAN, SOIL EROSION AND SEDIMENTATION CONTROL -- A plan for controlling erosion and sediment during construction which shall provide all steps, including scheduling, to assure erosion and sediment control during all phases of construction, including final stabilization.

PLAT -- A map or plan of a subdivision or use indicating the location and boundaries of individual properties.

PUBLIC GROUNDS -- Includes:

A. Parks, playgrounds, trails, paths and other recreational areas and other public areas;

B. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and

C. Publicly owned or operated scenic and historic sites.

PUBLIC HEARING -- A formal meeting held pursuant to public notice by the Board of Supervisors or Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with this chapter.

PUBLIC MEETING -- A forum held pursuant to notice under the Act of July 3, 1986 (P.L. 388, No. 84), known as the "Sunshine Act," 65 P.S. § 271 et seq.^{xliv}EN

PUBLIC NOTICE -- Notice published once each week for two successive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

REGULATORY FLOOD ELEVATION -- The one-hundred-year-flood elevation plus a freeboard safety factor of 1 1/2 feet.

RESERVE STRIP -- A narrow parcel of ground having inadequate area for building purposes separating a street or a proposed street from other adjacent properties.

RESIDENT PROPERTY OWNER -- Any individual maintaining a voting address in Somerset Township, within 1,000 feet of the proposed subdivision, owning real estate in his own or joint names.

RESUBDIVISION -- Any subdivision or transfer of land, laid out on a plan which has been approved by the Board of Supervisors which changes or proposes to change property lines and/or public right-of-way not in strict accordance with approved plan.

RIGHT-OF-WAY -- Land legally dedicated for public purposes, including but not limited to a street, alley or interior walk.

RUNOFF -- The surface water discharge or rate of discharge of a given watershed after a fall of rain or snow that does not enter the soil but runs off the surface of the land.

SEDIMENTATION -- The process by which mineral or organic matter is accumulated or deposited by moving wind, water, or gravity. Once this matter is deposited, or remains suspended in water, it is usually referred to as "sediment."

SEPTIC TANK -- A watertight tank in which raw sewage is broken down into solid, liquid, and gaseous phases to facilitate further treatment and final disposal.

SETBACK (BUILDING SETBACK LINE) -- The line within a property defining the required minimum distance between any structure and the ultimate adjacent right-of-way, and the line defining side and rear yards where required.

SEWAGE DISPOSAL SYSTEM, ON-SITE -- A system of piping tanks or other facilities serving a lot and collecting and disposing of sewage in whole or in part into the soil.

SEWAGE DISPOSAL SYSTEM, PUBLIC -- A sanitary sewage collection method in which sewage is carried from the site by a system of pipes to a central treatment and disposal plant.

SHOULDER -- The portion of a roadway (cartway) between the curb or gutter and the travelway intended for emergency and parking use.

SIGHT DISTANCE -- The extent of unobstructed vision, in a horizontal or vertical plane, along a street, as defined in § 138-21 of this chapter.

SLOPE -- The face of an embankment of cut section; any ground whose surface makes an angle with

the plane of the horizon. Slopes are usually expressed in a percentage based upon vertical difference in feet per 100 feet of horizontal distance.

SOIL PERCOLATION TEST -- A field test conducted to determine the absorption capacity of soil to a specified depth in a given location for the purpose of determining suitability of soil for on-site sewage disposal.

STREET -- Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or any other ways used or intended to be used by vehicular traffic or pedestrians whether public or private.

A. Local access streets are those used primarily to provide access to abutting properties.

B. Collector streets are those which, in addition to giving access to abutting properties, intercept local access streets and provide routes to community facilities and to arterial streets.

C. Arterial streets are those serving large volumes of comparatively high-speed and long-distance traffic, and include facilities classified as main and secondary highways by the Pennsylvania Department of Transportation.

D. Marginal access streets are minor streets, parallel and adjacent to arterial streets, providing access to abutting properties and control of intersections with the arterial street.

E. Half or partial street is a street generally parallel and adjacent to a property line having a lesser right-of-way width than normally required for satisfactory improvements and use of the street.

STRUCTURE -- Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

SUBDIVISION -- The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

SUBSTANTIALLY COMPLETED -- Where in the judgment of the Township Engineer, at least 90% (based on the cost of the required improvements for which financial security was posted pursuant to the requirements of this chapter) of those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

SURVEYOR -- A licensed surveyor registered by the Commonwealth of Pennsylvania.

SWALE -- A low-lying stretch of land characterized as a depression used to carry surface water runoff.

TOPSOIL -- Surface soils and subsurface soils which normally are fertile soils and soil material, ordinarily rich in organic matter of humus debris. Topsoil is usually found in the uppermost soil layer called the A Horizon.

TOWNSHIP -- The Township of Somerset, Washington County, Pennsylvania.

UNDEVELOPED LAND -- Any lot, tract or parcel of land which has not been graded or in any other manner prepared for the construction of a building or other improvement.

UNIT -- A part of the property, structure or building designed or intended for any type of independent use, which has direct exit to a public street or way, or to an easement or right-of-way leading to a public street or way, and includes a proportionate undivided interest in the common elements, which is assigned to the property, structure or building.

WATERCOURSE -- A stream of water, river, brook, creek, or a channel or ditch for water, whether natural or man-made.

WATER FACILITY -- Any water works, water supply works, water distribution system or part thereof, designed, intended or constructed to provide or distribute potable water.

WATER SURVEY -- An inventory of the source, quantity, yield and use of groundwater and surface water resources within the Township.

§ 138-8. General procedure.

- A. Classification of subdivision. Whenever any subdivision of land or land development is proposed, before any contract is made for the sale of any part thereof, and before any permit for the erection of a structure in such proposed subdivision or land development shall be granted, the owner, or his authorized agent, shall apply for and secure approval of such proposed subdivision or land development in accordance with the following procedures for subdivision and land development.
- B. Preapplication consultation. Prior to filing an application for approval of a subdivision or land development within Somerset Township, the owner or his authorized agent shall meet with the Somerset Township Engineer for an official classification of his proposed subdivision or land development. The Somerset Township Engineer shall determine whether the proposal shall be classified as a minor subdivision, a major subdivision or a land development. At this time, the Somerset Township Engineer shall advise the owner or his authorized agent as to which of the procedures contained herein must be followed.
- C. Official filing date.
 - (1) For the purpose of these regulations, the official filing date shall be the date of the regular meeting of the Planning Commission next following the date the application and plans are received in the Municipal Building. Provided that should said regular meeting occur more than 30 days following the submission of the application, the official filing date shall be the 30th day following the day the application has been submitted.
 - (2) Upon receipt of an application for subdivision or land development approval, the Somerset Township Engineer shall affix to the application both the date of submittal and the official filing date.
- D. Washington County Planning Commission review. All plans shall be submitted to and reviewed by the Washington County Planning Commission in accordance with its then prevailing rules and regulations. The Somerset Township shall forward to the subdivider a copy of any report of the County Planning Commission.

§ 138-9. Fee schedule.

- A. All filing, inspection and engineering fees shall be submitted to Somerset Township.
- B. Plan filing fee. A filing fee shall accompany the preliminary plan. No application shall be accepted or acted upon unless payment is made to Somerset Township. The Board of Supervisors shall create by resolution a schedule of fees to be paid by the subdivider or land developer to defray the cost of administering and processing of plans. The schedule of fees may be changed from time to time by resolution of the Board of Supervisors.
- C. Review fees.
 - (1) Review fees shall include the reasonable and necessary charges by the Township's professional consultants or engineer for review and report to the Township, and shall be set by resolution. Such review fees shall be reasonable and in accordance with the ordinary and customary charges by the Township Engineer or consultant for similar service in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the Township when fees are not reimbursed or otherwise imposed on applicants.
 - (2) In the event the applicant disputes the amount of any such review fees, the applicant shall,

within 10 days of the billing date, notify the Township that such fees are disputed, in which case the Township shall not delay or disapprove a subdivision or land development application due to the applicant's request over disputed fees.

- (3) In the event that the Township and the applicant cannot agree on the amount of review fees which are reasonable and necessary, then the fees shall be recalculated and recertified by another professional engineer licensed as such in this commonwealth and chosen mutually by the Township and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the Township and the applicant or developer.

§ 138-10. Minor subdivision procedure.

- A. Minor subdivision plans shall be initiated and submitted for review in the form of a final plan as specified in § 138-16 and shall be otherwise reviewed in accordance with the procedures and standards of § 138-11.
- B. If additional subdivisions are requested after an approval relative to a minor subdivision for that same parcel, the Township may, at the discretion of the Board of Supervisors and, if necessary, after consultation with the Township Engineer and Solicitor, elect to consider such subdivisions as minor. Such a determination can be based upon the intent of the property owner/applicant, the number of subdivisions previously approved and whether it appears from the presentation that the applicant is attempting to circumvent the major subdivision procedure by initiating and applying for minor subdivisions. [Amended 6-10-2002 by Ord. No. 1-2002]

§ 138-11. Major subdivision and land development procedure.

- A. Sketch plan. Prospective subdividers and developers are strongly urged to discuss possible development sites with the Planning Commission prior to submission of a preliminary plan. A sketch plan shall be presented for review not less than 10 days prior to the regular meeting of the Planning Commission at which it is to be considered. Submission of a sketch plan will not constitute a formal filing of a subdivision or land development plan with the Board of Supervisors. Sketch plans should include those items listed in Article IV, Plan Requirements.
- B. Preliminary plan.
 - (1) Submission of preliminary plans.
 - (a) The preliminary plan and all information and procedures relating thereto shall in all respects be in compliance with the applicable provisions of this chapter. It is the responsibility of the subdivider or developer to coordinate his plans with the respective private and public service agencies.
 - (b) The application form shall be accompanied by the requisite fee as set forth in § 138-9 of this chapter and by not less than three copies of all required material and not less than nine prints of the preliminary plan of the subdivision or development as required by Somerset Township resolution from time to time.
 - (c) The Somerset Township Engineer shall forward one copy of the preliminary plan prints and one copy of the required material to the Washington County Planning Commission and such other agencies as he deems appropriate for review and comment.
 - (d) The Engineer shall forward the remaining copies of the preliminary plan prints and required

materials to the Planning Commission.

- (e) When applicable, the application form shall be accompanied by a Planning Module for Land Development, as required by the Pennsylvania Department of Environmental Protection.
- (2) Review of preliminary plans.
 - (a) In cases where the subdivision or land development adjoins an existing or proposed state highway or has proposed streets entering on to state highways, the developer shall submit the plans to the Pennsylvania Department of Transportation for review.
 - (b) The Planning Commission will consider the plan to determine if it meets the standards set forth in this chapter and Chapter 180, Zoning.
 - (c) The Planning Commission shall act on the Preliminary Plan within 60 days of the official filing date, but in any event shall act on the plan in time for the Board of Supervisors to render their decision within 90 days from the official filing date. In the event that any variance from this chapter is requested by the applicant or is deemed necessary for approval, the variance and the reasons for its necessity shall be entered into the records of the Board of Supervisors.
 - (3) Planning Commission recommendation.
 - (a) The Planning Commission shall recommend whether the preliminary plan shall be approved, approved with modifications, or disapproved, and shall notify the Board of Supervisors in writing thereof, including, if disapproved, a statement of reasons for such action.
 - (b) In making its recommendation, the Planning Commission shall consider the recommendations of the Somerset Township Engineer, Somerset Township staff, the Somerset Township Sanitary Engineer, the Washington County Planning Commission, interested residents, and the recommendations of any agency or agencies from which a review was requested under § 138-11B(1)(c) of this chapter.
 - (4) Somerset Township Engineer review. All plans shall be reviewed by the Somerset Township Engineer, which approval shall precede the transmission of such plans to the Board of Supervisors.
 - (5) Resubmission of preliminary plans. A revised plan submitted after disapproval shall be considered, and processed as a new plan submission.
 - (6) Approval of preliminary plans.
 - (a) The Board of Supervisors shall act on the preliminary plan within 90 days of the official filing date. Failure to do so shall be deemed an approval. Before acting on a preliminary plan, the Board of Supervisors may hold a hearing thereon after public notice.
 - (b) The Board of Supervisors shall notify the applicant of its decision to approve, approve with conditions, or disapprove the preliminary plan in writing. Such notice shall be given to the applicant in person or mailed to him at his last known address not later than 15 days following the decision. If the plan is approved with conditions or disapproved, the Board of Supervisors shall specify in their notice the conditions which must be met and/or the defects found in the plan, and the requirements which have not been met, including specific reference to provisions of any statute or chapter which have not been fulfilled.
 - (c) Approval of the preliminary plan shall constitute approval of the subdivision or land development as to the character and intensity of development, the arrangement and

approximate dimensions of streets, lots, and other planned features. The approval binds the subdivider or developer to the general scheme of the subdivision shown, unless a revised preliminary plan is submitted, and permits the subdivider to proceed with final detailed design of improvements, to arrange for guarantee to cover installation of the improvements, and to prepare the final plan. Approval of the preliminary plan does not authorize the sale of lots nor the recording of the preliminary plan.

C. Final plan.

(1) Submission of final plans.

- (a) After the subdivider or developer has received official notification from the Board of Supervisors that the preliminary plan has been approved, he must submit a final plan in accordance with the provisions of 53 P.S. § 10508 of the Municipalities Planning Code.
- (b) The final plan shall conform in all respects with the approved preliminary plan. If it does not, the plan submitted shall be considered as a revised preliminary plan and shall be forwarded by the Somerset Township Engineer to the Planning Commission for review and recommendation as a preliminary plan.
- (c) The subdivider or developer must submit with the final plan a guarantee for the installation of improvements which meets the requirements of Article VI.
- (d) The application form shall be accompanied by the requisite inspection and engineering fees as set forth in § 138-9C.
- (e) Documented approval of the Planning Module for Land Development by the Pennsylvania Department of Environmental Protection shall be a part of the requisite materials accompanying the final plan submission.
- (f) The subdivider or developer shall submit a reproducible original of the plans, nine prints of the final subdivision or land development plans and at least three copies of all other required information.
- (g) Upon receipt of the final plan, the Engineer shall forward the original plans and five copies of the plans and one copy of all the other material to the Planning Commission for review and recommendation; one copy of the plan and one copy of all other material to the Washington County Conservation District for review and comments; one copy of the plan and one of all other material to the Washington County Planning Commission; one copy of the plan to the Somerset Township Sanitary Engineer; and copies to such other agencies whose recommendations would be pertinent to the processing of the plan.

(2) Review of final plans.

- (a) The Planning Commission will review the plan and requisite materials for compliance with the approved preliminary plan and for conformance to the requirements of this chapter.
- (b) The Planning Commission shall act on the final plan within 60 days of the official filing date.

(3) Planning Commission recommendation.

- (a) The Planning Commission shall recommend whether the final plan shall be approved, approved with modifications, or disapproved, and shall notify the Board of Supervisors in writing thereof, including, if approved with modifications or disapproved, a statement of reasons for such action.
- (b) In making its recommendation, the Planning Commission shall consider the

recommendations of the Somerset Township Engineer and staff, the Somerset Township Sanitary Engineer, the Washington County Planning Commission, the Washington County Conservation District, PennDOT, and the recommendations of any agency or agencies from which a review was requested under § 138-11C(1)(g).

- (4) Somerset Township Engineer review. All plans shall be reviewed by the Somerset Township Engineer, which approval shall precede the transmission of such plans to the Board of Supervisors.
- (5) Resubmission of final plans. A revised plan submitted after disapproval shall be considered and processed as a new plan submission.
- (6) Approval of final plans.
 - (a) The Board of Supervisors will not take official action to approve a final plan unless it is accompanied by a guarantee for the installation of improvements which meet the requirements of Article VI.
 - (b) The Board of Supervisors shall take action within 90 calendar days from the official filing date of the final plan. Failure to do so shall be deemed an approval.
 - (c) The Board of Supervisors shall notify the applicant in writing of its decision to approve, approve with conditions, or disapprove the final plan. Such notice shall be given to the applicant in person or mailed to him at his last known address not later than 15 days following the decision. If the final plan is disapproved, the Board of Supervisors shall specify the defects found in the plan and the requirements which have not been met, including specific reference to the provisions of any statute or chapter which have not been fulfilled.
 - (d) If the final plan is approved subject to conditions, the Board of Supervisors shall not endorse the plan until all of the conditions have been met.
 - (e) If the Board of Supervisors approve the final plan or grant a conditional approval, they shall set the amount of bonding or other security necessary to guarantee the construction of improvements and community facilities and shall state such amount in the notice to the applicant.
- (7) Recording of final plans.
 - (a) Upon approval of the final plan, the subdivider or developer shall prepare one transparent reproduction of the original final plan on stable plastic base film and no less than four prints thereof which shall be submitted to Somerset Township not later than 30 days after approval. These plans, upon satisfaction of all conditions attached to the approval, will be signed by the Board of Supervisors. A copy of the signed final plan shall be recorded in the office of the Washington County Recorder of Deeds within 90 days after approval of the final plan or the approval of the Board of Supervisors shall be null and void. The final plan must be recorded before proceeding with the sale of lots or construction of buildings.
 - (b) Recording the final plan shall be an irrevocable offer to dedicate all streets and other public ways to public use, and to dedicate or reserve all park reservations and other public areas to public use unless reserved by the subdivider as hereinafter provided. The approval of the final plan shall not impose any duty upon the Board of Supervisors or Somerset Township concerning maintenance or improvements by chapter or resolution.
 - (c) The subdivider shall place a notation on the final plan if there is no offer of dedication to the public of streets and certain designated public areas, in which event the title to such areas shall remain with the owner, and Somerset Township shall assume no responsibility for

improvement or maintenance thereof; which fact shall be noted on the final plan.

§ 138-12. Exemptions.

The following are exempt or partially exempt from the provisions of this chapter:

- A. The conversion of an existing single-family detached dwelling or single-family dwelling semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium;
- B. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building; or
- C. The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subsection, an amusement park is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by proper authorities.

§ 138-13. Modifications.

- A. The Board of Supervisors may grant a modification of the requirements of one or more provisions of this chapter if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification will not be contrary to the public interest and that the purpose and intent of this chapter is observed.
- B. All requests for a modification shall be in writing and shall accompany and be a part of the application for development. The request shall state in full the grounds and facts of unreasonableness or hardship on which the request is based, the provision or provisions of this chapter involved and the minimum modification necessary.
- C. The request for modification shall be referred to the Planning Commission for advisory comments.
- D. The Board of Supervisors shall keep a written record of all action on all requests for modifications.

ARTICLE IV, Plan Requirements

§ 138-14. Sketch plan.

- A. A sketch plan may be submitted by the subdivider or developer as a basis for informal discussion with the Planning Commission, which may comment upon such sketch plan, but no approval or disapproval shall be given.
- B. Data furnished in a sketch plan shall be at the discretion of the subdivider. For fullest usefulness, it is suggested that a sketch should include the following information:
 - (1) Tract boundaries.
 - (2) Location within Somerset Township.
 - (3) North point.
 - (4) Streets on and adjacent to the tract.

- (5) Significant topographical physical features, including floodplains, if any.
- (6) Proposed general street layout.
- (7) Proposed general lot layout, including location of proposed open space and other preservation areas.

C. A subdivision sketch plan need not be to scale nor are precise dimensions required.

§ 138-15. Preliminary plan.

A. The preliminary plan shall be at a scale of not more than 100 feet to the inch.

B. The preliminary plan shall show or be accompanied by the following information:

- (1) Proposed subdivision or land development name or identifying title.
- (2) Somerset Township name.
- (3) North point, scale and date of preparation.
- (4) Name(s) and addresses of the owner(s) of the property, including reference to deed book, volume and page of current legal owner.
- (5) Name of the registered engineer or surveyor or other person responsible for the plan.
- (6) Tract boundaries, with bearings and distances.
- (7) Existing contours at vertical interval of five feet or, in the case of relatively level tracts, at such lesser interval as may be necessary for satisfactory study and planning of the tract.
- (8) Datum to which contour elevations refer shall be U. S. Coast and Geodetic Survey datum. (Somerset Township will furnish elevations of nearest known bench marks.)
- (9) All existing watercourses, floodplains or tree masses and other significant natural features.
- (10) All existing buildings, sewers, water mains, culverts, petroleum or petroleum products lines, fire hydrants and other significant man-made features.
- (11) All existing streets on or adjacent to the tract, including name, right-of-way width and cartway width.
- (12) All existing property lines, easements and rights-of-way, and the purpose for which the easements or rights-of-way have been established.
- (13) Location and width of all proposed streets, alleys, rights-of-way and easements; proposed lot lines with approximate dimensions and areas of all lots; proposed minimum setback line for each street; playgrounds, public buildings, public areas and parcels of land proposed to be dedicated or reserved for public use; proposed street names; proposed watercourses and detention ponds; proposed phasing of land development; typical section of all streets.
- (14) Total acreage, number of lots, average lot size, density, open space and existing zoning classification.
- (15) Names of owners of all adjoining properties and the names of all abutting subdivisions.
- (16) A location map, at a scale of 400 feet to the inch, showing the proposed development and adjoining areas, will be required.

- (17) Where the preliminary plan covers only a part of the subdivider's entire holding, a sketch shall be submitted of the prospective street layout for the remainder.
- (18) Where applicable, a Plan Revision Module for Land Development shall be the responsibility of the applicant and shall be prepared in accordance with the rules and regulations of the Pennsylvania Department of Environmental Protection. The completed module shall accompany the preliminary plan submission.
- (19) When on-lot water supply is proposed, the location of all well sites shall be shown.
- (20) When required by § 138-29 of this chapter, a proposed soil erosion and sedimentation control plan shall be submitted.
- (21) When required, the information required by Chapter 88, Floodplain Management, of this Code, which may be a separate plan, shall be submitted.
- (22) Block for signatures of the reviewing agency membership and date of recommendation, as per example in Appendix A.^{xlv}EN
- (23) Block for signatures of the Board of Supervisors and date of approval, as per example in Appendix A.
- (24) Land development plans shall show building locations and parking areas in addition to the above information.
- (25) A letter from the subdivider specifically requesting any waiver from the regulations herein established and citing the reasons for same.

§ 138-16. Final plan.

- A. Final plans shall be on sheets 18 inches by 24 inches. Where necessary to avoid sheets larger than the size prescribed, final plans shall be drawn in two or more sections. The plan shall be drawn and annotated in accordance with the Subdivision Plan Form shown as Appendix A hereto.^{xlvi}EN The final plan shall be at a scale of not more than 100 feet to the inch.
- B. The final plan shall include or be accompanied by the following:
 - (1) Subdivision name or identifying title.
 - (2) Somerset Township name.
 - (3) North point, scale, date of preparation, and date of preliminary plan approval.
 - (4) Name and address of the record owner and subdivider or land developer, including reference to deed book, volume and page of current legal owner.
 - (5) Name and seal of the registered professional engineer or surveyor responsible for the plan.
 - (6) Tract boundaries with bearings and distances.
 - (7) All existing streets and driveways on or adjacent to the tract, including name, right-of-way width, cartway width, street lines, lot lines, rights-of-way, easements and areas dedicated or proposed to be dedicated to public use.
 - (8) Sufficient data, including bearing and length, to locate every street, lot, easement, right-of-way and boundary line upon the ground.
 - (9) The length of all straight lines, radii, lengths of curves and tangent bearings for each street.

- (10) All dimensions and angles or bearings of the lines of each lot and of each lot proposed to be dedicated to public use.
- (11) The proposed building setback line for each street and the proposed placement of each building, except placement for single-family dwellings.
- (12) Location and width of all rights-of-way, easements, and the purpose for which the rights-of-way and easements were established.
- (13) Location of all sanitary and storm sewer easements, and location of all watercourses and detention ponds, whether public or private.
- (14) All dimensions shall be shown in feet and hundredths of a foot.
- (15) Lots within a subdivision shall be numbered and their area shown within the lot boundaries; house numbers, as assigned by Somerset Township, shall also be shown therein.
- (16) Typical section for all proposed streets.
- (17) Permanent reference monuments shall be shown on the plan, and designated existing or proposed.
- (18) Names of the adjoining subdivisions shall be shown.
- (19) Names of the owners of any adjoining unplotted land shall be shown.
- (20) An approval block providing for the signatures of the reviewing agency and the Board of Supervisors and the date of approval, as per example in Appendix A.^{xlvii}EN
- (21) An appropriate statement signed by owner unequivocally indicating his intention either: to dedicate for public use all streets, roads, easements and rights-of-way so intended and designated; or to reserve as private any streets, roads, easements or rights-of-way intended not to be dedicated for public use.
- (22) A statement of acknowledgement in legal form, executed by a notary, stating that the subdivider is the owner or equitable owner of the land proposed for subdivision, and that the subdivision as shown on the final plan is the act and deed of the subdivider and that it is desired to record the same.
- (23) A copy of the sewage Plan Revision Module for Land Development or other equivalent documentation approved by the Department of Environmental Protection in compliance with the requirements of the Pennsylvania Sewage Facilities Act.

C. Improvement and construction plan.

- (1) The improvement construction plan(s) shall be at any of the following scales:

| Horizontal (feet per inch) | Vertical (feet per inch) |
|---------------------------------------|-------------------------------------|
| 50 | 5 or 10 |
| 40 | 4 |
| 100 | 10 |

- (2) It shall show the following:
 - (a) Subdivision name or identifying title.
 - (b) North point, scale and date.

- (c) Name of the owner of record, the subdivider, and telephone numbers.
 - (d) Name and seal of the registered professional engineer or surveyor responsible for the plan.
 - (e) Center line of streets with bearings, distances, curve data, sight distances and stations corresponding to the profile.
 - (f) Right-of-way and curblines of streets with radii at intersections.
 - (g) Beginning and end of proposed construction of streets.
 - (h) Tie-ins by courses and distances to intersection of all public roads with their names and widths.
 - (i) Location of all monuments with reference to them.
 - (j) Property lines and ownership of abutting properties.
 - (k) Location and size of all drainage structures, public utilities, street name signs, and shade trees.
 - (l) Location and size of storm and/or sanitary sewer lines with stations corresponding to the profile.
 - (m) Location of storm and/or sanitary sewer manholes or inlets with grade between and elevation of flow line and top of each manhole or inlet.
 - (n) Property lines and ownership, with details of easements where required.
 - (o) Beginning and end of proposed construction of storm and/or sanitary sewer.
 - (p) Location of storm and/or sanitary sewer laterals, Ys, etc.
 - (q) Location of all other drainage facilities and public utilities.
 - (r) Profile of existing ground surface along center line of street.
 - (s) Proposed center line grade of streets with percent of grade on tangents and elevations at fifty-foot intervals, including grades at intersections, control points, etc.
 - (t) Vertical curve data of streets, including length and elevations and sight distance as required by Engineer.
 - (u) Profile of existing ground surface with elevations at top of manholes or inlets.
 - (v) Profile of storm drain or sewer, showing size of pipe, grade, cradle (if any), manhole or inlet locations, elevations at flow line.
- D. Grading and drainage plan, prepared in accordance with §§ 138-22 and 138-23 of this chapter.
- E. Soil erosion and sedimentation control plan when required by § 238-29 of this chapter.
- F. When required, the information required by Chapter 88, Floodplain Management, Article III, of this Code, which may be a separate plan, shall be submitted.
- G. A copy of final deed restrictions or protective covenants.
- H. A copy of any and all proposed written easements or deeds to be granted, including but not limited to storm drainage easements, recreation easements or dedication, or agreements to pay a fee in lieu thereof, and sanitary sewer easement.

- I. Written agreement of land developer or subdivider in a form approved by the Board of Supervisors, including an agreement to construct in form and substance agreeable to Somerset Township required improvements, including but not limited to streets, curbs, sidewalks, and storm drainage facilities.
- J. An approved Department of Environmental Protection Planning Module where on-lot sewage disposal systems or community treatment systems are proposed, or written proof of the Department of Environmental Protection's approval for the extension of existing sanitary sewer service.
- K. If required, a highway occupancy permit or review and written approval by the Pennsylvania Department of Transportation.
- L. Approval by the U.S. Postal Service of street names.
- M. Plans of bridges and other improvements shall contain sufficient information to provide complete working plans for the proposed construction.
- N. Typical cross-section of streets showing:
 - (1) Right-of-way width and location and width of paving.
 - (2) Type, thickness and crown of paving.
 - (3) Type and size of curb.
 - (4) Grading of sidewalk area.
 - (5) Location, width, type, and thickness of sidewalks.
 - (6) Typical location of sewers and utilities with sizes.

§ 138-17. As-built plans.

The subdivider or developer will furnish Somerset Township with as-built plans for sanitary sewer systems and storm sewer systems within the subdivision or land development.

ARTICLE V, General Design Principles

§ 138-18. Application of principles.

The following principles, standards and requirements will be applied by the Board of Supervisors and Planning Commission to evaluating plans for proposed subdivision or land developments. The standards and requirements outlined herein shall be considered minimum standards and requirements for the promotion of the public health, safety, morals and general welfare. Where literal compliance with the standards herein specified is clearly impractical, the Board of Supervisors may modify or adjust the standards to permit reasonable utilization of property while securing substantial conformance with the objectives of this chapter.

§ 138-19. Land requirements.

- A. Land shall be suited to the purposes for which it is to be subdivided or developed.
- B. Land which is unsuitable for development because of hazards to life, safety, health, or property, shall not be subdivided or developed until such hazards have been eliminated or unless adequate safeguards against such hazards are provided for in the subdivision or land development plan. Land

included as having unsuitable characteristics would be the following:

- (1) Land subject to flooding or which has a high groundwater table.
 - (2) Land which, if developed, will create or aggravate a flooding condition upon other land.
 - (3) Land subject to subsidence.
 - (4) Land subject to underground fires.
 - (5) Land containing significant areas of slopes greater than 10%.
 - (6) Land which, because of topography or means of access, is considered hazardous by the Board of Supervisors.
 - (7) Land which is subject to ground pollution or contamination.
- C. Proposed subdivisions or land developments shall be coordinated with existing nearby neighborhoods so that the community as a whole may develop harmoniously.
- D. Proposed land uses shall conform to Chapter 180, Zoning.

§ 138-20. Street system.

- A. Proposed streets shall be properly related to such street plans or parts thereof as have been officially prepared and adopted by Somerset Township and shall be coordinated with existing or proposed streets in adjoining subdivisions or land developments.
- B. Proposed streets shall further conform to such county and state road and highway plans as have been prepared, adopted or filed as prescribed by law.
- C. Streets shall be related to the topography so as to produce usable lots and acceptable grades.
- D. Access shall be given to all lots and portions of the tract in the subdivisions or land development and to adjacent unsubdivided territory unless the topography clearly indicates that such connection is not feasible. Streets giving such access shall be improved to the limits of the subdivision or land development and shall be improved to Somerset Township specifications. Reserve strips and land-locked areas shall not be created.
- E. Streets shall be laid out to preserve the integrity of their design. Local access streets shall be laid out to discourage their use by through traffic and, where possible, arterial streets shall be designed for use by through traffic.
- F. Where the proposed subdivision or land development contains or is adjacent to an existing or proposed arterial street or a highway designated as a limited access highway by the appropriate highway authorities, provisions shall be made for marginal access streets at a distance acceptable for the appropriate use of the land between the arterial street or limited access highway and the marginal access streets. The Board of Supervisors may also require rear service areas, double frontage lots, or such other treatment as will provide protection for abutting properties, reduction in the number of intersections with primary streets, and separation of local and through traffic.
- G. Half or partial streets will not be permitted in new subdivisions or land developments except where essential to reasonable subdivision or development of a tract in conformance with the other requirements and standards of this chapter and where, in addition, satisfactory assurance for dedication of the remaining part of the street can be secured.
- H. Wherever a tract to be subdivided or developed borders an existing half or partial street, the entire

street shall be shown on the plan.

- I. Dead-end streets shall be prohibited, except as stubs (with adequate turning capability) to permit future street extension into adjoining tracts, or when designed as culs-de-sac.
- J. New reserve strips, including those controlling access to streets, shall be forbidden.
- K. Where adjoining areas are not subdivided, the arrangement of streets in a proposed subdivision or land development shall be made to provide for the proper projection of streets into the unsubdivided land.
- L. Street names shall be coordinated with existing or platted street names, and if a new street is a continuation of or is aligned with an existing or platted street, it shall bear the same name as the existing or platted street.
- M. No street shall be laid out or opened which extends to or crosses any boundary between Somerset Township and any other municipality except with the specific approval of the Board of Supervisors and upon such condition as the Board of Supervisors may impose. If the street is proposed to serve a commercial area, an industrial area or a residential area of 50 dwelling units or more, located in another municipality, the street shall not be approved unless the area is also served by a street in the other municipality and unless the relevant traffic facilities of Somerset Township are adequate to handle the anticipated volume.
- N. All streets shall have a uniform width throughout their respective lengths except where otherwise required by the Board of Supervisors pursuant to § 138-21B(3).

§ 138-21. Street design.

A. Street classification.

- (1) Three functional classifications are hereby established for the streets and roads in Somerset Township:
 - (a) Arterial. This classification includes highways which provide intra-county or intermunicipal traffic of substantial volumes where the average trip lengths are usually five miles or greater. Generally, these highways should accommodate operating speeds of 35 to 55 miles per hour.
 - (b) Collector. This classification is intended to include those highways which connect local access highways to arterial highways. They may serve intra-county and intra-Township traffic. They may serve as traffic corridors connecting residential areas with industrial, shopping and other service. They may penetrate residential areas. Generally, these highways will accommodate operating speeds of 35 miles per hour.
 - (c) Local access. This classification is intended to include streets and roads that provide direct access to abutting land and connections to higher classes of roadways. Traffic volumes will be low and travel distances generally short. These streets and roads should be designed for operating speeds of 25 miles per hour or under.

B. Right-of-way widths.

- (1) Minimum widths for each type of public street shall be as follows:

Right-of-Way

| Type of Street | Width (feet) | Cartway Width (feet) |
|----------------|-----------------|-------------------------|
| Arterial | 80 to 120 | 46 |
| Collector | 60 | 34 |
| Local access | 50 | 30 |

- (2) Where a proposed subdivision abuts or contains an existing public street or road having a right-of-way width less than would be required if said street or road were created under this chapter, sufficient additional width for right-of-way shall be provided and dedicated to meet the foregoing standards.
- (3) Additional right-of-way and cartway widths may be required by the Board of Supervisors to promote public safety and convenience when special conditions require it and to provide parking space in areas of intensive use.

C. Cul-de-sac streets.

- (1) Cul-de-sac streets, whether permanent or temporary, shall be provided at the closed end with a turnaround having a minimum radius to the edge of the finished street or curbline of not less than 50 feet.
- (2) Unless future extension is clearly impractical or undesirable, the turnaround right-of-way shall be placed adjacent to a property line and a right-of-way of the same width as the street shall be carried to the property line in such a way as to permit future extension of the street into the adjoining tract. At such time as such a street is extended, the overage created by the turnaround outside the boundaries of the extended street shall revert in ownership to the property owners fronting on the cul-de-sac turnaround.
- (3) Commercial and industrial culs-de-sac shall be reviewed for adequacy by the Somerset Township Engineer. His recommendations will be given to the Board of Supervisors who shall have final authority in this matter.
- (4) Permanent cul-de-sac streets shall be kept to a minimum and shall not exceed 600 feet in length.

D. Street alignment.

- (1) Whenever street lines are deflected by more than 5°, connection shall be made by horizontal curves.
- (2) The minimum radius at the center line for horizontal curves on collector and arterial streets shall be 300 feet, and for local streets the minimum radius shall be 100 feet.
- (3) On local access streets, the minimum tangent between reverse curves shall be at least 100 feet; on collector and arterial streets, the minimum tangent shall be at least 250 feet.
- (4) Minimum vertical sight distance measured four feet above grade shall be 300 feet for collector and arterial streets and 100 feet for local access streets.

E. Street grades.

- (1) The minimum grade on all streets shall be 0.5%.
- (2) The maximum grade on collector or arterial streets shall be 7% and on local access streets 10%.
- (3) Vertical curves shall be used in changes of grade exceeding 1% and shall provide proper sight distances as specified herein above.

F. Street intersections.

- (1) Local streets shall not intersect with collector or arterial streets on the same side at intervals of less than 800 feet as measured from center line to center line.
- (2) The distance between center lines of streets opening onto the opposite side of a proposed or existing street shall be not less than 150 feet unless the streets are directly opposite each other.
- (3) Multiple intersections involving the junction of more than two streets shall be avoided. Where this proves impossible, such intersections shall be designed with extreme care for both pedestrian and vehicular safety.
- (4) Streets shall be all laid out to intersect as nearly as possible at right angles. Local streets shall not intersect collector or arterial streets at an angle of less than 75°. The intersection of two local streets shall not be at an angle of less than 60°.
- (5) Minimum curb radius at the intersection of two local streets shall be at least 20 feet; and minimum curve radius at an intersection of a local street and a collector or arterial street shall be at least 25 feet.
- (6) There shall be provided and maintained at all intersections clear sight triangles of 75 feet in all directions measured along the center line from the point of intersection. Nothing which obstructs the vision of a motorist shall be permitted in this area.
- (7) Intersections shall be designed with a flat grade wherever practical. Where the grade of any street at the approach to an intersection exceeds 7%, a leveling area shall be provided having a grade of not greater than 4% for a distance of 25 feet measured from the nearest right-of-way line of the intersecting street.

G. Pavement design.

- (1) All components of the pavement structure shall be designed and constructed in accordance with Pennsylvania Department of Transportation Specifications, Form 408.
- (2) Minimum requirements. The following shall be considered to be minimum standards for street construction in Somerset Township:

Pavement Design

| Alternates | Type | Local Access Streets (inches) | Collector and Arterial Streets (inches) |
|---------------------------|--|--------------------------------------|--|
| Rigid pavement | Plain cement concrete | 6 | 6 |
| | Subbase | 6 | 6 |
| Flexible pavements | | | |
| Surface | ID-2 | 1 1/2 | 1 1/2 |
| Base | Bituminous | 4 | 6 |
| Subbase | | 6 (if required) | 6 (if required) |
| Surface | ID-2 | 3 | 3 |
| Base | Crushed aggregate (regular or dense grade) | 6 | 10 |
| Subbase | | 6 (if required) | 6 (if required) |
| Surface | ID-2 | 3 | 3 |
| Base | Modified Stone Aggr. | 8 | 10 |
| Subbase | | 6 (if required) | 9 (if required) |

H. Alleys and driveways.

- (1) Alleys are prohibited in residential developments.
- (2) Driveways serving properties located adjacent to an intersection shall be offset from the intersection of the curblines a distance not less than the required setback dimension.

§ 138-22. Curbs and sidewalks.

A. Curbs.

- (1) Curbs shall be provided on all streets and parking compounds located within multifamily and apartment building developments. Curbs shall also be required on new streets in subdivisions or land developments in which the average lot width of interior lots at the required building setback line is 100 feet or less. Curbs may also be required in any subdivision in which the lot areas or lot widths exceed the above minimum, when the center line street grade of any street exceeds 3%. In such cases curbs or other drainage controls shall be installed to properly control surface drainage and protect the streets from erosion. The requirement of the curbs may be waived at the discretion of the Board of Supervisors.
- (2) All curbs shall be depressed at intersections to sufficient width to accommodate wheelchairs. Depression shall be in line with sidewalks where provided.
- (3) Curbs may be either the vertical type or rolled curb and gutter type. Rolled curb and gutter shall not be used on collector streets. The transition from one type of curb to another shall occur only at street intersections.
- (4) All curbs shall be constructed of Portland cement concrete with expansion joints every 20 feet, and shall follow PennDOT standards where applicable.

B. Sidewalks.

- (1) Sidewalks shall be provided on all streets and parking compounds located within multifamily and apartment building developments. Sidewalks shall also be required on new streets in subdivisions or land developments in which average lot width of interior lots at the required building setback line is 100 feet or less. The requirement of sidewalks may be waived at the discretion of the Board of Supervisors.
- (2) Minimum widths for sidewalks along each type of public street shall be four feet, and shall follow PennDOT Specifications where applicable.

§ 138-23. Stormwater drainage.

- A. Lots shall be laid out and graded to provide positive drainage away from buildings. The Board of Supervisors may require a grading and drainage plan for individual lots indicating a buildable area within each lot, complying with the setback requirements, for which positive drainage is assured.
- B. No person, corporation, or other entity shall block, impede the flow of, alter, construct any structure, or deposit any material or thing, or commit any act which will affect normal or flood flow in any communal stream or watercourse without having obtained prior approval from Somerset Township or Department of Environmental Protection, whichever is applicable.
- C. Where a subdivision or land development is traversed by a natural watercourse, there shall be provided a drainage easement or right-of-way conforming substantially with the line of such watercourse and of such width as will be adequate to preserve natural drainage.
- D. The Somerset Township will assure that all permanent streams, not under the jurisdiction of other

official agencies, are maintained open and free flowing.

- E. The subdivider or developer, and each person, corporation, or other entity which makes any surface changes shall be required to:
 - (1) Collect on-site surface runoff and dispose of it to the point of discharge into the common natural watercourse of the drainage area.
 - (2) Design drainage facilities to handle runoff from upstream areas, assuming full development of those areas, based upon the Comprehensive Plan for Somerset Township.
 - (3) Design, construct, and/or install such drainage structures and facilities as are necessary to prevent erosion damage to the subdivision or land development, adjacent property and downstream property. Such structures and facilities shall satisfactorily convey such surface waters to the nearest practical street, storm drain, detention pond, or natural watercourse.
- F. Storm sewers, culverts, and related installations shall be provided to permit unimpeded flow of natural watercourses, to drain all low points along streets, and to intercept stormwater runoff along streets at intervals reasonably related to the extent and grade of the area drained.
- G. Storm sewers, as required, shall be placed in front of the curb or curblin when located in a street right-of-way. When located in undedicated land, they shall be placed within an easement not less than 15 feet wide, as approved by the Somerset Township Engineer, who may require additional width of easement as circumstances warrant.
- H. Street drainage will not be permitted to cross intersections or the crown of the road.
 - (1) Maximum spacing of street inlets shall not exceed 600 feet.
 - (2) All street inlets shall be PennDOT Type C or M. Inlet tops shall be cast in place reinforced concrete or precast concrete.
 - (3) All culvert ends shall be provided with either reinforced concrete headwalls or pipe end sections.
 - (4) Minimum pipe size shall be fifteen-inch diameter.
 - (5) When material for storm drain systems is not specified, PennDOT specifications will govern.
- I. All springs and sump pump discharges shall be collected so as not to flow in the streets.
- J. Stormwater roof drains shall not discharge water directly over a sidewalk.
- K. Stabilized outlets shall be provided for footer drains, floor drains, and downspouts.
- L. The Soils Cover Complex Method of the Natural Resources Conservation Service of the U.S. Department of Agriculture shall be used as the primary means of estimating stormwater runoff.
- M. The Rational Method may be used for analysis of storm sewer systems and for stormwater management facilities in minor subdivisions.
- N. Where the estimated runoff based upon the above methods is doubtful, several recognized methods should be studied and compared.
- O. The minimum design criteria shall be a ten-year storm. Higher frequency conditions shall be used in sensitive areas and where an overflow would endanger public or private property.
- P. Runoff calculations must include complete hydrologic and hydraulic design and analysis of all control facilities.

Q. Control facilities.

- (1) Permanent control measures/facilities shall be designed to assure that the maximum rate of stormwater runoff is not greater after development than prior to development for a ten-year storm frequency. More stringent criteria may be required in sensitive areas where stormwater problems presently exist.
- (2) Control facilities shall be designed to meet, as a minimum, the design standards and specifications of the Erosion and Sedimentation Control Handbook for Washington County.
 - (a) Detention ponds may be waived by the Board of Supervisors on the recommendation of the Somerset Township Engineer at sites in close proximity to the major streams. This is to facilitate drainage prior to stream flooding.
 - (b) In areas underlain with limestone geology, ponds shall be limited to the detention (dry) type unless the developer can show a special need for a retention pond, in which case it shall have a lining. Detention ponds shall be prohibited in areas of known sinkholes unless the pond is lined. If a sinkhole develops in a pond or channel before acceptance by the municipality, a lining shall be required.
 - (c) Any ponds with slopes steeper than three to one shall be fenced with a six-foot fence with a type subject to the approval of the municipality.
- (3) A maintenance program for control facilities must be included as part of the grading and drainage plan.
 - (a) Maintenance during development activities of a project shall be the responsibility of the contractor, developer, and owner.
 - (b) Arrangement for maintenance of permanent control facilities after completion of development activities shall be made before approval of final plans is given by the Board of Supervisors.
 - [1] In cases where permanent control facilities are owned by an entity, it shall be the responsibility of that entity to maintain control facilities (e.g., homeowners' association). In such cases a legally binding agreement between the owner and Somerset Township shall be made providing for maintenance of all permanent erosion control facilities, including the inspection by Somerset Township.

§ 138-24. Lot grading for subdivisions and land developments.

- A. Blocks and lots shall be graded to provide proper drainage away from buildings and to prevent the collection of stormwater in pools. Minimum 2% slopes away from structures shall be required.
- B. Lot grading shall be of such design as to carry surface waters to the nearest practical street, storm drain, or natural watercourse. Where drainage swales are used to deliver surface waters away from buildings, their grade shall not be less than 1% nor more than 4%. The swales shall be sodded, planted or lined as required. A grading and draining plan shall be required for all subdivisions and land developments, except minor subdivisions.
- C. No final grading shall be permitted with a cut face steeper in slope than two horizontal to one vertical except under one or more of the following conditions:
 - (1) The material in which the excavation is made is sufficiently stable to sustain a slope of steeper than two horizontal to one vertical, and a written statement of a civil engineer, licensed by the Commonwealth of Pennsylvania and experienced in erosion control, to that effect is submitted

to the Somerset Township Engineer and approved by him. The statement shall state that the site has been inspected and that the deviation from the slope specified hereinbefore will not result in injury to persons or damage to property.

- (2) A concrete or stone masonry wall constructed according to sound engineering standards for which plans are submitted to the Somerset Township Engineer for review and approval is provided.
- D. No final grading shall be permitted which creates any exposed surface steeper in slope than two horizontal to one vertical except under one or more of the following conditions:
- (1) The fill is located so that settlement, sliding or erosion will not result in property damage or be hazardous to adjoining property, streets, alley, or buildings.
 - (2) A written statement from a civil engineer, licensed by the Commonwealth of Pennsylvania and experienced in erosion control, certifying that he has inspected the site and that the proposed deviation from the slope specified above will not endanger any property or result in property damage, is submitted to and approved by the Somerset Township Engineer.
 - (3) A wall is constructed to support the face of the fill.
- E. The top or bottom edge of slopes shall be a minimum of three feet from property or right-of-way lines of street or alleys in order to permit the normal rounding of the edge without encroaching on the abutting property. All property lines, where walls or slopes are steeper than one horizontal to one vertical and five feet or more in height shall be protected by a protective fence no less than three feet in height approved by the Somerset Township Engineer.
- F. All lots must be kept free of any debris or nuisances whatsoever.

§ 138-25. Blocks and lots.

- A. The length, width, shape, and design of blocks shall be determined with due regard to the provision of adequate sites for buildings of the type proposed, to the land use and/or zoning requirements of Somerset Township, the topography of the land being subdivided, and the requirements for safe and convenient vehicular and pedestrian circulation.
- B. Unless the topography of the land being subdivided or the existing pattern of development in the immediately adjacent area shall be otherwise than herein required, the following minimum standards for the design and size of blocks and lots shall prevail:
- (1) Blocks shall not exceed 1,600 feet in length, nor be less than 500 feet in length.
 - (2) Residential blocks shall generally be of sufficient depth to accommodate two tiers of lots, except where reverse frontage lots bordering an arterial or collector street are used, or where due to the contour of the land, or the necessary layout of the subdivision, there is insufficient depth between intersecting streets for such two-tier design.
 - (3) Crosswalks or interior pedestrian walks shall be required in blocks exceeding 1,000 feet in length to provide for pedestrian circulation or access to community facilities. Such walks shall be paved for width of not less than four feet, shall be located in easements not less than 10 feet in width, and shall, insofar as possible, be located in the center of any such block.
 - (4) Blocks for commercial and industrial areas may vary from the elements of design contained in this section if the nature of the use requires other treatment. In such cases, off-street parking for employees and customers shall be provided along with safe and convenient limited access to the street system. Space for off-street loading shall also be provided with limited access to the street

system. Extension of streets, railroad access right-of-way, and utilities shall be provided as necessary.

- (5) Lot lines intersecting street lines shall be substantially at right angles or radial to street lines.
- (6) Lots shall, in general, front on a street which has already been dedicated to Somerset Township, or which the subdivider or developer proposes to dedicate to Somerset Township in connection with approval of the final plan. In commercial or industrial subdivisions or land developments where access is proposed to be provided by private streets within the subdivision or land development, this requirement may be waived by the Board of Supervisors.
- (7) Somerset Township shall assign house numbers to each lot within a subdivision.
- (8) Minimum lot sizes shall be in accordance with Chapter 180, Zoning.
- (9) Remnants of land, smaller than required for a lot, shall not be permitted within any subdivision. Such remnants shall be incorporated in existing or proposed lots, or dedicated to public use if acceptable to the Board of Supervisors.
- (10) Double frontage lots are prohibited except in accordance with § 138-25B(2) above.
- (11) No residential lots shall be created which front upon an arterial or collector street, as defined in § 138-21A herein.

§ 138-26. Development on private streets discouraged.

- A. It is the policy of this Somerset Township that all subdivided lands shall have immediate access to a public street. Because of unique property configuration and location, Somerset Township recognizes the need for limited exceptions to the foregoing general policy.
- B. No subdivision will be approved on a private street or road if more than two lots already front on such street or road or if after subdivision more than two lots will front on such private street or road.

§ 138-27. Open space, lot siting, planting and beautification.

- A. In order to promote the highest environmental quality possible, the degree to which the applicant of a subdivision or land development plan has preserved existing salient natural features and land forms intrinsic to the site shall be assessed. Terms of approval of a plat may be subject to the manner in which the layout or design of the plan has preserved existing natural features, such as, but not limited to, trees, wooded areas and watercourse.
- B. Open space. Where the applicant is offering for dedication, or is required by chapter to establish a reservation of open space or preserve an area of scenic or historic importance, a "limit of work," which will confine excavation, earth moving procedures and other changes to the landscape, may be required to ensure preservation and prevent despoliation of the character of the area in open space.
- C. Tree preservation. Whenever possible, trees shall not be removed unless they are located within the proposed street right-of-way, within the proposed building area, or within utility locations and equipment access areas. In areas where trees are retained, the original grade level shall be maintained, if possible, so as not to disturb the trees.
- D. Topsoil preservation. All of the topsoil from areas where cuts and fills have been made should be stockpiled and redistributed uniformly after grading. All areas of the site shall be stabilized by seeding or planting on slopes of less than 10% and shall be stabilized by sodding on slopes 10% or more and planted in ground cover on slopes 20% or greater.

- E. Landscaping. For all multifamily, apartment, office, commercial, and industrial subdivisions or land developments, a landscaping plan shall be provided and shall include sufficient plantings for the required open space, planting strips, screenings, formal gardens, shade trees and natural barriers.
- F. Buffer planting requirements. Buffer yard requirements should be as specified in Chapter 180, Zoning.
- G. Preserved landscaping. When there is a conscientious effort to preserve the existing natural integrity and character of a site and where such preservation effectuates areas of woodland and trees comparable to required planting improvements, i.e., landscaping and buffer screening, the plan may be received in lieu of additional landscaping requirements.
- H. Trees. The planting of trees within the street right-of-way line shall not be permitted. The planting of any trees within the private property of each residential lot shall be at the discretion of the property owner or developer.
- I. Watercourse protection. Where a subdivision or land development is traversed by a natural watercourse, there shall be provided a drainage easement or right-of-way conforming substantially with the line of such watercourse and of such width as will be adequate to preserve natural drainage. Such easement shall be in addition to the open space required in § 138-27B.

§ 138-28. Contribution for recreation purposes.

- A. It is the policy of Somerset Township to provide recreational facilities for all the residents of Somerset Township. Centralized facilities are preferred over local neighborhood facilities. New and additional facilities are required in direct proportion to increase in population. Developers causing increases in population by new residences must share in the cost of additional recreational facilities.
- B. A contribution for recreation purposes shall be made at the rate as set by resolution of the Board of Supervisors, payable upon and as a condition of obtaining an occupancy permit pursuant to the chapters of this Somerset Township.^{xlviiiEN}
- C. The requirements of § 138-28B shall be noted upon the final subdivision plan, which notation shall be deemed not to constitute a lien or encumbrance on the title of the land.
- D. All monies paid to Somerset Township in this manner shall be kept in a capital reserve fund established as provided by law. Monies in such fund may be combined for investment purposes, if permitted by law, but shall be used only for the acquisition of land or capital improvements for open space and park and recreation purposes.
- E. The foregoing provisions of this section shall not apply to any subdivision for which a preliminary plan has been approved by this Somerset Township before the effective date of this chapter which provides for active recreational facilities (i.e., swimming pool, tennis courts, baseball/softball fields, etc.) as distinguished from passive recreational facilities (i.e., yards, open play fields, walking trails, etc.), it being the intention of this Somerset Township to extend a credit against the monetary contribution above provided to any developer who has heretofore planned to provide active recreational facilities agreeable to Somerset Township.

§ 138-29. Erosion and sediment control.

- A. General purpose.
 - (1) The Board of Supervisors finds that the minimization of erosion and control of sedimentation in connection with land development and subdivision are in the public interest, affecting public

health, safety and welfare, and therefore those regulations governing erosion control and sedimentation control are necessary for Somerset Township.

- (2) No changes shall be made in the contour of the land, no grading, excavating, removal or destruction to the topsoil, trees or other vegetative cover of the land shall be commenced until such time that a plan for minimizing erosion and sedimentation has been processed with and reviewed by the Somerset Township Engineer and/or Washington County Soil and Water Conservation District, or there has been a determination by the above entities that such plans are not necessary.
- (3) No subdivision or land development plan shall be approved unless:
 - (a) There has been an erosion and sedimentation control plan approved by the Board of Supervisors that provides for minimizing erosion and sedimentation consistent with this section, and an improvement bond or other acceptable securities are deposited with Somerset Township in the form of an escrow guarantee which will ensure installation and completion of the required improvements; or
 - (b) There has been a determination by the Board of Supervisors that a plan for minimizing erosion and sedimentation is not necessary.
- (4) Where not specified in this chapter, measures used to control erosion and reduce sedimentation shall as a minimum meet the standards and specifications of the Washington County Soil and Water Conservation District. The Somerset Township Engineer, or other officials as designated, shall ensure compliance with the appropriate specifications, copies of which are available from the Soil and Water Conservation District.

B. Performance principles. The following measures are effective in minimizing erosion and sedimentation and shall be included where applicable in the control plan:

- (1) Stripping of vegetation, regrading, or other development shall be done in such a way that will prevent all but minor erosion.
- (2) Development plans shall preserve salient natural features, keep cut-fill operations to a minimum, and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff.
- (3) Whenever feasible, natural vegetation shall be retained, protected, and supplemented.
- (4) The disturbed area and the duration of exposure shall be kept to a practical minimum.
- (5) Disturbed soils shall be stabilized as quickly as practicable.
- (6) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development.
- (7) The permanent final vegetation and structural erosion control and drainage measures shall be installed as soon as practical in the development.
- (8) Provisions shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development. Where necessary, the rate of surface water runoff will be structurally retarded.
- (9) Sediment in the runoff water shall be trapped until the disturbed area is stabilized by the use of debris basins, sediment basins, silt traps, or similar measures.

C. Grading for erosion and other environmental controls. In order to provide suitable sites for building and other uses, improve surface drainage, and control erosion, the following requirements shall be

met:

- (1) Streets shall be improved to a mud-free or otherwise permanently passable condition as one of the first items of work done on a subdivision or development. The wearing surface shall be installed in accordance with § 138-21G and as approved in the final plan.
- (2) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surfaces of fills, by installation of temporary or permanent drainage across or above these areas.
- (3) Fill shall be placed and compacted so as to minimize sliding or erosion of the soil.
- (4) Fills placed adjacent to watercourses shall have suitable protection against erosion during periods of flooding.
- (5) During grading operations, necessary measures for dust control will be exercised.
- (6) Grading equipment will not be allowed to enter into flowing streams. Provisions will be made for the installation of temporary or permanent culverts or bridges.

D. Responsibility.

- (1) Whenever sedimentation damage is caused by stripping vegetation, grading or other development, it shall be the collective responsibility of the land developer and subdivider, and of the contractor, person, corporation and other entity causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.
- (2) Maintenance of all erosion and sedimentation control facilities during the construction and development period is the responsibility of the land developer or subdivider.
- (3) It is the responsibility of any developer or subdivider, and any person, corporation, or other entity doing any act on or across a communal stream, watercourse or swale, or upon the floodplain or right-of-way, to maintain as nearly as possible in its present state the stream, watercourse, swale, floodplain or right-of-way during the pendency of the activity to return it to its original or equal condition after such activity is completed.
- (4) The subdivider or land developer shall provide and install, at his expense, in accordance with Somerset Township requirements, all drainage and erosion control improvements (temporary and permanent) shown on the erosion and sediment control plan.

E. Compliance with regulations and procedures.

- (1) The Board of Supervisors, in their consideration of all preliminary plans of subdivision and land development, shall condition its approval upon the execution of erosion and sediment control measures as contained in § 138-29B and C hereof.
- (2) The installation and design of the required erosion and sediment control measures shall be in accordance with standards and specifications of the Washington County Soil and Conservation District.

F. Stream channel construction. Stream channel construction on watersheds with drainage areas in excess of 1/2 square mile, or in those cases where downstream hazards exist, will conform to criteria established by the Pennsylvania Department of Environment Protection.

§ 138-30. Floodplain area regulations.

- A. Purpose. The specific purposes of these special provisions are:
- (1) To regulate the subdivision or development of land within any designated floodplain area in order to promote the general health, welfare, and safety of the community.
 - (2) To require that each subdivision lot in flood-prone areas be provided with a safe building site with adequate access; and that public facilities which serve such uses be designed and installed to preclude flood damage at the time of initial construction.
 - (3) To prevent individuals from buying lands which are unsuitable for use because of flooding by prohibiting the improper subdivision or development of unprotected lands within the designated floodplain districts.
- B. Abrogation and greater restrictions. To the extent that this section imposes greater requirements or more complete disclosure than any other provisions of this chapter, in any respect, or to the extent that the provisions of this section are more restrictive than such other provisions, it shall control such other provisions of this chapter.
- C. Disclaimer of municipal liability. The grant of a permit or approval of a plan for any proposed subdivision or land development to be located within any designated floodplain area shall not constitute a representation, guarantee, or warranty of any kind by the Township or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the Township, its officials, employees or agents.
- D. Application procedures and requirements.
- (1) Preapplication procedures.
 - (a) Prior to the preparation of any plans, it is suggested that prospective developers consult with the Pennsylvania Department of Environmental Protection concerning soil suitability when on-site sewage disposal facilities are proposed.
 - (b) Prospective developers shall consult the County Conservation District representative concerning erosion and sediment control and the effect of geologic conditions on the proposed development. At the same time, a determination should be made as to whether or not any flood hazards either exist or will be created as a result of the subdivision or development.
 - (2) Preliminary plan requirements. The following information shall be required as part of the preliminary plan and shall be prepared by a registered engineer or surveyor:
 - (a) Name of engineer, surveyor, or other qualified person responsible for providing the information required in this section.
 - (b) A map showing the location of the proposed subdivision or land development with respect to any designated floodplain area, including information on, but not limited to, the one-hundred-year flood elevations, boundaries of the floodplain area or areas, proposed lots and sites, fills, flood or erosion protective facilities, and areas subject to special deed restrictions.
 - (c) Where the subdivision or land development lies partially or completely within any designated floodplain area, or where the subdivision or land development borders on a floodplain area, the preliminary plan map shall include detailed information giving the location and elevation of proposed roads, public utilities, and building sites. All such maps shall also show contours at intervals of five feet, and shall identify accurately the boundaries of the floodplain areas.

- (d) Such other information as is required by this chapter.
- (3) Final plan requirements. The following information shall be required as part of the final plan and shall be prepared by a registered engineer or surveyor:
 - (a) All information required for the submission of the preliminary plan incorporating any changes requested by the Board of Supervisors.
 - (b) A map showing the exact location and elevation of all proposed buildings, structures, roads, and public utilities to be constructed within any designated floodplain area. All such maps shall show contours at intervals of five feet within the floodplain area and shall identify accurately the boundaries of the flood-prone areas.
 - (c) Submission of the final plan shall also be accompanied by all required permits and related documentation from the Department of Environmental Protection, and any other commonwealth agency, or local municipality where any alteration or relocation of a stream or watercourse is proposed. In addition, documentation shall be submitted indicating that all affected adjacent municipalities have been notified in advance of the proposed alteration or relocation. The Department of Community and Economic Development and the Federal Insurance Administration shall also be notified in advance of any such proposed activity, and proof of such notification shall be submitted in advance of the Planning Commission meeting at which such plan is to be considered.

E. Design standards and improvements in designated floodplain areas.

- (1) General.
 - (a) Where not prohibited by this or any other laws or ordinances, land located in any designated floodplain area may be platted for development with the provision that the developer construct all buildings and structures to preclude flood damage in accordance with this and any other laws and ordinances regulating such development.
 - (b) No subdivision or land development, or part thereof, shall be approved if the proposed development or improvements will individually or collectively increase the one-hundred-year-flood elevation more than one foot at any point.
 - (c) Building sites for residences or any other type of dwelling or accommodation shall not be permitted in any floodway area. Sites for these uses may be permitted outside the floodway area in a floodplain area if the lowest floor (including basement) is elevated to the regulatory flood elevation. If fill is used to raise the elevation of a site, the fill area shall extend laterally for a distance of at least 15 feet beyond the limits of the proposed structures and access shall meet the requirements of § 138-30E(3) hereinbelow.
 - (d) Building sites for structures or buildings other than for residential uses shall not be permitted in any floodway area. Sites for such structures or buildings outside the floodway in a Floodplain Area shall be protected as provided for in § 138-30E(1)(c) above. However, the Board of Supervisors may allow the subdivision or development of areas or sites for commercial and industrial uses at an elevation below the regulatory flood elevation if the developer otherwise protects the area to that height or assures that the buildings or structures will be floodproofed to the regulatory flood elevation.
 - (e) If the Board of Supervisors determines that only a part of a proposed plat can be safely developed, it shall limit development to that part and shall require that development proceed consistent with this determination.
 - (f) When a developer does not intend to develop the plat himself and the Board of Supervisors determines that additional controls are required to insure safe development, they may

require the developer to improve appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on every recorded plat.

- (2) Drainage facilities.
 - (a) Storm drainage facilities shall be designed to convey the flow of surface waters without damage to persons or property. The system shall insure drainage at all points along streets, and provide positive drainage away from buildings and on-site waste disposal sites.
 - (b) Plans shall be subject to the approval of the Board of Supervisors. The Board of Supervisors may require a primary underground system to accommodate frequent floods and a secondary surface system to accommodate larger, less frequent floods. Drainage plans shall be consistent with local, county and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- (3) Streets and driveways. The finished elevation of proposed streets and driveways shall not be more than the one foot below the regulatory flood elevation. Profiles and elevations of streets and driveways to determine compliance with this requirement and as required by other provisions of this chapter shall be submitted with the final plan. Drainage openings shall be sufficient to discharge flood flows without unduly increasing flood heights.
- (4) Sewer facilities. All sanitary sewer systems located in any designated floodplain area, whether public or private, shall be floodproofed up to the regulatory flood elevation.
- (5) Water facilities. All water systems located in any designated floodplain area, whether public or private, shall be floodproofed up to the regulatory flood elevation.
- (6) Other utilities and facilities. All other public or private utilities and facilities, including gas and electric, shall be elevated or floodproofed up to the regulatory flood elevation.

ARTICLE VI, Required Improvements

§ 138-31. General requirements.

The following improvements shall be installed by the subdivider. The final plan shall not be approved until final detailed design of the improvements is approved and the improvements are installed or security to the Board of Supervisors is provided.

§ 138-32. Streets.

Streets shall be brought to the grades and dimensions drawn on plans, profiles, and cross-sections submitted by the subdivider and approved by the Somerset Township Engineer. The subdivider must install the required utilities and provide, where necessary, adequate subsurface drainage for the streets. The streets shall be designed and constructed to the standards set forth in §§ 138-20 and 138-21 of this chapter.

§ 138-33. Curbs and sidewalks.

Curbs and sidewalks shall be provided in accordance with the standards set forth in § 138-22 of this chapter.

§ 138-34. Sewers.

- A. Public sewer systems. When the subdivision or land development is to be provided with a complete sanitary sewer system connected to a public sanitary sewer system, a statement of approval from the engineer of the sewerage system to which it will be connected shall be submitted to the Board of Supervisors. Where required, DEP Planning Module approval shall also be obtained for final plan approval.
- B. Private sewer systems. When a complete private sanitary sewer system using a treatment plant is to be provided, a statement shall be submitted to the Board of Supervisors from the Pennsylvania Department of Environmental Protection certifying that a permit has been issued by the appropriate agency approving the proposed facilities. Adequate security for the maintenance of such plant shall be furnished to Somerset Township.
- C. On-lot sewage disposal. In subdivision where public sewers are not available and a complete private sanitary sewer system is not required, on-lot sewage disposal systems shall be provided.
- D. Capped sewer system. Where the sanitary sewer system is not yet accessible, but is planned for extension to the subdivision or development, the subdivider shall install sewer lines, including lateral connections, in order to provide service to each lot. The sewer mains shall be suitably capped at the limits of the subdivision and laterals shall be capped at the street right-of-way line when not extended to houses or other structures. When laterals are extended to houses or other structures, the internal plumbing system shall be constructed to accommodate them as well as any septic system required. At such time as any planned construction of extensions to the existing sanitary sewer system is under contract, the subdivider may reduce the size of any required septic system drain fields or septic tank by 50%.

§ 138-35. Water.

- A. Provision of system. The subdivision or land development shall be provided with a complete water main supply system which shall be connected to a municipal water supply or with a community water supply approved by the engineer of the applicable water utility company and the Pennsylvania Department of Environmental Protection with satisfactory provision for the maintenance thereof; except that, when such municipal or community water supply system is not available, each lot in a subdivision shall be capable of being provided with an individual water supply system in accordance with minimum standards approved by the Pennsylvania Department of Environmental Protection.
- B. Plans. The plans for the installation of the mains of a water supply system shall be prepared for the subdivision or land development with the cooperation of the applicable water supply agency and approved by its engineer. A statement of approval from the engineer of the water supply agency to which the subdivision or land development will be connected shall be submitted to the Board of Supervisors. Upon the completion of the water supply system, one copy of each of the plans for such system shall be filed with Somerset Township.
- C. Water supply. If water is to be provided by means other than private wells owned and maintained by the individual owners of lots within the subdivision or development, applicants shall present evidence to the Board of Supervisors that the subdivision is to be supplied by a certified public utility, a bona fide cooperative association of lot owners, or by a municipal corporation, authority or utility. A copy of a Certificate of Public Convenience from the Pennsylvania Public Utility Commission or an application for such certificate, a cooperative agreement or a commitment or agreement to serve the area in question, whichever is appropriate, shall be acceptable.
- D. Fire hydrants. Fire hydrants shall be provided as an integral part of any public water supply system. The Somerset Township Fire Marshall shall be consulted to determine the location of proposed fire hydrants.

§ 138-36. Storm drainage.

A storm drainage system shall be provided in accordance with the standards as set forth in § 138-23 of this chapter.

§ 138-37. Utilities.

- A. Easements for utilities shall have a minimum width of 15 feet.
- B. To the fullest extent possible, easements for public utilities shall be centered on or adjacent to rear or side lot lines.
- C. Telephone, electric, T.V. cable and such other utilities shall be installed underground and shall be provided within the street right-of-way or easements to be dedicated for such utilities, and in accordance with plans approved by the Board of Supervisors and the applicable utility company. Underground installation of the utility distribution and service lines shall be completed prior to street paving and gutter, curbing, and sidewalk installation.

§ 138-38. Monuments and markers.

- A. Monuments shall be of concrete or stone at least six inches by six inches by 30 inches and marked on top with a copper or brass dowel. They shall be set at the intersection of lines forming angles in the boundaries of the subdivision and at the intersection of street lines. Markers shall be iron pipes or brass 30 inches by 3/4 inch diameter and set at all points where lines or lines and curves intersect.
- B. Monument replacement. Any monuments or markers that are removed must be replaced by a registered land surveyor at the expense of the person responsible for the removal.

§ 138-39. Other improvements.

- A. Shade trees shall be provided as specified in § 138-27H of this chapter.
- B. Street name signs conforming to Somerset Township specifications shall be provided and installed by the subdivider or developer at all street intersections.
- C. Open space shall be provided as specified in § 138-27B of this chapter.
- D. Other improvements to promote public safety and health as required by the Board of Supervisors as a condition of approval.

§ 138-40. Time limits.

All improvements shall be installed according to a time schedule which shall be approved by the Board of Supervisors.

§ 138-41. Inspection.

At the time each improvement is to be installed and upon its completion, the subdivider shall notify the Board of Supervisors so that adequate inspections can be made. The inspection will be made by the Somerset Township Engineer. All costs of undertaking the inspection will be borne by the subdivider.

§ 138-42. Completion of improvements or guarantee thereof.

- A. No plat shall be finally approved unless the streets shown on such plat have been improved to a mud-free or otherwise permanently passable condition, or improved as may be otherwise required by this chapter and any walkways, curbs, gutters, streetlights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers and other improvements as may be required by this chapter have been installed in accordance with this chapter. In lieu of the completion of any improvements required as a condition for the final approval of a plat, including improvements or fees otherwise required by this chapter, the developer may deposit with the Township financial security in an amount sufficient to cover the costs of such improvements or common amenities, including basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required.
- B. When requested by the developer, in order to facilitate financing, the Board of Supervisors shall furnish the developer with a signed copy of a resolution indicating approval of the final plat contingent upon the developer obtaining a satisfactory financial security. The final plat or record plan shall not be signed nor recorded until the financial improvements agreement is executed. The resolution or letter of contingent approval shall expire and be deemed to be revoked if the financial security agreement is not executed within 90 days unless a written extension is granted by the Board of Supervisors; such extension shall not be unreasonably withheld and shall be placed in writing at the request of the developer.
- C. Without limitation as to other types of financial security which the Township may approve, which approval shall not be unreasonably withheld, federal or commonwealth chartered lending institution irrevocable letters of credit and restrictive or escrow accounts in such lending institutions shall be deemed acceptable financial security for the purposes of this section.
- D. Such financial security shall be posted with a bonding company or federal or commonwealth chartered lending institution chosen by the party posting the financial security, provided said bonding company or lending institution is authorized to conduct such business within the commonwealth.
- E. Such bond, or other security shall provide for, and secure to the public the completion of any improvements which may be required on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements.
- F. The amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer. Annually, the Township may adjust the amount of the financial security by comparing the actual cost of the improvements which have been completed and the estimated cost for the completion of the remaining improvements as of the expiration of the 90th day after either the original date scheduled for completion or a rescheduled date of completion. Subsequent to said adjustment, the Township may require the developer to post additional security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the developer in accordance with this subsection.
- G. The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by the applicant or developer and prepared by a professional engineer licensed as such in this commonwealth and certified by such engineer to be a fair and reasonable estimate of such cost. The Township, upon the recommendation of the Township Engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the Township are unable to agree upon an estimate, then the estimate shall be recalculated and recertified by another professional engineer licensed as such in this commonwealth and chosen mutually by the Township and the applicant or developer. The estimate certified by the third engineer shall be presumed fair and reasonable and shall be the final estimate. In the event that a third engineer is so chosen, fees for the services of said engineer shall be paid equally by the

Township and the applicant or developer.

- H. If the party posting the financial security requires more than one year from the date of posting of the financial security to complete the required improvements, the amount of financial security may be increased by an additional 10% for each one-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110% of the cost of completing the required improvements as reestablished on or about the expiration of the preceding one-year period by using the above bidding procedure.
- I. In the case where development is projected over a period of years, the Board of Supervisors may authorize submission of final plats by sections or stages of development subject to such requirements or guarantees as to improvements in future section or stages of development as it finds essential for the protection of any finally approved section of the development.
- J. As the work of installing the required improvements proceeds, the party posting the financial security may request the Board of Supervisors to release or authorize the release, from time to time, of such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the Board of Supervisors, and the Board of Supervisors shall have 45 days from receipt of such request within which to allow the Township Engineer to certify, in writing, to the Board of Supervisors that such portion of the work upon the improvements has been completed in accordance with the approved plat. Upon such certification the Board of Supervisors shall authorize release by the bonding company or lending institution of an amount as estimated by the Township Engineer fairly representing the value of the improvements completed or, if the Board of Supervisors fails to act within said forty-five-day period, the Board of Supervisors shall be deemed to have approved the release of funds as requested. The Board of Supervisors may, prior to final release at the time of completion and certification by its engineer, require retention of 10% of the estimated cost of the aforesaid improvements.
- K. Where the Board of Supervisors accepts dedication of all or some of the required improvements following completion, the Board of Supervisors may require the posting of financial security to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the final plat for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this section with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of installation of said improvements.
- L. If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the Township, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included within the financial security as otherwise required by this section.
- M. If financial security has been provided in lieu of the completion of improvements required as a condition for the final approval of a plat as set forth in this section, the Township shall not condition the issuance of building, grading or other permits relating to the erection or placement of improvements, including buildings, upon the lots or land as depicted upon the final plat upon actual completion of the improvements depicted upon the approved final plat. Moreover, if said financial security has been provided, occupancy permits for any building or buildings to be erected shall not be withheld following the improvement of the streets providing access to and from existing public roads to such building or buildings to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approved plat, either upon the lot or lots or beyond the lot or lots in question if such improvements are necessary for the reasonable

use of or occupancy of the building or buildings.

§ 138-43. Release from improvement bond.

- A. When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the Board of Supervisors, in writing, by certified or registered mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Township Engineer. The Board of Supervisors shall, within 10 days after receipt of such notice, direct and authorize the Township Engineer to inspect all of the aforesaid improvements. The Township Engineer shall, thereupon, file a report, in writing, with the Board of Supervisors, and shall promptly mail a copy of the same to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the Township Engineer of the aforesaid authorization from the Board of Supervisors; said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof, shall not be approved or shall be rejected by the Township Engineer, said report shall contain a statement of reasons for such nonapproval or rejection.
- B. The Board of Supervisors shall notify the developer, within 15 days of receipt of the engineer's report, in writing, by certified or registered mail of the action of said Board of Supervisors with relation thereto.
- C. If the Board of Supervisors or the Township Engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.
- D. If any portion of the said improvements shall not be approved or shall be rejected by the Board of Supervisors, the developer shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.
- E. Nothing herein, however, shall be construed in limitation of the developer's right to contest or question by legal proceedings or otherwise, any determination of the Board of Supervisors or the Township Engineer.
- F. Where herein reference is made to the Township Engineer, he shall be as a consultant thereto.
- G. The applicant or developer shall reimburse the Township for the reasonable and necessary expense incurred for the inspection or improvements according to a schedule of fees adopted by resolution of the Board of Supervisors and as from time to time amended. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the Township Engineer or consultant for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the engineer or consultant to the Township when fees are not reimbursed or otherwise imposed on applicants.
 - (1) In the event the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, within 10 working days of the date of billing, notify the Township that such expenses are disputed as unreasonable or unnecessary, in which case the Township shall not delay or disapprove a subdivision or land development application or any approval or permit related to development due to the applicant's request over disputed engineer expenses.
 - (2) If, within 20 days from the date of billing, the Township and the applicant cannot agree on the amount of expenses which are reasonable and necessary, then the applicant and the Township shall jointly, by mutual agreement, appoint another professional engineer licensed as such in the Commonwealth of Pennsylvania to review the said expenses and make a determination as to the

amount thereof which is reasonable and necessary.

- (3) The professional engineer so appointed shall hear such evidence and review such documentation as the professional engineer in his or her sole opinion deems necessary and render a decision within 50 days of the billing date. The applicant shall be required to pay the entire amount determined in the decision immediately.
- (4) In the event that the Township and applicant cannot agree upon the professional engineer to be appointed within 20 days of the billing date, then, upon application of either party, the President Judge of the Court of Common Pleas of the judicial district in which the Township is located (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such engineer, who, in that case, shall be neither the Township Engineer nor any professional engineer who has been retained by, or performed services for, the Township or the applicant within the preceding five years.
- (5) The fee of the appointed professional engineer for determining the reasonable and necessary expenses shall be paid by the applicant if the amount of payment required in the decision is equal to or greater than the original bill. If the amount of payment required in the decision is less than the original bill by \$1,000 or more, the Township shall pay the fee of the professional engineer, but otherwise the Township and the applicant shall each pay 1/2 of the fee of the appointed professional engineer.

§ 138-44. Remedies to effect completion of improvements.

In the event that any improvements which may be required have not been installed as provided in this chapter or in accord with the approved final plat the Board of Supervisors is hereby granted the power to enforce any corporate bond, or other security by appropriate legal and equitable remedies. If the proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Board of Supervisors may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other Township purpose.

ARTICLE VII, Mobile Home Parks

§ 138-45. Grant of power.

Provisions regulating mobile home parks as set forth in this article are those pursuant to § 501 of the Municipalities Planning Code.^{xlixEN}

§ 138-46. Purpose, authority and jurisdiction.

The purpose, authority and jurisdiction for land development as a mobile home park are the same as contained in Article I of this chapter.

§ 138-47. General procedure and plan requirements.

The general procedure and plan requirements for land developments as a mobile home park shall be in accordance with the requirements contained in Articles III and IV of this chapter.

§ 138-48. Design standards.

The arrangements and other design standards of streets, easements, blocks, lots, stormwater management, erosion and sedimentation control, and floodplain regulations shall be in accordance with the requirements contained in Article V of this chapter and Chapter 180, Zoning.

§ 138-49. Improvements and construction requirements.

In a mobile home park all improvements, construction requirements, and engineering specifications for the improvements required shall be provided in accordance with Articles IV and VI of this chapter.

§ 138-50. Fees.

The fee schedule for filing, inspection and engineering fees for land development as a mobile home park shall be in accordance with the requirements contained in Article III, § 138-9 of this chapter.

ARTICLE VIII, Administration

§ 138-51. Reconsideration of original findings.

Any subdivider aggrieved by a finding, decision or recommendation of the Board of Supervisors may request and receive opportunity to appear, present additional relevant information and request reconsideration of the original finding, decision or recommendation.

§ 138-52. Records.

- A. Somerset Township shall keep a record of its findings, decisions, and recommendations relative to all subdivision plans filed with it for review.
- B. All such records shall be public records.

ARTICLE IX, Violations and Penalties

§ 138-53. Preventive remedies.

- A. In addition to other remedies, the Township may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
- B. The Township may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of this chapter. This authority to deny such a permit or approval shall apply to any of the following applicants:
 - (1) The owner of record at the time of such violation.
 - (2) The vendee or lessee of the owner of record at the time of such violation without regard as to

whether such vendee or lessee had actual or constructive knowledge of the violation.

- (3) The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
- (4) The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

C. As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Township may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

§ 138-54. Enforcement remedies.

- A. Any person, partnership or corporation who or which has violated the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership, or corporation violating this chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District Judge and thereafter each day that a violation continues shall constitute a separate violation.
- B. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem judgment pending a final adjudication of the violation and judgment.
- C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township the right to commence any action for enforcement pursuant to this section.
- D. Magisterial District Judges shall have initial jurisdiction in proceedings brought under this section.

Appendix A - Format for "Approval" Spaces

The following format shall be used in "approval" spaces on final subdivision plans:

Reviewed this _____ day of _____, 20____, and found to meet the requirements for a final plan as stated in the Subdivision and Land Development Chapter.

_____ Somerset Township Engineer

Recommended for Approval by the Somerset Township Planning Commission this ____ day of _____, 20____.

_____ Chairman

_____ Secretary

OWNER'S STATEMENT

It is hereby certified that the undersigned has legal or equitable title to the land shown. All roads or streets shown hereon, if not previously dedicated, are hereby offered for public use.

RECORDED IN PLAN BOOK _____ PAGE _____

Note: Plan size for recording purposes shall not exceed 18 inches by 24 inches.

Chapter 145, TAXATION

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Amusement devices -- See Ch. 53.

ARTICLE I, Earned Income Tax [Adopted 12-1966 by Ord. No. 4-1966 (Ch. 24, Part 4, of the 1990 Code)]

§ 145-1. Definitions.

All words, phrases, meanings and sentences when used in this article shall have the meaning ascribed to them by the Act of Assembly No. 511 of 1965, § 13, I,^{1EN} except where the context clearly indicates or requires a different meaning.

§ 145-2. Assessment, levy and imposition of tax.

A. The following taxes are hereby assessed, levied, and imposed for general revenue purposes:

- (1) 1/2 of 1% of all earned income or compensation earned on and after January 1, 1967.
- (2) 1/2 of 1% of the net profits earned on and after January 1, 1967, of businesses, professions and other activities and enterprises.

B. The tax hereby assessed, levied and imposed under Subsection A herein shall relate and is hereby

assessed, levied, and imposed upon salaries, wages, commissions and other earned compensation paid by an employer or on his behalf to any person who is employed by or rendered services to him and shall be levied on residents of the Township of Somerset, and nonresidents who shall be employed within the municipal boundaries of the Township of Somerset.

- C. The tax assessed, levied, and imposed under Subsection B herein shall relate to and is hereby assessed, levied, and imposed upon the net profits of any business, profession, activity, or enterprise carried on by any person as owner or proprietor either individually or as an association with some other person or persons. It is the express intent that the terms of the assessment, levy and imposition of tax shall be exclusively upon individuals who are residents of the Township of Somerset, or nonresidents of the Township of Somerset, who earn such profits within the municipal boundaries of the Township of Somerset.

§ 145-3. Returns and payment of tax.

Each person whose earnings or profits are subject to the tax imposed by this article shall have the option or election to make an annual payment of the tax due on or before April 15 of the succeeding year or make and file a declaration of his estimated earnings or profits to pay on a quarterly basis. Whichever option or election the taxpayer shall choose, he shall be consistent in the filing of his returns and shall do all the filing in accordance with the provisions set forth in the aforesaid Act of Assembly No. 511 of 1965, § 13, III, Subsections A and B.^{liiEN}

§ 145-4. Collection at source.

Every employer having an office, factory, workshop, branch warehouse or other place of business located within the municipal boundaries of the Township of Somerset, shall withhold 1/2% of each employee's wage or salary and remit the same to the Township Wage Tax Officer. All the regulations and provisions for such tax, withholdings and reporting to the Township shall be in accordance with § 13 of the Act of Assembly No. 511 of 1965,^{liiEN} as though said provisions were set forth at length and are fully adopted by this article.

§ 145-5. Powers and duties of Wage Tax Collector. [Amended 4-15-1983 by Ord. No. 1-1983]

- A. The Wage Tax Collector or Officer appointed by the Board of Supervisors of the Township of Somerset shall have all of the powers and duties prescribed for him as set forth in the aforesaid Act No. 511 of 1965, § 13 V, A through G,^{liiiEN} as though the same were herein fully set forth at length. Said Wage Tax Collector or tax officer shall be paid and receive such compensation for his services and expenses as shall be determined from time to time by the Township Board of Supervisors.
- B. The Township Wage Tax Collector or designated financial officer, in addition to the powers and duties and devices prescribed by the Local Tax Enabling Act (53 P.S. § 6913), is hereby authorized to inspect W-2 forms, federal and/or state income tax returns of any resident and nonresident who is employed in Somerset Township.

§ 145-6. Suit for collection of tax.

The Township Wage Tax Collector or Officer shall be vested with all of the powers and duties set forth in the aforesaid Act of Assembly No. 511 of 1965, § 13, VII, Subsections A through C,^{livEN} providing for the entering of suit for the collection of any taxes due under this article as though the aforesaid provisions were herein set forth at length.

§ 145-7. Interest and penalties.

- A. Interest and penalties shall attach to any taxes remaining unpaid, after they shall become due in accordance with the aforesaid Act of Assembly No. 511 of 1965, § 13, VIII.^{lvEN}
- B. In addition to other methods of enforcement and collection, all taxes imposed by this article which shall become overdue shall be recoverable together with penalty and interest as other debts are recovered according to law.

§ 145-8. Violations and penalties.

The Township of Somerset, hereby adopts all of the provisions of § 13, (IX), Subsections A through D,^{lviEN} as though the same were herein fully set forth at length, dealing with the failure to comply with the provisions of this article or the Act of Assembly, upon which it is ordained.

§ 145-9. Continuity of tax.

This tax shall be construed as an annually continuing one, carrying over from year to year unless specifically amended, changed, repealed, or substantially varied in any manner.

§ 145-10. Incorporation of statutory provisions.

The Township of Somerset does hereby enact and ordain all of the provisions, rules, regulations, authorizations, privileges and powers as set forth in the aforesaid Act of Assembly of December 31, 1965, Act No. 511,^{lviiEN} as though the aforesaid provisions were herein fully set forth at length.

§ 145-11. Effective date.

This article shall go into effect on January 1, 1967.

ARTICLE II, Per Capita Tax [Adopted 1-16-1967 by Ord. No. 1-1967 (Ch. 24, Part 2, of the 1990 Code)]

§ 145-12. Definitions and word usage. [Amended 4-15-1983 by Ord. No. 4-1983]

- A. Unless otherwise expressly stated, the following terms shall have for the purposes of this article the meaning hereafter set forth:

ADULT RESIDENT/PERSON -- Any natural person who has reached his/her 18th birthday but who has not reached his/her 70th birthday. Full-time students and active duty military personnel are exempt.

RESIDENT -- Any person domiciled within Somerset Township.

TAXPAYER -- Any person required hereunder to pay this per capita tax or tax on persons.

- B. The singular shall include the plural, the masculine, the feminine, and the neuter. All other terms and provisions shall follow the definitions set forth in the above Act of Assembly.

§ 145-13. Annual tax.

The taxable year pursuant to this article shall be from January 1, 1967, to December 31, 1967, inclusive. This shall be construed as an annually continuing tax carrying over from year to year unless specifically amended, changed or repealed pursuant to the Act of Assembly No. 511.^{lviiiEN}

§ 145-14. Imposition of tax. [Amended 4-15-1983 by Ord. No. 4-1983; 2-20-1984 by Ord. No. 1-1984]

There is hereby imposed for general Township purposes an annual levy or tax of \$5 upon every adult resident of Somerset Township.

§ 145-15. Discounts and penalty charges.

All taxpayers subject to the payment of the per capita taxes herein levied and assessed shall be entitled to a discount of 2% of the amount of such tax upon making payment of the whole amount thereof within two months after the date of the tax notice. All taxpayers who fail to make payment of any such taxes charged against them for a period of four months after the date of the tax notice shall be charged a penalty of 5%, which penalty shall be added to the taxes by the Tax Collector and be collected by him.

§ 145-16. Notice of tax; receipt upon payment.

The Township Tax Collector shall send to every resident of the Township a notice of the tax due hereunder which notice may be sent with or as a part of other tax notices sent by the tax collector to the residents and/or taxpayers of the Township which notice shall require every resident to pay to the Township tax collector in full the tax imposed upon him under this article. The Township Tax Collector shall furnish a receipt to every person upon payment of such tax.

§ 145-17. Levy of tax.

All taxes levied by this article together with all penalties shall be recovered as provided by the Local Tax Collection Law^{lixEN} and the Local Tax Enabling Act of 1965, Act 511.^{lxEN}

§ 145-18. Violations and penalties. [Amended 8-13-1990 by Ord. No. 4-90^{lxiEN}]

Any person who violates or fails to carry out any of the provisions of this article, or who fails, neglects or refuses to pay any tax or penalties imposed under this article, or who attempts to do anything whatever to avoid the payment of the whole or any part of the tax imposed under this article, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense.

§ 145-19. Incorporation of statute.

The provisions of the Local Tax Enabling Act of 1965, Act 511, effective January 1, 1966,^{lxiiEN} insofar as they apply to the levy, imposition and collection of the per capita tax hereinbefore imposed are incorporated herein by reference thereto as though the same were fully set forth at length.

ARTICLE III, Occupational Privilege Tax [Adopted 5-17-1976 by Ord. No. 4-1976 (Ch. 24, Part 5, of the 1990 Code)]

§ 145-20. Definitions.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in

this section, except where the context or language clearly indicates or requires a different meaning:
EMPLOYER -- An individual, partnership, association, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage commission, or other compensation basis, including a self-employed person.
FISCAL YEAR -- The 12 months beginning January 1, and ending December 31, of each year the tax is in effect.
HE and HIS or HIM -- Indicate the singular and plural number as well as male, female, and neuter gender.
INDIVIDUAL -- Any person, male or female, engaged in any occupation, trade or profession within the geographical limits of Somerset Township.
OCCUPATION -- Any trade, profession, business or undertaking of any type, kind, or character, including services, domestic or others carried on or performed within the geographical limits of Somerset Township for which compensation is charged or received, whether by means of salary, wages, commissions, charges, or fees for services rendered.
TAX -- The occupational privilege tax in the amount of \$5 levied by this article.
TAX COLLECTOR -- The Tax Collector of Somerset Township, or as appointed by the Township to collect occupational privilege taxes.

§ 145-21. Levy of tax.

Somerset Township hereby levies and imposes on each occupation engaged in by individuals within its geographical limits during the last half of 1976, and each fiscal year thereafter, an occupational privilege tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the Township.

§ 145-22. Amount of tax.

Beginning on July 1, 1976, each occupation, as herein defined, engaged in within the geographical limits of Somerset Township shall be subject to an occupational privilege tax in the amount of \$5 starting with the last half of 1976, and each fiscal year thereafter. Said tax shall be paid by the individual so engaged.

§ 145-23. Filing of return.

Each employer, subject to the provisions of the Local Tax Enabling Act,^{lxiii}EN shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Tax Collector.

§ 145-24. Dates for determining tax liability and payment.

For the last half of 1976, each employer shall use his employment records as of July 1, 1976, for determining the number of employees from whom said tax shall be deducted and paid over to the Tax Collector, on or before December 15, 1976. As to years after 1976, each employer shall use his employment records as of January 2 to determine employees subject to said tax and deduct and pay same to the Tax Collector on or before January 31 with reports thereof of each subsequent year and also said employer shall do the same on or before December 15 of each subsequent year.

§ 145-25. Duty of employers.

Each employer within Somerset Township, as well as those employers situated outside the Township, but who engage in business within Somerset Township, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within the Township, the said tax of \$5 per annum and as aforesaid for the last 1/2 of 1976, and making a return and payment thereof to the Tax Collector. Further, each employer is hereby authorized to deduct the tax from each employee in his employ, whether the said employee is paid by salary, wages, or commission, and whether or not part of, or all such services are performed within the Township.

§ 145-26. Individuals engaged in more than one occupation.

Each individual who shall have more than one occupation within the Township shall be subject to the payment of this tax on his principal occupation and his principal employer shall deduct this tax and deliver to him evidence of deductions on a form to be furnished to the employer by the Tax Collector, which form shall be evidence of deduction having been made and, when presented to any other employer, shall be authority for such employer to not deduct this tax from the employee's wages, but to include such employee on his return by setting forth his name, address, and account number of the employer who deducted this tax.

§ 145-27. Self-employed individuals.

All self-employed individuals who perform services of any type or kind, engaged in any occupation or profession within Somerset Township, shall be required to comply with this article and pay the tax to the Tax Collector for 1976, forthwith and for subsequent years, as soon thereafter as he engages in an occupation.

§ 145-28. Employers and self-employed individuals residing beyond the geographical limits of Somerset Township.

All employers and self-employed individuals residing or having their place of business outside of the Township, but who perform services of any type or kind or engage in any occupation or profession within the Township do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties, and regulations promulgated under this article with the same force and effect as though they were residents of the Township. Further, any individual engaged in an occupation within the Township and an employee of a nonresident employer may, for the purpose of this article, be considered a self-employed person, and in the event this tax is not paid, the Township has the option of proceeding against either the employer or employee for the collection of his tax as hereinafter provided.

§ 145-29. Administration of tax.

- A. It shall be the duty of the Tax Collector to accept and receive payments of this tax, and to keep a record thereof, showing the amount received by him for each employer or self-employed person, together with the date the tax was received.
- B. The Tax Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered to prescribe, adopt, and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect, or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Tax Collector, shall have the right to appeal to the Court of Common Pleas, Washington County, as provided in other cases.
- C. The Tax Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer, or if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Tax Collector the means, facilities, and opportunity for such examination.

§ 145-30. Suits for collection.

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Tax Collector may sue for the recovery of any such tax due or unpaid this article together with interest and penalty.

B. If for any reason, the tax is not paid when due, interest at the rate of 6% a year on the amount of said tax shall be calculated beginning with the due date of said tax and a penalty of 5% shall be added to the first rate of said tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

§ 145-31. Violations and penalties. [Amended 8-13-1990 by Ord. No. 4-90]

- A. Whoever willfully makes any false or untrue statement on any return required by this article, or who refuses inspection of his books, records, or accounts in his custody and control; setting forth the number of employees subject to this tax who are in his employment, or whoever fails or refuses to file any return required by this article, shall, upon conviction before any Magisterial District Judge, be sentenced to pay a fine of not more than \$600 for each offense, and in default of payment of said fine, be imprisoned in the Washington County Prison for a period not exceeding 30 days for each offense.
- B. It is further provided that the action to enforce the fine and penalty herein provided be instituted against any person in charge of the business of any employer who has failed or refuses to file a return required by this article.

§ 145-32. Exemption.

All individuals whose total income from all sources is \$1,000 or less per fiscal year and for the year 1976 shall be exempt from payment of said tax. However, the within tax shall be paid by all individuals and those claiming an exemption hereunder shall file a claim and provide due proof thereof with the Tax Collector.

§ 145-33. Effective date.

This article shall become effective on July 1, 1976, and remain in force and effect for the last half of 1976, and every fiscal year thereafter until repealed.

ARTICLE IV, Amusement Tax [Adopted 1-18-1982 by Ord. No. 1-1982 (Ch. 24, Part 3, of the 1990 Code)]

§ 145-34. Definitions. [Amended 5-6-1985 by Ord. No. 2-1985]

A. Unless otherwise expressly stated, the following terms shall have, for the purpose of this article, the meanings herein indicated:

ADMISSION -- A monetary charge of any character whatsoever, including donations, contributions, and dues, or membership fees charged or paid, or in any manner received, or the privilege of attending or engaging in any amusement as hereafter defined. "Admission" shall not include any tax added to the charge, provided that in the case of persons admitted free or at reduced rates at a time when and under circumstances under which an established price is charged to other persons, the term "admission" shall mean the established price as charged to other persons; and, provided further, that with regard to golf courses, the tax base upon which the tax shall be levied shall not exceed 40% of the greens fees. The greens fee shall include all costs of admissions to the golf course.

AMUSEMENT -- All manner and form of entertainment including, among others, but not limited to the following: theatrical performance, operatic performance, carnival, circus, show, concert, lecture, sports event, swimming or bathing pool, vaudeville show, side show, amusement park, dance hall, and

all forms of entertainment therein, miniature golf course, golf course, billiard game, athletic contest, auto race, midget auto race, and any other form of diversion, sport, pastime or recreation for which admission is charged or paid, provided that the amusement shall not include any form of entertainment, the proceeds of which, after payment of reasonable expenses, inure exclusively for the benefit of religious, educational or charitable institutions, societies or organizations, veterans' organizations or police or fireman's organizations. ^{lxiv}EN

PERSON -- Natural person, firm, association, copartnership, or corporation. Whenever used in any clause prescribing and imposing a penalty, or both, the term "person," as applied to a corporation or association, shall mean the officers thereof.

B. In this article, the singular shall include the plural and the masculine shall include the feminine and the neuter.

§ 145-35. Imposition of tax. [Amended 5-6-1985 by Ord. No. 2-1985]

A tax is hereby imposed, for general revenue purposes, at the rate of 10% of the price of the admission to each and every amusement within Somerset Township, Washington County, Pennsylvania, provided that where no fixed admission is charged, the tax shall be based upon the gross admissions collected; and provided, further, that with regard to golf courses, the tax base upon which the tax shall be levied shall not exceed 40% of the greens fee. The greens fee shall include all costs of admissions to the golf course.

§ 145-36. Permit required; fees. ^{lxv}EN [Amended 11-9-1987 by Ord. No. 2-1987^{lxvi}EN]

After the date of this article, any person desiring to conduct, or to continue to conduct, any amusement within the Township shall file with the person or persons designated by the Board of Supervisors at its annual reorganization meeting, an application for a permanent amusement permit or a temporary permit, as the case may be, and shall pay the fee for such permit as set by resolution of the Board of Supervisors. In the case of any amusement that is to continue for longer than 10 days, a permanent amusement permit shall be issued. In the case of any amusement that is continue for 10 days or less, a temporary permit shall be issued. The Township shall furnish the permit form.

§ 145-37. Payment of tax due; report to be submitted by permit holders. [Amended 11-9-1987 by Ord. No. 2-1987]

- A. Every holder of a permanent permit shall, on or before the 10th day of the month, transmit to the person or persons designated by the Board of Supervisors at its annual reorganization meeting a report, under oath or affirmation, of the total admissions charged or collected and the total amount of tax due from such person upon such admissions under this article and at the same time shall pay over to the person or persons designated by the Board of Supervisors at its annual reorganization meeting the entire amount of tax due.
- B. Every holder of a temporary certificate shall, at the close of each day on which the amusement is held, pay over to the person or persons designated by the Board of Supervisors at its annual reorganization meeting the amount of tax due from such person under this article upon admissions for such day, and at the same time shall submit to the person or persons designated by the Board of Supervisors at its annual reorganization meeting a report of the total admissions charged or collected on such day and the total amount of tax on such admissions. On the date of the expiration of such temporary permit, the person to whom such permit is issued shall, in addition, submit a report, under oath or affirmation, of all admissions charged or collected during the period in which such temporary permit was in effect and of all taxes due and paid.

§ 145-38. Penalty charge for late payment of tax. [Amended 11-9-1987 by Ord. No. 2-1987]

If any tax levied in pursuant of this article shall not be paid when due, a penalty of 10% of the amount of tax due and unpaid shall be added thereto. The person or persons designated by the Board of Supervisors at its annual reorganization meeting shall have the power to examine the records and books of any person to determine their liability under this article.

§ 145-39. Confidential nature of returns. [Amended 11-9-1987 by Ord. No. 2-1987]

Any information gained by the person or persons designated by the Board of Supervisors at its annual reorganization meeting as a result of any return, investigations, or verifications required or authorized by this article shall be confidential, except for official purposes. Any disclosure of any information contrary to the provisions of this section shall constitute a violation of this article.

§ 145-40. Violations and penalties. [Amended 8-13-1990 by Ord. No. 4-1990^{lxvii}EN]

Any person who violates or fails to carry out any of the provisions or requirements of this article, or who neglects, fails or refuses to furnish complete and current reports or returns or to pay over any tax levied by this article at the time required, or who knowingly makes any incomplete or false or fraudulent returns, or who attempts to do anything whatever to avoid the payment of the whole or any part of the tax imposed under this article, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this article that is violated shall also constitute a separate offense, provided that such fine or penalty shall be in addition to any other penalty imposed by any other section of this article.

ARTICLE V, Realty Transfer Tax [Adopted 1-12-1987 by Ord. No. 1-1987 (Ch. 24, Part 1, of the 1990 Code)]

§ 145-41. Short title.

This article shall be known as the "Realty Transfer Tax Ordinance of the Township of Somerset."

§ 145-42. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Township of Somerset, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place as authorized by Article XI-D, "Local Real Estate Transfer Tax," 72 P.S. § 8101-D et seq.

§ 145-43. Definitions. ^{lxviii}EN

As used in this article, the words and phrases defined in 72 P.S. § 8101-C shall have the meanings ascribed to them in said section.

§ 145-44. Imposition of tax; interest.

A. Every person who makes, executes, delivers, accepts or presents for recording any document or in

whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

- B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Recorder whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
- C. It is the intent of this article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. § 6901 et seq.,^{lxixEN} so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer than the tax levied by the Board of Supervisors under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be 1/2 of the rate and such 1/2 rate shall become effective without any action on the part of the Board of Supervisors; provided, however, that the Board of Supervisors and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to 1/2 of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under "The Local Tax Enabling Act."
- D. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due, shall be added and collected.

§ 145-45. Exempt parties.

The United States, the commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

§ 145-46. Excluded transactions.

- A. The tax imposed by § 145-44 shall not be imposed upon:
 - (1) A transfer to the commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided said reconveyance is made within one year from the date of condemnation.
 - (2) A document which the Board of Supervisors is prohibited from taxing under the Constitution or statutes of the United States.
 - (3) A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.
 - (4) A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
 - (5) A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

- (6) A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.
- (7) A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- (8) A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries that are entitled to receive the property or proceeds from the sale of the property under the trust, whether or not such beneficiaries are contingent or specifically named. A trust clause which identifies the contingent beneficiaries by reference to the heirs of the trust settlor as determined by the laws of the intestate succession shall not disqualify a transfer from the exclusion provided by this clause. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.^{lxxEN}
- (9) A transfer for no or nominal actual consideration to a trustee of a living trust from the settlor of the living trust. No such exemption shall be granted unless the Washington County Recorder of Deeds is presented with a copy of the living trust instrument.^{lxxiEN}
- (10) A transfer for no or nominal actual consideration from a trustee of an ordinary trust to a specifically named beneficiary that is entitled to receive the property under the recorded trust instrument or to a contingent beneficiary where the transfer of the same property would be exempt if the transfer was made by the grantor of the property into the trust to that beneficiary. However, any transfer of real estate from a living trust during the settlor's lifetime shall be considered for the purposes of this article as if such transfer were made directly from the settlor to the grantee.^{lxxiiEN}
- (11) A transfer for no or nominal actual consideration from a trustee of a living trust after the death of the settlor of the trust or from a trustee of a trust created pursuant to the will of a decedent to a beneficiary to whom the property is devised or bequeathed.^{lxxiiiEN}
- (12) A transfer for no or nominal actual consideration from the trustee of a living trust to the settlor of the living trust if such property was originally conveyed to the trustee by the settlor.^{lxxivEN}
- (13) A transfer for no or nominal actual consideration from trustee to successor trustee.
- (14) A transfer for no or nominal actual consideration between principal and agent or straw party; or from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this article. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.
- (15) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article.

- (16) A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.
 - (17) A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
 - (18) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:
 - (a) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and
 - (b) The agency or authority has the full ownership interest in the real estate transferred.
 - (19) A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
 - (20) Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
 - (21) transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954 [68A Stat. 3, 26 U.S.C. § 501(c)(3)] and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities; or a transfer from such a conservancy to the United States, the commonwealth or to any of their instrumentalities, agencies or political subdivisions; or any transfer from such a conservancy where the real estate is encumbered by a perpetual agricultural conservation easement as defined by the Act of June 30, 1981 (P.L. 128, No. 43), known as the "Agricultural Area Security Law" (3 P.S. § 901 et seq.), and such conservancy has owned the real estate for at least two years immediately prior to the transfer.^{lxxvEN}
 - (22) A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns as least 75% of each class of the stock thereof.
 - (23) A transfer of real estate devoted to the business of agriculture to a family farm partnership by a member of the same family, which family directly owns at least 75% of the interests in the partnership.^{lxxviEN}
 - (24) A transfer between members of the same family of an ownership interest in a real estate company, family farm corporation or family farm partnership which owns real estate.^{lxxviiEN}
 - (25) A transaction wherein the tax due is \$1 or less.
 - (26) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.
- B. In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this article.

§ 145-47. Documents relating to associations or corporations and members, partners, stockholders or shareholders thereof.

Except as otherwise provided in § 145-46, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

§ 145-48. Acquired company.

- A. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three years.
- B. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this article.
- C. A family farm partnership is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm partnership or when, because of transfer of partnership interests or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm partnership under this article.^{lxxviiiEN}
- D. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the Recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

§ 145-49. Credits against tax.

- A. Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.
- B. Where there is transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
- C. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
- D. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
- E. If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount or tax due, no refund or carryover credit shall be allowed.

§ 145-50. Extension of lease.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

§ 145-51. Proceeds of judicial sale.

The tax herein imposed shall be fully paid, and have priority out of the proceeds or any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made except the state realty transfer tax, and the sheriff, or other officer, conducting said sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

§ 145-52. Duties of Recorder of Deeds.

- A. As provided in 16 P.S. § 11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to the Township of Somerset based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Township of Somerset.
- B. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.
- C. On or before the 10th of each month, the Recorder shall pay over to the Township of Somerset all local realty transfer taxes collected, less 2% for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2% commission shall be paid to the county.
- D. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only when both the state and local amounts and a rerecording or recording fee has been tendered.

§ 145-53. Statement of value.

Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article.

§ 145-54. Civil penalties.

- A. If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to

the tax an amount equal to 50% of the underpayment.

- B. In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

§ 145-55. Lien. ^{lxxixEN}

The tax imposed by this article shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Township of Somerset, which lands, tenements, hereditaments, or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this article. Liens shall be governed in accordance with 72 P.S. § 8110-D.

§ 145-56. Enforcement.

All taxes imposed by this article, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

§ 145-57. Regulations.

The Board of Supervisors of the Township of Somerset is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. § 8101-C et seq. are incorporated into and made a part of this article.

Chapter 152, VEHICLES AND TRAFFIC

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 8-13-1990 by Ord. No. 4-1990 (Ch. 15 of the 1990 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Mobile homes -- See Ch. 109.
Streets and sidewalks -- See Ch. 133.
Recreational vehicles -- See Ch. 167.

ARTICLE I, General Regulations

§ 152-1. Definitions and interpretation.

- A. Words and phrases, when used in this chapter, except for sections or articles to which different or additional definitions apply, shall have the meanings ascribed to them in The Vehicle Code (the Act of June 17, 1976, P.L. 162, No. 81), as amended, ^{lxxxEN} except that, in this chapter, the word "street" may be used interchangeably with the word "highway," and shall have the same meaning as the word "highway" as defined in the Vehicle Code.
- B. The term "legal holidays" as used in this chapter shall mean and include New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

C. In this chapter, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine.

§ 152-2. Manner of adopting permanent traffic and parking regulations.

All traffic and parking regulations of a permanent nature shall be enacted as ordinances, as parts of ordinances, as amendments to ordinances, or as amendments to this chapter, except where the law specifically authorizes less formal action.

§ 152-3. Continuation of existing regulations.

The provisions of this chapter, so far as they are the same as those of ordinances and regulations in force immediately before the enactment of this chapter, are intended as a continuation of those earlier ordinances and regulations, and not as new enactments. Nothing in this chapter shall affect any act done or liability incurred, or any suit or prosecution pending or to be instituted under any of those repealed or superseded ordinances or regulations.

§ 152-4. Temporary and emergency regulations.

A. The Chairman of the Board shall have the following powers to regulate traffic and parking temporarily and in time of emergency:

- (1) In the case of fire, flood, storm or other emergency, to establish temporary traffic and/or parking regulations; and
- (2) In the case of emergency or to facilitate public works, or in the conduct of parades, processions or public events, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than 72 hours.

B. Such temporary and emergency regulations shall be enforced by the Police Department in the same manner as permanent regulations. Any person who shall operate or park a vehicle or tractor in violation of any such regulations, or who shall move, remove, destroy, injure or deface any sign or marking erected, posted or made to give notice of any such regulation, shall, upon conviction thereof, be subject to the penalty set forth in the law or elsewhere in this chapter for a violation of such nature, and, in case of a violation for which no specific penalty is set forth in the law or elsewhere in this chapter, to a fine of not more than \$25 together with costs of prosecution.

§ 152-5. Experimental regulations.

The Board of Supervisors may, from time to time by resolution, designate places upon and along the highways in the Township of Somerset where, for a period of not more than 90 days, specific traffic and/or parking regulations, prohibitions and restrictions shall be in force and effect, and shall designate such locations by proper signs and markings. Such regulations, prohibitions and restrictions shall be effective as if they had been specified in this chapter. No person shall operate or park a vehicle or tractor in violation of any such regulation, prohibition or restriction, and no person shall move, remove, destroy or deface any sign or marking erected, posted or made by authority of this section. Any person who shall violate any provision of this section shall, upon conviction thereof, be subject to the penalty set forth in the law or elsewhere in this chapter for a violation of such nature, and in case of a violation for which no specific penalty is set forth in the law or elsewhere in this chapter, to a fine of not more than \$25 together with costs of prosecution; provided, the purpose of this section is to allow for the test and experimental determination of the feasibility and desirability of permanent changes in the ordinances of the Township of Somerset relative to traffic and parking.

§ 152-6. Traffic on streets closed or restricted for construction, maintenance or special events.

- A. Board of Supervisors shall have authority to close any street or specific part of a street to vehicular traffic and to place barriers or station police officers at each end of the closed portion, while construction or maintenance work is under way or a special event is being conducted on the closed portion. It shall be unlawful for any person to drive a vehicle upon any such closed portion.
- B. Board of Supervisors shall have authority to establish a restricted traffic area upon any street where construction or maintenance work is under way and to station flagmen at each end of the restricted portion. It shall be unlawful for any person to drive a vehicle upon any such restricted traffic area at any time when the flagman is displaying a sign directing that vehicle to stop, or is signaling that vehicle, by a flag or other device, not to proceed.
- C. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 152-7. Use of streets by processions and assemblages.

- A. For the purpose of this section, the following words shall have the following meanings:

ASSEMBLAGE -- A gathering of people without vehicles, which interferes with the movement of pedestrian or vehicular traffic on any street.

PROCESSION -- A group of individuals, vehicles, animals and/or objects moving along a street in a way that interferes with the normal movement of traffic. A procession shall not include a funeral caravan or military convoy.

- B. It shall be unlawful for any person to hold or participate in any assemblage unless the person organizing or conducting the assemblage first obtains a permit from the Township Secretary, which shall be issued without fee. Application for the permit shall be made at least one week in advance of the day on which the assemblage is proposed to be held, but in any case where a state-designated highway is proposed to be used, application shall be made at least three weeks in advance of the proposed date. The permit shall state the place where and the date when the assemblage is to be held, the hour when the assemblage may convene and the hour by which it shall have been completely dispersed. It shall be unlawful for any person to hold or to participate in any assemblage unless the permit has been granted, or at any time or place other than that authorized by the permit.
- C. It shall be unlawful for any person to hold or participate in any procession unless the person organizing or conducting the procession first obtains a permit from the Township Secretary, which shall be issued without fee. Application for the permit shall be made at least two weeks in advance of the day when the procession is proposed to be held, but in any case where a state-designated highway is proposed to be used, application shall be made at least three weeks in advance of the proposed date. The permit shall specify the date on which the procession is to be held, the route to be followed by the procession, the hour when and place where participants may commence to assemble and form before the procession is under way, the time when the procession may commence to move along its route, and the time by which the end of the procession shall have reached the end of the route of the procession and the procession shall have been disbanded. It shall be unlawful for any person to hold or to participate in any procession unless the permit shall have been granted, or under any conditions as to time or route or otherwise than those stated in the permit.
- D. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

§ 152-8. Authority of police officers.

The police officers of the Township of Somerset are hereby given authority to direct traffic on the highways of the Township of Somerset and at intersections thereof.^{lxxxixEN}

ARTICLE II, Traffic Regulations

§ 152-9. Stop intersections.

A. The following intersections are established as stop intersections, and official stop signs shall be erected (or are ratified if previously erected) in such a position as to face traffic approaching the second-named street (the intersecting or through street) on the first-named street (the stop street) in the direction or directions indicated for that intersection. Every driver of a vehicle approaching the intersection on the first named or stop street, in the direction indicated in each case, shall stop the vehicle as required by Section 3323(b) of the Vehicle Code,^{lxxxixEN} and shall not proceed into or across the second-named or intersecting or through street until he has followed all applicable requirements of that section of the law.^{lxxxixEN}

| Stop Street | Intersecting or Through Street | Direction of Travel |
|---------------------------|---------------------------------------|----------------------------|
| Bigler Road (No. 818A) | L.R. 62058 | North |
| Carlton Drive (No. 647) | L.R. 62052 | West |
| Carlton Drive (No. 647) | Lusk (No. 828) | East |
| Carlton Drive (No. 647) | Lusk (No. 828) | West |
| Chippewa (No. 469A) | L.R. 62058 | North |
| Church Road (No. 782) | L.R. 62052 | South |
| Church Road (No. 782) | Route 136 | North |
| Church Road (No. 782) | Route 136 | Northeast |
| Ell View (No. 459) | Ellsworth Borough | East |
| Ell View (No. 459) | Route 917 | North |
| Frye Plan Exit (No. 519) | Route 917 | West |
| Johnson Road (No. 469B) | L.R. 62058 | South |
| Junction (No. 462) | L.R. 62054 | South |
| Lively Road (No. 535) | Route 519 | West |
| Lovett Spur (No. 528) | Sprowls (No. 818B) | West |
| Lusk Road (No. 828) | Almond (No. 521) | North |
| Lusk Road (No. 828) | Hetherington (No. 559) | North |
| Lusk Road (No. 828) | Route 136 | North |
| McIlvaine Road (No. 818C) | Route 136 | North |
| Old Route 31 | Route 136 | East |
| Old Route 519 (now T632) | Route 917 | East |
| Rainey Road (No. 479B) | Route 519 | West |
| Rutan (No. 461) | Route 917 | Southwest |
| School Road (No. 802A) | Sprowls (No. 818B) | East |
| Scott Road (No. 764) | L.R. 62054 | North |
| Scott Road | Rainey Road | East |
| Seal Road (No. 780) | Carlton Drive (No. 647) | South |
| Sprowls Road (No. 818B) | L.R. 62058 | South |
| Sprowls Road (No. 818B) | School Road (No. 802A) | South |
| Sumney Road (No. 587) | Route 136 | North |
| Swagler Road | Route 917 | North |

B. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a

fine of \$25 and costs.

§ 152-10. Prohibition of engine brake retarders (air brakes). [Added 6-11-2001 by Ord. No. 2-2001]

- A. It shall be unlawful for any person or persons to use engine brake retarders in Somerset Township along a one-fourth-mile section of S.R. 136 east of the intersection with S.R. 519 from segment/offset 150/0000 to 150/1400.
- B. It shall be unlawful for any person or persons to use engine brake retarders in Somerset Township along Vanceville Road (SR 2019) between the intersections with Somerset Drive (TR 761) and Donley Road (TR 782), from segment/offset 110/0000 to 120/2909. [Added 8-12-2002 by Ord. No. 2-2002]
- C. Any person or person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of up to \$50 plus costs and any other related state-mandated costs.

ARTICLE III, Restrictions on Size, Weight and Type of Vehicle and Load

§ 152-11. Vehicle weight limits.

- A. On the following bridges and streets or parts of streets, by authority granted by Section 4902(a) of the Vehicle Code,^{lxxxiv}EN it shall be unlawful for any person or persons to drive any vehicle or combination having a gross weight in excess of the maximum prescribed below for that bridge or street or part of street, as the case may be.

| Street or Bridge | Maximum Gross Weight (tons) |
|-------------------------|--|
| All Township roads | 10 |

- B. Any person who violates any provision of this section shall be prosecuted under Sections 4902(a) and 4902(g)(1) of the Vehicle Code,^{lxxxv}EN and, upon conviction, shall be sentenced to pay a fine of \$150 plus \$150 for each 500 pounds, or part thereof, in excess of 3,000 pounds over the maximum allowable weight, and costs.

§ 152-12. Restrictions on size of vehicles.

- A. On the following bridges and streets or parts of streets, by authority granted by Section 4902(a) of the Vehicle Code,^{lxxxvi}EN it shall be unlawful for any person to drive any vehicle or combination in violation of the size restrictions prescribed below for that bridge or street or part of street.

| Street or Bridge Between Restriction (Reserved) |
|--|
|--|

- B. Any person who violates any provision of this section shall be prosecuted under Section 4902(a) and Section 4902(g)(1) of the Vehicle Code,^{lxxxvii}EN and, upon conviction, shall be sentenced to pay a fine of \$75 and costs.

§ 152-13. Weight and size restrictions for safety.

- A. By reason of hazardous traffic conditions and other safety factors, by authority granted by Section 4902(b) of the Vehicle Code,^{lxxxviiiEN} it shall be unlawful for any person to drive any vehicle or combination in violation of the restriction prescribed below for that bridge or street or part of street.

Street or Bridge Between Restriction

(Reserved)

- B. Any person who violates any provision of this section shall be prosecuted under Section 4902(b) and 4902(g)(1) of the Vehicle Code,^{lxxxixEN} and, upon conviction, shall be sentenced to pay a fine of not less than \$25 and not more than \$100 and costs.

§ 152-14. Truck traffic restricted on certain streets.

- A. It shall be unlawful for any person to drive a vehicle other than a passenger car on any of the following streets or parts of streets.

Street Between

(Reserved)

- B. Provided that nothing in this section shall prohibit any person from driving an emergency vehicle on any of those streets or parts of streets, or from driving on any of those streets or parts of streets a truck or other commercial vehicle making local deliveries to or pickups from premises located along that street or part of a street.
- C. Any person who violates any provision of this section shall, upon conviction, be sentenced to pay a fine of \$25 and costs.

ARTICLE IV, Snow and Ice Emergency

§ 152-15. Declaration of snow and ice emergency.

In order to facilitate the movement of traffic and to combat the hazards of snow and ice on the snow emergency routes named in § 152-18 of this article, the [designated official], in his discretion, may declare a snow and ice emergency (designated in this article as a "snow emergency"). Information on the existence of a snow emergency may be given by the Township of Somerset through radio, newspaper or other available media, and information on the termination of the emergency may be given by use of the same media.

§ 152-16. Parking prohibited and traffic restricted on snow emergency routes during emergency.

After any snow emergency is declared, it shall be unlawful, at any time during the continuance of the emergency, for any person:

- A. To park a motor vehicle or to allow that vehicle to remain parked anywhere on any snow emergency route designated in § 152-18 of this article; or
- B. To drive any motor vehicle on any such snow emergency route, unless that vehicle is equipped with snow tires or chains.

§ 152-17. Snow emergency routes designated.

The following are designated as snow emergency routes:

Street Between
(Reserved)

§ 152-18. Violations and penalties.

- A. If, at any time during a period of snow emergency declared under § 152-16 of this article, a person shall park a motor vehicle or allow a motor vehicle to remain parked anywhere upon a snow emergency route, that person shall be guilty of a violation of this article, and, upon conviction, shall be sentenced to pay a fine of not more than \$15 and costs.
- B. If, at any time during a period of snow emergency declared under § 152-16 of this article, a person shall drive a motor vehicle upon a snow emergency route, without having that vehicle equipped with snow tires or chains, that person shall be guilty of a violation of this article, and, upon conviction, shall be sentenced to pay a fine of \$25 and costs.

Chapter 167, VEHICLES, RECREATIONAL

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 8-14-2006 by Ord. No. 1-2006. Amendments noted where applicable.]

GENERAL REFERENCES

Mobile homes -- See Ch. 109.
Vehicles and traffic -- See Ch. 152.

§ 167-1. Definitions.

As used in this chapter, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

PERSON -- A natural person, firm, partnership, association or corporation.

RECREATIONAL VEHICLES -- All unregistered, unlicensed vehicles with two, three or four wheels, runners or tracks, to include but not limited to quad-runners, motorcycles, dirtbikes, minibikes, golf carts, all-terrain vehicles (ATVs) or snowmobiles not permitted to be operated on the streets or highways of the commonwealth as set forth in the Pennsylvania Motor Vehicle Code.^{xcEN}

§ 167-2. Prohibited operation.

No persons shall operate or permit the operation of a recreational vehicle, as defined herein, upon the streets, alleys or other real estate owned or controlled by the Township of Somerset.

§ 167-3. Violations and penalties.

- A. Any person who violates the provisions of this chapter, or any parent or natural guardian permitting the violation of any provisions of this chapter by their children and/or others under their guardianship, shall, upon conviction in a summary proceeding brought before a Magisterial District Judge under the Pennsylvania Rules of Criminal Procedure, be guilty of a summary offense and shall be punishable by a fine of not more than \$1,000, plus costs of prosecution. In default of payment thereof, the defendant may be sentenced to imprisonment for a term not exceeding 90 days. Each day

or portion thereof that such violation continues or is permitted to continue shall constitute a separate offense, and each section of this chapter that is violated shall also constitute a separate offense.^{xcien}

- B. Any person guilty of a violation of the within chapter shall also be subject to civil proceedings for damages and/or injunctive relief by the property owner, firm or corporation injured or damaged by such violations.

Chapter 173, WATER

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Water line agreements -- See Ch. 5, Arts. I and II.

Floodplain management -- See Ch. 88.

Sewers -- See Ch. 116.

Subdivision and land development -- See Ch. 138.

ARTICLE I, Creation of Water District and Assessment Procedure [Adopted 2-20-1991 by Ord. No. 1-1991]

§ 173-1. Definitions.

As used in this article, the following words and terms shall be construed as follows:

BOARD -- The Board of Supervisors of Somerset Township.

BOARD SECRETARY -- The duly appointed Secretary/Treasurer of Somerset Township.

PERSON -- Includes natural person, partnerships, organizations and corporations.

SOMERSET TOWNSHIP WATER LINE PROJECT - 84 AREA -- The project whereby this public water supply system is constructed (hereinafter referred to as "project").

TOWNSHIP -- The Township of Somerset, Washington County, Pennsylvania.

WATER COMPANY -- The Pennsylvania-American Water Company.

WATER LINE -- All water supply system lines.

WATER SUPPLY SYSTEM -- All existing water supply facilities within the service area of the Township, together with all renewals, replacements, additions, extensions and enlargement from time to time made with respect hereto.

§ 173-2. Water District.

The Township hereby establishes a separate water district to be known as the "84 Area Water District," which shall encompass areas abutting Lewis Road, Oak Street, St. Cloud Road, Township Road 579 and Route 519 and being more fully shown on Drawing No. 388-105, consisting of five sheets, dated December 14, 1990, as prepared by McDonald and Associates (Project Engineer) and titled assessment plan for proposed water lines along Lewis Road, Oak Street, St. Cloud Road, Township Road 579 and Route 519 area.^{xciiEN}

§ 173-3. Connections.

- A. All persons owning property within the 84 Area Water District, which abuts on or adjoins any road, street or right-of-way in which there now is or shall hereafter be a water line, shall at their own expense, within three months after the issuance of a certificate, as defined in § 173-6A below, and

notice thereof given under § 173-6B, or within three months after the completion of any new water line, and notice thereof given under § 173-6B, make connection with such water line in a manner prescribed by the rules and regulations of the Water Company. Such connection, however, is subject to any exception conferred by law.

- B. In the event any owner of property, not otherwise excepted by law, abutting such public water supply system shall neglect or refuse to connect with and use said system within three months after notice, as stated in Subsection A above, to do so has been served upon the same by the Township, said Township, or its agents, may enter upon such property and construct such connection. In such case, the Township shall forthwith, upon completion of the work, send an itemized bill of the cost of construction of such connection to the owner(s) of the property to which connection has been made, which bill shall be due and payable forthwith.

§ 173-4. Affirmation and ratification of project.

The Board confirms and ratifies the construction of the project together with all pertinent facilities in and for the Township in accordance with the plans, drawings and specifications prepared by the project engineer and the Water Company and approved by the Board, in the streets, alleys, roads and rights-of-way as therein set forth, and hereby ratify, confirm and validate all actions that have been taken or will be taken relative to the awarding and executing of contracts providing for such construction.

§ 173-5. Basis for assessments.

So much of the cost and expenses relative to the construction of the project, including engineering, legal, advertising and similar expenses, as is legally chargeable upon the properties accommodated or benefited thereby shall be assessed upon said properties abutting on or benefited by said project utilizing the Front Foot Rule and/or Assessment of Benefit Rule, at a rate not to exceed 100% of the cost of said project, as hereinafter described.

§ 173-6. Procedure and notice for assessments.

Such assessments shall be made in the following manner:

- A. Whenever the project has been completed and approved by McDonald and Associates, project engineer for the Township, said engineer shall file with the Board a statement (hereinafter referred to as "certificate") certifying that the project has been completed and approved by it describing same in reasonable detail and describing the properties adjoining or adjacent thereto that are benefited, improved or accommodated thereby, and the amount of the proposed assessment.
- B. Notice of the Board's receipt of said certificate or, in the event of new construction, notice to connect, shall be given by personal service or certified mail, return receipt requested, to all appropriate property owners. A signed return receipt shall be conclusive as to date of receipt.
- C. Upon receipt by the Board of the certificate of the Township engineer with respect to the construction and completion of said project, the Board shall examine same and determine whether the proposed assessment(s) are in accordance with the provisions of this article. After making such adjustments or determinations thereof, if any, the Board shall direct the preparation of assessment bills.
- D. The assessment bills shall thereupon be signed by the Chairman of the Board, on behalf of the Township, and the Seal of the Township shall be duly affixed thereto and attested by the Board Secretary.
- E. A schedule of all assessments shall be filed with the Board Secretary. The Board Secretary will also cause a brief notice to be inserted in a newspaper of general circulation in the Township that such

assessment bills have been prepared and will forthwith be served upon the assessed property owners.

- F. Within 30 days of the filing of the certificate referred to in Subsection A above with the Board, the assessment bills so executed shall be served upon the owner or owners of such assessed properties by registered mail or certified mail, return receipt requested, to the owner or owners or to his/her agent or attorney within the Township. If such owner or owners cannot be found within the Township, said notice may be served upon his/her agent or part in possession of the subject property, or it may be posted on the most public part of the assessed premises. A signed return receipt shall be conclusive as to the date of receipt.

§ 173-7. Adjustments.

It is in the intention of this article to make equitable assessments against the properties benefited, improved or accommodated by the project according to an Assessment of Benefit and/or Front Foot Rule, with the Board reserving the right to make such other adjustments as may be necessary to carry out such intention.

§ 173-8. Payment of assessments.

All such assessments shall be payable within 30 days of receipt of the assessment bill, as stated in § 173-6F above, to the Board Secretary. The Board Secretary shall maintain all assessment revenues separate from any general funds of the Township not relating to the project. In the alternative, any owner(s) of property so assessed shall have the option of paying the assessed amount in three installments, with interest accruing at the rate of 7 3/4%, as follows:

- A. The first installment (being equal to 1/3 of the assessed amount) is to be paid within 30 days from receipt of the assessment bill.
- B. The second installment shall be due and payable within seven months, to the day, from receipt of said assessment bill.
- C. The third installment shall be due and payable within 13 months, to the day, from receipt of said assessment bill.

§ 173-9. Installment election.

Notice of an intent to exercise the above-described installment option must be given on a form to be prepared by the Board which shall contain such stipulations as the Board shall require. Said form must be filed with the Board Secretary at the time the first installment is due and payable.

§ 173-10. Municipal lien.

A municipal lien shall be duly filed for the amount of the remaining installments of the assessment, which lien shall not be prosecuted so long as payments are made consistent with this article.

§ 173-11. Default.

- A. If any owner or owners do not elect to pay installments or otherwise refuse or neglect to pay the assessment within 30 days after receipt of the assessment bill, the Township shall file a municipal claim or lien there against, together with interest thereon to accrue at the rate of 7 3/4% per annum on the unpaid balance from the date of such assessment. The Board Secretary shall certify to the Township Solicitor all unpaid assessments and the Township Solicitor shall file municipal claims or liens, as provided by law, in the proper office of Washington County against the property or

properties upon which such assessments are made. The Township Solicitor shall thereupon proceed to collect same under the general law relating to the collection of municipal claims or liens, including, if so directed by the Township, the filing of suits in assumpsit.

- B. The certificates of McDonald and Associates filed with the Township pursuant to § 173-6A shall be conclusive as to the time of project completion as therein set forth.

§ 173-12. Modification or amendments.

The Township reserves the right to make any modifications, supplements or amendments to this article. The provisions herein as to interest, penalties and times of payment of assessments or the installments and of the filing of municipal claims or liens shall not be changed.

§ 173-13. Nonfrontage property.

Where any property is adjacent to the project on one side and the water line does not adjoin such property to the extent of its property frontage, or where any property is not adjacent to the water line and the project benefits that property with or without a service line connection from the water line, it shall be assessed under the Assessment of Benefit Rule, as determined by the laws, rules and regulations of the Township and the Commonwealth of Pennsylvania.

§ 173-14. Other assessments.

Where any property assessment situation does not exist as above defined, same shall be assessed at the discretion of the Board.

§ 173-15. Enforcement.

The proper officers of the Township are hereby authorized to take all steps and do all things necessary or proper to carry out the provisions of this article.

ARTICLE II, Connection to Public Water System [Adopted 3-12-2001 by Ord. No. 1-2001]

§ 173-16. Definitions.

Unless the context specifically and clearly indicates otherwise, the meaning of the terms and phrases used in this article shall be as follows:

BOARD SECRETARY -- The duly appointed Secretary/Treasurer of Somerset Township.

IMPROVED PROPERTY -- Any property located within the Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings.

OWNER -- Any person vested with ownership, legal or equitable, sole or partial, of any improved property.

PERSON -- Any individual, partnership, company, association, society, trust, corporation, joint-stock company, unincorporated association, governmental body, political subdivision, township or other group or entity.

TOWNSHIP -- Somerset Township, Washington County, Pennsylvania, a political subdivision of the Commonwealth of Pennsylvania, acting by or through its Board of Supervisors or, in appropriate cases, acting by and through its authorized representatives.

WATER SUPPLIER -- Any company or entity, whether public or private, who shall construct and/or

operate a water system within the Township with the approval of the Township. There may be more than one water supplier providing service within the Township.

WATER SYSTEM -- All facilities, as of any particular time, for providing, transporting and supplying water for human use and consumption, situate in or adjacent to the Township, owned by, leased to or under contract or agreement with the Township for operation and use.

§ 173-17. Use of water system required.

The owner of any improved property located within the Township and accessible to and whose house, principal building or occupied structure is on property which abuts a water line which is presently being constructed or which shall be constructed in the future, or any new house, principal building or occupied structure which shall be constructed on property which abuts an existing water system, shall connect to, at his/her own expense, and use such water system within 90 days after notice to such owner from the Township to make such connection; subject, however, to such limitations and restrictions as shall be established herein or otherwise shall be established by the Township or its designated water supplier from time to time.

§ 173-18. Notice to make connection.

The notice by the Township to make connection to the water system, referred to in § 173-17 above, shall be given by the water supplier on behalf of the Township, in writing, and shall be served upon the owner either by personal service or by registered mail or by such other methods as shall be permitted by law.

§ 173-19. Permit required.

No persons shall uncover, connect with, make any opening into or use, alter or disturb in any manner, any part of the water system without first obtaining a permit, in writing, from the Township or its designated water supplier.

§ 173-20. Application for permit.

Application for a permit required under § 173-19 shall be made by the owner of the improved property served or to be served or by a person authorized by the owner of the improved property to make such application to the Township or its designated water supplier.

§ 173-21. Connection standards.

All connections to the water system must be done in accordance with the specifications, plans and procedures established by the Township's designated water supplier.

§ 173-22. Connection requirements.

No person shall make or cause to be made a connection of any improved property with the water system until such person shall have fulfilled each of the following conditions:

- A. Such person shall have notified the Township or its designated water supplier of the desire and intention to connect such improved property to the water system.
- B. Such person shall have applied for and obtained a permit as required by §§ 173-19 and 173-20.
- C. Such person shall have furnished any information required by the Township or its designated water supplier prior to connections and received any necessary approvals from the water supplier.
- D. Such person shall have given the Township or its designated water supplier at least 24 hours' notice of the time when such connection will be made so that the Township or its designated water supplier

may supervise and inspect the work of connection and necessary testing. At the time of inspection of the connection, the owner of the improved property shall permit the person conducting the inspection full and complete access to all water facilities in each building and in and about all parts of the property. No water connection line shall be covered, or in any way concealed, until after it has been inspected and approved.

- E. Such person shall pay the construction or connection/tap fee determined by the Township or its designated water supplier.

§ 173-23. Separate connection for each building.

Except as otherwise provided herein, each structure or principal building shall be connected separately and independently with the water system. Grouping of more than one structure on one connection shall not be permitted except under special circumstances and for good cause shown and then only after special permission of the Township or its designated water supplier, in writing, shall have been secured and subject to such rules, regulations and conditions as may be prescribed by the Township or its designated water supplier.

§ 173-24. Costs and fees.

The water system, if not constructed by the Township, will be constructed by the water supplier. The construction and/or connection fee assessed by said supplier will be paid by each owner at or prior to date of connection. The amount of this connection and/or construction fee will be as set by the supplier and be based on actual construction costs minus any credits provided by the supplier.

§ 173-25. Reimbursement.

If, after construction is completed, new construction occurs within the area serviced by the water system, any new construction shall pay the same connection and/or construction fee set pursuant to § 173-24 above, assessed to the owners with such amount rebated to each owner who pays said payment at the time of construction. This reimbursement, if any, will be on a prorated basis at the Township's discretion.

§ 173-26. Failure to make connection.

In the event the owner of an improved property shall neglect or refuse to connect with and use water system following a period of 90 days after notice to do so as set forth in § 173-18, the water supplier, or its agents, after notice to the Township, may enter upon such property and construct such connection.

§ 173-27. Billing for enforced connection.

In such case, the water supplier shall, upon completion of the work, send an itemized bill of the costs of construction of such connection to the owner of the property to which connection has been made, which bill shall be payable forthwith.

§ 173-28. Failure to pay bill.

In case of neglect or refusal by the owner of such improved property to pay said bill within six months of the date of completion of construction of said connection, the Township, at the request of the water supplier, in the name of the Township and for the benefit of the water supplier, shall file a municipal lien for said construction, which shall be subject in all respects to the general law providing for the filing and recovery of municipal liens.

§ 173-29. Failure to pay costs and fees.

In the event the owner fails or neglects to pay the costs and fees referred to in § 173-24 above, then the Township, at the request of the water supplier, in the name of the Township and for the benefit of the water supplier, shall file a municipal lien for said amount due which shall be subject in all respects to the general law providing for the filing and recovery of municipal liens.

§ 173-30. Violations and penalties.

Every person who shall violate this article shall be liable, upon summary conviction for a first offense and upon subsequent conviction for each subsequent offense, to a civil penalty of not less than \$100 nor more than \$1,000 together with costs of each case. Each day that a violation shall continue shall be deemed and shall be taken to be a separate offense and shall be assessed as such.

§ 173-31. Access to property.

The Township or its designated water supplier shall have the right to access, at reasonable times, to any part of any improved property served by the water system as shall be required for purposes of inspection, measurement, sampling and testing and for performance of other functions relating to service rendered by the Township or its designated water supplier through the water system.

§ 173-32. Disclaimer of liability; authority to restrict use of water system.

The Township shall not be liable for a deficiency or failure of service when occasioned by an emergency, required repairs or for any cause beyond its control. The Township reserves the right to restrict the use of the water system whenever the public welfare may require it.

§ 173-33. Safety of excavation site.

The owner shall be responsible, at the owner's expense, for seeing that all excavations for water connections shall be adequately guarded with barricades and lights to protect the public from hazards and that all streets, sidewalks and public property, disturbed in the course of making a water connection, shall be restored in a manner satisfactory to the Township or its designated water supplier for such purpose.

§ 173-34. Save harmless clause.

The owner shall indemnify and save harmless the Township and/or its designated water supplier from any loss or damage directly or indirectly, caused by or arising out of installation and/or connection on the improved property.

§ 173-35. Water rates and user charges. [Added 10-13-2003 by Ord. No. 2-2003]

- A. The water rates and user fees will be established by the water supplier based on PUC guidelines or the provisions of the Municipality Authorities Act.^{xciiiEN} The supplier agrees to charge Somerset Township residents (hereinafter referred to as "residents") the same water usage rates paid by other similarly situated customers within the supplier's service area. The supplier reserves the right to assess against its customers those costs, to include debt service, peculiar to certain water districts or projects within its control.
- B. With regard to the Lincoln Avenue-Johnston Road Project (hereinafter referred to as "L-J Project"), Somerset Township does hereby grant to the Bentleyville Municipal Authority (hereinafter referred to as "BMA"), with such grant lasting so long as BMA provides water service to Lincoln

Avenue-Johnston Road area, the right to take any and all actions necessary or permissible by law with regard to any resident payment delinquencies (collection activities). Said right shall include, but not necessarily be limited to, the ability to file, in the name of Somerset Township, liens on real estate relative to any unpaid balance. Any and all collection activities elected by the BMA shall be in conformity with its own and/or commonwealth-authorized rules and regulations regarding lien procedures and debt collection practices and be applied to all customers equally.

§ 173-36. Additional rules and regulations.

The Township reserves the right to adopt, by resolution, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with the water system.

Chapter 180, ZONING

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 9-16-1985 by Ord. No. 3-1985 (Ch. 27 of the 1990 Code). Amendments noted where applicable.]

GENERAL REFERENCES

- Planning Commission -- See Ch. 37.**
- Building permits -- See Ch. 65.**
- Uniform construction codes -- See Ch. 81.**
- Floodplain management -- See Ch. 88.**
- Mobile homes and mobile home parks -- See Ch. 109.**
- Sexually oriented businesses -- See Ch. 122.**
- Subdivision and land development -- See Ch. 138.**

ARTICLE I, Basic Provisions

§ 180-1. Title.

This chapter may be cited as the "Somerset Township Zoning Ordinance."

§ 180-2. Word usage.

Words used in a special sense in this chapter are defined in Article VI.

§ 180-3. Community development objectives.

The community development objectives which are the basis for the provisions of this chapter are set forth in the Comprehensive Plan as adopted and amended by the governing body.

§ 180-4. Zoning Map.

A map entitled "Somerset Township Zoning Map" is hereby adopted as a part of this chapter. The Zoning Map shall be kept on file for examination in the office of the Township Secretary.^{xciv}EN

§ 180-5. Compliance required.

No structure shall be located, erected, constructed, reconstructed, moved, altered, converted, or enlarged; nor shall any structure or land be used or be designed to be used, except in full compliance

with all the provisions of this chapter and after the lawful issuance of all permits and certificates required by this chapter.

§ 180-6. Interpretation.

The provisions of this chapter shall be held to be the minimum requirements for the protection of the health, safety, morals and general welfare of Somerset Township.

§ 180-7. Warning and disclaimer of liability.

The degree of flood protection sought by the provisions of this chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside the floodplain districts, or that land uses permitted within such districts, will be free from flooding or flood damages. This chapter shall not create liability on the part of the Township of Somerset or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

ARTICLE II, District Regulations

§ 180-8. Zoning districts.

The municipality is divided into the districts stated on Table 201 as shown by the district boundaries on the Zoning Map.^{xcvEN}

§ 180-9. District boundaries.

District boundaries shown on the lines of roads, streams, and transportation rights-of-way shall be deemed to follow the center lines. The vacation of roads shall not affect the location of such district boundaries. When the Zoning Officer cannot definitely determine the location of a district boundary by such center lines, by the scale or dimensions stated on the Zoning Map, or by the fact that it clearly coincides with a property line, he shall refuse action, and the Zoning Hearing Board, upon appeal, shall interpret the location of the district boundary with reference to the scale of the Zoning Map and the purposes set forth in all relevant provisions of this chapter.

§ 180-10. Permitted uses.

The permitted uses for each district are shown on Table 201.^{xcviEN} Uses not specifically listed shall not be permitted.

§ 180-11. Conditional uses. [Added 8-13-1990 by Ord. No. 4-1990]

Where the Board of Supervisors, in this chapter, has stated conditional uses to be granted or denied by the Board of Supervisors pursuant to express standards and criteria, the Board of Supervisors shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. In granting a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

§ 180-12. Height regulations.

No structure shall exceed a maximum height above the average ground level of 35 feet; provided, however:

- A. A structure for any permitted or conditional use in any district may exceed 35 feet in height if:
 - (1) Every required yard is increased by one foot for each additional foot of height, and
 - (2) The permit for such structure has been reviewed and authorized as a conditional use as regulated by Article IV.
- B. The height regulations of this chapter shall not apply to belfries, chimneys, church spires, elevator bulkheads, flagpoles, monuments, ornamental towers, silos, smokestacks, spires, tanks, television and radio antennas, transmission towers, water or fire towers or windmills.

§ 180-13. Lot and yard requirements.

The minimum lot area, minimum width of lot, minimum depth of front yard and minimum width of each side yard for each district shall be as shown on Table 201.^{xcvii}EN

- A. Lots which abut on more than one street shall provide the required front yards along every street.
- B. No structure, whether attached to the principal structure or not, and whether open or enclosed, including porches, balconies or platforms above normal grade level, may project into a required front, side or rear yard, except that structures accessory to a single-family house may extend into required rear and side yards, but not closer than 10 feet to rear and side yard lot lines.
- C. Any nonconforming lot of record existing on the effective date of this chapter and then held in separate ownership different from the ownership of adjoining lots shall be exempt from the minimum lot area, depth and width requirements provided that they are used in accordance with minimum yard requirements, and that uses other than a one-family house conform to minimum lot area per family requirements of this chapter.
- D. Where septic tanks or on-lot sewage treatment occurs, the minimum lot size shall not be less than required by percolation tests, and in no case shall it be less than one acre.
- E. Nonresidential structures or uses shall not be located or conducted closer to any other lot line of any lot in any A or R District than the distance specified in the following schedule.

| Minimum Side or Rear Yard Abutting Any Lot in Any R District (feet) | Use |
|--|--|
| 20 | Off-street parking spaces, access drives for nonresidential uses |
| 40 | Churches, schools, public or semipublic structures |
| 70 | Recreation facilities, entertainment facilities, motels, all business uses and all industrial uses |
| 100 | Feed lots for 20 or more animals |

- F. A "sewered lot" shall be defined as a lot within the Township of Somerset that presently has access to and use of a public sewer line. [Added 10-11-1999 by Ord. No. 3-1999]

§ 180-14. Floodplain districts. ^{xcviii}EN

Floodplain districts identified as being subject to the one-hundred-year flood in the Flood Insurance Study are established as the FW - Floodway District, the FF Flood-Fringe District, and the FA - Floodplain General District. Floodplain districts shall be overlays to zoning districts established by Article II of this chapter, and provisions for floodplain districts are supplemental requirements to the zoning districts.

- A. Boundaries of floodplain districts are established as delineated by the Flood Insurance Study which includes Flood Boundary and Floodway Maps and which are declared to be a part of this chapter.
- B. Interpretation of district boundaries. Initial interpretations of the boundaries of the Floodplain Districts shall be made by the Zoning Officer. Should a dispute arise concerning the identification of any floodplain area, an initial determination shall be made by the Board of Supervisors, and any aggrieved party may appeal to the Board. The burden of proof shall be on the appellant who may submit such technical evidence as he desires.^{xcixEN}
- C. Where specific one-hundred-year flood elevations cannot be determined for this FA - Floodplain General District using other sources of data including the U.S. Army Corps of Engineers, Floodplain Information Reports, U.S. Geological Survey Flood-Prone Quadrangles, or other pertinent studies, an applicant for any use or development must determine this elevation in accordance with hydrologic and hydraulic engineering techniques. Such hydrologic and hydraulic analyses shall be performed and certified by registered professional engineers using currently accepted technical concepts. Submitted data shall be sufficient in detail to allow a thorough technical review.
- D. Prior to any proposed alteration or relocation of any stream or watercourse a permit shall be obtained from the Department of Environmental Protection, Dam Safety, Obstructions, and Stormwater Management, and notification of the proposal shall be given to all affected adjacent municipalities. Copies of such notifications shall be forwarded to both the Federal Insurance Administration and the Pennsylvania Department of Community and Economic Development.

§ 180-15. Floodplain provisions. ^{cEN}

No use or development shall be permitted within a floodplain district except as a conditional use in accordance with the provisions of the underlying zoning district and of § 180-27 and after approval of a site plan as required by § 180-24.

- A. The following uses are prohibited within any floodplain district: mobile homes, mobile home parks, hospitals, nursing homes, jails, prisons and detention centers and campgrounds for recreation vehicles.
- B. No structure or use shall be permitted in any floodplain district which produces or uses any hazardous material, or stores or maintains a supply of any hazardous material in an amount of 50 gallons or more, or which uses, produces or stores radioactive substances in any amount.
- C. No use proposed in any floodplain district shall diminish the capacity of the floodway of any drainage system.
- D. No new or substantially improved residential structure shall be permitted within any floodplain unless its lowest floor is at least one foot above the one-hundred-year flood elevation.
- E. No new or substantially improved nonresidential structure shall be permitted within any floodplain unless its lowest floor is at least one foot above the one-hundred-year flood elevation, or it is so designed and constructed that the space enclosed by such structure shall remain either completely or essentially dry up to that height in accordance with the standards contained in "Flood-Proofing Regulation" (U.S. Army Corps of Engineers, June 1972) for that type of construction.
- F. No obstruction shall be placed in any floodplain such as fences, signs or other obstructions which

might impede, retard or change direction of the flow of water, or that will catch or collect waterborne debris, or that might be carried downstream by floodwaters to damage downstream property.

- G. No part of an on-site sewage disposal system shall be permitted in any floodplain.
- H. In the FW - Floodway District no development shall be permitted except where the effect of such development on flood heights is fully offset by accompanying improvements which have been approved by all appropriate authorities.
- I. No existing structure or use located in any Floodway District shall be expanded or enlarged unless the effect of the proposed expansion or enlargement on flood heights is fully offset by accompanying improvements.

§ 180-16. Floodplain design and construction standards. ^{ciEN}

The following standards shall apply to all development proposed in any floodplain.

- A. Fill shall extend at least 15 feet laterally beyond all points of the building; shall be comprised only of soil or small rock materials and shall not include organic waste; shall be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling; shall have a slope no greater than 50%; and shall not adversely affect adjacent properties.
- B. Storm drainage facilities shall be provided to convey the flow of stormwater runoff in a safe and efficient manner which shall insure proper drainage along the streets and provide positive drainage away from buildings. The system shall be designed to prevent the discharge of excess runoff onto adjacent properties.
- C. Water and sanitary sewer facilities shall be comprised of all new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of floodwaters.
- D. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into floodwaters. No part of any on-site sewage system shall be located within any floodplain except in strict compliance with all state and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
- E. All other utilities such as gas lines, electrical and telephone systems shall be located, elevated where possible and constructed to minimize the chance of hazard or impairment during a flood.
- F. Streets shall have a finished elevation of not more than one foot below the regulatory flood elevation.
- G. Placement of buildings and structures shall be such as to offer the minimum obstruction to the flow of floodwaters and to have the minimum effect upon the flow and height of floodwater.
- H. Anchoring of all buildings and structures shall be required in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement. All ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored and affixed to prevent flotation.
- I. Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without structural damage to the building.
- J. Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water resistant" quality.

- K. Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
- L. Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.
- M. Paints or other finishes used at or below the regulatory flood elevation shall be of a "marine" or "water resistant" quality.
- N. Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water resistant" quality.
- O. Doors, trim, cabinets, and other wooden components shall be painted with a "marine" or "water resistant" finish.
- P. Electrical distribution panels shall be least three feet above the one-hundred-year-flood elevation. Separate electrical circuits shall serve lower levels and shall be dropped from above.
- Q. Water heaters, furnaces, air-conditioning and ventilating units, and other electrical, mechanical, or utility equipment or apparatus, shall not be located below the regulatory flood elevation.
- R. All gas and oil supply systems shall be designed to prevent the infiltration of floodwaters into the system and discharges from the system into floodwaters. Additional provisions shall be made for the drainage of these systems in the event that floodwater infiltration occurs.

ARTICLE III, General Regulations

§ 180-17. Nonconforming uses. [Amended 9-8-1986 by Ord. No. 1-1986]

The following provisions shall apply to all nonconforming uses:

- A. A nonconforming use may be continued but may not be extended, expanded, or changed unless to a conforming use, except as permitted by the Zoning Hearing Board in accordance with the following and with all other provisions of this chapter.
 - (1) The new use will more closely correspond to the uses permitted in the districts.
 - (2) The changed use will be in keeping with the character of the neighborhood in which it is located.
- B. A zoning certificate must be obtained from the Zoning Officer by the owner of the nonconforming use as evidence that the use lawfully existed prior to the adoption of the provisions which made the use nonconforming. The zoning certificate shall be obtained within 90 days of adoption of such provisions.
- C. Any nonconforming structure damaged by fire, flood, explosion, or other casualty may be reconstructed and used as before if such reconstruction is performed within 12 months of such casualty, and if the restored structure has no greater coverage and contains no greater cubic content than before such casualty.
- D. In the event that a nonconforming use, conducted in a structure or otherwise, ceases, for whatever reason, for a period of one year, or is abandoned for any period, such nonconforming use shall not be resumed.
- E. Where a nonconforming use is conducted inside a structure, the floor area of the structure and the

nonconforming use within it may be enlarged on the same premises, when permitted by the Board of Zoning Appeals in accordance with the following:

- (1) There shall be no increase in noncompliance, if any, with lot and yard requirements; and
- (2) Off-street parking, as required by § 180-33 of this chapter, shall be provided as to the enlarged portion.

F. Any nonconforming lot of record existing on the effective date of this chapter and then held in separate ownership different from the ownership of adjoining lots shall be exempt from the minimum lot area, depth and width requirements provided they are used in accordance with minimum yard requirements, and that uses other than a one-family house conform to minimum lot area per family of this chapter.

§ 180-18. Nonconforming structures.

A nonconforming structure used or occupied by a permitted use may be enlarged or expanded if the expansion, considered independently of the original structure, complies with the off-street parking of this chapter, and such expansion does not otherwise increase the extent of nonconformity in any respect.

§ 180-19. Accessory uses.

The following provisions shall apply to accessory uses:

- A. Accessory farm buildings shall not be erected within 50 feet of a neighboring property.
 - (1) Roadside stands for sale of homegrown fruits and vegetables shall be permitted if they do not entail a structure having a floor area greater than 100 square feet, are erected at least 30 feet off the road, and parking space is provided off the road.
- B. Every swimming pool shall be enclosed by a fence or wall not less than four feet high to prevent uncontrolled access by small children.
- C. The exterior storage of motor vehicles which have current licenses and inspection stickers and are registered to an occupant shall be considered an accessory use. Storage of one or more motor vehicles excluding farm machinery which do not have current inspection stickers and licenses shall constitute an auto salvage business and shall not be permitted as an accessory use.
- D. The pursuit of vocational or avocational interests by a resident shall be deemed an accessory use to a dwelling, provided that such activity is clearly subordinate to the dwelling, that no equipment or facilities are involved which are dangerous or incompatible with the residential environment, and that there is no external evidence of any nonresidential activity.

§ 180-20. Special exceptions. [Amended 8-13-1990 by Ord. No. 4-1990]

Where the Board of Supervisors, in this chapter, has stated special exceptions to be granted or denied by the Zoning Hearing Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

- A. Living quarters in an accessory structure as an accessory use to a farm or a single-family house to accommodate domestic employees of the residents of the principal building.
- B. The accommodation of not more than two nontransient roomers as an accessory use to a

single-family house, provided that no sign is displayed.

- C. Directional signs of a reasonable size in connection with any legal business or industry provided they contain no information other than instructions for convenience of vehicular traffic in reaching such business or industry.
- D. Temporary structures and trailers used in conjunction with construction work may be permitted only during the period that the construction work is in progress. Permits for temporary structures shall be issued for a six-month period.

§ 180-21. Signs. [Amended 9-8-1986 by Ord. No. 1-1986]

No sign, billboard, or exterior graphic display shall be permitted in any district except as herein provided.

- A. In any district a sign not exceeding 10 square feet in surface size is permitted which announces the name, address, or professional activity of the occupant of the premises on which said sign is located.
- B. A bulletin board not exceeding 24 square feet is permitted in connection with any church, school or similar public structure.
- C. A temporary real estate or construction sign of reasonable size is permitted on the property being sold, leased or developed. Permits for temporary signs shall be issued for not more than six months. Such sign shall be removed promptly when it has fulfilled its function.
- D. Business signs shall be permitted in connection with any legal business or industry when located on the same premises, and if they meet the following requirements.
 - (1) Signs shall not contain information or advertising for any product not sold on the premises.
 - (2) Signs shall not have a combined aggregate surface size greater than five square feet for each foot of width of the principal structure on the premises.
 - (3) Signs shall not project over public right-of-way.
 - (4) Signs and structures shall not be illuminated in any manner which causes undue distraction, confusion or hazard to vehicular traffic.
- E. Billboards shall be permitted within 200 feet of any state or federal highway provided:
 - (1) No billboard shall be located within 250 feet of any residential property nor within 1,000 feet of any other billboard.
 - (2) No lights or glare from lights illuminating any billboard shall be visible from any nearby residential property.
 - (3) No billboard shall be larger than 12 feet by 36 feet.

§ 180-22. Off-street parking.

- A. Off-street parking spaces shall be provided in accordance with the specifications in this section in any district whenever any new use is established or existing use is enlarged.

Use
Single-family houses, multiple-family structures with individual parking spaces

Parking Spaces Required
2 per dwelling unit

| | |
|--|---|
| 6 or more dwelling units having a common parking area | 1 1/2 per dwelling unit |
| Motels | 1 1/4 per rental unit |
| Churches, schools, assembly halls, theaters and places of entertainment | 1 for every 4 seats in the largest meeting room |
| Private clubs or lodges | 1 for each 4 members |
| Restaurants | 1 for every 75 square feet of floor area |
| Retail stores, personal service shops, business services, sexually oriented businesses Amended 7-13-1998 by Ord. No. 3-1998] | 1 for each 150 square feet of retail sales area |
| Gas stations | 1 for every 150 square feet of floor area; 8 minimum |
| Offices, banks, clinics, research laboratories and ancillary shops | 3 1/2 per 1,000 square feet of gross floor area |
| Furniture stores, warehouses, vehicle sales or repair | 1 for every 500 square feet of gross floor area |
| Hospitals | 1 for each 3 beds, plus 1 for each 2 employees on the maximum working shift |
| Funeral homes | 8 for each reposing room; 18 minimum |

- B. No off-street parking space shall have an area less than 200 square feet exclusive of access drives.
- C. Any off-street parking lot for more than five vehicles shall be graded for proper drainage so as to provide a durable surface.
- D. Any lighting used to illuminate any off-street parking lot shall be so arranged as to reflect light away from adjoining premises in any R District.
- E. Any business which encourages or promotes use by those operating or occupying tractor-trailer-type vehicles, then that particular business must provide parking spaces of sufficient size to accommodate parking on site. Such facility shall accommodate one space for every 250 square feet of interior space but, at a minimum, no fewer than two spaces. The size for this type of parking space shall be not less than 1,000 square feet. [Added 7-13-1998 by Ord. No. 3-1998]
- F. No on-street parking will be permitted with regards to B-1, B-2 and M-1 Districts. [Added 7-13-1998 by Ord. No. 3-1998]

§ 180-23. Off-street loading.

One off-street loading berth of not less than 35 feet by 10 feet shall be provided for every business and industrial use with a floor area of more than 5,000 square feet; with one additional berth required for each additional 50,000 square feet of floor area.

§ 180-24. Site plan review.

No zoning certificate, building permit or occupancy permit shall be issued for any principal use upon any lot except a single-family home until a site development plan has been submitted, reviewed and approved in accordance with the following provisions:

- A. The application for approval of a proposed site development plan shall be submitted to the Zoning Officer no later than five working days prior to the Planning Agency's regularly scheduled meeting, and shall be accompanied by a fee established by resolution of the governing body to cover the cost of review.
 - B. The application shall consist of not fewer than two copies of the letter of application together with
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not fewer than five prints of each drawing submitted as part of the proposed site development plan. The proposed site development plan shall be drawn in accordance with standard architectural and engineering practices to clearly indicate the following:

- (1) Property lines and total acreage of parcel proposed for development;
- (2) All existing streets, rights-of-way, and easements related to the development;
- (3) The location of existing driveways on adjacent properties;
- (4) The location of relevant natural features, including, but not limited to, streams or other natural watercourses and adjacent lands which are subject to flooding, and significant stands of existing trees;
- (5) The location of existing structures, including structures located on abutting property if within 50 feet of the common property line;
- (6) Required front, side and rear yard lines;
- (7) Contour lines at five-foot intervals;
- (8) Location of proposed structures, walkways, driveways, entrances, parking facilities, loading spaces, landscaping, signs, lighting facilities, fences or walls, and other site improvements or amenities;
- (9) Contours and sufficient elevations to show proposed gradings and data to show gradient of access drives and parking facilities;
- (10) Location and approximate size of any utilities to serve the development;
- (11) In B-1, B-2 and M-1 Districts, all parking consistent with § 180-22 shall be clearly marked and so designated. [Added 7-13-1998 by Ord. No. 3-1998]

C. For proposals in floodplains, the application shall additionally include:

- (1) Topographic contour lines at an interval of two feet;
- (2) The location of any existing bodies of water or watercourses, identified floodplains, information pertaining to the floodway, and the flow of water including direction and velocities;
- (3) The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;
- (4) The elevation of the one-hundred-year flood; and information concerning flood depths, pressures, impact and uplift forces and other factors associated with a one-hundred-year flood;
- (5) Detailed information concerning any proposed floodproofing measures;
- (6) A document, certified by a registered professional surveyor, engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the one-hundred-year-flood elevations, pressures, velocities, impact and uplift forces associated with the one-hundred-year flood. Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure or development; and
- (7) Where any excavation or grading is proposed, a plan meeting the requirements of the Pennsylvania Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

- D. Following the review, the Planning Agency may grant preliminary approval to the proposed site development plan, and such approval will authorize the applicant to proceed with the preparation of the final site development plan. The Planning Agency may grant such conditions as it deems appropriate to preliminary approval. Preliminary approval may be conditioned upon the grant of a variance or of a special exception by the Zoning Hearing Board where such variance or special exception is required, but such conditional approval by the Planning Agency shall not be binding on the Zoning Hearing Board, and the conditional approval shall be canceled if the requested variance or special exception is denied by the Board.
- E. Final approval may be granted by the Planning Agency within six months after preliminary approval of the proposed site plan and when the Planning Agency is assured that all conditions attached to the preliminary approval have been met. Following final approval by the Planning Agency five copies of the proposed site development plan together with all revisions and conditions shall be submitted through the Zoning Officer to the governing body. The governing body shall consider the proposed development plan at its next regular meeting, provided the submission to the Zoning Officer is made no later than Wednesday prior to the regular meeting date.
- F. If the Planning Agency disapproves the proposed site development plan, said plan may be modified or changed for further review by the Planning Agency, or all copies of the proposed site development plan may be returned to the Zoning Officer for appeal with the recommendations of the Planning Agency attached. The governing body may approve the proposed site development plan or request changes and modifications, in which case the revised site development plan must be resubmitted to the Planning Agency for its review and approval or disapproval.
- G. The Planning Agency shall not approve a site development plan unless the following standards are met:
- (1) Screening. A planted visual barrier or landscape screen shall be provided and maintained on any property in a commercial or industrial district which is contiguous to any residential district, except where natural or physical barriers exist which are deemed to^{ciEN}
 - (2) Storage. Any article or material stored temporarily outside an enclosed building as an incidental part of the primary commercial or industrial operation, shall be so screened by opaque ornamental fencing, walls or evergreen planting, that it cannot be seen from adjoining public streets or adjacent lots, when viewed by a person standing on ground level.
 - (3) Landscaping. Any part or portion of the site which is not used for buildings, other structures, loading or parking spaces and aisles, sidewalks and designated storage areas, shall be landscaped in accordance with an overall landscape plan.
 - (4) Interior circulation. The interior circulation of traffic in commercial areas shall be designated so that no driveway or access lane providing parking spaces shall be used as a through street. If parking spaces are indicated by lines with angles other than 90°, then traffic lanes shall be restricted to one-way permitting head-in parking. No driveway or street used for interior circulation shall have traffic lanes less than 10 feet in width.
 - (5) Access. Areas provided for loading and unloading of delivery trucks and other vehicles, and for the servicing of shops by refuse collection, fuel and other service vehicles, shall be adequate in size and shall be so arranged that they may be used without blockage or interference with the use of public streets or sidewalks, other accessways or automobile parking facilities.
 - (6) Traffic control. No design shall be approved which is likely to create substantial pedestrian or vehicular traffic hazards endangering the public safety. Safety requirements which may be imposed in such a review shall include traffic control devices, acceleration or deceleration lanes, turning lanes, traffic and lane markings, walkways, and signs. The developer shall be

responsible for the construction of any such traffic control devices.

- (7) Stormwater management. Adequate stormwater retention facilities shall be provided to ensure that stormwater runoff after development shall not be greater than the runoff which would occur from the site in its natural state during a storm with a twenty-five-year probability.
- (8) Signs. Every existing nonconforming sign shall be removed.

§ 180-25. Environmental protection requirements.

The following provisions shall apply to all uses of land in all districts unless otherwise noted. Certain activities, such as highway construction and the like, may be excepted from the following requirements provided such activities are closely controlled by other governmental environment protection agencies, and the Township reviewing agencies are satisfied that the spirit and intent of the Zoning Chapter is being met through the review processes, bonding requirements and administrative activities of the appropriate environmental protection agencies.

- A. No cut or fill grade shall exceed a slope of 3:1 or 33%. This provision shall apply to all cuts and fills exceeding 100 square feet in exposed surface area including cuts and fills on land naturally exceeding 3:1 in slope.
- B. All lands, regardless of their slope, from which structures or natural cover has been removed or otherwise destroyed, shall be appropriately graded and seeded within a reasonable time of such clearance activity. The phrase "a reasonable time" shall be interpreted to be within two weeks during the growing season and shall be rigidly applied to construction activities in order to accomplish the intent of keeping erosion to an absolute minimum.
- C. Any person, partnership or corporation proposing to dump wastes or hazardous materials on any land within Somerset Township must first obtain permits from the United States Environmental Protection Agency and appropriate Pennsylvania and Washington County agencies, and must certify that such wastes are not hazardous to the health, safety and welfare or residents of the Township.
- D. No cutting, fill, or other disturbing of land and mature tree cover is permissible within 50 feet of the edge of natural drainage courses except as permitted by action of the Zoning Hearing Board. In such cases, the Board may grant permission provided special precautions are taken to insure against continuing erosion or other circumstances which may be harmful to the immediate watercourse or in any way pollute the stream or watercourse.

§ 180-26. Telecommunications facilities. [Added 11-4-1996]

A telecommunications facility shall include the tower, antenna and any and all communication equipment buildings. The Township believes it advisable to regulate the construction and use of such facilities so as to promote the health and safety of its residents. The following regulations will govern telecommunications facilities in all designated use districts:

- A. Any individual or entity desiring to construct a telecommunications facility shall submit an application to the Somerset Township Secretary accompanied by an application fee as set by resolution of the Board of Supervisors to cover the cost of review.^{ciiiEN}
- B. With the application and fee stated above, the applicant will submit a site plan, in triplicate, relative to the proposed facility. The site plan shall be submitted to the Township for approval and review showing the following compliance requirements:
 - (1) An eight-foot high security fence, of a type and quality approved by the Township, shall completely surround the facility and its guide wires, if used.

- (2) The following "buffer" plan shall be located around the perimeter of the facility security fence:
 - (a) An evergreen screen shall be used consisting of either large head plants three feet on center maximum or a row of evergreen trees planted 10 feet on center maximum.
 - (b) Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
- (3) The tower, antenna or comparable structure shall be designed in such fashion that its collapse zone, i.e., the diameter of the area of resulting debris if the tower should fail, will comply with the applicable setback for the governing use district (see Table 201^{civEN}). Proof of compliance shall be presented to the Township Engineer prior to construction.
- (4) The maximum height of a tower or antenna shall be no greater than that needed to provide the required service, but in no event shall it be higher than 200 feet. In order to accomplish the purposes of this chapter with regard to shared use situations [see Subsection D(3)], the applicant may request of the Township Supervisors an exception to this two-hundred-foot requirement.

C. Construction standards. The following construction standards will apply to all telecommunications facilities:

- (1) Any tower or antenna shall be designed and constructed consistent with all applicable standards of the American National Standards Institute, ANSI/EIA-222-E Manual, as amended.
- (2) Any tower shall be designed and constructed so as to permit future "shared use" situations.
- (3) A soil report complying with the standards of Appendix 1; Geotechnical Investigations, ANSI/EIA222-E, as amended, shall be submitted to the Township to document and verify the design specifications of the foundation for the tower and anchors for the guide wires, if used.
- (4) Any towers or antennas shall be designed to withstand wind gusts of at least 85 mph;
- (5) As to Subsection C(1), (2), (3) and (4) above, proof of compliance shall be submitted to the Township Engineer for approval. The applicant shall bear the cost of such review and approval.

D. Miscellaneous requirements. The following requirements will apply to all telecommunications facilities:

- (1) The applicant shall prove, upon request, that its operation of the telecommunications facility complies with all health and safety requirements of the FCC and/or any other state, local or federal regulatory agency.
- (2) The applicant shall prove, upon request of the Township, but not more frequently than once a year, that any approved tower or antenna remains structurally sound and does not pose a risk to adjoining property owners. The Township may, at its option, request a physical inspection of any tower or antenna. The applicant shall bear the costs of such inspection.
- (3) Shared use towers and/or antennas shall be encouraged. If shared use of an existing or approved tower is not proposed, the applicant shall demonstrate that the proposed equipment cannot be accommodated on an existing or approved tower for the following reasons:
 - (a) The proposed equipment would exceed the structural capacity of the existing or approved towers;
 - (b) The proposed equipment will cause RF (radio frequency) interference with other existing or proposed equipment for that tower;
 - (c) Existing or approved towers do not have adequate space to accommodate the proposed equipment;

- (d) The addition of the proposed equipment will result in NIER (nonionizing electromagnetic radiation levels) which exceed local, federal or state emission standards.
 - (4) To the extent possible, the applicant shall utilize existing structures to mount its antenna or tower, but in no event shall such mounted antenna or tower be in excess of 25 feet above the height of the structure. However, as to the erection of towers on existing structures, the provisions of Subsection B(3) are inapplicable.
- E. Upon proof of compliance and the payment of a permit fee as set by resolution of the Board, the applicant will be issued telecommunications facility permit by the Township. Any deviation from the requirements of this chapter may be grounds for revocation of this permit.

ARTICLE IV, Conditional Uses

§ 180-27. Authority of governing body to permit or deny.

Conditional uses as specified in Article II may be allowed or denied by the governing body after recommendations by the Planning Commission in accordance with the criteria and provisions.

§ 180-28. Application for conditional use.

Applications for conditional uses shall be filed with the Zoning Officer and shall be accompanied by:

- A. An application fee in an amount equal to that set by resolution of the governing body.
- B. Five copies of a site plan and supporting data which shows the size, location, and topography of the site, the use of adjacent land, the proposed size, bulk, use and location of buildings; the location and proposed function of all yards, open spaces, parking areas, driveways, storage areas and accessory structures; the location of all utilities, the provisions for parking, moving or loading of vehicles; and the timing of construction proposed.

§ 180-29. Criteria for approval.

A conditional use shall be approved if and only if it is found to meet the following criteria:

- A. The proposed use conforms to the district and conditional use provisions and all general regulations of this chapter.
- B. The proposed use shall meet all special standards which may be applied to its class of conditional uses as set forth in this chapter.
- C. The proposed use shall not involve any element or cause any condition that may be dangerous, injurious, or noxious to any other property or persons, and shall comply with the performance standards of § 180-30.
- D. The proposed use shall be sited, oriented and landscaped to produce a harmonious relationship of buildings and grounds to adjacent buildings and properties.
- E. The proposed use shall produce a total visual impression and environment which is consistent with the environment of the neighborhood.
- F. The proposed use shall organize vehicular access and parking to minimize traffic congestion in the neighborhood.

G. The proposed use shall preserve the objectives of this chapter and shall be consistent with the Comprehensive Plan.

§ 180-30. Performance standards.

All conditional uses shall comply with the requirements of this section. In order to determine whether a proposed use will conform to the requirements of this chapter, the governing body may obtain a qualified consultant to testify, whose cost for services shall be borne by the applicant.

- A. Fire protection. Fire prevention and -fighting equipment acceptable to the Board of Fire Underwriters shall be readily available when any activity involving the handling or storage of flammable or explosive materials is carried on.
- B. Electrical disturbances. No activity shall cause electrical disturbance adversely affecting radio or other equipment in the vicinity.
- C. Noise. Noise which is determined to be objectionable because of volume, frequency, or beat shall be muffled or otherwise controlled, except fire sirens and related apparatus used solely for public purposes shall be exempt from this requirement.
- D. Vibrations. Vibrations detectable without instruments on neighboring property in any district shall be prohibited.
- E. Odors. No malodorous gas or matter shall be permitted which is discernible on any adjoining lot or property.
- F. Air pollution. No pollution of air by flyash, dust, smoke, vapors, or the burning of substances shall be permitted which is harmful to health, animals, vegetation or other property.
- G. Glare. Lighting devices which produce objectionable direct or reflected glare on adjoining properties or thoroughfares shall not be permitted.
- H. Erosion. No erosion by wind or water shall be permitted which will carry objectionable substances onto neighboring properties.
- I. Water pollution. Water pollution shall be subject to the standards established by the State Sanitary Water Board.
- J. Nuclear radiation. No activity shall emit nuclear radiation which is hazardous.

§ 180-31. Mobile homes. ^{cvEN}

Mobile homes shall be permitted outside of mobile home parks only when they comply with the following requirements:

- A. A site plan for the placement of the mobile home shall be approved in accordance with § 180-24.
- B. The mobile home shall be placed on a permanent foundation or on posts with footings below the frost line, and any and all openings in such foundation shall be completely enclosed. The unit shall be anchored securely with tie downs, and shall have its wheels removed.
- C. The mobile home shall have a floor area of not less than 840 square feet.

§ 180-32. Mobile home parks. ^{cviEN}

Mobile home parks shall be permitted only if in accordance with all municipal, state and county laws

and with the requirements following:

- A. The minimum area of a mobile home park shall be 20 acres.
- B. Each mobile home site within the mobile home park shall have a minimum area of 12,000 square feet where an approved collective sewerage system and treatment plant is provided, and not less than one acre where on-site sewage treatment facilities are to be utilized.
- C. Each mobile home site shall have a minimum width of 60 feet.
- D. Not less than 10% of the gross area of the mobile home park shall be improved for recreational activities for the residents of the park.
- E. The mobile home park shall be appropriately landscaped and shall be screened from adjacent properties in conformance with § 180-24G(1).
- F. The mobile home park shall meet all applicable requirements of Chapter 138, Subdivision and Land Development, of the Code of the Township of Somerset.
- G. The mobile home park shall meet all applicable requirements of Chapter 109, Mobile Homes and Mobile Home Parks, of the Code of the Township of Somerset.

ARTICLE V, Administration and Enforcement [Amended 8-13-1990 by Ord. No. 4-1990]

§ 180-33. Zoning Officer.

- A. For the administration of this chapter, a Zoning Officer, who shall not hold any elective office in the Township of Somerset, shall be appointed.
- B. The Zoning Officer shall meet the qualifications established by the Township of Somerset and shall be able to demonstrate to the satisfaction of the Township of Somerset a working knowledge of municipal zoning.
- C. The Zoning Officer shall administer this chapter in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this chapter.
- D. The Zoning Officer is hereby authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of his employment.
- E. The Zoning Officer shall issue zoning certificates and building permits.
- F. The Zoning Officer shall maintain a permanent file of all zoning certificates and applications as public records.

§ 180-34. Zoning certificates.

- A. A zoning certificate shall be obtained before any person or entity may:
 - (1) Occupy or use any vacant land; or
 - (2) Construct, reconstruct, move, alter or enlarge; or
 - (3) Change the use of a structure or land to a different use; or

(4) Change a nonconforming use.

- B. Applications for a zoning certificate shall be accompanied by a plot plan showing clearly and completely the location, dimensions and nature of any structure involved, and such other information as the Zoning Officer may require for administration of this chapter, together with a filing fee in accordance with the schedule affixed by resolution of the governing body.
- C. Occupancy permits shall be required upon completion of any work authorized by a zoning certificate, site development and/or conditional use. An occupancy permit must be obtained within one year after authorized approval, unless an extension of up to one year is granted by Zoning Officer. After two extensions original authorization will be forfeited.

§ 180-35. Enforcement notice.

- A. If it appears to the Township of Somerset that a violation of this chapter has occurred, the Township of Somerset shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.
- B. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
- C. An enforcement notice shall state at least the following:
 - (1) The name of the owner of record and any other person against whom the Township of Somerset intends to take action.
 - (2) The location of the property in violation.
 - (3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this chapter.
 - (4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - (5) That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a period of 10 days.
 - (6) That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.

§ 180-36. Causes of action.

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this chapter, the Board of Supervisors or, with the approval of the Board of Supervisors, an officer of the Township of Somerset, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Township of Somerset at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Board of Supervisors. No such action may be maintained until such notice has been given.

§ 180-37. Violations and penalties; enforcement remedies.

- A. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this chapter shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township of Somerset, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the Township of Somerset as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the Magisterial District Judge. If the defendant neither pays nor timely appeals the judgment, the Township of Somerset may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the Magisterial District Judge determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating this chapter to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the Magisterial District Judge and thereafter each day that a violation continues shall constitute a separate violation.
- B. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township of Somerset the right to commence any action for enforcement pursuant to this section.
- D. Magisterial District Judges shall have initial jurisdiction over proceedings brought under this section.

§ 180-38. Amendments.

- A. The Board of Supervisors may from time to time amend, supplement, or repeal any of the regulations and provisions of this chapter. The procedure for the preparation of a proposed zoning ordinance as set forth in Section 607 of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10607, is hereby declared optional.
- B. Before voting on the enactment of an amendment, the Board of Supervisors shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a Zoning Map change, notice of said public hearing shall be conspicuously posted by the Township of Somerset at points deemed sufficient by the Township of Somerset along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.
- C. In the case of an amendment other than that prepared by the Planning Commission, the Board of Supervisors shall submit each such amendment to the Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendations.
- D. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- E. At least 30 days prior to the public hearing on the amendment by the Board of Supervisors, the Township of Somerset shall submit the proposed amendment to the county planning agency for recommendations.
- F. Within 30 days after enactment, a copy of the amendment to this chapter shall be forwarded to the

county planning agency.

§ 180-39. Landowner curative amendments.

- A. A landowner who desires to challenge on substantive grounds the validity of this chapter or the Zoning Map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Board of Supervisors with a written request that this challenge and proposed amendment be heard and decided as provided in Section 916.1 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. § 10916.1. The curative amendment and challenge shall be referred to the Planning Commission and the county planning agency as provided in Section 609 and notice of the hearing thereon shall be given as provided in Sections 610 and 916.1 of the MPC, 53 P.S. §§ 10609, 10610, and 10916.1.
- B. The hearing shall be conducted in accordance with Section 908 of the MPC, 53 P.S. § 10908, and all references therein to the Zoning Hearing Board shall, for purposes of this section, be references to the Board of Supervisors. If the Township of Somerset does not accept a landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for this entire chapter and Zoning Map, but only for those provisions which specifically relate to the landowner's curative amendment and challenge.
- C. The Board of Supervisors, if it determines that a validity challenge has merit, may accept a landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The Board of Supervisors shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider:
 - (1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
 - (2) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of this chapter or Zoning Map;
 - (3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources and other natural features;
 - (4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
 - (5) The impact of the proposal of the preservation of agriculture and other land uses which are essential to public health and welfare.

§ 180-40. Township curative amendments.

- A. If the Township of Somerset determines that this chapter, or any portion hereof, is substantially invalid, it shall take the following actions:
 - (1) The Township of Somerset shall declare, by formal action, this chapter or portions hereof substantially invalid and propose to prepare a curative amendment to overcome such invalidity. Within 30 days of such declaration and proposal the Board of Supervisors shall:
 - (a) By resolution make specific findings setting forth the declared invalidity of this chapter

which may include:

- [1] References to specific uses which are either not permitted or not permitted in sufficient quantity;
- [2] Reference to a class of use or uses which requires revision; or
- [3] Reference to this entire chapter which requires revisions.

(b) Begin to prepare and consider a curative amendment to this chapter to correct the declared invalidity.

- B. Within 180 days from the date of the declaration and proposal, the Township of Somerset shall enact a curative amendment to validate, or reaffirm the validity of, this chapter pursuant to the provisions of Section 609 of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. § 10609, in order to cure the declared invalidity of this chapter.
- C. Upon the initiation of the procedures as set forth in Subsection A(1)(a), the Board of Supervisors shall not be required to entertain or consider any landowner's curative amendment filed under Section 609.1 of the MPC, 53 P.S. § 10609.1, nor shall the Zoning Hearing Board be required to give a report requested under Sections 909.1 or 916.1 of the MPC, 53 P.S. § 10909.1 or 10916.1, subsequent to the declaration and proposal based upon the grounds identical or substantially similar to those specified by the resolution required by Subsection A(1)(a). Upon completion of the procedures set forth in Subsection A(1)(a) and (b), no rights to a cure pursuant to the provisions of Sections 609.1 and 916.1 of the MPC, 53 P.S. §§ 10609.1 and 10916.1, shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of this chapter for which there has been a curative amendment pursuant to this section.
- D. The Township of Somerset, having utilized the procedures set forth in this section, may not again utilize said procedure for a period of 36 months following the date of enactment of a curative amendment, or reaffirmation of the validity of this chapter; provided, however, if after the date of declaration and proposal there is a substantially new duty imposed upon the Township of Somerset by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the Township of Somerset may utilize the provisions of this section to propose a curative amendment to this chapter to fulfill said duty or obligation.

§ 180-41. Zoning Hearing Board.

- A. There is hereby created for the Township of Somerset a Zoning Hearing Board in accordance with the provisions of Article IX of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10901 et seq.
- B. The membership of the Board shall consist of three residents of the Township of Somerset appointed by resolution by the Board of Supervisors. The terms of office shall be for three years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Township of Somerset.
- C. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors which appointed the member, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.
- D. The Board shall elect from its own membership its officers, who shall serve annual terms as such

and may succeed themselves. For the conduct of any hearing and the taking of any action a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in this chapter.

- E. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Township of Somerset and laws of the commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Township of Somerset and shall submit a report of its activities to the Board of Supervisors as requested by the Board of Supervisors.
- F. Within the limits of funds appropriated by the Board of Supervisors, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Board of Supervisors.

§ 180-42. Hearings.

The Zoning Hearing Board shall conduct hearings and made decisions in accordance with the following requirements:

- A. Public notice shall be given and written notice shall be given to the applicant, the Zoning Officer and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
- B. The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.
- C. The hearings shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Township of Somerset, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.
- D. The parties to the hearing shall be the Township of Somerset, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- E. The Chairman or Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by the parties.
- F. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- G. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- H. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the

Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

- I. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.
- J. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this chapter or of any law, ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of the said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in Subsection A of this section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.
- K. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide, by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.
- L. The Board of Supervisors shall establish, by resolution, fees with respect to hearings before the Zoning Hearing Board.

§ 180-43. Jurisdiction of Zoning Hearing Board and Board of Supervisors.

- A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
 - (1) Substantive challenges to the validity of any land use ordinance, except those brought before the Board of Supervisors pursuant to Sections 609.1 and 916.1(a)(2) of the Pennsylvania Municipalities Planning Code (hereinafter "MPC"), 53 P.S. §§ 10609.1 and 10916.1.^{cvi}EN
 - (2) Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease

and desist order or the registration or refusal to register any nonconforming use, structure or lot.

- (3) Appeals from a determination by the Township Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance.
 - (4) Applications for variances from the terms of this chapter and floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 910.2 of the MPC, 53 P.S. § 10910.2.
 - (5) Applications for special exceptions under this chapter or floodplain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to Section 912.1 of the MPC, 53 P.S. § 10912.1.
 - (6) Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this chapter.
 - (7) Appeals from the Zoning Officer's determination under Section 916.2 of the MPC, 53 P.S. § 10916.2.
 - (8) Appeals from the determination of the Zoning Officer or Township engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving applications under Article V or VII of the MPC, 53 P.S. §§ 10501 et seq. and 10701 et seq.
- B. The Board of Supervisors shall have exclusive jurisdiction to hear and render final adjudications in the following matters:
- (1) All applications for approvals of planned residential developments under Article VII of the MPC pursuant to the provisions of Section 702 of the MPC, 53 P.S. § 10702.
 - (2) All applications pursuant to Section 508 of the MPC, 53 P.S. § 10508, for approval of subdivisions or land developments under Article V of the MPC, 53 P.S. § 10501 et seq.
 - (3) Applications for conditional use under the express provisions of this chapter.
 - (4) Applications for curative amendment to this chapter or pursuant to Sections 609.1 and 916.1(a) of the MPC, 53 P.S. §§ 10609.1 and 10916.1(a).
 - (5) All petitions for amendments to land use ordinances, pursuant to the procedures set forth in Section 609 of the MPC, 53 P.S. § 10609.
 - (6) Appeals from the determination of the Zoning Officer or the Township Engineer in the administration of any land use ordinance or provisions thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to applications for land development under Articles V and VII of the MPC, 53 P.S. §§ 10501 et seq. and 10701 et seq. Where such determination relates only to development not involving an Article V or VII application, the appeal from such determination of the Zoning Officer or the Township Engineer shall be to the Zoning Hearing Board pursuant to this section. Where the applicable land use ordinance vests jurisdiction for final administration of subdivision and land development applications in the Planning Commission, all appeals from determinations under this subsection shall be to the Planning Commission and all appeals from the decision of the Planning Commission shall be to court.

§ 180-44. Variances.

- A. The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:
- (1) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.
 - (2) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
 - (3) That such unnecessary hardship has not been created by the applicant.
 - (4) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
 - (5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.
- B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter and the Pennsylvania Municipalities Planning Code, 53 P.S. § 10101 et seq.

§ 180-45. Parties appellant before Zoning Hearing Board.

Appeals raising the substantive validity of any land use ordinance (except those to be brought before the Board of Supervisors pursuant to the Pennsylvania Municipalities Code^{cviiiEN}), procedural questions or alleged defects in the process of enactment or adoption of a land use ordinance; or from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot; from a determination by the Township Engineer or the Zoning Officer with reference to the administration of any floodplain or flood hazard ordinance or such provisions within a land use ordinance; from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of this chapter; from the determination of the Zoning Officer or Township Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and stormwater management insofar as the same relate to development not involving subdivision and land development or planned residential development, may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Township of Somerset, or any person aggrieved. Requests for a variance and for special exception may be filed with the Board by any landowner or any tenant with the permission of such landowner.

§ 180-46. Time limitations.

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after an application for development, preliminary or final, has been approved by the Township of Somerset if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he

shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan or from an adverse decision by the Zoning Officer on a challenge to the validity of this chapter or an amendment hereto or map or an amendment thereto shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

- B. All appeals from determinations adverse to the landowner shall be filed by the landowner within 30 days after notice of the determination is issued.

§ 180-47. Stay of proceedings.

- A. Upon filing of any appeal proceeding before the Zoning Hearing Board and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.
- B. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.
- C. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.
- D. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

ARTICLE VI, Terminology

§ 180-48. Definitions and word usage. [Amended 9-8-1986 by Ord. No. 1-1986; 10-13-1986 by Ord. No. 3-1986; 8-13-1990 by Ord. No. 4-1990]

Certain words used in this chapter are defined below. Words used in the present tense shall include the future. The singular number shall include the plural, and the plural the singular. The word "shall" is mandatory and not permissive.

ACCESSORY USES -- A subordinate use which is clearly incidental and related to that of a main structure or main use of land.

ADULT ARCADE -- Any place to which the public is permitted or invited wherein coin-operated, slug-operated, or for any form of consideration, or electronically, electrically, or mechanically controlled still- or motion-picture machines, projectors, video or laser disc players, or other image-producing devices are maintained, not located within viewing booths, to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas." [Added 7-13-1998 by Ord. No. 3-1998]

ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE -- A commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following: [Added 7-13-1998 by Ord. No. 3-1998]

- A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, CD ROM discs or other computer software, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or
- B. Instruments, devices or paraphernalia which are designed for use in connection with "specific sexual activities."

ADULT CABARET -- A nightclub, bar, restaurant or other commercial establishment which regularly features: [Added 7-13-1998 by Ord. No. 3-1998]

- A. Persons who appear in a state of nudity or seminudity; or
- B. Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- C. Films, motion pictures, videocassettes, slides or other photographic reproductions or visual presentations of any other kind which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

ADULT MOTION-PICTURE THEATER -- A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions or visual presentations of any kind are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." [Added 7-13-1998 by Ord. No. 3-1998]

ADULT THEATER -- A theater, concert hall, dance hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or seminudity, or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities." [Added 7-13-1998 by Ord. No. 3-1998]

AGRICULTURE -- Any use of land or structures for farming, dairying, pasturage, agriculture, horticulture, floriculture, arboriculture, or animal or poultry husbandry. Uses permitted in conjunction with an agricultural use may include barns, stables, corn cribs, silos and any other use or structure that is clearly related to an agricultural operation.

ANTENNA -- A device used to collect or transmit telecommunications or radio signals. Examples are panels, microwave dishes and single poles known as "whips." [Added 11-4-1996]

AREA -- Area of a lot or site shall be calculated from dimensions derived by horizontal projection of the site.

BOARD -- Any body granted jurisdiction under a land use ordinance or under this chapter to render final adjudications.

CARE FACILITY, DEPENDENT -- A facility in which room and/or board are provided to any person, not related to the resident household, having limited or diminished ability to care for themselves due to conditions of age. A dependent care facility shall include personal care home, domiciliary care home or facility, rest home, nursing home and convalescent home. [Added 8-11-1997 by Ord. No. 3-1997]

CARE FACILITY, FAMILY -- A facility which provides resident service in a private residence to five or fewer individuals who are not related to the resident household. These individuals are handicapped,

developmentally disabled, mentally ill, mentally disabled or otherwise in need of adult supervision and provided service in accordance with their individual needs. This category includes foster or boarding houses for children, group homes and halfway houses. [Added 8-11-1997 by Ord. No. 3-1997^{cxixEN}]
CARE FACILITY, GROUP -- A facility which is licensed and inspected by an agency of the state which provides residential services to at least six residents who are handicapped, developmentally disabled, mentally ill or disabled; including residents who are serving the sentence of a court of law, but not requiring or receiving skilled or intermediate nursing care or psychiatric or correctional treatment normally provided in an institutional setting, including rehabilitation homes. [Added 8-11-1997 by Ord. No. 3-1997^{cxixEN}]

CELLULAR TELECOMMUNICATIONS FACILITY -- A telecommunications facility consists of equipment and structures involved in receiving telecommunications or radio signals from a mobile radio communication source and transmitting those signals to a central switching computer which connects the mobile unit with the land-based telephone lines. [Added 11-4-1996]

CLINIC -- Any establishment where human patients are examined and treated by doctors or dentists but not hospitalized overnight.

COMMERCIAL RECREATION -- This activity shall include golfing, swimming and any other recreational or athletic activities for which a fee is paid. [Added 4-6-1995 by Ord. No. 1-1995]

COMPLETELY DRY SPACE -- A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

CONDITIONAL USE -- A use permitted in a particular zoning district by the Board of Supervisors pursuant to the provisions of this chapter and Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10601 et seq.

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

DECISION -- Final adjudication of any board or other body granted jurisdiction under any land use ordinance or this chapter to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the Court of Common Pleas of the county and Judicial District wherein the Township of Somerset lies.

DETERMINATION -- Final action by an officer, body or agency charged with the administration of any land use ordinance or applications thereunder, except the following:

A. The Board of Supervisors;

B. The Zoning Hearing Board; or

C. The Planning Commission, only if and to the extent the Planning Commission is charged with final decision on preliminary or final plans under the subdivision and land development or planned residential development ordinances.^{cxixEN} Determinations shall be appealable only to the boards designated as having jurisdiction for such appeal.

DWELLING -- Any structure designed or used as the living quarters for one or more families.

DWELLING UNIT -- One or more living or sleeping rooms with cooking and sanitary facilities for one person or one family.

ESCORT AGENCY -- A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. [Added 7-13-1998 by Ord. No. 3-1998]

ESSENTIALLY DRY SPACE -- A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

FAMILY -- One or more persons living together in a single dwelling unit as a traditional family or the functional equivalent of a traditional family. It shall be a rebuttable presumption that four or more persons living together in a single dwelling unit, who are not related by blood, adoption, or marriage, do not constitute the functional equivalent of a traditional family. In determining the functional equivalent of a traditional family, the following criteria shall be present: ^{cxixEN}

- A. The group shares the entire dwelling unit.
- B. The group lives and cooks together as a single housekeeping unit.
- C. The group shares expenses for food, rent, utilities or other household expenses.
- D. The group is permanent and stable, and not transient or temporary in nature.
- E. Any other factor reasonably related to whether the group is the functional equivalent of a family.^{cxiiiEN}

FLOOD-FRINGE DISTRICT -- That area of the one-hundred-year floodplain not included in the Floodway District. The basis for the outermost boundary of this district shall be the one-hundred-year flood elevations contained in the flood profiles of the Flood Insurance Study.

FLOOD INSURANCE STUDY -- A study prepared by the U.S. Department of Housing and Urban Development for the Federal Insurance Administration dated February 1, 1979, which includes Flood Boundary and Floodway Maps.

FLOODPLAIN -- A relatively flat or low land area which is subject to inundation from the rapid accumulation of surface waters, including Floodway Districts, Flood-Fringe Districts and General Floodplain Districts.

FLOODPLAIN DISTRICT -- A floodplain area for which no detailed flood profiles or elevations are provided, but where a one-hundred-year floodplain boundary has been approximated. Such areas are shown on the Flood Boundary and Floodway Map of the Flood Insurance Study.

FLOODPROOFING -- Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

FLOODWAY DISTRICT -- The portion of a floodplain delineated for regulation by this chapter which must be reserved to discharge the waters of the one-hundred-year flood without causing more than a one-foot rise in flood heights. The areas included in this district are specifically defined on Tables 1 through 6 of the Flood Insurance Study.

FRONT YARD DEPTH -- The prescribed minimum open space extending across the entire width of the lot between the front line of building and street right-of-way.

GOVERNING BODY -- The Township Supervisors, Somerset Township, Washington County, Pennsylvania.

HAZARDOUS MATERIAL -- Any of the following materials or substances: acetone, ammonia, benzene, calcium carbide, carbon disulfide, celluloid, chlorine, hydrochloric acid, hydrocyanic acid, magnesium, nitric acid, nitric oxides, petroleum products, phosphorus, potassium, sodium, sulfur, sulfur products, pesticides, insecticides, fungicides, and all poisons, flammable gasses and radioactive substances.

HELIPORT -- Ground facilities provided for the landing and takeoff, servicing and storage of helicopters.

HOME OCCUPATION [Added 11-10-1997 by Ord. No. 4-1997]

- A. A home occupation is an accessory use of a nonresidential nature which is customarily conducted within a dwelling unit by the resident therein, which is clearly incidental and secondary to the use of the property for residential purposes, and which meets the following conditions:
 - (1) This secondary and accessory use of the dwelling unit shall not change the principal character thereof and there shall be no exterior display or sign except a nameplate not exceeding 1 1/2 feet by 1 1/2 feet.
 - (2) The occupation or activity shall be carried on wholly within the principal residence and no other exterior indication (excluding principal business vehicle) of the home occupation or variation from the residential character of the dwelling shall be visible.
 - (3) Not more than two paid assistants, not residing at the dwelling and not a part of the resident

household, shall be employed at the location of the home occupation except by special permit.

- (4) No offensive odor, noise, vibration, smoke, dust or heat shall be created by the home occupation except by special permit.
- (5) The home occupation shall not generate traffic inconsistent with the normal level of traffic on the street or road on which it is located. Any need for parking generated by the occupation shall be met by off-street parking accommodations.
- (6) The home occupation shall not result in direct retail sales from the residence, outdoor storage, displays or signs other than approved herein.
- (7) Storage of inventory will not exceed 30% of the entire premises and must adhere to residential building codes in effect.
- (8) All home occupations are required to obtain a home business license, with the application form and attending fee to be set by resolution.

B. A home occupation includes, but is not limited to the following: art studio, dressmaking, teaching (with musical instruction to no more than two pupils at a time), infant and child day-care homes (as defined by the Pennsylvania Department of Welfare, with numbers to be set as conditions), a professional office of an engineer, architect, lawyer, physician, dentist or insurance agent, telephone answering services, mail order offices, publishers, barbershops, beauty shops, computer programming and all other computer-related occupations as long as they do not violate any of the provisions of this chapter.

LAND DEVELOPMENT

A. Any of the following activities:

- (1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - (a) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - (b) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (2) A subdivision of land.

B. "Land development" does not include development which involves:

- (1) The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential units, unless such units are intended to be a condominium;
- (2) The addition of an accessory building, including farm building, on a lot or lots subordinate to an existing principal building; or
- (3) The addition or conversion of buildings or rides within the confines of an enterprise which would be considered an amusement park. For the purposes of this subsection, an "amusement park" is defined as a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans for the expanded area have been approved by the proper authorities.

LIGHT MANUFACTURING -- The processing and fabrication of certain materials and products

where no process involved will produce noise, vibration, air pollution, fire hazard, or noxious emission which will disturb or endanger neighboring properties. "Light manufacturing" includes, but is not limited to, the production of the following goods: home appliances; electrical instruments; office machines; precision instruments; electronic devices; timepieces; jewelry; optical goods; musical instruments; novelties; wood products; printed material; lithographic plates; type composition; machine tools; dies and gauges; ceramics; apparel; lightweight nonferrous metal castings; film processing; light sheet metal products; plastic goods; pharmaceutical goods; and food products but not animal slaughtering, curing, nor rendering of fats. [Amended 10-12-1992 by Ord. No. 2-1992]

LOT -- A designated parcel, tract or area of land established by a plat or otherwise as permitted by law and to be used, developed or built upon as a unit.

LOT, DEPTH OF -- A mean horizontal distance between the front and rear lot lines.

LOT, MINIMUM AREA OF -- The horizontally projected area of a lot computed exclusive of any portion of the right-of-way of any public thoroughfare.

LOT OF RECORD -- Any lot which, individually or as a part of a subdivision, has been recorded in the Office of the Recorder of Deeds of Washington County.

LOT, WIDTH OF -- The mean width measured at right angles to its depth.

MANUFACTURING -- The processing and fabrication of any articles, substance or commodity.

MOBILE HOME -- A transportable, single-family dwelling intended for permanent occupancy, contained in one unit or two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation. [Amended 10-9-1995 by Ord. No. 3-1995]

MOBILE HOME LOT -- A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

MOBILE HOME PARK -- A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

MODULAR HOME -- A sectional, single-family dwelling, intended for permanent occupancy, contained in two or more units designed to be permanently joined into one integral unit, which arrives at a site complete and ready for occupancy except for assembly operations and construction of the necessary permanent foundation. For the purposes of these regulations, modular homes shall be treated the same as conventional stick-built family dwellings. [Added 10-9-1995 by Ord. No. 3-1995]

MULTIPLE-FAMILY STRUCTURE -- A residential structure containing three or more dwelling units.

MUNICIPAL AUTHORITY -- A body politic and corporate created pursuant to the Act of May 2, 1945 (P.L. 382, No. 164), known as the "Municipalities Authority Act of 1945."^{cxiv}EN

NONCONFORMING LOT -- A lot the area or dimension of which was lawful prior to the adoption or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

NONCONFORMING STRUCTURE -- A structure or part of a structure manifestly not designed to comply with the use or extent of use provisions of this chapter or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of this chapter or amendment or prior to the application of this chapter or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

NONCONFORMING USE -- A use, whether of land or of structure, which does not comply with the applicable use provisions in this chapter or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this chapter or amendment, or prior to the application of this chapter or amendment to its location by reason of annexation.

NUDE MODEL STUDIO -- Any place where a person who appears seminude, in a state of nudity or who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons who pay money or any form of consideration. "Nude model studio" shall not include a proprietary school licensed by the State of Pennsylvania or a college, junior college or university supported entirely or in part by public taxation; a

private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation; or a structure: [Added 7-13-1998 by Ord. No. 3-1998]

- A. Where there is no sign visible from the exterior of the structure and no other advertising that indicates a nude or seminude person is available for viewing; and
- B. Where in order to participate in a class a student must enroll at least three days in advance of the class; and
- C. Where no more than one nude or seminude model is on the premises at any one time.

OBSTRUCTION -- Any wall, dam, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure or matter in, along, across or projecting into any channel, watercourse or flood-prone area, which may impede, retard or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water, or which is placed where the flow of the water might carry the same downstream to the damage of life and property.

OCCUPANCY PERMIT -- A document issued by the Zoning Officer upon completion of the construction of a structure, or change in use of structure or parcel of land and indicating that the use and structure is in compliance with the ordinances of the municipality having jurisdiction over the location of such use or structure, and that the structure and land may be used for the purposes set forth in the zoning certificate.

ONE-HUNDRED-YEAR FLOOD -- A flood of such magnitude that has only a one-percent chance of occurring each year, although such flood may occur in any year.

PLANNING AGENCY -- The designated Planning Agency of Somerset Township.

PUBLIC BUILDINGS -- A structure owned, leased and/or operated by a governmental department or agency or a quasi-governmental nonprofit department or agency. Such quasi-governmental nonprofit uses may include community centers, historical buildings, fire and police stations, park and recreational fields and playgrounds. [Added 12-11-1995 by Ord. No. 4-1995]

PUBLIC GROUNDS -- Includes:

- A. Parks, playgrounds, trails, paths and other recreational areas and other public areas;
- B. Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and
- C. Publicly owned or operated scenic and historic sites.

PUBLIC HEARING -- A formal meeting held pursuant to public notice by the Board of Supervisors or Planning Commission, intended to inform and obtain public comment, prior to taking action in accordance with this chapter.

PUBLIC MEETING -- A forum held pursuant to notice under the Sunshine Act, 65 Pa.C.S.A. § 701 et seq. (October 15, 1998, P.L. 729, No. 93). ^{cxv}EN

PUBLIC NOTICE -- Notice published once each week for two successive weeks in a newspaper of general circulation in the Township of Somerset. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

PUBLIC UTILITY STRUCTURE -- A structure used to facilitate the use of the attending land for purposes of the transmission, distribution or exchange of telephone, radio telephone, cellular/digital telephone, gas, power/electric, sewer and water services provide by a public or private entity. A structure of this type shall expressly include a "cellular telecommunications facility" as that term is herein defined. [Added 10-8-2007 by Ord. No. 1-2007]

REAR YARD DEPTH -- The prescribed minimum open space extending across the entire width of the lot between the back line of the building or accessory structure and the rear lot line.

REGULATORY FLOOD ELEVATION -- The one-hundred-year-flood elevation plus a freeboard safety factor of 1 1/2 feet.

REPORT -- Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie therefrom. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

RETAIL STORES -- Any single-use building or structure in an enterprise, activity or other undertaking related to or connected with retail trade and traffic or commerce in goods. A building or structure that houses more than one such use shall be deemed a "shopping center." [Added 12-12-1994 by Ord. No. 2-1994]

RETAIL STORES WITH OUTSIDE DISPLAY -- This definition shall include those activities defined in retail sales above when such sales require exterior display of merchandise. Same shall include, but not be limited to, auto sales, recreational vehicle sales, farm and garden equipment sales. [Added 12-12-1994 by Ord. No. 2-1994]

SCREENING -- Screening relative to this chapter shall mean a fence, evergreen hedge or wall at least six feet high, provided in such a way that it will block a line of sight. The screening may consist either of one or several rows of bushes or trees or of a constructed fence or wall.

SEXUAL ENCOUNTER CENTER -- A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration: [Added 7-13-1998 by Ord. No. 3-1998]

A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or seminudity.

SEXUALLY ORIENTED BUSINESS -- An adult arcade, adult bookstore, adult novelty store, adult video store, adult cabaret, adult motion-picture theater, adult theater, escort agency, nude model studio or sexual encounter center. [Added 7-13-1998 by Ord. No. 3-1998]

SIDE YARD WIDTH -- The prescribed minimum open space extending from the side of any building or accessory structure to the side lot line throughout the entire depth of the yard. Any lot line not a rear line or a front line shall be deemed as a side line.

SIGN -- Any surface, fabric or device bearing lettered pictorial or sculptured matter designed to convey information visually and exposed to public view; or any structure (including billboards, poster panels, or other graphic displays) designed to carry the above visual information.

SPECIAL EXCEPTION -- A use permitted in a particular zoning district pursuant to the provisions of this chapter and Articles VI and IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §§ 10601 et seq. and 10901 et seq.

STREET -- Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct or any other ways used or intended to be used by vehicular traffic or pedestrians, whether public or private.

STRUCTURE -- Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land.

SUBDIVISION -- The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

SUPPLY YARD -- A commercial establishment storing or offering for sale building supplies, steel supplies, coal, heavy equipment, feed and grain, and similar goods. Supply yards do not include the

wrecking, salvaging, dismantling or storage of automobile and similar vehicles.

TELECOMMUNICATIONS EQUIPMENT BUILDING -- The building in which the electronic receiving and relay equipment for communications is housed. [Added 11-4-1996]

TOWER -- A tower is a structure that is intended to support equipment used to transmit and/or receive telecommunications signals. Examples of such structures include monopoles and lattice-constructed steel structures. [Added 11-4-1996]

VARIANCE -- Relief granted pursuant to the provisions of this chapter and Articles VI and IX of the Pennsylvania Municipalities. Planning Code, 53 P.S § 10101 et seq.

ZONING CERTIFICATE -- A document issued by the Zoning Officer authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses.

Table 201

[Amended by Ord. No. 3-1986; 5-11-1992 by Ord. No. 1-1992; 12-12-1994 by Ord. No. 2-1994; 4-6-1995 by Ord. No. 1-1995; 12-11-1995 by Ord. No. 4-1995; 11-4-1996; 8-11-1997 by Ord. No. 3-1997; 11-10-1997 by Ord. No. 4-1997; 7-13-1998 by Ord. No. 3-1998; 10-11-1999 by Ord. No. 3-1999]

| District | A-1 Agricultural | R-1 Single-Family | R-2 Residential |
|------------------|--|--|---|
| Permitted uses | Agriculture Open land recreation Parks and schools Churches Single-family dwelling Accessory uses | Single-family dwelling Parks, schools Churches Agriculture Accessory uses | Single-family dwelling Two-family dwelling Multiple family dwelling Parks and schools Churches Accessory uses |
| Conditional uses | Two family dwelling Mobile home Public utility structures Mineral extraction Airport Commercial recreation Telecommunications facility Dependant care facility Family care facility Group care facility Home occupation Public building | Two-family dwelling Mobile homes Mobile home parks Clinic Public utility structures Public building Cemeteries Mineral extraction Commercial recreation Dependant care facility Family care facility Group care facility Home occupation | Public buildings Public utility structures Funeral homes Hospital Dependant care facility Family care facility Group care facility Home occupation |
| Minimum lot area | One acre 1/2 acre / sewerred lot | 10,500 square feet 6,000 square feet | 7,200 square feet 2,500 square feet |

| | | | |
|-----------------------|----------|---------|---------|
| Lot area/family width | 150 feet | 75 feet | 60 feet |
| Front yard | 50 feet | 30 feet | 25 feet |
| Side yard | 30 feet | 15 feet | 10 feet |
| Rear yard | 50 feet | 35 feet | 25 feet |

Zoning Map

APPENDIX

Chapter A182, CABLE TELEVISION FRANCHISE

[HISTORY: Adopted by the Board of Supervisors of the Township of Somerset 3-12-1990 by Ord. No. 2-1990 (Ch. 13, Part 3, of the 1990 Code). Amendments noted where applicable.]

§ A182-1. Definitions.

When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and the words in the singular number include the plural number. The following terms shall have the meanings indicated:

BROADCAST SIGNAL -- A television or radio signal that is transmitted over the air to a wide geographic audience and is microwave or satellite link or other means.

CABLE SUBSCRIBER -- Any person, whether individual, business entity or institution, who pays either monthly, yearly or special event service charges and who lawfully receives any of the basic cable, pay cable, pay-per-view or services lawfully provided by the cable television system, grantee, regardless of whether such person occupies single-family or multiple-unit dwellings, hotels, or motels or establishments or institutional premises.

CABLE TELEVISION SYSTEM

A. An electronic communications system using antennas, coaxial or light-fibre cables, wires, microwave facilities or receivers, transmitters, towers, waveguides, satellite communication devices and other electronic means or devices designed and constructed for the purpose of providing "cable services(s)" described as follows:

- (1) **BASIC CABLE SERVICE(S)** -- Certain local or distant broadcast television or radio signals, locally originated cable programming, satellite-distributed video or aural signals, regardless of source, channel position or tier of service, received by cable subscribers who pay only the monthly fee or charge for such basic cable service.
- (2) **PAY CABLE SERVICE(S)** -- Is programming of any nature which is not available to cable subscribers except upon payment of an additional monthly fee or fees, regardless of source, position or tier of service.
- (3) **PAY-PER SERVICE(S)** -- Is programming which cannot be received by cable subscribers without payment of a specific charge for occasional delivery of special programming events, regardless of whether special receipt devices are required.

B. Any other kinds of signals or programming permitted by law or contract, regardless of source or

nature, distribution method or method of delivery to cable subscribers or engaging in any other business or activity which employs the system and which is allowed by law.

CHIEF ADMINISTRATIVE OFFICER -- The Township Secretary, Assistant Secretary or other designee as made by the Township Supervisors.

CONVERTER -- An electronic device used in the operation of the system, either sold to subscribers or placed by the grantee in dwellings, hotels, motels, business establishments or institutional premises, which converts electronic signals from one radio frequency to another.

FRANCHISE -- The authorization granted hereunder in terms of a franchise, right, privilege, permit, license or otherwise, which evidences the Township's assent to the grantee's construction, operating and maintaining a cable television system within the Township. Any such authorization, in whatever form granted, shall not mean and include any license or permit required for the privilege of transacting and carrying on a business within a Township as required by other ordinances and laws of this Township.

FRANCHISE AREA -- The entire geographic area within the present boundaries of the area under jurisdiction of the Township Supervisors, as designated by the Township Supervisors; however, in the event that the franchise or cable television company shall be unwilling or unable to provide said services to any specific area or areas within the franchise area, as designated by the Township Supervisors, then upon that event after appropriate notice to said cable television company, the Supervisors may permit another company to service said area if said additional company is able to come to terms with the company licensed and/or given permission to operate under this chapter. In the event that said companies are unable to amicably resolve said dispute then in that event, the Township shall have the right to arbitrate said dispute and the decision of the Supervisors shall be final and not subject to appeal or objection. In the event the Supervisors should decline to arbitrate said dispute, then either company or entity shall have the right to submit to binding arbitration or pursue any other remedy available at law or in equity wherein it is expressly agreed and understood that neither the Township nor the Township Supervisors shall be a party to said proceeding. However, the Township shall have the right to participate in such proceeding if it should elect to do so.

GRANTEE/FRANCHISE -- The person, firm or corporation granted a franchise by the Supervisors under this chapter, or the lawful successor, transferee or assignee of said person, firm or corporation.

GROSS RECEIPTS -- All monthly service fees actually collected from cable subscribers within a fiscal year by the cable television system for providing basic cable and pay cable services to cable subscribers in the service or franchise area.

PROPERTY OF GRANTEE -- All real, personal, tangible or intangible property owned, installed or used within the Township by the grantee in the conduct of a cable television system business under the authority of the franchise granted pursuant to this chapter.

PUBLIC INTEREST -- That standard which shall be applied by the Township and Supervisors in considering renewal applications, and termination or extension issues; namely whether the grantee: (i) is and has been in substantial compliance with the material terms of the franchise and with applicable laws and regulations; and (ii) remains legally, technically and financially qualified to operate the cable television system; and (iii) is providing reasonable service to the franchise area in light of the economic and technical constraints bearing on the grantee and reasonable needs of the residents of the franchise area.

PUBLIC WAY -- The surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including public utility easements, dedicated utility strips or rights-of-way and any temporary or permanent fixtures or improvements located thereon, now or hereafter held by the Township in the franchise area which shall entitle the Township and the grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the television system. Said work shall also mean any easement now or thereafter held by the Township within the franchise area for the purpose of public travel, or for utility or public service use, and shall include other easements or rights-of-way, as shall be now held or hereafter held by the Township within the franchise area, which shall within their proper use and meaning entitle the Township and the grantee to the use thereof for the purposes of installing or transmitting grantee's cable services over poles, wires, cables, conductors,

ducts, conduits, vaults, manholes, amplifiers, compliances, attachments and other property as may be ordinarily necessary and pertinent to the cable television system.

RESIDENT -- Any person residing in the franchise area as defined herein.

STATE -- The Commonwealth of Pennsylvania.

SUPERVISORS -- The present governing body of the Township or any future board constituting the legislative body of the Township.

TOWNSHIP -- The Township of Somerset in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.

§ A182-2. Franchise to install and operate.

- A. There is hereby granted by the Township to the grantee a nonexclusive franchise to engage in the business of operating a cable television system in the franchise area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and regain in, on, over, under, upon, across and along any public way and all extensions thereof and additions thereto in the franchise area, such poles, wire, cable, conductors, ducts, conduit, vaults, manholes, pedestals, amplifiers, appliances, attachments and other property as may be necessary and appurtenant to the cable television system; and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, including but not limited to any public utility or similar entity permitted to do business in the franchise area. Grantee shall be required to pay no fees or charges, other than the franchise payment, stated hereinafter, to any person or entity for the use of public ways within the franchise area. No cable television system shall be allowed to occupy or use the public ways of the franchise area or be allowed to operate without a cable television franchise. The grantee shall at all times during the term of this franchise be subject to the lawful exercise of the general police power by the Township.
- B. In the event the Township enters into a franchise, permit, license or other agreement of any kind with any other person or entity other than franchisee, which contains terms more favorable to such person or entity, this chapter shall be deemed amended as of the effective date of the other franchise; permit, license or other agreement, so as to give the grantee the benefit of any such more favorable terms.

§ A182-3. Franchise term.

The franchise granted by the Supervisors under this chapter shall be for an initial ten-year period from the date set forth hereinafter; provided, however, that said period may be extended consistent with the provisions contained in § A182-6 below.

§ A182-4. Franchise payment.

- A. In consideration of the granting of this franchise, each franchisee shall pay the Township upon such grant and acceptance thereof, a permit fee in the amount of \$500 to defray the costs associated with such grant.
- B. In further consideration of the granting and exercise of the franchise to use the public ways and streets, as herein defined, for the operation of a cable television system, and to help defray some of the regulatory costs, grantee shall pay to the Township, during the term of the franchise, a fee equal to 3% of its gross receipts derived from all subscribers monthly service fees, including basic, pay television or other types of service. Additionally, if permitted by the FCC or otherwise permitted by law after the first year of the term of the franchise, the Township may increase said annual fee, by resolution, an additional 1% and may continue to increase each year thereafter until the maximum limit is reached.

- C. The grantee, unless otherwise notified by the Township, shall continue to pay the Township above designated franchise fee on gross receipt revenues as follows:
- (1) Franchise payments will be made to the Township quarterly, that is, the first payment will be due on April 1 of each year with the second payment due July 1, the third payment due October 1 and the final payment due January 1 of each year. Payments shall be received by the Township within 45 days after the due date. After notice to grantee, delivered pursuant to § A182-17, below, that a payment is late, the Township shall be entitled to impose on grantee a penalty in the amount of \$100 per day for each day in excess of the forty-five-day period in which the grantee willfully fails, refuses or neglects to pay any undisputed portion of the percentage due and owing. [Amended 9-14-1992; 2-8-1993]
 - (2) At the time of payment, grantee shall provide the Township an annual summary of gross receipts received during the applicable year.
- D. In the event of a change in rate of the fee, the grantee agrees to implement the collection of any increase in a fee within 180 days of receipt of notification. Said grantee agrees to implement a decrease in said franchise fee within 60 days of receipt of notification. A copy of any action taken by the Board of Supervisors must accompany notification.

§ A182-5. Restrictions on transfer of franchise rights.

The franchise granted herein shall not be sold, assigned or transferred, in whole or in part, either by forced or involuntary sale, or by voluntary sale, merger, consolidation or otherwise, other than to a person or entity controlling, controlled by or under common control with the grantee, without prior consent of the Township Supervisors expressed by resolution. The consent of the Township Supervisors shall not be unreasonably withheld; provided, however that the prospective assignee or transferee must agree in writing to comply with all the provisions of this chapter; and provided further, that no such consent shall be required for a transfer in trust, by mortgage, or by other hypothecation in whole or in part, or to assign rights in the cable television system to secure indebtedness.

§ A182-6. Extension, renewal and termination.

- A. Extension. The Township may extend the franchise for an additional five years beyond the initial ten-year period if grantee so requests. Within 180 days of the expiration date of the initial term, grantee shall, at its option, notify the Township Secretary in writing that grantee wishes to petition for a five-year extension. The Township shall then set a date for a Supervisors meeting which the Township Secretary shall advertise in a newspaper of general circulation at least once in the 10 days prior to the meeting. At said meeting, the Supervisors, shall hear the petition of grantee, and any comments from residents of the Township on the issues raised by the Public Interest Standard contained in § A182-1 hereof. If the Supervisors find that the public interest standards will be met by a five-year extension of the initial term, the Supervisors shall grant grantee's petition. If the Supervisors deny the petition, it shall give its reasons in writing within 30 days after the meeting and shall provide grantee with a copy of the decision within two business days of its preparation.
- B. Renewal of franchise. Prior to the expiration of the initial term of the franchise granted hereunder or any extension thereof, the Township Supervisors may consider an application by grantee for renewal of the franchise for an additional ten-year term, if, in the opinion of the Supervisors, such renewal is in the public interest. The procedure to consider such renewal shall be as follows:
- (1) Prior to the expiration of the initial term of the franchise or any extension, grantee shall petition the Supervisors in writing for a renewal of the franchise.
 - (2) Within 30 days after receipt by the Supervisors of grantee's petition for renewal, the Supervisors

shall hold a meeting to consider the renewal petition with the Township Secretary publishing notice of said meeting, its time, place, subject matter and parties entitled to be heard at the meeting, in a newspaper of general circulation at least once in 10 days immediately prior to such public meeting.

- (3) At the meeting, the Supervisors shall hear representatives of the cable television system and interested residents of the franchise area on any issues raised pursuant to the public interest standard set forth in § A182-1 above.
- (4) The Supervisors shall make its decision on the grantee's petition for renewal, and shall prepare a written determination stating the reasons for renewal or nonrenewal all within 30 days after the meeting is held. Grantee shall be provided with a copy of the written determination within two business days after it is prepared.
- (5) If the Supervisors find renewal would serve the public interest, the grantee shall be entitled to a renewal of the franchise and the Supervisors shall enter into negotiations with grantee for amendments to the expired franchise or for a new franchise. If the Supervisors find that nonrenewal serves the public interest, then the procedures set forth above shall apply.

C. Termination. The Township may terminate this franchise in the event of the willful failure, refusal or neglect by grantee to substantially comply with any material requirement or limitation contained in this chapter. The Township shall comply with the following procedures:

- (1) The Township Supervisors shall, with advice of legal counsel, make a written determination that after reasonable investigation it appears that grantee has willfully failed, refused or neglected to substantially comply with the material provision of this chapter. However, the Supervisors shall not be justified in determining that an apparent violation by grantee of this chapter exists, unless it also appears that there is no reasonable explanation, excuse or justification for such apparent violation. Further, a dispute between the Township and grantee over policies, practices or procedures which are not clearly stated in or based on the language of this chapter shall be deemed a sufficient basis for a determination of apparent violation.
- (2) If the Supervisors find good cause to make its determination on the standards set forth above, then it shall give written notice to grantee stating clearly its factual and legal basis for such determination. Grantee shall then have a period of 30 days after its receipt of such notice in which to comply with the stated provisions. If the apparent violation is not remedied within the thirty-day period, the Supervisors may order the matter of apparent violation to be brought up for discussion at a regularly scheduled meeting. Grantee shall be served with notice at least 30 days prior to the meeting as to the topic, time, place and procedure for the meeting, and the same shall be publicized by the Township Secretary, at least once in the 10 days before such meeting, in a newspaper of general circulation in the franchise area.
- (3) At the meeting, the Supervisors shall permit representatives of grantee to be heard, together with any residents of the franchise area, who have requested to be heard on the topic of the apparent violation. Based on the facts and arguments of grantee, any relevant factual presentations of residents, and the Supervisors' own investigation, the Supervisors shall make a decision whether the apparent violation was in fact, a willful failure, refusal or neglect to substantially comply with a material provision of the chapter. Such decision shall be in writing stating clearly the factual and legal basis for the decision, shall be rendered and made public within 30 days of the meeting, and grantee shall be provided a copy thereof within two business days after the decision is prepared.
- (4) If the Supervisors shall determine that such willful failure, refusal or neglect by the grantee was not in the public interest and was without just cause, then the Supervisors may, by resolution, declare that the franchise of such grantee shall be terminated and bond forfeited unless the

grantee shall comply with the violated provision within such period as the Supervisors may fix.

D. Procedure in the event of termination, nonrenewal or denial of extension.

- (1) If grantee disagrees with a Supervisors determination as to termination, renewal or extension and chooses not to comply with the material provisions at issue, or does not comply under protest, then grantee may pursue any and all equitable or legal means of judicial review. If grantee seeks judicial relief in the form of judicial stay, injunction or other temporary restraint of the effectiveness of the Supervisors decision, both the Township and Supervisors agree not to oppose unnecessarily grantee's pursuit of such relief.
- (2) Pending a final disposition of grantee's judicial review, grantee shall have the right to continue the business of providing cable service to its subscribers, may receive revenue and profits from such business and shall in all ways be considered by the Township as having a claim of right to continue as the grantee, provided that grantee shall continue to comply with the material provision of the ordinance which are not in dispute shall not be construed as an admission of liability.
- (3) In the event, grantee is ultimately unsuccessful in its pursuit of judicial remedies, or if grantee is permitted use and does not comply with any final determination then grantee shall commence, immediately, after a judicial mandate, shall be issued and entered on the records of a court, to solicit buyers for cable television system, and shall use best efforts to sell the system. In the event grantee is unable to find, after its best efforts, a bona fide buyer who will pay a fair market price for the system, then grantee shall have the right to shut down and remove any and all of the equipment, property or other facilities making up the cable television system in the franchise area; all to be accomplished within 180 days after a final order is issued by a court, or by the Supervisors in the event grantee chooses not to seek judicial review of the Supervisors final determination. Grantee may continue to operate the system within such one-hundred-eighty-day period, and until it is shut down and removed. However, at grantee's sole option, it may abandon some or all of the equipment, property or facilities of the cable television system; but in so doing, grantee relinquishes all right to compensation by the Township or any third party using or taking over such system after grantee has abandoned it.

§ A182-7. Cable television service obligation.

A. Obligation of grantee.

- (1) The grantee shall render service as required hereafter and shall respond to complaints and make repairs as necessary. Grantee shall assure the continuity of cable service to all cable subscribers who are current in their payments for service and in no event shall grantee turn off the system except as permitted by the terms herein.
- (2) The cable television system shall be operated and maintained by grantee at all times in substantial compliance with all applicable filing, reporting or requirements of the FCC or other government agencies regulating cable television generally.
- (3) The grantee's obligation to provide, repair, replace, construct, maintain or operate cable television service, shall be excused for any period during which such service is prevented or interrupted for any cause beyond grantee's control, including, without limitation, acts of God, fire, flood, earthquakes, hurricane, unavoidable casualty, extraordinary delays in transportation, strikes, lockouts, picketing, boycotts, embargoes, government orders or other requirements, acts of civil or military authorities, governmental restrictions, energy shortages, regulations or controls, war-related shortages, alien invasions, acts or omissions of carriers, or activities or other emergency conditions, including weather conditions incompatible with good quality

workmanship or operations.

- (4) The grantee shall make available to any cable subscriber so requesting a parental guidance or lockout device which shall permit the subscriber, at his or her option, to eliminate cable service reception. The grantee shall advise all cable subscribers regarding the availability of this device, and a charge for any such device may be imposed.
- (5) At the request of the Supervisors or the Chief Administrative Officer, the grantee shall provide a list of all the names and addresses of existing subscribers as of the date of said request and upon failure to do so, the grantee shall forfeit the bond referred to under § A182-11 of this chapter since such requirement being a condition pertaining to said bond.

B. Obligation of Township.

- (1) It being in the interest of the grantee to maintain a good relationship with the residents of the Township, the Township shall assist and cooperate with the grantee in maintaining such a relationship.
- (2) If it becomes legally or practically infeasible for grantee to use certain public ways, particularly public utility easements across private property or dedicated utility strips, then the Township shall cooperate with grantee in obtaining the necessary authority to cross, use or otherwise employ rights-of-way in installing and maintaining its system, except that under no circumstances shall the Township be required to make any monetary contribution or payment.

§ A182-8. Conditions of street occupancy.

- A. All transmission and distribution structures, poles, lines and equipment installed or erected by grantee within the Township shall be so located as to cause a minimum of interference with the proper use of public ways or streets and with the rights and reasonable convenience of property owners who own property that adjoins any of said public ways.
- B. In case of disturbance or damage of or to any public way or street or the like by the grantee or as a result of the grantee's use of same, the grantee shall, at its own expense, replace, restore and otherwise repair such public way, street or the like to as good a condition as same existed prior to the disturbance or damage thereof.
- C. Upon its receipt of reasonable advance notice, the grantee shall, at its own expense, project, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or public place, any property of the grantee when lawfully required by Township by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment or street grade, installation of sewers, gas or water pipes, or any other type of structures or improvements by the Township; but, the grantee shall in all cases have the right of abandonment of its property, subject in Township ordinances, and if public funds are available to any company using such street, easement or right-of-way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to grantee.
- D. The grantee shall, on the request of any person holding a building moving permit issued by the Township, temporarily raise or lower its wires to permit the moving of buildings, provided: (i) the expense of such temporary raising or lowering of wires is paid by said person, including, if required by the grantee, making such payment in advance; and (ii) the grantee is given not less than 10 business days advance written notice to arrange such temporary wire service.
- E. The grantee shall have the authority to trim trees or other natural growth overhanging any of its cables or other facilities in the franchise areas so as to prevent branches from coming in contact with the grantee's wires and cables or other equipment. After completion of construction of the system,

the grantee may trim trees or natural growth overhanging its facilities, and shall be permitted to charge persons who own or are responsible for such trees or natural growth for the cost of such trimming if and only if similar charges are assessed by and paid to the utilities or the Township for the same activity. In any event, the grantee shall compensate the Township or property owner for, or shall replace at its own cost and expense, all trees or shrubs damaged as a result of any construction of the system undertaken by the grantee.

- F. Subject to any applicable state or federal regulations or tariffs, the Township shall have the right to make additional use, for any public purpose, of any poles or conduits controlled or maintained exclusively by or for the grantee in any street; provided that (i) such use by the Township does not interfere with a current or future use by the grantee; and (ii) the demands, costs or liabilities of every kind and nature whatsoever arising out of such use of said poles or conduits; and (iii) if the use of the same by the Township affects the use of the same the Township shall pay a rental fee or otherwise compensate the grantee for the use of such poles or conduit.

§ A182-9. Aerial and underground service; extension of service.

- A. In those areas of the Township where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electronic services are underground, or hereafter are placed underground, the grantee likewise shall construct, operate and maintain all of its transmission and distribution facilities underground; providing that such facilities are actually capable of receiving grantee's cable and other equipment without technical degradation of the system's signal quality. In those areas where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, grantee shall have the sole discretion to construct, operate and maintain all of its transmission and distribution facilities, or any part thereof, aerial or underground. Nothing contained in this section shall require grantee to construct, operate and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment.
- B. The grantee is hereby authorized to extend the system within the service area when, where and to the extent that such extension is technically and economically feasible.
- C. Whenever the grantee shall have received written requests, with any requested monetary deposits for cable service, from at least 20 subscribers within 1,612 cable meters (5,280 cable feet) of the same aerial cable, or from at least 25 subscribers within 1,612 cable meters (5,280 cable feet) of the same underground cable, it shall extend its system to such subscribers solely for the usual connection and service fees for all subscribers, provided that such extension is technically and economically feasible. The 1,612 meters shall be measured in extension length of grantee's cable required for service located within the public way or easement and shall not include the length of the necessary drop to the subscriber's home or premises. Notwithstanding the above, the grantee shall not be required to provide service to a subscriber where a drop line from the feeder cable to the subscriber's house or premises exceeds 76.20 cable meters (250 feet), until it is technically and economically feasible to do so.
- D. No person in the grantee's service area shall be arbitrarily refused service; but in recognition of the capital costs involved in unusual circumstances, including, without limitation, instances where subscriber density is less than provided for in Subsection C above, cable service may be made available in such over density areas on the basis of the payment in advance of costs of materials, labor and obtaining easements by the parties requesting cable service in order to prevent cable subscribers in more densely populated areas from subsidizing service to low density area subscribers.

- (1) For all residential structures hereinafter erected which are to be served by underground utilities,

the developer of the subdivision or development may acquire cable service for such development under the following conditions: (i) the entire cost of such underground, from the boundary of the new subdivision or, in the case of an individual structure which is not a part of an existing subdivision, from the lot line, to each building, shall be borne by the developer, subdivider or owner of the property, including the reimbursement to the grantee of its share of all trenching costs, materials and labor; and (ii) developer, at its expense, shall perform any trenching or backfilling necessary in preparation for the provision of cable service, including furnishing of any imported backfill material required, and will furnish and install for the grantee any necessary distribution conduit and substructures, including pedestals, required in preparation for the provision of cable service and in accordance with the grantee's plans and specifications.

- (2) Grantee shall not be obligated to provide cable service to such new development unless such developer or owner agree to bear the costs. However, grantee shall have the right to provide cable service to all newly developed areas of the Township at its own expense, regardless of whether a developer or owner cooperates with the grantee or pays grantee for the expenses of installing cable on their property.
- (3) Grantee shall provide plans and specifications to a developer and shall inspect the facilities installed hereunder and certified to the Township prior to final approval of the subdivision or development that the facilities installed in the development were properly installed; facilities installed hereunder shall be owned, operated and maintained by grantee.

§ A182-10. Construction schedule and target dates.

- A. Within 60 days after acceptance of the franchise, the grantee shall proceed with due diligence to apply for all necessary permits and authorizations which are required in the conduct of its business, including but not limited to any utility joint use attachment agreements, microwave carrier licenses and any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of cable television systems, or associated microwave transmission facilities.
- B. Within 90 days after obtaining all necessary permits, licenses and authorizations, including right of access and clearances to use all necessary poles and conduits, grantee shall commence construction of the cable television system.
- C. Within 180 days after the commencement of construction, grantee shall proceed to energize complete portions of the system and begin to offer service to 100% of the potential subscribers in the franchise area. Completion of the construction shall be pursued with reasonable diligence thereafter, so that cable service to those areas of the franchise area required to be served pursuant to this chapter shall be so provided within 90 days after receiving all authorizations mentioned herein; provided, however, that grantee shall in all events substantially meet and comply with any construction requirements set down by the FCC or any applicable regulatory authority.
- D. The grantee may request an extension of time to complete the construction of the cable television system for events beyond the control of grantee, including but not limited to, acts of God, strikes of material suppliers, construction contract delays which are beyond the control of the grantee, or similar events. A request for extension shall be made within 20 days after the grantee has actual or constructive notice of such event. The Township shall not unreasonably withhold its consent to such request for an extension.

§ A182-11. Bonds, indemnifications, insurance.

- A. Performance bond to Township. Upon being granted a franchise, and after the filing of the acceptances required under this chapter, the grantee shall file with the Township Secretary, and shall maintain in full force and effect during the term hereof, a corporate bond or other adequate surety agreement in the amount of \$7,500. The bond or agreement shall be so conditioned that in the event that grantee shall fail to substantially comply with any one or more of the material provisions of this chapter or of such franchise, then there shall be recoverable jointly and severally from the principal and surety any damages or loss, or costs suffered by the Township, as result thereof, including attorney's fees and costs of any action or proceeding, and cost of, including the full amount of any compensation, indemnification, cost of, removal or abandonment of any property or other costs which may be in default, up to the full principal amount of such bond. Said condition shall be a continuing obligation during the entire term of such franchise and thereafter until grantee shall have satisfied in full any and all obligations to the Township which arise out of or pertaining to said franchise. For each additional area of the franchise or extensions thereof, the grantee shall file and/or provide and maintain a corporate bond or other adequate surety agreement in an amount as set by the Supervisors by resolution.
- B. Hold harmless provision.
- (1) The grantee shall hold the Township, its officers, boards and employees harmless from any and all liability for damages or claims for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death) which arise out of the grantee's negligent operations in conducting a cable television business in the Township.
 - (2) The Township shall hold grantee, its officers, directors, employees, subscribers, assigns and successors harmless from any and all damages, claims for damages or liability or claims resulting from bodily injury (including accidental death), which arise out of the Township's, its employees' or agents' negligence in dealing with or in any way, handling or affecting grantee's real or personal property used or usable in the cable television system in the franchise area.
- C. Insurance required. Upon being granted franchise, and after the filing of the acceptance required under this chapter, the grantee shall file with the Township Secretary and shall thereafter maintain in full force and effect at its own cost and expense during the term hereof. General comprehensive liability insurance in the amount of \$1,000,000 for bodily injuries (including accidental death) to any person and subject to the same limit for each person in an amount not less than \$500,000 on account of any one occurrence, and property damage liability insurance in an amount not less than \$500,000 resulting in any one occurrence.

§ A182-12. Safety requirements.

- A. Construction, installation and maintenance of the cable communications system shall be performed in an orderly and workmanlike manner. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. All such work shall be performed in accordance with applicable safety code or technical requirements, including but not limited, to the National Electrical Safety Code (National Bureau of Standards), the National Electrical Code (National Bureau of Fire Underwriters), Bell System Code of Pole Line Construction and applicable FCC or other federal, state and local requirements.
- B. In any event, the system shall not endanger or interfere with the safety of person or property in the franchise area. In particular, grantee shall substantially comply with all local, state or federal laws or regulations which govern cable plant signal leakage or interference with communications media. Any antenna structures used in the cable television system shall comply with all construction, marking and lighting of antenna structure requirements of the United States Department of Transportation. All working facilities, conditions and procedures used during construction, installation and maintenance of the cable television system shall comply with the standards of

§ A182-13. Rates, service and charges.

A schedule setting forth the initial rates, services and charges to be made to subscribers for basic cable service, including connection and service rates, shall be attached hereto as Schedule A (§ A182-19). Rates for motels, hotels, rooming houses, trailer courts, hospitals and rest homes are to be negotiated. Rates shall not be regulated by the Township, unless authorized by federal and/or state laws.

§ A182-14. Miscellaneous provisions.

- A. When not otherwise prescribed herein, all matters herein required to be filed with the Township shall be filed with the Township Secretary.
- B. Outlets -- services.
 - (1) The grantee shall provide without charge one outlet of basic cable service to each governmental office building, fire station, police station and public school building that is passed by its cable television system. The outlets of basic cable service shall not be used to distribute or sell cable services in or throughout such building; nor shall such outlets be located in common or public areas open to the public. Users of such outlets shall hold grantee harmless from any and all liability or claims arising out of their use of such outlets.
 - (2) Notwithstanding the above, the grantee shall not be required to provide an outlet to such buildings where the drop line from the feeder cable to said buildings or premises exceeds 76.20 cable meters (250 cable feet), until it is technically and economically feasible to do so. In the event that additional outlets of basic cable television service are provided to such buildings, the building owner shall pay the usual installation and service fees associated therewith.
- C. In the case of any emergency or disaster, the grantee shall, upon request of the Township, make available its facilities to the Township or other agency, to provide emergency information and instructions during the emergency or disaster period. The Township shall hold the grantee, its agent, employees, officers and assigns hereunder harmless from any claims arising out of the emergency use of its facilities by the Township or other agency.
- D. Grantee shall be prohibited from directly or indirectly initiating or using any form, procedure or device for procuring information or data from subscribers' premises by use of the system without prior written authorization from each subscriber so affected. Authorization shall mean written approval from the subscriber of the specific use or purpose for which the information is sought. Said authorization shall not have been obtained from subscriber as a condition of service. Further, it shall be unlawful for the grantee, without such authorization, to activate or utilize any transmission path from the subscriber's premises, in a manner which invades subscriber's right of privacy or for which grantee has no authorization. However, grantee shall have the right to utilize any transmission path to verify the technical integrity and quality of performance of the cable television system. The provisions of this subsection shall not apply to the collection of information solely for billing purposes or to monitor whether there is unauthorized reception of the broadcast signal.
- E. If the Federal Communication Commission (FCC), or any other federal or state body or agency shall now or hereafter exercise any paramount jurisdiction over the subject matter of this chapter, then to the extent such jurisdiction shall preempt or preclude the exercise of like jurisdiction by the Township, jurisdiction of the Township shall cease and no longer exist.
- F. No person, firm or corporation within the franchise area of the grantee, and where trunk lines are in place, pursuant to §§ A182-7 and A182-9 hereof, shall be refused cable service; provided, however,

that the grantee shall not be required to provide service to any subscriber who does not pay the applicable connection fee or service charge.

- G. If at any time the grantee's cable television system or other equipment is disturbed, damaged or severed by a third party, the cost of repair shall be paid by the party responsible for said damage. The grantee may charge the responsible party for the cost of labor and materials expended by grantee to repair said damage or replace damaged cable plant. The Township will cooperate with the grantee in enforcing any charge or penalty arising from such damage to grantee's property.

§ A182-15. Equal opportunity employment and affirmative action plan.

The grantee shall substantially comply with all valid and applicable requirements of the federal or state government regarding equal employment policies and practices.

§ A182-16. Violations.

- A. From and after the effective date of this chapter, it shall be unlawful for any person to construct, install or maintain within any public way in the Township, or within any other public property of the Township, or within any privately owned area within the Township which has not yet become a public way but is designated or delineated as a proposed public way on any tentative subdivision map approved by the Township, any equipment or facilities for distributing any television signals or radio signals through a cable television system, unless a franchise authorizing such use of such public way or property or area has first been obtained pursuant to the provisions of this chapter, and unless such franchise is in full force and effect.
- B. It shall be a summary offense for any person, firm or corporation to create or make sure use of an unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the franchised cable television system within this Township for the purpose of enabling such person, firm or corporation or third parties to receive or use any cable services without payment to the grantees.
- C. It shall be a summary offense for any person without the consent of the grantee, to willfully tamper with, remove or injure any property, equipment or part of the cable television system or any means for receiving cable services.
- D. Said violations are punishable, upon conviction, by a fine of not more than \$500 and as otherwise prescribed by law.
- E. The Township shall cause its legal enforcement staff to cooperate fully in the enforcement, prosecution and conviction of persons found to have violated the criminal law applicable to cable service and the cable television system.

§ A182-17. Notices.

- A. All notices required herein shall be in writing and shall be deemed to have been fully received by the required party three business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a post office or branch thereof, regularly maintained by the U.S. Postal Service. The notice shall be addressed as follows:

IF TO TOWNSHIP
Township Secretary
Somerset Township

B. The parties may designate other addresses from time to time by giving notice to the other.

§ A182-18. Acceptance of franchise; effective date.

- A. Grantee shall file its written notice of acceptance of a franchise with the Township Secretary within 30 days after the passage and adoption of this chapter.
- B. The effective date of the franchise agreement shall be the date of the grantee's written notice of acceptance.

§ A182-19. Schedule A, Rates, Service, etc.

A. The franchise agreement entered into between the Township and the franchisee shall designate the franchise area, the dates of beginning and completion of construction work when weekly reports regarding electronic rebuilds and FCC applications for additional satellite services or services are to be presented to the Township Secretary, a listing of what service shall be available, which shall include the call letters, channel number, origination point, and network and shall also designate when the same shall become available, and a statement as to what is contained in the basic cable package. The grantee shall have the right to make changes in its satellite programming if it is unable to negotiate a contract with the program suppliers or if a program supplier goes out of business.

B. Rates.

- (1) The rates referred to in this chapter shall be established in the underlying franchise agreement based on the following categories.

Commission Fees:

First Outlet

Each Additional Outlet

Relocation of an Outlet

Reconnection of an Outlet

- (2) The rates for said items, as referred to above, shall be specified in the franchise agreement. The initial rates, as established by the franchise agreement, may be increased annually by a maximum of 5%; provided, however, that this percentage does not exceed the percentage increase of the consumer price index for all items for the Pittsburgh area for the proceeding 12 months subject to the terms and conditions contained in § A182-12 above.
- C. Adjustments which exceed the 5% limit, may be increased only with prior approval of the Supervisors after a public hearing if the FCC permits Supervisor approval in said matter. The Supervisors approval of said rate increase shall not be unreasonably withheld.
- D. The grantee shall have the right to negotiate separate rates with the owners of motels, hotels, rooming houses, apartment houses, trailer courts, hospitals, and rest homes, however, a uniform rate shall be established.

E. In addition, the grantee may make available to its subscribers, one or more of the following pay TV services: Home Box Office, Showtime, Disney Channel, Cinemax, ESPN, The Movie Channel and

the like.

- F. As to said optional services, the grantee has reserved the right to establish the monthly rates for said services, subject to the approval of the Board of Supervisors, which shall not be unreasonably withheld.

§ A182-20. Agreement.

A franchise agreement shall be entered into between the Township and the grantee or franchisee which shall encompass the terms contained in this chapter. However, no franchise granted pursuant to this chapter shall become effective until said franchise agreement has been duly executed and approved by the Board of Supervisors.

§ A182-21. Enactment.

By the enactment of this chapter and the execution of any franchise agreement, the Township and/or Supervisors is not binding the Township nor agreeing on behalf of the Township to commence, prosecute or maintain any action on behalf of the grantee and/or franchisee for purposes of obtaining rights-of-way through eminent domain or otherwise.

§ A182-22. Severability.

In the event any portion of this chapter should be deemed ineffective, void or voidable, as being contrary to public policy or in violation of any law, statute or regulation, then the invalidity or voidability of such section shall not work or serve as a revocation or invalidation of the entire chapter, but rather only that portion or section which is effected thereby, shall be deemed to be ineffective or invalid.

DERIVATION TABLE

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where chapters and articles of the 1990 Code have been included in the 2009 Code, or the reason for exclusion.

§ DT-1. Derivation Table of 1990 Code to 2009 Code

- NCM = Not Code material (legislation is not general or permanent in nature).
- REP = Repealed effective with adoption of Code; see Ch. 1, Art. I.
- NI = Not included in Code but saved from repeal.
- NLP = New legislation is pending.

| Chapter/Title From 1990 Code | Location in 2009 Code |
|---|------------------------------|
| Chapter 1, Administration and Government | |
| Part 1, Somerset Township Water and Sewer Authority | Ch. 11, Art. I |
| Part 2, Firemen's Relief Association | Ch. 18 |
| Part 3, Planning Commission | Ch. 37 |
| Part 4, Compensation | Ch. 44, Art. I |
| Part 5, Nonuniformed Employees' Pension Plan | Ch. 32, Art. I |
| Chapter 2, Animals (reserved page) | Omitted |
| Chapter 3, Bicycles (reserved page) | Omitted |
| Chapter 4, Buildings | |

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| Part 1, Permit Required for Erecting, Altering or Razing any Building | Ch. 65 |
| Part 2, Dangerous Structures | Ch. 69 |
| Chapter 5, Code Enforcement (reserved page) | Omitted |
| Chapter 6, Conduct | |
| Part 1, Lewd Material | Ch. 76, Art. I |
| Part 2, Prohibition of Littering | Ch. 102 |
| Chapter 7, Fire Prevention and Fire Protection (reserved page) | Omitted |
| Chapter 8, Floodplains | Ch. 88 |
| Chapter 9, Grading and Excavating (reserved page) | Omitted |
| Chapter 10, Health and Safety | |
| Part 1, Junked or Abandoned Vehicles | Ch. 112 |
| Chapter 11, Housing (reserved page) | Omitted |
| Chapter 12, Libraries (reserved page) | Omitted |
| Chapter 13, Licenses, Permits and General Business Regulations | |
| Part 1, Regulating and Licensing Mechanical Amusement Devices | Ch. 53 |
| Part 2, Regulating and Licensing of Junk Dealers | Ch. 95 |
| Part 3, Cable Television | Ch. A182 |
| Chapter 14, Mobile Homes and Mobile Home Parks | Ch. 109 |
| Chapter 15, Motor Vehicles | Ch. 152 |
| Chapter 16, Parks and Recreation (reserved page) | Omitted |
| Chapter 17, Planned Residential Development (reserved page) | Omitted |
| Chapter 18, Sewers and Sewage Disposal | |
| Part 1, Regulating the Use of Holding Tanks | Ch. 116, Art. III |
| Part 2, Regulating Public Sanitary Sewers | Ch. 116, Art. II |
| Part 3, Regulating Individual Sewage Systems | Ch. 116, Art. I |
| Chapter 19, Signs and Billboards (reserved page) | Omitted |
| Chapter 21, Streets and Sidewalks | |
| Part 1, Opening of Street | Ch. 133, Art. I |
| Part 2, Curb Cuts and Driveway Construction | Ch. 133, Art. II |
| Chapter 22, Subdivision and Land Development | Ch. 138 |
| Chapter 23, Swimming Pools (reserved page) | Omitted |
| Chapter 24, Taxation, Special | |
| Part 1, Realty Transfer Tax | Ch. 145, Art. V |
| Part 2, Per Capita Tax | Ch. 145, Art. II |
| Part 3, Amusement Tax | Ch. 145, Art. IV |
| Part 4, Earned Income Tax | Ch. 145, Art. I |
| Part 5, Occupational Privilege Tax | Ch. 145, Art. III |
| Chapter 25, Trees (reserved page) | Omitted |
| Chapter 27, Zoning | Ch. 180 |

DISPOSITION LIST

The following is a chronological listing of legislation of the Township of Somerset adopted since the publication of the Code, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).] The last legislation reviewed for the original publication of the Code was Ord. No. 2-2009, adopted 5-13-2009.

§ DL-1. Disposition of legislation.

Enactment Adoption Date Subject Disposition

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- ⁱ Editor's Note: Exhibit A is on file in the Township Offices.
- ⁱⁱ Editor's Note: The "Somerset Township Water Line Project - 84 Area."
- ⁱⁱⁱ Editor's Note: The Municipality Authorities Act of 1945 was repealed 6-19-2001 by P.L. 287, No. 22. See now 53 Pa.C.S.A. § 5601 et seq.
- ^{iv} Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- ^v Editor's Note: See 53 P.S. § 895.701 et seq.
- ^{vi} Editor's Note: See 53 Pa.C.S.A. § 2301 et seq.
- ^{vii} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{viii} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{ix} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^x **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xi} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xii} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xiii} Editor's Note: See 35 P.S. § 750.1 et seq.
- ^{xiv} Editor's Note: See 32 P.S. § 693.1 et seq.
- ^{xv} Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- ^{xvi} Note: State DEP regulations require persons to apply to the state for a license when a junkyard is to be within 1,000 feet of a federal highway.
- ^{xvii} Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- ^{xviii} Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- ^{xix} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xx} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xxi} Editor's Note: See 2 Pa.C.S.A. §§ 551 et seq. and 751 et seq.
- ^{xxii} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xxiii} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xxiv} Editor's Note: See 35 P.S. § 750.1 et seq.
- ^{xxv} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xxvi} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xxvii} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xxviii} Editor's Note: See 35 P.S. § 691.1 et seq.
- ^{xxix} Editor's Note: See 2 Pa.C.S.A. §§ 551 et seq. and 751 et seq.
- ^{xxx} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xxxi} Editor's Note: See 35 P.S. § 6018.101 et seq.
- ^{xxxii} Editor's Note: See 53 P.S. § 4000.101 et seq.
- ^{xxxiii} Editor's Note: See 35 P.S. § 4001 et seq.
- ^{xxxiv} Editor's Note: Original Section 106, Licensing requirements, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- ^{xxxv} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xxxvi} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xxxvii} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xxxviii} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xxxix} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xl} **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- ^{xli} Editor's Note: 53 P.S. § 10101 et seq.
- ^{xlii} Editor's Note: The Act of May 2, 1945 (P.L. 382, No. 164), was repealed by Act 22 of 2001. See now 53 Pa.C.S.A. § 5601 et seq.
- ^{xliii} Editor's Note: See 53 P.S. § 10101 et seq.
- ^{xliv} Editor's Note: The Act of July 3, 1986 (P.L. 388, No. 84), was repealed 10-15-1998 by P.L. 729, No.

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93. See now 65 Pa.C.S.A. § 701 et seq.
- xliv Editor's Note: Appendix A is included at the end of this chapter.
- xlvi Editor's Note: Appendix A is included at the end of this chapter.
- xlvii Editor's Note: Appendix A is included at the end of this chapter.
- xlviii Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- xlix Editor's Note: See 53 P.S. § 10501.
- ¹ Editor's Note: See 53 P.S. § 6913, I.
- li Editor's Note: See 53 P.S. § 6913, III, A and B.
- lii Editor's Note: See 53 P.S. § 6913.
- liii Editor's Note: See now 53 P.S. § 6913, V, (a) through (h).
- liv Editor's Note: See 53 P.S. § 6913, VII, (a) through (c).
- lv Editor's Note: See 53 P.S. § 6913, VIII.
- lvi Editor's Note: See 53 P.S. § 6913, IX, (a) through (d).
- lvii Editor's Note: See 53 P.S. § 6901 et seq. and 53 P.S. §§ 6924.101 to 6924.312.
- lviii Editor's Note: See 53 P.S. § 6901 et seq. and 53 P.S. §§ 6924.101 to 6924.312.
- lix Editor's Note: See 72 P.S. § 5511.1 et seq.
- lx Editor's Note: See 53 P.S. § 6901 et seq. and 53 P.S. §§ 6924.101 to 6924.312.
- lxi **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- lxii Editor's Note: See 53 P.S. § 6901 et seq. and 53 P.S. §§ 6924.101 to 6924.312.
- lxiii Editor's Note: See 53 P.S. § 6901 et seq. and 53 P.S. §§ 6924.101 to 6924.312.
- lxiv Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- lxv **Editor's Note: See also Ch. 53, Amusement Devices.**
- lxvi **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- lxvii **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- lxviii **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- lxix Editor's Note: See now 53 P.S. § 6901 et seq. and 53 P.S. §§ 6924.101 to 6924.312.
- lxx Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- lxxi Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- lxxii Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- lxxiii Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- lxxiv Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- lxxv Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- lxxvi Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- lxxvii Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- lxxviii Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- lxxix **Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).**
- lxxx Editor's Note: See 75 Pa.C.S.A. § 101 et seq.
- lxxxi Editor's Note: Original Section 109, Authorization for use of speed timing devices, which immediately followed this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- lxxxii Editor's Note: See 75 Pa.C.S.A. § 3323(b).
- lxxxiii Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- lxxxiv Editor's Note: See 75 Pa.C.S.A. § 4902(a).
- lxxxv Editor's Note: See 75 Pa.C.S.A. §§ 4902(a) and (g)(1).
- lxxxvi Editor's Note: See 75 Pa.C.S.A. § 4902(a).
- lxxxvii Editor's Note: See 75 Pa.C.S.A. §§ 4902(a) and (g)(1).
- lxxxviii Editor's Note: See 75 Pa.C.S.A. § 4902(b).
- lxxxix Editor's Note: See 75 Pa.C.S.A. §§ 4902(b) and (g)(1).
- xc Editor's Note: See 75 Pa.C.S.A. § 101 et seq.
- xcii Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- xciii Editor's Note: Said documents are on file in the Township offices.

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- xciii Editor's Note: See 53 Pa.C.S.A. § 5601 et seq.
- xciv Editor's Note: A copy of the Zoning Map is included at the end of this chapter.
- xcv Editor's Note: Table 201 and a copy of the Zoning Map are included at the end of this chapter.
- xcvi Editor's Note: Table 201 is included at the end of this chapter.
- xcvii Editor's Note: Table 201 is included at the end of this chapter.
- xcviii **Editor's Note: See also Ch. 88, Floodplain Management.**
- cxix Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- c **Editor's Note: See also Ch. 88, Floodplain Management.**
- ci **Editor's Note: See also Ch. 88, Floodplain Management.**
- cii Editor's Note: So in original; missing wording.
- ciii Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- civ Editor's Note: Table 201 is included at the end of this chapter.
- cv **Editor's Note: See also Ch. 109, Mobile Homes and Mobile Home Parks.**
- cvi **Editor's Note: See also Ch. 109, Mobile Homes and Mobile Home Parks.**
- cvii Editor's Note: Original Subsection 1B, regarding challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- cviii Editor's Note: See 53 P.S. § 10101 et seq.
- cix Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- cx Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- cxii Editor's Note: See Ch. 138, Subdivision and Land Development.
- cxiii Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).
- cxiiii Editor's Note: The original definition of "family business," which immediately followed this definition, was repealed 11-10-1997 by Ord. No. 4-1997.
- cxv Editor's Note: Said statute was repealed by Act 22 of 2001. See now 53 Pa.C.S.A. § 5601 et seq.
- cxvi Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).