

Delaware County, PA
Wednesday, December 4, 2019

The Charter

Chapter C. Charter

[HISTORY: Approved 5-20-1975 by the voters of Delaware County at referendum; effective 1-5-1976. Amendments noted where applicable.]

PREAMBLE

We the citizens of Delaware County, in the Commonwealth of Pennsylvania, do hereby accept the grant of power of self government offered under the Home Rule Charter and Optional Plans Law of 1972^[1] and do ordain and establish thereunder this Home Rule Charter. To the maximum extent consistent with the Constitution of the United States of America, the Constitution and laws of the Commonwealth of Pennsylvania, and the legal rights and powers of cities, townships, boroughs, and school districts, we do confer by this Charter, upon the government of the County of Delaware the following powers, subject to the following restrictions, and prescribe for it the following governmental structure, offices and general procedures.

[1] *Editor's Note: See now Home Rule Charter and Optional Plans Law, 53 Pa.C.S.A. § 2901 et seq.*

Article I. Applicability and Legal Status

Section 101. Legal applicability.

This Charter and all subsequent amendments thereto shall define the powers and establish the form of government for the County of Delaware in the Commonwealth of Pennsylvania. The Charter is the basic law of the County and is restricted only by the precedence of the Constitution and laws of the Commonwealth of Pennsylvania where these constitutions and laws supersede the provisions of this Charter. The Commonwealth of Pennsylvania hereafter shall be referred to as the "Commonwealth," and the County of Delaware shall be referred to as the "County." This Home Rule Charter shall be hereinafter referred to as the "Charter," and the term County Council shall hereinafter be referred to as "Council."

Section 102. Status.

Under this Charter, the County shall continue to be a body politic and corporate and to act for the Commonwealth in the execution of Commonwealth programs within the County's boundaries.

Section 103. Boundaries.

The boundaries of the County under this Charter shall continue to be its boundaries as prescribed by or pursuant to the laws of the Commonwealth.

Section 104. County seat.

The seat of the County government shall continue to be in the Borough of Media.

Article II. Powers of the County

Section 201. General grant of power.

The County shall continue to possess all powers now vested in it by law, and in addition, the County shall have and may exercise any power or perform any function not expressly denied by or inconsistent with the Constitution of the United States, the Constitution and laws of the Commonwealth, or provisions of this Charter.

Section 202. Preservation of powers of local governments.

Nothing in this Charter shall be construed so as to interfere with the rights and powers of cities, townships, boroughs and school districts.

Section 203. Vesting of powers.

The governing body of the County shall be the County Council and the legislative power of the County is vested in and exercisable only by the County Council. All other powers of the County not vested elsewhere by this Charter are also vested in the County Council.

Section 204. Services and functions.

This Charter does not authorize, and should not be construed or constructed to authorize any elimination of services or abolishment of functions presently mandated by law.

Article III. Elected Charter Officials

Section 301. Elected offices.

The offices to be filled by election pursuant to this Charter are the County Council, District Attorney, Controller, Sheriff and Register of Wills.

Section 302. Qualifications for elected offices.

All elected officers in County government shall be registered electors in the County. They shall have attained the age of 25 years and shall have been domiciled in the County for a period of at least two consecutive years prior to the date of nomination to candidacy for County office. Candidates for District Attorney and Register of Wills shall be learned in the law and admitted to the practice of law in the Commonwealth at the time of election to office and throughout the term of office. Except as otherwise provided herein, the term of office for all elected officers shall be four years from the first Monday of January next after their election and until their successors shall be duly qualified: no elected official may serve more than two full elective terms in the same office, or a combined total of 10 years service in the same office, whichever is greater.

Section 303. Compensation.

Compensation for elected County officers shall be fixed by Council; provided, however, that if Council proposes to either raise or reduce the compensation or salary for any elected office, such action shall be finally passed or adopted prior to the last day for filing of nominating petitions for election to said office. Council shall not raise or reduce the compensation or salary for any elected office to be effective during the then current term of said office.

Section 304. Vacancies.

- a. In the case of a temporary vacancy in an elected office of County government, Council may temporarily fill the vacancy for periods not exceeding six months. Thereafter, Council may review and continue the temporary appointment in six month segments.
- b. In the case of a permanent vacancy in any elected County office, except for the office of District Attorney, such as caused by death, illness, physical incapacity, forfeiture of office, removal from office, or resignation, Council shall appoint a successor who shall serve, if the term to which he has been appointed would have continued so long, for an appointed term ending on the first Monday of January following the next municipal election more than 10 months after the vacancy occurs. The vacancy for the remainder of the original elected term shall be filled by election at the first municipal election which takes place more than 10 months after the vacancy occurs. Upon a determination by Council that a permanent vacancy exists, appointment of a successor shall ensure within 30 calendar days thereof. In the event Council has not appointed a successor within 30 calendar days and upon petition of 20 duly registered electors of the County, the successor shall be appointed by the Court of Common Pleas. In the case of a permanent vacancy in the office of District Attorney, the Judges of the Court of Common Pleas shall fill such vacancy.

Section 305. Forfeiture of office.

- a. Elected officers and those appointed to fill a vacancy in an elected office shall forfeit the right to continue in office upon proven malfeasance, misfeasance, non-feasance, conviction of a crime involving moral turpitude under the laws of this Commonwealth or any other state, or the laws of the United States, behavior determined by Council to be inconsistent with the County Code of Ethics^[1] or assumption of domicile outside the County.
[1] *Editor's Note: See Charter Section 1017, Code of Ethics.*
- b. Upon determination by Council that cause exists for removal from elective office, as stated in Section 305(a) above. Council shall by affirmative vote of four members, issue a discharge resolution dismissing the elected official from office.
- c. Delivery of a resolution leading to discharge of the elected officer from his office shall be in the form of a Bill of Particulars stating the Council's findings and removal determination. The discharge resolution shall not be effective until 30 calendar days have elapsed from the time and date of its delivery to the elected officer.
- d. In the event of a response to the discharge resolution in a rejoinder conveyed to Council by the elected officer within 20 days of receipt of a discharge resolution, Council may then only effectuate the discharge resolution upon an affirmative vote of four members taken within 10 days of receipt of the rejoinder.
- e. The elected officer, upon receipt of a discharge resolution from Council, may also petition for judicial review within 30 days of receipt of a discharge resolution. Such petitions by the elected officer shall be adjudicated on the standard of whether or not Council's discharge action was arbitrary and capricious action. The burden of proof shall reside with the elected officer when such petitions are adjudicated.

- f. During the said thirty-day interim, or during the period between submission of a rejoinder and response of Council in a vote on the rejoinder, the elected officer shall retain full authority of his office in respect to the conduct of official business.
- g. The right of the elected officer to petition for judicial review of the discharge resolution shall expire 31 days after his receipt of the discharge resolution.

Section 306. Oath of office.

All County officers shall voluntarily execute an oath or affirmation of office as prescribed by County ordinance or Commonwealth laws.

Article IV. County Council

Section 401. Composition.

The County Council shall be composed of five members nominated and elected from the County at large.

Section 402. Elections of Council.

- a. Council members shall serve staggered four year terms of office. At the first municipal election of the Council held pursuant to this Charter, two seats on Council shall be nominated and filled to serve four year terms.
- b. Elections to Council will be held at two year intervals after the first Council election. Three seats shall be filled at the second election of Council held pursuant to this Charter while two seats shall be filled at the third election. This sequence of staggered elections shall be then continued in subsequent elections of Council.

Section 403. Organization of Council.

Council shall hold an organization meeting on the first Monday of January of each even-numbered year at which time it shall elect one of its members as Chairman and another member as Vice Chairman. In any year when the first Monday of January is a legal holiday, the organization meeting shall be held on the following day. Council may transact any other business it may deem necessary at the organization meeting.

Section 404. Quorum.

A majority of Council shall constitute a quorum for the transaction of business and, at any meeting at which a quorum is present, any ordinance, resolution or motion may be acted upon by a majority vote of the members of the Council present, unless a larger number is required by a provision of this Charter.

Section 405. Meetings.

- a. Council shall adopt and publish rules for the conduct of its meetings.

- b. Council's rules for the conduct of public meetings shall be consistent with provisions of Commonwealth law requiring that meetings of the governing body of a County be open to the public and further requiring public notice of such meetings.

Section 406. Chairman and Vice Chairman.

The Council Chairman shall preside at all meetings of Council. The Chairman may also appoint committees of two or more members of Council at any time to investigate and report upon such matters as the Chairman deems necessary to the effective execution of business. In the event of absence or incapacity of the Chairman, the Vice Chairman shall exercise the Chairman's duties.

Section 407. Council staff.

The staff of Council shall consist of the County Clerk and such other assistants and clerks as may be required and appointed from time to time. Staff support shall be equitably apportioned among the members of Council. Council may also, subject to budgetary restraints, employ legal, financial or other professional assistance to supplement its regular staff and serve Council as a whole.

Section 408. Powers and duties.

The legislative power of the County, including residual powers and any powers now conferred or which may hereafter be conferred upon the County by the Constitution or laws of the Commonwealth, shall be exclusively vested in and exercised by Council, subject only to the provisions of this Charter. Council shall have, but not by way of limitation, the following powers:

- a. To adopt, amend or repeal a County Administrative Code.^[1]
[1] *Editor's Note: See Ch. 6, Administrative Code.*
- b. To authorize and conduct inquiries and investigations into the operations of County government departments, boards and offices in aid of its legislative powers and assessments.
- c. To adopt all necessary rules and regulations governing meetings and administrative procedures of Council.
- d. To make appropriations, levy taxes, incur indebtedness, adopt the annual County budgets and establish fees.
- e. To compel the attendance of witnesses and the production of documents and other evidence.
- f. To set the compensation and number of employees in each entity of the County government.
- g. To purchase, acquire by gift, or otherwise, hold, lease, let and convey, by sale or lease, such real or personal property as shall be determined to be in the best interests of the County.
- h. To establish and abolish, by resolution, boards and commissions of the County government, except for such boards and commissions as may be prescribed elsewhere by this Charter.
- i. To establish, abolish or reorganize departments and/or programs as required to promote efficiency and economy; except that any reorganization shall not eliminate any departmental functions or programs established by this Charter.
- j. To provide for enforcement of all ordinances.

- k. To provide for a personnel management system governing grievance procedures, personnel appointments, reappointments and dismissals.
- l. To appoint County officers, including the County Executive Director, heads of Administrative departments, and heads of departments falling under the direct supervision of the Council, and further to fill vacancies in elective offices as herein provided.
- m. To legislate in respect to intergovernmental programs involving negotiations with units of state, local and federal government.
- n. To enter into agreements with units or groupings of local governments with respect to establishment, revisions or cancellation of service agreements.
- o. To legislate concerning County participation in development programs including but not limited to mass transit, housing, land use, waste disposal and cultural developments.
- p. To approve and authorize annual County operating and capital budgets.

Section 409. Actions of Council.

Council shall decide which actions will be by ordinance and which by resolution except that acts of permanent policy, and acts which provide for raising revenue, appropriating funds or incurring indebtedness, and acts which provide a penalty or establish a rule or regulation for the violation of which a penalty is imposed, shall be by ordinance.

Section 410. Introduction of bills.

A bill may be introduced by any Council member or by Council as a whole. Each bill shall be submitted in writing and shall be limited to one subject which shall appear in the title. Any amendments to a bill shall be germane to the bill's subject.

Section 411. Adoption of ordinances.

- a. No ordinance shall be adopted without a public hearing after public notice.
- b. With the exception of emergency ordinances, before an ordinance is adopted it shall be read during regular meetings of Council on two different days at least six calendar days apart.
- c. The reading of an ordinance shall be full and distinct unless:
 - (1) A copy of it is available for each person at the meeting who desires a copy, and
 - (2) The Council directs that the reading be by title and summary only.
- d. An ordinance to meet an emergency may be introduced, read once, and put on its final passage at a single Council meeting by unanimous consent of all the Council members present. An emergency shall be defined as any threat to health, safety and welfare, domestic insurrection, natural disasters, civil unrest, war, or such other conditions which in the judgment of Council justify a determination of emergency.
- e. All final actions in adopting ordinances, resolutions or motions shall be by roll call vote. The vote of each member shall be recorded in the minutes of the meeting.
- f. Time of effect.

- (1) A non-emergency ordinance shall take effect on the tenth day after it is adopted unless a later date is prescribed for it to take effect.
 - (2) An emergency ordinance may take effect immediately upon approval of the Council.
- g. Public notice stating the title and effective date of each ordinance shall be given not more than 10 days after adoption of the ordinance.

Section 412. Appointments of Council.

Departments, offices, boards, commissions and authorities established under this Charter fall under the appointive authority of Council and include entities formerly supervised by the Board of Commissioners or formerly but no longer elected as independent offices. Where provisions of this Charter require the presence of minority party representation on a board or commission, the member to be appointed shall be chosen from a list of three nominees submitted by the County chairman of the party receiving the second ranking total vote cast in the most recent municipal election.

Section 413. County Clerk.

The County Clerk is successor to the office of Chief Clerk. The County Clerk's duties include the recording, certification and implementation of Council's actions. In all other respects, the statutory duties of Chief Clerk are retained in the office of County Clerk. Council may assign to the County Clerk, from time to time, additional duties as required.

Section 414. Coroner.

Except as otherwise provided in this Charter, the Coroner shall have all the powers and duties granted by Commonwealth law, by laws applicable to Counties of the Second Class A for Coroners, by this Charter or by ordinance of Council. The Coroner shall be licensed to practice medicine in the Commonwealth.

Section 415. Recorder of Deeds.

Except as otherwise provided in this Charter, the Recorder of Deeds shall have all the powers and duties granted by Commonwealth law, by laws applicable to the Second Class A^[1] for Recorders of Deeds, by this Charter or by ordinance of Council.

[1] *Editor's Note: So in original; should read "laws applicable to Counties of the Second Class A."*

Section 416. Jury Commissioners.

Except as otherwise provided in this Charter, the Jury Commissioners shall have all the powers and duties granted by Commonwealth law, by laws applicable to Counties of Second Class A for Jury Commissioners, by this Charter or by ordinance of Council. Appointees to the Jury Commission shall number two and shall include one appointee representing the party with the largest total vote cast in the most recent County municipal election and one appointee representing the party with the second ranking vote cast in the most recent County municipal election. Compensation for services of the Jury Commissioners is set at the rate of \$50 per diem not to exceed \$1,250 per Commissioner in any calendar year. The term of office for Jury Commissioner shall be four years.

[1] *Editor's Note: See also Ch. 88, Jury Commission.*

Section 417. Commissions and authorities.

Council may from time to time, establish and abolish boards, commissions and authorities for the general purpose of providing information, findings of fact, recommendations, and action on matters and problems falling within the legislative responsibility of the Council. Upon appointment, each body shall determine its rules of procedures and shall keep records of its proceedings. The Council may authorize the payment of compensation to members of boards, commissions and authorities. This section does not apply to standing bodies whose permanent existence is authorized by this Charter.

Section 418. Treasurer.

Except as otherwise provided in this Charter, the Treasurer shall have all the powers and duties granted by Commonwealth law, by laws applicable to Counties of the Second Class A for Treasurers, by this Charter or by ordinance of Council. In addition, the functions of real property tax assessments and levy of the County personal property tax accomplished by the Board of Assessment Appeals, together with all staff assigned to the performance of said functions at the time this Charter is implemented, are transferred to the office of the Treasurer. The Seated Lands and Tax Liens programs are assigned to the Treasurer. The Treasurer shall perform such other duties with respect to the collection of County taxes as shall be assigned by Council.

Section 419. Board of Personnel Grievance and Performance Review.

Council shall establish a permanent Board of Personnel Grievance and Performance Review which shall assist Council in the legislative function and provide procedures for the resolution of personnel grievances. The Board shall consist of three members to be appointed by Council for terms of two years. In addition, this Board shall evaluate the performance of all County funded programs and operations. The Board shall conduct performance audits at least once every four years in all entities of the County government. Upon completion of a performance audit, the Board shall make appropriate recommendations to the Council to improve the efficiency or effectiveness of the program or entity reviewed. Qualifications and compensation of the members of the Board shall be as determined by Council.

Section 420. Board of Tax Assessment Appeals.

Council shall establish a Board of Tax Assessment Appeals which shall perform the function of hearing and adjudicating taxpayer appeals from County real property tax assessments. The Boards shall consist of three members to be appointed by Council for terms of two years. The Board shall be convened as required. Qualifications and compensation of the members of the Board shall be determined by Council.

Section 421. Board of Elections.

Council shall establish a Board of Elections. The Board shall be responsible for the registration of electors and the conduct of elections as required by law. The Board shall consist of two appointees representing the party with the largest total vote cast for a seat on Council in the most recent municipal election and one appointee representing the party with the second ranking total vote cast in the most recent municipal election. The term of office for the Board of Elections shall be two years.

Section 422. Legal staff.

Council shall appoint a County Solicitor who shall further have the authority to appoint Assistant County Solicitors in such numbers and at such annual salaries as shall be fixed by Council. The

County Solicitor and Assistant Solicitors shall be learned in the law and admitted to the practice of law in the Commonwealth. This legal staff shall provide legal advice and assistance to all County offices and departments, whether elected or appointed, except for the offices of Controller and District Attorney.

Section 423. Board of Institution Management.

As further detailed in Section 1205, Council shall establish a Board of Institution Management which shall assume responsibility for the management of all lands and buildings, furniture and fixtures, automotive equipment, staff and other resources of the former County Institution District.

Section 424. Public Defender.

- a. Council shall appoint a Public Defender, learned in the law and admitted to the practice of law in the Commonwealth, who shall exercise those powers and duties assigned and/or granted to this office by law, this Charter, or by ordinance.
- b. The Public Defender may appoint such number of assistants, including a first assistant, to assist him in the discharge of his duties. The Public Defender shall determine the number of assistants who shall perform on a full time basis.
- c. The Public Defender shall prepare annual budget requests based on staffing and compensation levels which support full time operations to the extent required, subject to the budgetary approval of Council. The Public Defender may employ part time assistants.

Section 425. Office of Judicial Support.

Council shall establish an Office of Judicial Support which shall combine the offices of Clerk of Courts and Prothonotary. Except as otherwise provided in this Charter, the Office of Judicial Support shall have all the powers and duties granted by Commonwealth law, by laws applicable to Counties of the Second Class A for Clerks of Courts and Prothonotaries, by this Charter or by ordinance of Council.

Section 426. Court House Police.

Council shall establish a Department of Court House Police which shall maintain security, public safety and orderly conditions in respect to buildings and spaces comprising the County Court House complex, facilities and property, employee parking facilities, and such other duties as required to enforce general security in the Court House complex.

Section 427. Executive Director.

Council shall appoint a County Executive Director who shall be responsible for administration and management of departments of County government not directly managed by Council. He shall serve a term of two years and shall be eligible for reappointment to an unlimited number of terms.

- a. **Qualifications.** The County Executive Director shall be selected on the basis of demonstrated administrative qualifications and management competence as determined by Council. Formal education, prior administrative experience, and career attainments are factors which shall be taken into consideration by Council.
- b. **Tenure of Executive Director.**

- (1) The Executive Director shall enjoy undisturbed tenure during the term of appointment. He may be removed from office only for reasons of proven malfeasance, misfeasance, non-feasance, crime involving moral turpitude under the laws of the Commonwealth, or any other states, or the laws of the United States, behavior prohibited by the Charter or under circumstances which, upon resolution of Council, impede or otherwise frustrate the effective and orderly discharge of the duties of the office of the Executive Director.
 - (2) Delivery of a resolution leading to discharge of the Executive Director from his office shall be in the form of a Bill of Particulars stating the Council's findings and removal determination. The discharge resolution shall not be effective until 30 calendar days have elapsed from the time and date of its delivery to the Executive Director.
 - (3) In the event of a response to the discharge resolution in a rejoinder conveyed to Council by the Executive Director within 20 days of receipt of a discharge resolution, Council may then only effectuate the discharge resolution upon an affirmative vote of four members taken within 10 days of the receipt of the rejoinder.
 - (4) The Executive Director, upon receipt of a discharge resolution from Council, may also petition for judicial review within 30 days of receipt of a discharge resolution. Such petitions by the Executive Director shall be adjudicated on the standard of whether or not Council's discharge action was arbitrary and capricious action. The burden of proof shall reside with the Executive Director when such petitions are adjudicated.
 - (5) During the said thirty-day interim, or during the period between submission of a rejoinder and response of Council in a vote on the rejoinder, the Executive Director shall retain full authority of his office in respect to the conduct of official business.
 - (6) The right of the Executive Director to petition for judicial review of the discharge resolution shall expire 31 days after his receipt of the discharge resolution.
- c. Supervision and appointments by the Executive Director. The Executive Director shall have supervision over all departments under his authority except as otherwise provided in this Charter. He may concurrently serve as the head of one or more such departments.
- d. Powers and duties of the Executive Director. The powers and duties of Executive Director with respect to those departments and other entities under his authority include but not by way of limitation:
- (1) Supervision.
 - (2) Authorization of expenditures of County funds for departments under his supervision as well as accounting for such expenditures in accordance with budgetary limitations.
 - (3) Preparation for submission to Council, in coordination with all departments of the County government, of the annual County operating and capital budgets including estimates of revenues, analysis of bond issue requirements, impact statements relating to effects on service delivery of budget disapprovals, and long term, five year forecasts of spending requirements by capital budget program.
 - (4) Execution and enforcement of all resolutions and orders issued by Council and pertaining to operations under his authority.
 - (5) Conduct of intergovernmental liaison programs.
 - (6) Provision of point of access for citizen and group presentation of requests and complaints relative to delivery of County services or execution of County business.

- (7) Appointment of personnel; department heads listed below shall be confirmed by a majority of Council:
- (a) Central Purchasing.
 - (b) County Personnel.
 - (c) Administrative Services.
 - (d) Human Resources.
 - (e) Public Works.
 - (f) Intercommunity Health Coordination.
 - (g) Intergovernmental Programs.
 - (h) Budget Management.
 - (i) Public Relations.
 - (j) Senior Citizen Services.
 - (k) Consumer Affairs.
 - (l) Planning.
- (8) Monthly reporting to Council in respect to matters of County administration, progress of budget execution, and recommendations for legislative authorization when required to insure the efficient and orderly conduct of County affairs.
- e. Removal of department heads. Appointees of the County Executive Director may be removed from office pursuant to procedures stated in the County Administrative Code,^[1] except that department heads appointed by the Executive Director serve at his pleasure and may be removed from office without prior restraint by procedures of the Administrative Code or intervention of the County Council.

[1] *Editor's Note: See Ch. 6, Administrative Code.*

Section 428. Departments managed by Executive Director.

- a. Central Purchasing. The Department of Central Purchasing shall act as contracting officer for the County in the procurement of all supplies and services required for County operations.
- b. County Personnel. The Department of County Personnel shall be responsible for the establishment of duties and qualifications for all positions staffed under merit procedures as specified in the Administrative Code. The Department of County Personnel shall additionally coordinate and oversee the hiring, training, assignment, re-assignment, rotation, performance evaluation, and discharge of all personnel in positions covered by merit procedures. It shall act as a centralized point of interviewing, screening, testing and referral for all persons seeking employment with the County government.
- c. Administrative Services. The Department of Administrative Services shall act as a central source for data processing, management, phone, mail and file services to the County government.
- d. Human Resources. The Department of Human Resources shall be responsible for the delivery of coordinated child care, mental health, and mental retardation services and such other related programs as may be designated by Council from time to time.

- e. **Public Works.** The Department of Public Works shall be responsible for repairs and maintenance of buildings and facilities in the Court House complex, County bridges, operation of the County garage and motor pool, County incinerator operations, and programs of soil and water conservation and snow removal.
- f. **Intercommunity Health Coordination.** The Department of Intercommunity Health Coordination shall be responsible for the County Health Coordination Program, the delivery of emergency health services, mosquito and rodent control, and the County Medical Dispensary.
- g. **Intergovernmental Affairs.** The Department of Intergovernmental Affairs shall be responsible for coordination of governmental activities related to grant and subsidy programs managed by the Commonwealth and federal governments.
- h. **Budget Management.** The Department of Budget Management shall be responsible for execution of the annual budgets approved by Council, including regular reports of findings and recommendations aimed at optimum spending levels.
- i. **Public Relations.** The Department of Public Relations shall be responsible for the County public relations and information program.
- j. **Senior Citizen Services.** The Department of Senior Citizen Services shall be responsible for the delivery of services to assist senior citizens in matters relating to programs and problems of the aged.
- k. **Consumer Affairs.** The Department of Consumer Affairs shall be responsible for the conduct of consumer protection services including the periodic inspection of weights and measures from which the sale of goods and materials is based.
- l. **Planning.** The Department of Planning shall retain all functions and responsibilities formerly assigned to the County Planning Commission.

Article V. District Attorney

Section 501. Election; powers and duties.

The District Attorney shall be elected to a four year term. Except as otherwise provided in this Charter, the District Attorney shall have all the powers and duties granted by Commonwealth law, by laws applicable to Counties of the Second Class A for District Attorneys, by this Charter or by ordinance of Council. The District Attorney shall perform those duties necessary for the proper function of the Office and shall prepare for inclusion in the Administrative Code^[1] an article which sets forth the manner and procedure in which the duties of the District Attorney are to be performed.

[1] *Editor's Note: See Ch. 6, Administrative Code.*

Section 502. Vacancies.

Vacancies in the office of District Attorney shall be filled in the manner prescribed by law prior to adoption of this Charter, or as shall hereafter be provided by law.

Section 503. Appointments.

- a. The District Attorney may appoint such number of assistants as required including a First Assistant, learned in the law, to assist him in the discharge of his duties. The District Attorney shall determine the number of assistants required to perform on a full time basis.

- b. The District Attorney shall appoint and supervise the Criminal Investigation Division whose function it shall be to provide to the District Attorney, local government police departments as requested, and such other law enforcement agencies or authorities as approved by the District Attorney, professional criminal investigative services in support of the County criminal justice system.
- c. The District Attorney may appoint and supervise County detectives who shall have all powers presently conferred by Commonwealth law, who shall be general police officers and shall have all powers conferred on constables by existing laws of the Commonwealth so far as they relate to crime or criminal procedures.

Section 504. Qualifications of detectives.

Prior to the appointment of any person as a detective, the District Attorney shall file with the Office of Judicial Support, the name and photograph of such person, together with an affidavit of such person setting forth the following:

- a. His full name, age, and residency address;
- b. That he is a citizen of the United States of America, and at least 18 years of age;
- c. That he has resided in the County for a period of at least two years immediately preceding the filing of the affidavit;
- d. That he has never been convicted of a crime involving moral turpitude under the laws of this Commonwealth or any other state or the laws of the United States.

Section 505. Compensation.

The District Attorney shall prepare annual budget requests based on staffing and compensation levels which support full time operations, subject to the budgetary approval of Council. The District Attorney may also retain part time assistants.

Article VI. Controller

Section 601. Powers and duties.

Except as otherwise provided in this Charter, the Controller shall have all the powers and duties granted by Commonwealth law, by laws applicable to Counties of the Second Class A for Controllers, by this Charter or by ordinance of Council.

Section 602. Accounts subject to audit.

On a continuing basis, the accounts of all County agencies receiving, disbursing or authorizing the disbursement of County funds, shall be subject to pre-audit and post-audit by the Controller. Upon recommendation by the Controller that an audit by the Commonwealth or by the United States of America is adequate, the County may, by resolution, exempt from County audit an agency whose records and accounts are audited each year by or with the approval of those governments.

Section 603. Special post-audits.

At the request of the Council, Executive Director, or on the initiative of the Controller, special and unscheduled post-audits may be conducted.

Section 604. Accounting.

The Controller shall also advise the Council, other County offices and the Executive Director on a uniform accounting system for all County offices and departments. He shall be responsible to implement and maintain standard accounting procedures for the County government.

Section 605. Annual report.

Within 30 days of the end of each fiscal year, the Controller shall submit a report on the County's revenues and expenditures to the Council and shall submit this report to such other offices as may be required by the Administrative Code.^[1]

[1] *Editor's Note: See Ch. 6, Administrative Code.*

Section 606. Other duties.

The Controller shall perform those duties necessary for the proper function of the office and shall prepare for inclusion in the Administrative Code an article which sets forth the manner and procedure in which the duties of the Controller are to be performed.

Section 607. Appointments.

- a. The Controller shall appoint at least one deputy controller trained or experienced in the art of accountancy and such other assistants as may be required to assist him in the discharge of his duties, subject to the budgetary approval of Council.
- b. The Controller may appoint a solicitor.

Article VII. Sheriff

Section 701. Powers and duties.

Except as otherwise provided in this Charter, the Sheriff shall have all the powers and duties granted by Commonwealth law, by laws applicable to Counties of the Second Class A for Sheriffs, by this Charter or by ordinance of Council.

Section 702. Appointments.

- a. The Sheriff shall appoint, by Commission duly recorded in the Office for Recording Deeds, a Chief Deputy, whose appointment shall be revocable by the Sheriff at pleasure upon recording in said office a signed Revocation thereof. The Chief Deputy, during his continuance in office, shall have full power and authority to perform any duty incumbent upon such Sheriff with like effect in law as if such official act had been done by the Sheriff in person, regardless of the ability or temporary disability of such Sheriff to act while such Sheriff continues in office.
- b. The Sheriff may appoint a real estate deputy to take charge of all matters relating to Sheriff's sales of real estate and distribution of the proceeds thereof, whose appointment shall be made and be

revocable, as hereinbefore provided for the Chief Deputy. Such deputy shall have full power to perform all duties incumbent upon the Sheriff with respect to sales of real estate and distribution of proceeds thereof, in like manner as his Chief Deputy, with like effect in law as if such official act had been done by the Sheriff in person. Such duties shall include the execution and acknowledgment of Sheriff's deeds for real estate upon receipt of the purchase price thereof.

- c. The Sheriff may appoint such deputies and clerks as may be required to assist him in the discharge of his duties, subject to the budgetary approval of Council.
- d. Nothing herein shall operate to relieve the Sheriff or his sureties from liability upon their official bond.

Section 703. Qualifications of deputies.

Prior to the appointment of any persons as a Chief Deputy or any other deputy sheriff, the Sheriff shall file with the Office of Judicial Support, the name and photograph of such person, together with an affidavit of such person setting forth the following:

- a. His full name, age, and residency address;
- b. That he is a citizen of the United States of America, and at least 18 years of age;
- c. That he has resided in the County for a period of at least two years immediately preceding the filing of the affidavit;
- d. That he has never been convicted of a crime involving moral turpitude under the laws of this Commonwealth or any other state or the laws of the United States.

Section 704. Administrative Code.

The Sheriff shall prepare for inclusion in the Administrative Code an article which sets forth the manner and procedure in which the duties of the Sheriff are to be performed.

[1] *Editor's Note: See Ch. 6, Administrative Code.*

Article VIII. Register of Wills

Section 801. Powers and duties.

Except as otherwise provided in this Charter, the Register of Wills shall have all the powers and duties granted by Commonwealth law, by laws applicable to Counties of the Second Class A for Registers of Wills and Clerks of the Orphans Court Division of the Court of Common Pleas, by ordinance of Council.

Section 802. Appointments.

The Register of Wills shall appoint a deputy or deputies and such other assistants as may be required to assist him in the discharge of his duties as Register of Wills and Clerk of the Orphans Court Division of the Court of Common Pleas, subject to the budgetary approval of Council.

Section 803. Administrative Code.

The Register of Wills shall prepare for inclusion in the Administrative Code an article which sets forth the manner and procedure in which the duties of Register of Wills are to be performed.

[1] *Editor's Note: See Ch. 6, Administrative Code.*

Article IX. Financial Management

Section 901. Fiscal year.

The fiscal year of the County shall commence on the first day of January and conclude on the last day in December of each year.

Section 902. Budget preparation.

At least 60 days prior to the beginning of the fiscal year the Executive Director shall prepare and submit in Council an operating budget and capital spending program presenting the financial plan for conducting the affairs of the County for the ensuing year.

Section 903. Public record.

The operating budget and capital spending program shall be public records, available for public inspection after submission to the Council and prior to adoption, and after adoption, during regular business hours.

Section 904. Budget review.

Council or a committee of Council shall review the operating budget and capital spending program and not later than the third Monday of November file with the County Clerk its report including any recommendations proposed therein.

Section 905. Budget hearing.

Not later than the fourth Monday of November, the County Clerk shall give public notice of the time and place of a public hearing on the operating budget and capital spending program. The public hearing will take place between the third and 10th of December at a time and place designated by Council.

Section 906. Adoption of budget.

Council in considering the total budget, may revise, alter, increase or decrease items in the operating and capital budgets. At least 10 days before the beginning of the forthcoming fiscal year, Council shall adopt the total budget. If a total budget has not been adopted, as herein provided, on or before the first day of January, then Council may authorize a continuing spending resolution which shall authorize monthly expenditures not exceeding one twelfth of total expenditures recorded for the fiscal year just completed. Such resolutions shall have the effect of permitting the continued operations of County government, but may not be authorized for a period exceeding three consecutive calendar months, that is, beyond the final calendar day of the month of March. Thereafter, if Council has not adopted the budget, then the total budget as originally submitted by the Executive Director shall be the approved total budget for the current fiscal year.

Section 907. Balanced budget.

When the budget shall have been finally adopted, the Council shall thereupon establish tax rates so that the budget shall be balanced as to revenue and expenditures.

Section 908. Budget modification.

The County Council may by ordinance modify the budget after its final adoption.

Section 909. Independent audit.

Prior to the 31st of December of each year Council shall provide for an independent annual audit of all fiscal affairs of the County government by a certified public accountant, a firm of certified public accountants a competent independent public accountant, or a firm of independent public accountants, who have no personal financial interest, direct or indirect, in County government. Council may provide for more frequent audits, as well as special audits, as it deems necessary. The results of the annual audit and a financial statement of the fiscal affairs of the County shall be presented to Council. A summary of the annual audit and financial statement shall be published in at least one newspaper of general circulation in the County by no later than the first day of April in the year following the audited fiscal year.

Section 910. Capital borrowing.

Council shall have the right to borrow funds for implementation of the County Capital Improvements Program.

Article X. Special Provisions

Section 1001. Official bonds.

- a. Each of the following officers, before entering upon his official duties, whether he is elected, appointed or appointed to till a vacancy, shall give and acknowledge a bond to the County.
 - (1) Each member of Council;
 - (2) County Clerk;
 - (3) Executive Director;
 - (4) Controller;
 - (5) Treasurer;
 - (6) Head Department of Judicial Support;
 - (7) Sheriff;
 - (8) Coroner;
 - (9) Recorder of Deeds;
 - (10) Register of Wills and Clerk of Orphans Court Division of Court of Common Pleas;
 - (11) Probation and Parole Officers required by order of Court to give bond to the County; and

(12) Such other officers as shall be designated by Council.

Every such official bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of the Commonwealth.

- b. Council shall fix the amount of bonds of offices and employees paid from County funds.
- c. Each official bond shall comply with all of the requirements as established for official bonds by Commonwealth law applicable to Counties of the Second Class A. The Controller shall be custodian of all official bonds, except that of his own office which shall be held by Council.

Section 1002. Action of Council.

By no later than December 31, 1976, Council shall approve and enact a County Administrative Code^[1] stating direction and detailed procedures with respect to but not limited to the following:

- a. Dual compensation arising from dual employment of appointed County officers and employees.
- b. Designation of positions by pay level subject to merit hiring, and the specific provisions therefor.
- c. Conflict of interest provisions for appointed officials from the department head level and higher, but also including similar provisions for elected County officers.
- d. Requirement that all elective and appointive County offices require full time service except as otherwise provided in this Charter or the Administrative Code.
- e. Financial management procedures which implement reporting of monthly revenue and spending trends by departments and/or programs.
- f. Organizational structure and general functions of each department in the County government.
- g. Procedures for annual review of County employee pay scales.
- h. Employee grievance appeal procedures.
- i. Procedures for a Board of Merit Review composed of Council Chairman, the Executive Director, Head, Department of County Personnel, County Clerk and representation from the Board of Personnel Grievance and Performance Review. The Board of Merit Review shall be convened when questions arise as to the adequacy of qualifications possessed by an applicant for County employment, or an employee's qualification for promotion or job rotation, or related personnel qualification matters.

[1] *Editor's Note: See Ch. 6, Administrative Code.*

Section 1003. Rights and liabilities of County.

The County shall continue to own, possess, and control all rights and property, of every kind and nature, owned, possessed or controlled by it when this Charter takes effect, and shall be subject to all its debts, obligations, liabilities, and duties.

Section 1004. Continuation.

All ordinances, resolutions, rules and regulations in force when this Charter takes effect, to the extent not in conflict herewith, are hereby continued in force and effect until amended, repealed, superseded, or expired by their own terms. All ordinances and resolutions in continued effect shall be construed as given effect by this Charter, but as of the date of their enactment.

Section 1005. Pending matters.

All rights, claims, actions, orders, contracts and legal or administrative proceedings of the County government shall continue, except as modified pursuant to the provisions of this Charter, and in each case shall be maintained, carried on or dealt with by the County officer or officers, department, office or agency appropriate under this Charter.

Section 1006. Private use of public employees or property.

No officer or employee of the County, elected or appointed, shall direct or compel any other officer or employee of the County to do or perform any private service work outside of his public office or employment. No officer or employee shall perform any such work during the hours he is performing as a County employee; nor shall any officer or employee use or devote any County owned property for any private purpose.

Section 1007. Subpoena power.

Council, the Controller, the District Attorney, and such other officers, commissions, boards, or agencies of the County as Council may provide by ordinance, shall have the power to administer oaths, to compel the attendance of witnesses, and to require the production of records or other materials in connection with any investigation, inquiry or hearing authorized by law or this Charter.

Section 1008. References to County Commissioners.

All references to the County Commissioners in the laws of the Commonwealth of Pennsylvania shall, at such time as the elected members of the first County Council take office, be construed to refer to Council whenever such construction would be consistent with this Charter. Council shall succeed to all legislative powers heretofore residing in the County Commissioner.

Section 1009. Severability.

If any provision of this Charter shall be held by any court of competent jurisdiction to be invalid, such invalidity shall not affect any other provisions of this Charter, it being the intent of the electors of this County that the remaining provisions of this Charter be given full force and effect as completely as if such invalid provision had not been included herein. If the application of this Charter or any provision thereof to any person or circumstance shall be held invalid, the application of the Charter and its provisions to other persons or circumstances shall not be affected thereby.

Section 1010. Amendments.

This Charter may be amended pursuant to the provisions of the Pennsylvania Home Rule Charter and Optional Plans Law, Act of April 13, 1972, No. 62, as amended.^[1]

[1] *Editor's Note: See now Home Rule Charter and Optional Plans Law, 53 Pa.C.S.A. § 2901 et seq.*

Section 1011. Definitions.

As used in this Charter:

- a. Masculine pronouns shall be construed to include the feminine pronoun, and the singular number shall be construed to include the plural whenever the context shall require.
- b. The words "enact" and "adopt" and their derivatives, when used in connection with legislative acts of Council shall mean completion of action by Council in finally approving any item of business.
- c. The word "members" when used in connection with Council shall mean the whole number of persons duly elected and holding office as members of the County Council.
- d. The term "public notice" shall mean notice published in at least one newspaper having at least 35,000 net paid circulation per issue in the County. In the case of a public hearing, such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing, and shall be given not more than 30 days and not less than seven days in advance of such hearing.

Section 1012. Planning and zoning.

The County shall be subject to the provisions of the Pennsylvania Municipalities Planning Code, Act of July 31, 1968, P.L. 805, as amended,^[1] including those provisions that reserve the exercise of planning, zoning, and land development powers to local municipalities.

[1] *Editor's Note: See 53 P.S. § 10101 et seq.*

Section 1013. Debt.

The County shall be bound by the debt limit and other substantive provisions of the Local Government Unit Debt Act, Act of July 12, 1972, No. 185, as amended, of the Commonwealth of Pennsylvania.^[1]

[1] *Editor's Note: The 1972 Local Government Debt Act was repealed 12-19-1996 by P.L. 1158, No. 177. See now 53 Pa.C.S.A. § 8001 et seq.*

Section 1014. Exempted service.

Positions exempted from merit procedures are: (1) elected officers; (2) members of boards, commissions and committees; (3) the heads of offices, boards and departments appointed by Council; (4) the Executive Director; (5) the heads of departments appointed by the Executive Director; (6) temporary, part time, intermittent or seasonal employees; and (7) employees required to be covered by a Commonwealth merit or civil service system.

Section 1015. Safeguard clause.

In no way shall the provisions of this Charter adversely affect the salary, tenure, retirement, employment, vacation, sick leave or other personnel rights of persons employed by the County on the date this Charter becomes effective. Section 1211 further defines the rights of present and former County employees and officers.

Section 1016. Local municipal services.

Any local municipality in Delaware County, by action of its governing body or by initiative and referendum, may withdraw from a County exercise of a power or function, in accordance with the requirements and procedures for withdrawal set forth in the Pennsylvania Home Rule Charter and Optional Plans Law, Act of April 13, 1972, No. 62, as amended.^[1]

[1] *Editor's Note: See now Home Rule Charter and Optional Plans Law, 53 Pa.C.S.A. § 2901 et seq.*

Section 1017. Code of Ethics.

All persons in County service shall maintain a high standard of conduct pursuant to the following Code of Ethics for County government officers and employees:

UPHOLD the Constitution, laws, and legal regulations of the United States, and of the Commonwealth of Pennsylvania as well as the provisions of this Charter, and never be a party to their evasion.

SEEK to employ more efficient and economical ways of accomplishing necessary tasks and functions.

NEVER discriminate unfairly by the dispensing of special favors or privileges to anyone whether for remuneration or not, and never accept for oneself or anyone else favors or benefits under circumstances which may be construed by reasonable persons as conflicting with the honest performance of County duties.

ENGAGE in no business with the County, either directly or indirectly, which is inconsistent with the honest performance of official duties.

NEVER use information obtained confidentially in the performance of official duties as a means for making private profit.

EXPOSE corruption wherever discovered.

UPHOLD these principles recognizing that County office is a public trust.

ENTER into no private agreements which could in any way be construed to be adverse to the public interests.

Article XI. Referendum

Section 1101. Power of referendum.

Council shall have the power to place issues and proposals relating to County policies on the ballot in the form of referendum questions in general; municipal or primary elections in the County. This power is discretionary and may be exercised as deemed necessary or appropriate by Council.

Section 1102. Form of Council referenda.

Council shall place a referendum question on the ballot in the manner prescribed by law.

Section 1103. Adoption of approved referenda.

Referendum questions approved by a majority of the qualified electors shall be effectuated by Council in the form of County ordinances.

Article XII. Transition Provisions

Section 1201. Nature of article.

The provisions of this article shall relate to the transition from the existing commission form of government to the form of government provided in this Charter. Where inconsistent with the preceding articles of this Charter, the provisions of this article shall constitute temporary exceptions thereto.

Section 1202. Effective date.

This Charter shall, upon approval by referendum in the manner provided by law, become effective on the first Monday of January 1976.^[1]

[1] *Editor's Note: The Charter received voter approval at a referendum held 5-20-1975.*

Section 1203. Terms of elective officers not affected by Home Rule Charter.

All County officers elected to office prior to the effective date of this Home Rule Charter shall complete the terms of office to which elected without interruption in the performance of statutory duties caused by application of any provisions of this Charter and shall serve at the salary in effect at the time of their election. No consolidation or abolishment of an elective office or offices shall be authorized by Council while such elective terms remain unexpired, nor shall Council authorize appointment of a successor to such an elective office prior to expiration of his duly elected term of office. Upon completion of terms of office to which elected prior to the date of effect of this Charter, Council may proceed, pursuant to provisions of this Charter, to consolidate or abolish functions and/or formerly elective offices, and may further appoint personnel to supervise and manage the staffs and functions of such formerly elective offices.

Section 1204. First salaries of elected officers.

The annual salaries for the first term, and until otherwise changed by action of Council for the elected officers of the County shall be as follows:

Chairman, County Council	\$30,300
Members, County Council	\$26,700
District Attorney	\$35,000
Controller	\$22,500
Sheriff	\$22,500
Register of Wills	\$22,500

Section 1205. Delaware County Institution District dissolved.

The Delaware County Institution District shall be dissolved on the first Monday of January 1978, and its administrative duties and functions, lands and buildings, records, appropriations, personnel and equipment shall be transferred to the County Council, Board of Institution Management on that date.

Section 1206. Abolishment of Salary Board.

The Salary Board is abolished as of the effective date of this Charter.

Section 1207. Schedule of elections for County officials.

- a. Two members of the County Council shall be elected at the municipal election held November 1977. Three members of the County Council shall be elected at the municipal election held in November 1979. The first elections under this Charter of the Controller, Register of Wills, and Sheriff shall take place in the municipal election of November 1977. The first election under this Charter of the District Attorney shall take place in the municipal election of November 1979.
- b. The three County Commissioners elected to office on November 5, 1975, upon the effective date of this Charter, shall be renamed members of Council and shall perform the duties assigned to members of Council by this Charter and shall serve at the total compensation in effect at the time of their election including that compensation derived from performance of duties related to the management of the County Institution District.
- c. Prior to the first Monday of January 1978, when two additional seats on Council shall have been filled at the first election of Council held under this Charter, the quorum, majority, and removal provisions defined in Article **IV** of this Charter and elsewhere in the Charter shall not be effective. Until such first election shall have resulted in the encumbering of two additional seats on the Council, a quorum of Council shall be two members. A majority and a removal vote shall be two votes. When two additional seats on Council shall have been filled pursuant to the first election of Council under this Charter, the quorum, majority and removal provisions defined in Article **IV** of this Charter and elsewhere in the Charter shall take effect and supersede the foregoing interim quorum, majority and removal provisions; provided that said foregoing interim procedures shall not be effective upon or applicable to elected officers of County government who were elected to County offices prior to the effective date of this Charter.
- d. The foregoing interim quorum, majority and removal provisions shall be effective upon and applicable to the appointed office of County Executive Director.

Section 1208. Offices continued.

All County offices, boards, commissions and committees not abolished by this Charter, and not inconsistent with this Charter, shall retain their existing organization and functions until modified by action of Council pursuant to the provisions of this Charter. Members of the boards and commissions existing on the effective date of this Charter and not abolished by its provisions, shall remain in office for as long as their respective terms continue or until the status of their respective boards or commissions shall be altered by Council.

Section 1209. Continuity.

- a. All County ordinances, resolutions, rules, and regulations which are in force at the time this Charter becomes effective which are not inconsistent with the provisions of this Charter shall continue in force until amended, superseded, or repealed. Unless prohibited by the Constitution of the Commonwealth or an Act of the General Assembly of Pennsylvania, all laws relating to or affecting this County or its agencies, offices, or employees, which are in force when this Charter becomes effective are superseded to the extent that they are inconsistent or interfere with the effective operation of this Charter or of ordinances or resolutions adopted pursuant thereto.
- b. All rights, orders, actions, contracts, and legal or administrative proceedings of, or involving the County government, shall continue, except as modified pursuant to the provisions of this Charter.

Section 1210. Chief Clerk's action.

Upon approval of this Home Rule Charter by the County's voters, the Chief Clerk will record the Charter in the County's ordinance books. The Chief Clerk will also file a certified copy of the Charter in the offices of: The Secretary of the Commonwealth; The Secretary of the Department of Community Affairs; and with the County Board of Elections.

Section 1211. Employees' status and salaries.

- a. Nothing in this Charter shall adversely affect the rights, including pension and retirement benefits, of persons who are County employees on the effective date of the Charter. Nothing in this Charter shall adversely affect the rights or privileges of any former County employee entitled to benefits.
- b. All employees of the County on December 31, 1975, except those holding offices abolished by this Charter, shall continue in employment, at rates of compensation during the year 1976 not lower than their salary levels existing on December 31, 1975, until succeeded or removed by action of Council.

Section 1212. Temporary ordinances.

- a. In adopting ordinances, the County Council shall follow the procedures prescribed in Article **IV**, except that at its first meeting or any meeting held within 60 days thereafter, the Council may adopt temporary ordinances to deal with cases in which there is an urgent need for prompt action in connection with the transition of County government and in which delay of the appropriate ordinance procedure would cause serious hardship or impairment of effective County government. Every temporary ordinance shall be plainly labelled as such but shall be introduced in the form and manner prescribed by Article **IV**.
- b. A temporary ordinance may be considered and may be adopted with or without amendment or rejected at the meeting at which it is introduced, except that the public hearing requirements shall be observed for ordinances of certain types, as prescribed in Article **IV**. After adoption of a temporary ordinance, Council shall cause it to be printed and published as prescribed for other adopted ordinances. A temporary ordinance shall become effective upon adoption or at such later time preceding automatic repeal as it may specify.
- c. Temporary ordinances, including any amendments made thereto after adoption, shall stand repealed as of the 91st day following the date on which it was adopted, and shall not be readopted, renewed or otherwise continued except by adoption in the manner prescribed in Article **IV**.

Section 1213. Sequence of transitional changes.

The following sequence of actions shall be implemented by the County Council upon approval of this Home Rule Charter. While the specific actions listed are not intended to delineate all necessary actions required to implement this Home Rule Charter, the following identify the major transitional actions required for complete implementation:

Action	Completion Date
a. First meeting of Council under provisions of home rule.	First Monday of January 1976
b. First appointments under this Home Rule Charter of: Board of Personnel Grievance and Performance Review, Board of Elections, legal staff.	First Monday of January 1976
c. Establishment of and selection of incumbent for the position of County Executive Director.	Fourth Monday of January 1976

Action	Completion Date
d. Approval of a County Administrative Code. ^[1]	December 31, 1976
e. Establishment or consolidation of County departments under supervision of County Executive Director. These are: Central Purchasing, County Personnel, Administrative Services, Human Resources, Public Works, Intercommunity Health Coordination, Intergovernmental Affairs, Budget Management, Public Relations, Senior Citizen Services, Consumer Affairs, and Planning.	June 30, 1976
f. First nominations of candidates for Council (two).	Primary Election of 1977
g. First elections of members of Council (two).	November 1977
h. Abolishment of the office of Clerk of Courts; establishment of the Office of Judicial Support and Board of Institution Management; transfer of functions of Clerk of Courts to the Office of Judicial Support.	First Monday of January 1978
i. First appointment of County Coroner under this Home Rule Charter; first assumption of office by additional members of Council (two).	First Monday of January 1978
j. Second nominations of candidates for Council (three).	Primary Election of 1979
k. Second elections of members of Council (three).	November 1979
l. First appointments under this Home Rule Charter of: Recorder of Deeds, Jury Commissioner (two), Treasurer, and Board of Tax Assessment Appeals; second assumption of office by members of Council (three).	First Monday of January 1980
m. Abolishment of the office of Prothonotary.	First Monday of January 1980
n. Transfer of functions of Prothonotary to the Department of Judicial Support.	First Monday of January 1980.

The foregoing actions and the indicated completion dates require mandatory performance by the Council. With respect to those provisions covering administrative actions by the Council, the completion dates are not mandatory but may be accomplished in advance at the discretion of Council.

[1] *Editor's Note: See Ch. 6, Administrative Code.*

Section 1214. Termination of article.

This article shall terminate and cease to be a part of this Charter when the County Solicitor issues a written opinion declaring that all actions required herein shall have been complied with by the Council.

The Code

Chapter 1. General Provisions

[HISTORY: Adopted by the County Council of the County of Delaware as indicated in article histories. Amendments noted where applicable.]

Article I. Adoption of Code

[Adopted 8-3-2010 by Ord. No. 2010-3]

§ 1-1. Approval, adoption and enactment of Code.

The codification of a complete body of legislation for Delaware County, Commonwealth of Pennsylvania, as revised, codified and consolidated into chapters, articles and sections by General Code, and consisting of Chapters 1 through 224, together with an Appendix, are hereby approved, adopted, ordained and enacted as a single ordinance of Delaware County, which shall be known and is hereby designated as the "Delaware County Code," hereinafter referred to as the "Code."

§ 1-2. Effect of Code on previous provisions.

The provisions of this Code, insofar as they are substantively the same as those of ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments, and the effectiveness of such provisions shall date from the date of adoption of the prior ordinance. All such provisions are hereby continued in full force and effect and are hereby reaffirmed as to their adoption by the County Council of Delaware County, and it is the intention of said County Council that each such provision contained within the Code is hereby reenacted and reaffirmed as it appears in said Code. Only such provisions of former ordinances as are omitted from this Code shall be deemed repealed or abrogated by the provisions of § 1-3 below, and only changed provisions, as described in § 1-6 below, shall be deemed to be enacted from the effective date of this Code, as provided in § 1-15 below.

§ 1-3. Repeal of inconsistent ordinances.

All ordinances or parts of ordinances inconsistent with the provisions contained in the Code adopted by this ordinance are hereby repealed; provided, however, that such repeal shall only be to the extent of such inconsistency, and any valid legislation of Delaware County which is not in conflict with the provisions of the Code shall be deemed to remain in full force and effect.

§ 1-4. Ordinances saved from repeal; matters not affected by repeal.

The adoption of this Code and the repeal of ordinances provided for in § 1-3 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby expressly saved from repeal; provided, however, that the repeal of ordinances pursuant to § 1-3 or the saving from repeal of ordinances pursuant to this section shall not be construed so as to revive any ordinance previously repealed, superseded or no longer of any effect:

- A. Any ordinance adopted subsequent to February 9, 2009.
- B. Any right or liability established, accrued or incurred under any legislative provision of the County prior to the effective date of this ordinance or any action or proceeding brought for the enforcement of such right or liability or any cause of action acquired or existing.
- C. Any offense or act committed or done before the effective date of this ordinance in violation of any legislative provision of the County or any penalty, punishment or forfeiture, which may result therefrom.
- D. Any prosecution, indictment, action, suit or other proceeding pending or any judgment rendered prior to the effective date of this ordinance, brought pursuant to any legislative provision of the County.

- E. Any franchise, license, right, easement or privilege heretofore granted or conferred by the County or any lawful contract, obligation or agreement.
- F. Any ordinance appropriating money or transferring funds, promising or guaranteeing the payment of money or authorizing the issuance and delivery of any bond of the County or other instruments or evidence of the County's indebtedness.
- G. Any ordinance adopting an annual budget or establishing an annual tax rate.
- H. Any ordinance providing for the levy, imposition or collection of special taxes, assessments or charges.
- I. Any ordinance authorizing the purchase, sale, lease or transfer of property or acquiring property by acceptance of deed, condemnation or exercise of eminent domain.
- J. Any ordinance annexing land to the County.
- K. Any ordinance providing for or requiring the construction or reconstruction or opening of sidewalks, curbs and gutters.
- L. Any ordinance or part of an ordinance providing for laying out, opening, altering, widening, relocating, straightening, establishing grade, changing name, improvement, acceptance or vacation of any right-of-way, easement, street, road, highway, sidewalk, park or other public place or property or designating various streets as public highways.
- M. Any ordinance establishing water, sewer or other special purpose districts and designating the boundaries thereof; providing for a system of sewers or water supply lines; or providing for the construction, extension, dedication, acceptance or abandonment of any part of a system of sewers or water supply lines.
- N. Any ordinance providing for the making of public improvements.
- O. Any ordinance providing for the salaries and compensation of officers and employees of the County or setting the bond of any officer or employee.
- P. Any ordinance relating to or establishing a pension plan or pension fund for municipal employees.
- Q. Any ordinance or portion of an ordinance establishing a specific fee amount for any license, permit or service obtained from the County.

§ 1-5. Inclusion of new legislation prior to adoption of Code.

All ordinances of a general and permanent nature adopted subsequent to the date given in § 1-4A and/or prior to the date of adoption of this ordinance are hereby deemed to be a part of the Code and shall, upon being printed, be included therein. Attested copies of all such ordinances shall be temporarily placed in the Code until printed supplements are included.

§ 1-6. Changes and revisions in previously adopted ordinances.

- A. Nonsubstantive grammatical changes. In compiling and preparing the ordinances and resolutions of the County for adoption and revision as part of the Code, certain nonsubstantive grammatical and style changes were made in one or more of said ordinances. It is the intention of the County Council that all such changes be adopted as part of the Code as if the ordinances and resolutions so changed had been previously formally amended to read as such.

- B. Substantive changes and revisions. In addition to the changes and revisions described above, changes and revisions of a substantive nature, as set forth in Schedule A attached hereto and made a part hereof, are hereby made to various ordinances included in the Code. These changes are enacted to bring provisions into conformity with the desired policies of the County Council, and it is the intent of the County Council that all such changes be adopted as part of the Code as if the ordinances so changed have been previously formally amended to read as such. All such changes and revisions shall be deemed to be in effect as of the effective date of the Code specified in § 1-15.^[1]

[1] *Editor's Note: In accordance with § 1-6B, the chapters, parts and sections which were added, amended, adopted or deleted by this ordinance are indicated throughout the Code by a footnote referring to Chapter 1, General Provisions, Article I. During routine supplementation, footnotes indicating amendments, additions or deletions will be replaced with the following history: "Amended (added, repealed) 8-3-2010 by Ord. No. 2010-3." Schedule A, which contains a complete description of all the changes, is on file in the County offices.*

- C. Nomenclature. Throughout the Code, references to the following agencies or officials are updated as indicated:
- (1) "Department of Environmental Resources" or "DER" is revised to "Department of Environmental Protection" or "DEP."
 - (2) "Department of Community Affairs" or "DCA" is revised to "Department of Community and Economic Development" or "DCED."
 - (3) "Justice of the Peace," "District Magistrate" and "District Justice" is revised to "Magisterial District Judge."
 - (4) "Board of Personnel Grievance" or "Board of Personnel Grievances" is revised to "Board of Personnel Grievance and Performance Review."
 - (5) "Communications Center" is revised to "Department of Emergency Services."

§ 1-7. Interpretation of provisions.

In interpreting and applying the provisions of the Code, they shall be held to be the minimum requirements for the promotion of the public health, safety, comfort, convenience and general welfare. Where the provisions of the Code impose greater restrictions or requirements than those of any statute, other ordinance, resolution or regulation, the provisions of the Code shall control. Where the provisions of any statute, other ordinance, resolution or regulation impose greater restrictions or requirements, the provisions of such statute, other ordinance, resolution or regulation shall control.

§ 1-8. Titles and headings; editor's notes.

- A. Chapter and article titles, headings and titles of sections and other divisions in the Code or in supplements made to the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.
- B. Editor's notes indicating sources of sections, giving other information or referring to the statutes or to other parts of the Code are inserted in the Code and may be inserted in supplements to the Code for the convenience of persons using the Code and are not part of the legislation.

§ 1-9. Filing of copy of Code.

At least one copy of the Code in a post-bound volume shall be filed with the Ordinance Book in the office of the County Clerk and shall remain there for use and examination by the public. Upon adoption, such copy or copies shall be certified to by the County Clerk, as provided by law, and such certified copy or copies shall remain on file in the office of the County Clerk, available to persons desiring to examine the same during all times while said Code is in effect.

§ 1-10. Amendments to Code.

Any and all additions, deletions, amendments or supplements to the Code, when passed and adopted in such form as to indicate the intention of the County Council to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes. Whenever such additions, deletions, amendments or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto.

§ 1-11. Code books to be kept up-to-date.

It shall be the duty of the County Clerk or someone authorized and directed by him or her to keep up-to-date the certified copy or copies of the book containing the Code required to be filed in the office of the County Clerk for the use of the public. All changes in said Code and all ordinances adopted by the County Council subsequent to the effective date of this codification which the County Council shall adopt specifically as part of the Code shall, when finally adopted, be included therein by reference until such changes or new ordinances are printed as supplements to said Code books, at which time such supplements shall be inserted therein.

§ 1-12. Publication of notices.

The County Clerk, pursuant to law, shall cause to be published in the manner required a notice of the introduction and of the adoption of the Code in a newspaper of general circulation in the County. The enactment and application of this ordinance, coupled with the publication of the notices of introduction and adoption, as required by law, and the availability of a copy or copies of the Code for inspection by the public, shall be deemed, held and considered to be due and legal publication of all provisions of the Code for all purposes.

§ 1-13. Altering or tampering with Code; penalties for violation.

It shall be unlawful for anyone to improperly change or amend, by additions or deletions, or to alter or tamper with the Code or any part or portion thereof, in any manner whatsoever, which will cause the law of the County to be misrepresented thereby. Anyone violating this section of this ordinance shall, upon conviction thereof, be punished by a fine not exceeding \$600, plus costs of prosecution, and, in default of payment thereof, by imprisonment for a term not exceeding 30 days.

§ 1-14. Severability.

The provisions of this ordinance and of the Code adopted hereby are severable, and if any clause, sentence, subsection, section, article, chapter or part thereof shall be adjudged by any court of competent jurisdiction to be illegal, invalid or unconstitutional, such judgment or decision shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation and application to the clause, sentence, subsection, section, article, chapter or part thereof rendered illegal, invalid or unconstitutional. It is hereby declared to be the intent of the County Council that this ordinance and the

Code would have been adopted if such illegal, invalid or unconstitutional clause, sentence, subsection, section, article, chapter or part thereof had not been included therein.

§ 1-15. Effective date.

All provisions of this ordinance and of the Code shall be in force and effect on and after September 1, 2010.

Chapter 6. Administrative Code

[HISTORY: Adopted by the County Council of the County of Delaware 7-5-1978 by Ord. No. 78-4. Amendments noted where applicable.]

GENERAL REFERENCES

Jury Commission — See Ch. 88.

Uniform Construction Code Appeal Board — See Ch. 216.

Part 1. Preface

Article I. Purpose; Applicability; Organization

§ 6-1. Statutory authority; intent.

This Administrative Code of Delaware County (this Chapter 6) was written pursuant to the County's Home Rule Charter, Section 1002. Under preparation and review for 18 months, this chapter sets forth the administrative organization and functions of County government within the overall framework established by the Charter.

§ 6-2. Administrative procedures; applicability; exception.

- A. Following the adoption of this chapter by ordinance of County Council, detailed operating procedures will be prepared and compiled into administrative manuals by each office or department head. These rules and regulations will concern the day-to-day performance of County business and will thus further elaborate upon the governmental outline of the Charter and the administrative organization of this chapter.
- B. The reader will note the duties and responsibilities of the Courts are not covered by the Administrative Code because the Courts fall under the jurisdiction of the state and have powers and duties prescribed by commonwealth law. However, County Council does exercise administrative control over Court operations, including matters of budgeting, personnel, and purchasing.
- C. With this exception, the Administrative Code covers all units of County government and provides its users (both the general public and County employees) with a comprehensive guide to the organization and functions of County government.

§ 6-3. Organization.

The Administrative Code is organized into four major sections, following Part 2, Introduction, which sets forth the title of this chapter, definitions of key terms, and the purpose of the headings used. The

first major section, Part 3, sets forth rules of general applicability in County government. Part 4 sets forth the organization and duties of the councilmanic and executive services. Part 5 sets forth elected offices. Part 6 contains the repealer and amendment provisions.

A. Part 3, containing Articles III through IX, applies universally to all units of County government and the Court. Because administrative organization, functions, and procedures described in these seven articles are so essential to the implementation of the Home Rule Charter and to the proper operation of County government, operating procedures are set forth in much more detail than in subsequent articles.

(1) Specifically, Article III covers those nine items mandated by the Home Rule Charter in Section 1002. In doing so, this article gives the reader an overview of this chapter as a whole. The nine items are:

- (a) Dual compensation arising from dual employment of appointed County officers and employees;
- (b) Designation of positions by pay level subject to merit hiring, and the specific provisions therefor;
- (c) Conflict of interest provisions for appointed officials from the department head level and higher, but also including similar provisions for elected County officers;
- (d) Requirement that all elective and appointive County offices require full-time service except as otherwise provided;
- (e) Financial management procedures which implement reporting of monthly revenue and spending trends by departments and/or programs;
- (f) Organizational structure and general functions of each department in the County government;
- (g) Procedures for annual review of County employee pay scales;
- (h) Employee grievance appeal procedures;^[1]

[1] *Editor's Note: Original item (i), Procedures for a Merit Board of Review, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

(2) Generally, Article III refers the reader to specific sections in the rest of this chapter dealing with the applicable provision. However, two topics are fully covered in Article III and do not appear elsewhere. Section 6-12 prescribes a Code of Ethics and conflict of interest provisions for elected and appointed officials and County employees. Section 6-15 details the duties and responsibilities of all department and office heads.

(3) Article IV, Personnel, covers the essentials of the County's personnel system, including procedures for a merit system which will apply to approximately 80% of the work force. These provisions include job classifications and pay plans, hiring procedures, disciplinary actions and grievance procedures. Certain other positions of the County as listed in the Charter (Section 1014) and § 6-20C are exempted from merit procedures: 1) in order to retain direct supervisory controls of the Council over key decision making management level employees; 2) because elected officials are statutorily exempted from merit hiring procedures; or 3) because work to be performed by the position does not require specific skills or training and is, therefore, not suitable to job classification as inherent to the merit employment system. Additionally, employees in the offices of the Sheriff, District Attorney, Controller and Register of Wills are exempted from merit service because those independently elected officials, and not Council, are responsible for the quantity and quality of work performed in their offices and have, under the Charter, independent power to appoint, remove or supervise their employees.

- (4) In Article **V** the County's purchasing procedures are set forth in detail. Prescribed here are centralized competitive bidding procedures. Also covered are the development of standards and specifications of goods designed to increase competitive bidding and thus to achieve lower costs for County purchases.
- (5) The budget management function is described in Article **VI**. The procedures for the preparation of the County's operating and capital budgets and for the monitoring of expenditures are set forth.
- (6) Closely related to the budget management function is financial management as described in Article **VII**. In this article, the Treasurer's responsibilities for collecting, managing, and disbursing the County's monies are described. The duties and powers of the Controller (an independently elected official), as the "watchdog" over the expenditure of County funds, are set forth.
- (7) Part **3** concludes with Articles **VIII** and **IX** which contain surcharge and miscellaneous provisions applicable to all operations of County government.

B. Part 4.

- (1) Part 4, Councilmanic and Executive Branches of Government, fully describes the organization of County government as required by the Charter, Section 1002f. Containing much less detail than Part 3, this Part 4 reflects the basic organizational division described in the Charter, i.e., the grouping of those units of County government responsible directly to County Council (councilmanic service) and of those units responsible to County Council through the County Executive Director (executive service). For each department or office, the format generally followed is function, department head, duties, and organizations, the purpose being to present the general responsibilities of each unit of government and to leave to the manuals a detailed description of operating procedures. Because the manuals are to be approved rather than adopted by the formal ordinance procedure under the Charter, administrative and organizational flexibility is retained.
- (2) Also included in Part 4, under the councilmanic service, are the various boards and commissions such as the Board of Institutional Management, the Planning Commission, and the Park Board. Their duties and responsibilities are set forth consistent with Section 1208 of the Charter which provides for the continuation of such organizations and functions until modified by action of Council under Section 408h of the Charter.

- C. Part 5. Part 5 concerns the independently elected officials: the District Attorney, Sheriff, Register of Wills and Controller. This chapter recognizes that elected officials are answerable to the County electorate, and not Council, for performance of their duties under commonwealth law and the Charter. However, elected officials are subject to the administrative authority of Council, including matters of budgeting, personnel and purchasing.^[2]

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- D. The final Part 6 consists of the repealer, amendment and severability sections, which deal with this chapter's relationship to previously adopted ordinances concerning County administrative matters, with the effect of judicial decisions concerning any part of this chapter, and with the procedures for amendment.

§ 6-4. Commentary.

Commentary is used sparingly. Typically, these explanatory notes are found in the following circumstances: when the function or organization of a department or office has been revised pursuant to the Charter or as a direct result of this chapter itself; when there has been a possible Charter conflict

with commonwealth law; or when a department's duties have been mandated by statute through receipt of federal or state monies.

§ 6-5. Construal.

- A. Indeed, the reader should keep in mind that Delaware County is the first "home rule" County in the state under the Home Rule Charter and Optional Plans Law, 53 Pa.C.S.A. § 2901 et seq., and that, as a result, it is breaking new ground in the assignment of some organizational and functional responsibilities to certain departments/offices. These instances are fully identified and discussed in the Code.^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- B. The rules set forth in the Administrative Code and adopted by ordinance, will insure the orderly and efficient conduct of County business and compliance of officials and employees with the requirements of the Home Rule Charter as adopted by the voters of Delaware County.

Part 2. Introduction

Article II. Title; Terminology; Headings

§ 6-6. Short title.

This chapter shall be cited as the "Administrative Code of the County of Delaware."

§ 6-7. Definitions; word usage.

- A. The following words, when used in this chapter, shall, unless the context clearly indicates otherwise or specifically redefined for purposes of a section or subsection, be defined as follows:

ADMINISTRATIVE MANUAL

Those documents specifying detailed operational matters of County units, including, but not necessarily limited to, descriptions of the duties and responsibilities of subordinate units, rules and regulations and appropriate administrative procedures, records and reports.

CHARTER

The Home Rule Charter of the County of Delaware, Pennsylvania.

CONFIDENTIAL EMPLOYEE

Those employees as defined by Act 195, Article III, § 301(13), and any amendments thereto.

[1]

COUNCIL

The County Council of the County of Delaware, Pennsylvania.

COUNCILMANIC SERVICE

Those employees, boards, departments and commissions reporting directly to Council.

COUNTY

The County of Delaware, Pennsylvania.

DIVISION

A subunit of County department or offices.

EXECUTIVE DIRECTOR

The County Executive Director of the County of Delaware, Pennsylvania.

EXECUTIVE SERVICE

All personnel in those units of the County which report to Council, but fall under the supervisory authority of the Executive Director.

GRIEVANCE

Disciplinary actions which may be in violation of the provisions of this chapter.

LAW

All applicable laws of the Commonwealth of Pennsylvania and the United States of America.

ORDINANCE

All ordinances of the County, including the Administrative Code.

PERSON

Any individual, partnership, association or corporation.

PREAUDIT

To determine after goods are received or services are performed under a contract and at the time that payment is requested, that the expenditure is properly supported by requisition, purchase order and invoice, that the expenditures correspond to the proper account number, and that authorization for the purchase has been made either by the Director of Central Purchasing or County Council.

[Amended 8-12-1980 by Ord. No. 80-3]

P.S.

Used in legal citations under this chapter shall mean that the referenced material can be found at the cited volume and section of Purdon's Pennsylvania Statutes.

PUBLISH

To print in a newspaper of general circulation in the County the entire document or a brief summary thereof with a listing of places where copies have been filed and times when they are available for public inspection.

UNIT

Any County department or office.

[1] *Editor's Note: See 43 P.S. § 1101.301(13).*

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

§ 6-8. Headings.

The descriptive headings used in this chapter are intended to indicate all of the matter in the sections which follow them. Accordingly, they shall be given equal weight in determining the rights and obligations of the parties or units affected thereby.

§ 6-9. Preface.

The preface of this chapter is intended to be part of this chapter. Accordingly, it shall be given equal weight in determining the scope and coverage of this chapter.

Part 3. Rules of General Applicability in County Government

Article III. Specific Provisions Mandated by Home Rule Charter

§ 6-10. Dual compensation arising from dual employment of appointed County officers and employees.

No person whose compensation derives from County funds through a full-time employment with the County may receive from the County any additional compensation, salary or emoluments for work performed for the County during the same hours applicable to his or her full-time position, or for those duties which are normally within the scope of duties of his or her full-time position.

§ 6-11. Designation of positions by pay level subject to merit hiring and specific provisions therefor.

- A. **Applicability.** All merit service positions in the County shall be classified and paid in accordance with their duties and responsibilities and in accordance with the job classification and pay plans as described in Article IV of this chapter.
- B. **Merit service.** Persons employed in the merit service shall possess the skills, qualifications and/or experience necessary to discharge the responsibilities of merit service positions in the County government.
- C. **Exempted service.** The positions exempted from merit procedures shall be as set forth in Article IV, § 6-20C, of this chapter.
- D. **Preparation and administration.** The County Personnel Department, as described in Article IV of this chapter, shall be responsible for preparing, administering and maintaining merit hiring procedures, current classifications and pay plans.

§ 6-12. Conflict of interest provisions for County employees, appointed officials and elected County officers.

- A. **Code of Ethics.** All persons in County service shall maintain a high standard of conduct pursuant to the following Code of Ethics for County government officers and employees and the signed affirmation of such Code of Ethics shall be filed with the County Clerk.
 - (1) Uphold the Constitution, laws and legal regulations of the United States, and of the Commonwealth of Pennsylvania, as well as the provisions of the Charter, and never be a party to their evasion;
 - (2) Seek to employ more efficient and economical ways of accomplishing necessary tasks and functions;
 - (3) Never discriminate unfairly by the dispensing of special favors or privileges to anyone whether for remuneration or not, and never accept for oneself or anyone else favors or benefits under circumstances which may be construed by reasonable persons as conflicting with the honest performance of County duties;

- (4) Engage in no business with the County, either directly or indirectly, which is inconsistent with the honest performance of official duties;
 - (5) Never use information obtained confidentially in the performance of official duties as a means for making private profit;
 - (6) Expose corruption wherever discovered;
 - (7) Uphold these principles recognizing that County office is a public trust;
 - (8) Enter into no private agreements which could in anyway be construed to be adverse to the public's interests.
- B. Conflict of interest. All elected and appointed officers, the County Executive Director and department heads, and all County employees shall not participate in activities where there is a conflict of interest, including the following activities:
- (1) Accepting gifts. Accepting a gift of money or other personal property of value, or any title or interest in realty, a loan or forgiveness of debt, or payment of expenses in exchange for any action or omission;
 - (2) Financial interest; insider information. Maintaining any business interest which would interfere with the independent and impartial judgments which should be made in the course of one's official duties, or engaging in any financial transaction as a result of being privy to information obtained through one's County employment before said information was made available to the general public;
 - (3) Contributions. Compelling another employee to contribute to any fund other than as required by law, ordinance, or contract;
 - (4) Falsification. Knowingly make any false statement affecting employee hiring, promotion or disciplinary actions; falsify employee expenses, time or leave records; or forging or make false statements in County documents, such as receipts, invoices, inspection certification forms, purchase orders or receiving reports.

[1] *Cross-Reference: Violation of provisions under § 6-12 of this chapter constitutes grounds for disciplinary action under Art. IV, § 6-21B, of this chapter.*

§ 6-13. Full-time service requirement; exceptions.

All appointed County officials and all employees engaged to perform full-time service and the District Attorney shall faithfully serve schedules of full-time employment except where otherwise provided in §§ 6-72D and 6-73A of this chapter. The number of hours of full-time service shall be equivalent to the hours of County business applicable to County units as set by County Council.

§ 6-14. Financial management procedures which implement reporting of monthly revenue and spending trends by department and/or program.

The Budget Management Department, as described in Article VI of this chapter, shall be responsible for the formulation and monitoring of the County's operating and capital budgets and shall establish and apply control over expenditure authorizations, budget analysis, and requirements forecasting methods. To carry out this responsibility, the Budget Management Department shall request, when necessary, from units for which County Council has budgetary responsibility, a monthly report on anticipated revenue and spending needs by month for the balance of the County's fiscal year. The

Budget Management Department shall prepare, as requested by County Council, a summary budget status report by department or program recommending any necessary revisions in County budget policy.

§ 6-15. Organizational structure and general functions of each department in County government.

All County units listed under this section shall be subject to the provisions set forth in Part 3 of this chapter.

- A. County units reporting to Council. The County units reporting to or appointed by Council (hereinafter councilmanic service) shall be comprised of departments and boards as follows:
[Amended 8-12-1980 by Ord. No. 80-3⁽¹⁾]

(Agricultural) Cooperative Extension Service
 Board of Elections
 Board of Institutional Management
 (i) Fair Acres Geriatric Center
 Board of Personnel Grievance and Performance Review
 County Clerk
 County Coroner
 County Solicitor
 Courthouse and Park Police
 Department of Emergency Services
 Heritage Commission
 Jury Commissioner
 Delaware County Library System Board of Directors
 Military and Veterans Affairs
 Office of Judicial Support
 (i) Clerk of Courts
 (ii) Prothonotary
 Park Board
 Park and Recreation Department
 Planning Department
 Prison Board
 (i) Prison
 Public Defender
 Recorder of Deeds
 Tax Assessment Bureau
 (i) Board of Assessment Appeals
 Tax Claim Bureau
 Treasurer
 Boards, commissions and committees established by resolutions of Council as reflected by records of the County Clerk.

- (1) Special provisions applicable to departments under councilmanic service affecting organization of this chapter.

- (a) Board of Elections. The composition of the Board of Elections shall be as provided in Section 421 of the Charter, with selection of a minority representative to said Board from a list submitted by the County Chairman of the minority party pursuant to Act No. 58, June 1, 1978,^[2] and Section 412 of the Charter.

[Commentary: The composition of the Board of Elections under Section 421 of the Charter was validated by amendment of the Election Code, Act No. 58, June 1, 1978.]

[2] *Editor's Note: See 25 P.S. § 2641.*

- (b) Board of Institution Management. After the first Monday of January 1978, Child Care Services, including the Children's Cottage, shall be a subunit of the Department of Human Resources by this ordinance of Council and pursuant to powers granted under Section 408i of the Charter.

[Commentary: The duties and functions of the Board of Institution Management under Section 1205 of the Charter were to assume the functions of the Delaware County Institution District upon dissolution on the first Monday of January 1978. The Institution District has jurisdiction over the Children's Cottage, run by the Department of Child Care Services. A conflict arises, however, because the Charter places child care under the direction of the Department of Human Resources under Section 428d.]

- (c) Board of Assessment Appeals and Tax Assessment Bureau. The Board of Assessment Appeals shall be a division of Tax Assessments until appropriate legislation is enacted permitting implementation of Sections 420 and 418 of the Charter.

[Commentary: The creation of the Board of Tax Assessment Appeals under Section 420 of the Charter and the placement of certain tax-related duties under the Department of the Treasurer pursuant to Section 418 of the Charter are in conflict with the Home Rule Charter and Optional Plans Law, 53 Pa.C.S.A. § 2901 et seq., and state code provisions on tax assessments.]

- (d) Treasurer. The Treasurer shall not assume those duties involving real property tax assessments and assessment appeals delegated thereto by the Charter which violate the Home Rule Charter and Optional Plans Law, 53 Pa.C.S.A. § 2901 et seq., until such time as amendment of applicable state statutes validates Section 418 of the Charter.

(2) Elected offices.

- (a) Elected offices subject to the administrative control of Council are:

[1] Court of Common Pleas of 32nd Judicial District.

[2] District Court System.

[3] District Attorney.

[4] Sheriff.

[5] Controller.

[6] Register of Wills.

- (b) The elected officials listed under this subsection shall be responsible for the performance of duties of department heads as set forth at § 6-15D of this chapter.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

B. County units reporting to Council through the Executive Director.
[Amended 8-12-1980 by Ord. No. 80-3]

(1) The following County units shall be supervised by the County Executive Director (hereinafter executive service), subject to the overall policy direction and guidelines set by County Council:

(a) Administrative Services.

(b) Budget Management.

(c) County Facilities Maintenance.^[3]

[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

(d) Central Purchasing.

(e) Consumer Affairs.

(f) Human Resources.^[4]

[1] Children and Youth Services.

[2] Behavioral Health.

[3] Mental Health.

[4] Drug and Alcohol.

[5] Mental Retardation.

[6] Adult Services.

[7] Child Care Information Services.

[4] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

(g) Intercommunity Health Coordination.

(h) Intergovernmental Affairs.

(i) Management Information Systems.

(j) Personnel.

(k) Public Relations.

(l) Public Works and Risk and Safety Management.

(m) Senior Citizen Services.

(n) Soil and Water Conservation.

(o) Solid Waste Management.

(p) Special Events.

(q) Vehicle Management.

- (r) Information Technology.^[5]
 [5] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (s) Telecommunications.^[6]
 [6] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (2) Special provisions applicable to departments under executive service affecting organization of this chapter.
- (a) Pursuant to powers granted under Section 408i of the Charter, the Council hereby reorganizes the Department of Public Works to promote efficiency and economy by creating four separate departments undertaking taking the following functions: the County garage and motor pool operations (Vehicle Management Department); Solid Waste Management Department; programs of soil and water conservation (Soil and Water Conservation Department) and repairs and maintenance of County buildings and facilities (Department of County Facilities Maintenance) as further set forth in §§ **6-101**, **6-103** and **6-104** of this chapter.^[7]
 [7] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (b) Said transfer of duties shall be construed to include incidental or implicit functions not specifically mentioned when necessary to further the functions and programs set forth under the new departments. Council hereby declares the express intention not to eliminate any departmental functions listed under Section 428e of the Charter.
- C. Department heads. All heads of departments or members of boards listed in the councilmanic service shall be appointed by County Council and shall serve at County Council's pleasure, or in the case of employees, as employees at will. All department heads in the executive service shall be appointed by the Executive Director, with confirmation by County Council, and shall serve as employees at will. All department heads in both services shall be chosen on the basis of executive, administrative and technical qualifications as are pertinent to the functions, duties and operations of their respective departments and as are prescribed by law.
- D. Duties of department heads. The heads of departments in the councilmanic service and executive service, respectively, shall:
- (1) Be responsible for the proper performance of all functions, duties and operations assigned to and required of the department;
 - (2) Develop and prescribe the internal organization of the department and its subordinate units, subject to the approval of the County Council;
 - (3) Develop and implement, in written form, an administrative manual for his department, subject to the approval of the County Council;
 - (4) Prepare and submit departmental budget requests in accordance with schedules, forms and policies as prescribed by the County Council/Executive Director;
 - (5) Prepare and submit reports required by the County Council/Executive Director;
 - (6) Keep the County Council and Executive Director informed of the activities and policies of departmental programs as they affect the County;
 - (7) Administer intergovernmental contracts and agreements as these relate to departmental functions;
 - (8) Develop and maintain appropriate internal administrative and budgetary controls and productivity and performance standards to assure maximum levels of quality and quantity of

service within budgetary limitations;

- (9) Annually provide comparison analyses of department functions in Bucks, Chester and Montgomery Counties as defined and requested by Council;
 - (10) Keep abreast of all laws, municipal ordinances, and administrative regulations relating to all functions of the department and keep the Council advised thereof;
 - (11) Enforce rules and regulations for the use of County property, facilities and services;
 - (12) Evaluate rate structures on an annual basis and recommend to the County Council changes in rate structures for those services for which user fees are charged;
 - (13) Assign duties and responsibilities to subordinate officers and employees and insure that their duties are performed promptly, efficiently and conscientiously;
 - (14) Prior to the acceptance of any goods or services contracted for by the County, the department heads responsible for receiving said goods or services shall inspect the goods within a reasonable amount of time, and shall certify, in writing, to the Controller and the head of purchasing, that said goods upon cursory inspection are or are not in conformance with the contract under which they were purchased and are or are not acceptable.
- E. General department functions. The general functions of each department are described in the departmental sections of this chapter.

§ 6-16. Procedures for review of County employee pay scales.

- A. The County Personnel Department shall be responsible for keeping the classification and pay plans as described in Article IV up to date through reviews so that the plan continues to provide fair compensation for all classes of jobs.^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- B. The Director of the County Personnel Department shall, from time to time, recommend revision in the plan to County Council. Council shall have the final approval of all revisions thereto.

§ 6-17. Employee grievance appeal procedures.

- A. Applicability. Certain employees, upon written request, shall have the right to have their grievances reviewed by the Board of Personnel Grievance and Performance Review subject to the limitations set forth in Article IV, §§ 6-19 and 6-23A(3) of this chapter.
- B. Nature of the Board of Personnel Grievance and Performance Review actions. With regard to review of employee grievances, the nature of the Board of Personnel Grievance and Performance Review will be as set forth in Article IV, §§ 6-19 and 6-23A(3) of this chapter, with procedures as adopted in a manual promulgated by the Board.^[1]

[Commentary: This chapter provides that certain employees, including, but not limited to, those who are without grievance appeal procedures pursuant to a collective bargaining agreement, shall have the right to submit a written request for grievance review to the Board. The Board shall review the request to determine if it conforms to the definition of grievance under Article II, § 6-7, of this chapter; whether or not the individual is the proper party to bring the grievance under Article IV, § 6-19C(2)(d), of this chapter; whether or not all internal administrative remedies have already been exhausted under Article IV, § 6-19C(2)(c), of this chapter. If all the foregoing conditions are satisfied, the Board may call a hearing for the purpose of taking testimony to

resolve factual matters in dispute. The Board shall promulgate rules of procedure for the conduct of such hearings.^[2]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

[2] *Editor's Note: Original Sec. 2.09, Procedures for Board of Merit Review, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

Article IV. Personnel

§ 6-18. Personnel Department.

- A. **Function.** The Personnel Department shall be responsible for coordinating and overseeing the hiring, training, assignment, reassignment, rotation, performance evaluation and discharge of all personnel in the merit service and in unclassified positions. The Department shall be responsible for the establishment of duties and qualifications for all positions in consultation with the heads of County departments and offices. The Department shall act as a centralized point of interviewing, screening, testing and referral for all persons seeking employment with the County.
- B. **Department head.** The Personnel Department shall be headed by a Director who shall be responsible to Council through the Executive Director for the performance of the functions of the Department and who shall be responsible for the performance of the general duties in Article III, § 6-15D, of this chapter.
- C. **Specific duties.** The Director of Personnel shall be responsible for:
- (1) Developing, promoting, and implementing an affirmative action plan for recruitment, employment and promotion in order to assure equal employment opportunities and nondiscrimination with regard to race, color, sex, creed, age or national origin;
 - (2) Participating in and advising on labor-management relations matters, including negotiations or collective bargaining; advising on matters concerning preservation of management's rights; and participating in and advising on all matters pertaining to grievances and arbitrations.
 - (3) Establishing and maintaining job classification and pay plans;
 - (4) Developing and operating recruitment, employment and promotion programs;
 - (5) Developing and promoting programs for improving employee effectiveness, including training, counseling, discipline, health, safety and benefits;
 - (6) Developing and maintaining the total employee benefit package;
 - (7) Assisting and advising County departments and offices on manpower planning, personnel program planning and evaluation, and manpower budgeting;
 - (8) Advising management on manpower requirements and utilization;
 - (9) Maintaining current personnel records, manpower information and personnel planning system.

§ 6-19. Board of Personnel Grievance and Performance Review.

- A. **Function.**

- (1) The Board of Personnel Grievance and Performance Review shall be responsible for the review of the personnel grievances of employees who shall request a hearing. Certain employees shall have the right to have their grievances reviewed by the Board subject to the limitations in § 6-19C(2) of this chapter.
- (2) Internal administrative review of a grievance shall not have been exhausted until it has been heard and determined or resolved by the Board.
- (3) Determination by the Board shall be of an advisory, nonbinding nature to County Council.

B. Organization.

- (1) Appointment. County Council shall appoint three members to the Board to serve concurrent two-year terms of office. Appointments to the Board may be terminated by County Council prior to the expiration of the term of office for reasonable cause.
- (2) Permanent vacancy. In the case of a permanent vacancy in the Board's membership caused by death, illness, physical incapacity, forfeiture of office, pursuant to the conditions detailed in Section 305 of the Home Rule Charter generally applicable to elected offices, removal from office or resignation, County Council shall appoint a successor to serve the balance of the unexpired term. Upon determination by County Council that a permanent vacancy exists, appointment of a successor shall be made within 30 calendar days thereof.
- (3) Temporary vacancy due to conflict of interest. Any Board member who actively participated in a decision on which an employee brings a grievance before the Board shall excuse himself from hearing the grievance and shall be replaced by appointment of County Council for the duration of the hearing.
- (4) Chairman. The Board shall select, by majority vote of its membership, a Chairman to serve a two-year term. The Chairman shall be responsible to County Council for the performance of the functions of the Board. He shall preside at Board meetings, set the agenda, including scheduled times to adjudicate personnel grievances, determine the form and manner of setting forth Board findings, act to communicate majority decisions to the Council, and effect necessary administrative actions in support of Board responsibilities.^[1]
 [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (5) Quorum. All three Board members shall constitute a quorum for the transaction of business. A resolution, finding or decision of the Board may be acted on by a majority vote of the members present.^[2]
 [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (6) Compensation. Board members not already compensated as employees of the County shall receive daily compensation at a rate determined by the County Council.^[3]
 [3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

C. Procedure.

- (1) Conduct of regular meetings. The Board shall adopt rules for the conduct of regular meetings which may be revised from time to time.
- (2) Conduct of administrative hearings.
 - (a) The character of Board meetings for determination of personnel grievances will be that of an administrative hearing on personnel management matters. [Commentary: such meetings are not subject to the public meetings provisions of the Pennsylvania Sunshine Law or of Section 405b of the Home Rule Charter.]

- (b) The Board will not hear or resolve cases involving personnel grievances of employees in the offices of the Controller, the Sheriff, the District Attorney, or the Register of Wills unless previously requested to do so by the applicable said elected official.^[4]
 [4] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (c) Employees covered by a collective bargaining agreement providing other procedures for grievance appeals shall be deemed to have no standing before the Board.
- (d) First-line review shall first have been exhausted for all grievances which may be brought to the Board for resolution, and all other administrative remedies shall be exhausted.
- (e) The Board shall examine the full text of all grievances brought to it for resolution and shall determine the standing of the employee or employees to bring a grievance. Department heads shall be deemed to have no standing before the Board of Personnel Grievance and Performance Review.
- (f) Thirty days' written notice providing the time, date, and place of the hearing shall be given to an employee before a Board hearing. Employees shall have the right to be represented by counsel, to present evidence, and to cross-examine witnesses. A manual of rules governing the taking of testimony, requesting of data, conducting of inquiries, and reviewing of legal briefs during hearings shall be promulgated by the Board. The expense associated with the transcription of testimony shall be paid by the employee.^[5]
 [5] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (g) The Board shall arrive at findings based on compliance of aggrieved parties and the employer with existing rules, regulations and controls in the grievance work environment; the County Home Rule Charter; and provisions of this chapter.^[6]
 [6] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (h) Findings of the Board shall be communicated, in writing, to the aggrieved parties and the employer no later than 30 days after completion of hearings. No hearing shall have been deemed completed until all parties have appeared and presented full and final presentation of testimony and relevant factual information to the Board subject, however, to the limitations set forth in Subsection **C(2)(i)** below.
- (i) Unless proper cause is shown for a continuance, hearings shall proceed at the time and place scheduled. Requests for a continuance shall be presented no later than five days before such scheduled hearing unless an emergency dictates otherwise. At the discretion of the Board, hearings may be conducted ex parte, where either party does not appear and a continuance has not been granted.^[7]
 [7] *Editor's Note: Original Sec. 3.03, Board of Merit Review, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-20. Personnel plan.

- A. **Applicability.** All employees, including management level employees, first-line supervisors and confidential employees shall be subject to applicable provisions of the personnel plan. However, specific provisions of the various collective bargaining agreements as currently in force and as modified from time to time shall control for employees covered by such agreement.

- B. Merit service. The merit service shall include all positions not in the exempted service. Persons employed in the merit service shall possess the skills, qualifications, and/or experience necessary to perform the tasks and to discharge the responsibilities of merit service positions in the County government.
- C. Exempted service. The exempted service shall consist of the following positions:
- (1) Elected officials;
 - (2) Members of boards, commissions, and committees;
 - (3) Heads of offices and boards;^[1]
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (4) County Executive Director;
 - (5) Heads of departments appointed by the County Executive Director;
 - (6) Temporary, part-time, intermittent or seasonal employees;
 - (7) Employees required to be covered by a commonwealth merit or civil service system, except that employees presently covered by such civil service procedures shall be subject to the provisions of this chapter upon certification by the federal and state civil service commissions that the merit service plan of the County meets state and federal requirements for the conduct of personnel management matters;
 - (8) Unclassified full-time County employees in unskilled categories of County jobs, such as custodian, laborer, porter, messenger, groundskeeper, office cleaning person;
 - (9) Employees in the offices of the Sheriff, District Attorney, Controller and Register of Wills for whom the power to appoint, remove or supervise has been delegated to said elected officials by provisions of the Charter.
- D. Service job classification plan.^[2]
- (1) Purpose. The job classification plan shall provide for the merit service a complete inventory of all positions, an accurate description and specification for each class of employment, and standardized titles each of which is indicative of a definite range of duties and responsibilities and has the same meaning throughout the categories and paid in accordance with the job classification plan.
 - (2) Composition. The job classification plan shall consist of:
 - (a) Job descriptions. Descriptions of all jobs as they are being performed and preliminary job descriptions for newly created, revised or reorganized jobs;
 - (b) Job standards. Analysis of the duties and responsibilities of the various jobs resulting in determination of the qualifications that must be possessed by incumbents to satisfactorily meet the various job demands;
 - (c) Job categories. Groupings of jobs based on similarities in duties, responsibilities, and work demands;
 - (d) Job pricing.
 - [1] Surveying of the pertinent and comparable labor market to that of the County;
 - [2] Pricing of all jobs in the classification plan based upon their duties and responsibilities;

- (e) Auditing. Periodic review of all jobs within the plan to ascertain that the job descriptions are valid, the job classifications are correct, and the comparative position to the outside job market is being maintained in accordance with County policies. All jobs shall be reviewed annually.
- (3) Administration and maintenance. The Personnel Department shall be responsible for the development, administration and maintenance of the job classification plan, subject to consultation with affected department heads and subject to final approval of County Council. This responsibility includes the following:
- (a) Examination of the duties and responsibilities of existing positions and assignment of all positions to the appropriate job classifications;
 - (b) For new positions or existing positions for which the duties have been revised, the assignment of the appropriate classification or establishment of a new class;
 - (c) When a vacancy occurs, review of the position description to ensure proper classification;
 - (d) When a department or administrative unit is reorganized, preparation of new position descriptions for all affected employees;
 - (e) Prompt notification to department heads and employees affected by any position classification or reclassification;
 - (f) Review as needed the job descriptions and from time to time prepare recommended revisions for County Council's consideration.
- (4) Reclassification requests. Any employee who considers his position to be improperly classified shall submit a written request for salary reconsideration or job reclassification to his department head who shall review the request and its justification. If the department head finds that there is merit in the request, he shall submit it to the Personnel Department. If the department head finds the request is not justified, he shall notify the employee, in writing, of his decision and supply a copy of his notification to the Personnel Department.
- (5) Status of employees upon reclassification. Upon the reclassification of a position from one class to the same class, a lower level or a higher level, the method of filling the position shall be determined by the procedure regarding transfers, demotion or promotion in § 6-201 of this chapter.
- (6) Job reclassification downward. When an employee's job is reclassified to a lower classification and his salary is higher than the job rate of the lower classification, he shall continue to receive his present rate. While in this status of overpay, he shall not be eligible for any general increase, or portion thereof, in salary until such general increase or accumulation of general increases exceed the amount of overpayment at which time he would be entitled to such excess.
- (7) Use and interpretation.
- (a) The job classification plan shall be used as a guide in recruiting and examining candidates for employment; in determining salaries to be paid for various types of work; in developing employee training programs; in providing uniform job terminology understandable to both the employees and the general public.
 - (b) Job titles as used in the job classification plan shall be used in all personnel records, payroll records and other County records regarding employees. No person shall be employed in a position covered by the classification plan but having a title which is not approved for use for that position in the plan.

(c) Job descriptions shall be interpreted in their entirety and in relation to others in the job classification plan. Job descriptions shall be interpreted as being descriptive and explanatory, not necessarily inclusive of all duties performed. They shall not be held to exclude other duties or responsibilities of a similar nature. The job description shall not limit or modify the power that a department head has to take from, expand, eliminate or otherwise change the duties and responsibilities of a job; to assign duties; or to direct and control the work.

(8) Authority of County Council. The County Council shall have final approval of job classifications, salary, and revisions and modifications to the plan. The Council shall be the final body to hear and decide upon questions raised by department and office heads as to the classification and salary of jobs.

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

E. Pay plans.

(1) Pay plan for nonbargaining and others. The following pay plan applies to employees covered under § 6-20C(3), (4) and (5) of this chapter. This pay plan also will be applicable to planners, engineers, lawyers, architects, doctors and to confidential employees not employed pursuant to a consultant contract:^[3]

- (a) The plan shall consist of salary grades, merit increases and across the board increases;
- (b) The plan shall provide for merit increases based upon outstanding performance;
- (c) Employees shall not be considered for merit salary increases more frequently than six months from the anniversary of their employment date or six months since they received their last pay increase.

[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

(2) Pay plan for merit service and unclassified positions. The following pay plan shall apply to all personnel not covered by § 6-20E(1) of this chapter:

- (a) The plan shall consist of a series of hire rates and job rates applied to job classifications as defined by the job classification plan.
- (b) A newly hired employee shall be assigned the starting rate of the job classification to which he is attached.^[4]

[4] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

(c) Employees may receive across-the-board increases normally resulting from collective bargaining negotiations; increases in hire and job rates resulting from promotions or temporary transfers to higher job classifications; and from participation in longevity, service or educational allowances where such apply.

(3) Maintenance of the pay plans. The pay plans shall provide rates for all classes of jobs. The County Personnel Director shall include among other factors, annual comparative studies in the establishment and the maintenance of such rate or rates. The County Personnel Director shall recommend revisions to the plans to County Council with the approval of the Executive Director.

(4) Authority of County Council. Council shall have final approval of all salary and wage schedules and the assignment of a wage or salary to any particular job.

F. Nonbargaining recruitment.^[5]

- (1) Recruitment. The County Personnel Department shall be responsible to screen qualified candidates for employment, with special emphasis on recruitment of qualified County residents.
- (2) Selection. The Personnel Department shall maintain lists of applicants eligible for employment based on a thorough review of personal qualifications and scoring on applicable employment tests. The Personnel Department shall refer to departments for employment three qualified candidates for the particular vacancy. In cases where less than three qualified applicants are referred, the department head may select from less than three qualified applicants. In all cases, the County Council Chairman or his Council member designee has the final approval for employment in all positions, and no person may begin employment in the County prior to the effective date for employment as approved by the Chairman of Council.
- (3) Testing program. The Personnel Department shall administer, as applicable, job-related, standardized examinations to candidates at the time of original employment or to candidates applying for any job vacancy in the County. No other department shall administer said examinations. All examinations shall be job related. All test scores shall be kept confidential.

[5] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

G. Employment practices for all County employees.

- (1) Residency requirement; determination of qualifications.
[Amended 4-23-1985 by Ord. No. 85-7; 12-1-1992 by Ord. No. 92-5]
 - (a) Commencing July 5, 1978, no person shall be eligible to be an employee of the County of Delaware unless he or she is a resident of and lives within the geographical boundaries of the County of Delaware, State of Pennsylvania. However, any person not a resident of the County and employed by the County as of July 5, 1978, shall not be bound by this residency requirement so long as he or she remains in continuous County employment, and such person shall become bound only in the event that his or her employment terminates and he or she later seeks to be reemployed by the County; provided, further, however, that if an employee is in continuous employment and moves out of the County, the employee must forfeit his or her position.
 - (b) The Personnel Director shall determine the qualifications for all positions for entry employment, job transfers or promotions.
- (2) References. As part of the preemployment procedure, the Personnel Department shall check former employers and references provided by the applicant. All information so obtained shall be confidential. Any applicant who refuses to permit or who hampers or impedes the verification of his qualifications and background shall be disqualified for employment.
- (3) Interviews. The Personnel Department, in consultation with the department heads, may as necessary arrange for interviews of job applicants.
- (4) Physical examination. The Personnel Department shall conduct a program of preemployment physical examinations. In cases where the Personnel Director concludes that an applicant should not be employed because of health reasons, the County Council may overrule the rejection.^[6]

[6] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (5) Applications for employment. Applications for employment shall be made in the Personnel Department. Applications for employment shall be accepted at any time. As a result of a single application, a candidate may be considered for job vacancies in which his principal qualifications might be used.

- (6) Rejection of applicants. An applicant may be rejected if he is deemed physically unfit for the performance of his duties; is addicted to the use of drugs or intoxicants; has ever been convicted of a felony or misdemeanor; has ever been dismissed from prior employment for misconduct; has ever been a member of any organization which advocated the overthrow of the Government of the United States by force or violence; has knowingly made false statements of any facts in order to obtain employment; or practices or attempts to practice any deception or fraud in his application or employment interview; or for other good cause.
 - (7) Retention of applications. Applications shall be kept on file in the Personnel Department. Applications shall not be kept on file beyond a year from the date they were submitted.
 - (8) Recall lists. Recall lists from layoffs shall be honored in accordance with collective bargaining agreements.
- H. Probation periods for merit service and unclassified positions.
- (1) Purpose. The probationary period, as an integral part of the employee examination process, shall be used for closely observing the employee's work, for securing the most effective adjustment of a new employee to his position and for rejecting any employee whose performance is not satisfactory.
 - (2) Duration. All positions shall have a probationary period of three months except as otherwise provided in the various collective bargaining agreements.
 - (3) Probationary period for new employees.
 - (a) At any time during the probationary period, a department head, in conjunction with the Personnel Department, may remove an employee when the employee is unable or unwilling to perform the duties of the position satisfactorily or when his work habits or lack of dependability do not merit his continuance in service. Upon removal a written report shall be prepared by the department head and the Personnel Department documenting the reasons.
 - (b) If a probationary employee has committed an offense which is considered cause for disciplinary action he may be disciplined or dismissed without prior notice.
 - (4) Promotional appointments. The probationary period shall be used in connection with promotional appointments in the same manner as it is used for original entrance appointments. If a person is removed during his probationary period following a promotion, he shall be entitled to return to a position with the same job classification as that from which he or she came, and at the former rate of pay notwithstanding § 6-20H(3) of this chapter or pursuant to the union contract.^[7]

[7] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (5) Interruption of probationary period.
 - (a) If an employee is laid off during a probationary period and subsequently rehired, he shall not be given credit for the probationary period completed before he was laid off.
 - (b) If an employee is transferred to a different position during his probationary period, the Personnel Department may not give credit for the period of the probationary time previously completed.
 - (6) Completion of probationary period. At least 10 days prior to the expiration of an employee's probationary period, the department head shall submit a written report to the Personnel Department stating the status of the employee's performance to date.
- I. Promotions, transfers and demotions for nonbargaining and County positions.^[8]

(1) Promotions.

- (a) A change from any position to another position for which a higher rate of pay is prescribed shall be considered a promotion.
- (b) No employee shall be eligible to bid for a higher-rated job or jobs more than twice in a twelve-month period.
- (c) The Personnel Department shall have the right to investigate the employee's qualifications to fill the higher position which may become available, including the use of standardized tests when appropriate.
- (d) Probationary periods shall apply to promotions on the basis that this is a new position to the particular employee involved.
- (e) Failure to perform during the probationary period shall warrant returning the employee to a position in the same classification from which he or she came.
- (f) When an employee is promoted to a position in a higher job classification, his salary shall be increased to the starting rate of the higher position or he shall maintain his present rate, whichever is higher. After satisfactorily completing the probationary period on the new assignment, the employee shall be raised to the job rate or retain his previous salary, whichever is higher.

(2) Transfers.

- (a) The appropriate department head may at any time transfer an employee from one position to another in the same classification in the same department.
- (b) A transfer of an employee from one department to another shall have the approval of the Personnel Department and the County Council.
- (c) A temporary transfer shall not exceed 30 days, and shall not require job reclassification or salary adjustment except where otherwise required by applicable collective bargaining agreements.

(3) Demotions. With the approval of the Personnel Department and County Council, an employee may be demoted to a position for which he is qualified for any of the following reasons:

- (a) When an employee would otherwise be laid off because his position is being abolished; lack of work; lack of funds;
- (b) Because of the return to work from an authorized leave of another employee in accordance with the provisions regarding leaves;
- (c) When an employee does not possess the necessary qualifications to render satisfactory service in the position he holds;
- (d) Removed during a probationary period;
- (e) When an employee voluntarily requests such demotion; or
- (f) For disciplinary reasons.

[8] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

J. Training and development. The Personnel Department, in conjunction with department heads, may:

- (1) Develop and use employee training programs to improve the quality of employee performance and to aid employee advancement;
- (2) Develop supervisory training programs.

§ 6-21. Provisions applicable to nonbargaining and unclassified.

[Amended 8-12-1980 by Ord. No. 80-3^[1]]

- A. The Director of Personnel shall establish an employee evaluation program to objectively rate the performance of employees.
- B. Disciplinary actions.
 - (1) Causes for disciplinary action. Disciplinary action against an employee shall be for good cause. The causes for disciplinary action shall include:
 - (a) Violations of Article III, § 6-12A and B, of this chapter; or
 - (b) Violation of articles pertaining to discipline in the various collective bargaining agreements or applicable work rules; or
 - (c) Actions taken outside the scope of County employment which are nevertheless indicative of a lack of necessary skill, character, honesty or trustworthiness and which have a bearing upon the fitness of the individual to perform his usual County duties; or
 - (d) Actions taken outside the scope of County employment or agreements entered into which could in any way be construed to be adverse to the public's interest, or which create the appearance of impropriety or conflict of interest affecting the public's confidence in the full and proper discharge of the employee's duties;
 - (e) The above lists shall not be considered to be all inclusive and disciplinary action shall not be limited to the offenses listed.
 - (2) Record of disciplinary action.
 - (a) Prior to taking any formal disciplinary action, the department head or elected official and the Personnel Department shall discuss and agree upon the facts of the case and the severity of the penalty, if any. The Personnel Department shall maintain a file of all situations brought up for disciplinary consideration. The file will document all facts of the case, the action taken, and the reasons for the action, including cases where it was finally judged that any disciplinary action was not warranted.
 - (b) No prior approval or official action of Council shall be necessary for any disciplinary action against a County employee.
 - (3) Types of disciplinary action. Disciplinary actions shall be progressive in other than serious offenses which might warrant immediate discharge. Normal disciplinary action will follow the pattern of oral warning, written reprimand, suspension, then demotion or dismissal.
 - (4) Oral warning and reprimand. In situations where an oral warning has not resulted in the expected improvement, a written reprimand may be given the employee. A copy shall be placed in the employee's service record in the Personnel Department.
 - (5) Suspension. An employee may be suspended as a result of conduct set forth in § 6-21B(1) of this chapter as causes for disciplinary action. Where the actions resulting in suspension also give rise to criminal proceedings, suspension without pay shall continue until acquittal or conviction. In all other cases, a suspension without pay shall not exceed 30 days. A written

statement shall be furnished to the employee which specifically states the reasons for suspension. A copy shall be made part of the employee's service record in the Personnel Department.

- (6) Demotion. An employee may be demoted for cause and his salary reduced in accordance with the rules governing the salary treatment of demoted employees. A written statement of the reasons for the action shall be furnished the employee and made part of the employee's service record in the Personnel Department.
- (7) Dismissal. An employee may be dismissed from employment for disciplinary reasons. A written statement shall be given to the employee stating the reasons and a copy shall be placed in the employee service record in the Personnel Department.
- (8) Appeal. The employee shall have the right of appeal for suspension, demotion, or dismissal, if there is no applicable collective bargaining agreement, to the Board of Personnel Grievance and Performance Review as provided for in Section 419 of the Home Rule Charter, and as further provided in § 6-19 of this chapter, subject to the limitations of § 6-19C(2) of this chapter.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-22. Rules and regulations of full-time employment.

[Amended 12-1-1992 by Ord. No. 92-5^[1]]

The working hours of full-time service shall be the hours of County business applicable to County departments and offices or other units as set by County Council except as otherwise provided in § 6-73A of this chapter.

- A. Dual compensation. No person whose compensation derives from County funds through a full-time employment with the County may receive from the County any additional compensation, salary, or emoluments for work performed for the County during the same hours applicable to his or her full-time position, or for those duties which are normally within the scope of duties of his or her full-time position.
- B. Work schedule. The department head and the Personnel Department, with the approval of Council, shall have the right to set up necessary work schedules, including shift and odd schedules, to meet the needs of the work.
- C. Overtime. Employees who are required by their supervisors to work beyond their normal work schedules for any given day or week shall be compensated by being given time off (compensatory time) or overtime. In no instances shall duplicate payments be made for the same hours of work.
- D. Authorized leaves of absence without pay. The following types of leave without pay may be granted upon the agreement of the department head and the Personnel Director, with the final approval of County Council:
 - (1) Union leave;
 - (2) Service as an elected or appointed official;
 - (3) Military leave (extended);
 - (4) Personal leave (where the leave will not disrupt the effective and efficient operations of the department); and
 - (5) Education leave.

E. Authorized leaves of absence with pay.

- (1) Types of leaves. The following types of leave with pay may be granted upon the agreement of the department head and the Personnel Director, and in certain instances as provided below, upon the final approval of County Council:
 - (a) Funeral leave for spouses, children, siblings or parents (three days);
 - (b) Jury duty;
 - (c) Military leave (normal two-week leave for reserve duty);
 - (d) Sick leave as provided in the County's Short-Term/Long-Term Policy which is then currently in effect.
- (2) Compensatory time. Leave may be granted to an employee by his supervisor to reduce accumulated compensatory time earned by the employee. Compensatory time should, if possible, be used by the final working day of December of each year.

F. Separations.

- (1) General. The tenure of every employee shall be conditioned on good behavior and satisfactory performance of duties.
- (2) Types of separation. An employee may be separated from service with the County by:
 - (a) Resignation.
 - (b) Layoff.
 - (c) Dismissal.
 - (d) Disability.
 - (e) Retirement.
- (3) Resignation. To resign in good standing, an employee shall give the County two weeks' notice of his leaving.
- (4) Layoffs. Layoffs may be announced from time to time by the County for budgetary reasons, reorganization of the work force, lack of work or other related reasons. Layoffs of personnel covered by the various collective bargaining agreements shall be handled in accordance with provisions covering layoffs.
- (5) Death. When an employee dies while in active service all benefits, including back pay and vacation, shall be paid to his or her designated beneficiary, estate, or surviving spouse in accord with applicable law.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-23. General provisions applicable to department heads and employees of the Sheriff, District Attorney, Controller and Register of Wills.

A. Disciplinary actions.

- (1) The scope, manner, and causes for disciplinary actions set forth in § **6-21B** shall not cover department heads nor those employees in the offices of the Sheriff, District Attorney, Controller and Register of Wills for whom those elected officials have the power to appoint, remove or supervise under the Charter.
 - (2) Suspension or dismissal of employees covered by this section need not be preceded by oral warning or written reprimand.
 - (3) Appeal to the Board of Personnel Grievance and Performance Review shall not be a matter of right for employees covered by this section, and any hearing afforded said employees pursuant to § **6-19C(2)(b)** of this chapter shall not be a prior restraint on suspension or dismissal of employees covered by this section.^[1]
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-24. Approval of personnel actions.

Prior approval of personnel actions involving expenditures of County funds shall be received from the Budget Management Department pursuant to § **6-35B** of this chapter.

Article V. Central Purchasing

§ 6-25. Central Purchasing Department.

A. Function.

- (1) The Central Purchasing Department shall act as the contracting officer for the County in the procurement of all supplies and services required for County operations.
- (2) No County officer or department head shall order the purchase of any goods or supplies or make any contract for any goods, supplies or services covered by this chapter other than through the Central Purchasing Department except as provided in Subsection **A(3)** below. Any purchase ordered or contract made contrary to the provisions herein shall not be approved by County Council and the County shall not be bound thereby.
- (3) A department head may order the purchase of goods or supplies directly in the case of an impending or actual emergency involving the cessation or breakdown of County operations which may vitally affect the life, health or convenience of County residents or employees, and which is unavoidable and not capable of anticipation. Nevertheless, in such a case, the department head must first contact the Director of Purchasing to obtain his consent to said purchase, or the County shall not be bound thereby. After approving such action, the Director of Central Purchasing shall issue a purchase order to cover only that work authorized by his consent.

B. Department head. The Central Purchasing Department shall be headed by a Director who shall be responsible to the County Executive Director for the performance of the functions of the department and who shall be responsible for the performance of the general duties listed in Article III, § **6-15D**, of this chapter.

C. Duties. The Director of the Central Purchasing Department shall be responsible for implementing the County Purchasing Program, including:

- (1) Acting as contracting officer for the County in the procurement of all goods, supplies and services required for County government operations and in this capacity executing purchase orders and contracts for goods and services less than \$25,000;
[Amended 12-1-1992 by Ord. No. 92-5]

- (2) Procuring for the County the highest quality in supplies and services at least expense to the County;
- (3) Discouraging uniform bidding and endeavoring to obtain full and open competition to the extent possible on all purchases and sales.
- (4) Preparing and adopting a standard purchasing nomenclature for use by County departments, offices and agencies and suppliers;
- (5) Preparing, adopting and maintaining a vendors' catalog file containing descriptions of vendors' commodities, prices and discounts;
- (6) Keeping informed of current developments in the field of purchasing, prices, market conditions and new products;
- (7) Exploiting the possibilities of buying in bulk in order to take full advantage of discounts, giving consideration to the amount of inventory storage space available;
[Amended 8-12-1980 by Ord. No. 80-3]
- (8) Having the authority to declare vendors who default on their quotations irresponsible bidders and to disqualify them from receiving any business from the County for a stated period of time not to exceed one year;
- (9) Cooperating with the Budget Management Department and the Controller so as to secure maximum efficiency in budgeting and accounting;
- (10) Determining causes for delays in payments, and remedying them as required;
- (11) Insuring documentation of inspection by department heads prior to acceptance of all deliveries of supplies or services to determine their conformance to the contract;
- (12) Screening and processing all purchase requisitions.^[1]
[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-26. Standardization and specifications.

- A. Classification. The Central Purchasing Department shall classify all the supplies used by the various units of County government.
- B. Standardization. The Central Purchasing Department shall develop standards for the minimum number of qualities, sizes, and varieties of supplies consistent with successful operation of County government. To maximize cost efficiency, purchasing shall standardize commonly used office supplies and shall buy in as large a quantity as may be practicable given existing storage space.
[Amended 8-12-1980 by Ord. No. 80-3]
- C. Specifications. The Central Purchasing Department will insure written specifications shall be generic, definite and certain and shall permit competitive bidding except where inconsistent with other provisions listed hereinafter.
- D. Consultation with department heads. The Central Purchasing Department shall consult with each department, office and agency heads to determine their precise requirements and shall endeavor to prescribe purchasing standards which meet the needs of the majority of departments, offices and agencies.
- E. Exceptions. The Central Purchasing Department, with the approval of the County Executive Director, may exempt any County department, office or agency from the use of standardized office supplies and/or equipment for good cause shown.

§ 6-27. Requisitions and estimates.

- A. Filing of estimates of requirements. All County departments, offices and agencies shall file with the Central Purchasing Department detailed requisitions or estimates of their requirements in supplies and contractual services in such manner, at such times, and for such future periods as the Central Purchasing Department shall prescribe.
- (1) Unforeseen requirements. At any time a department, office or agency may file with the Central Purchasing Department a requisition or estimate for any supplies and contractual services, the need for which was not foreseen when detailed estimates were filed, and the Director of Purchasing shall determine the reasonableness and necessity of said supplies and services.
 - (2) Revisions to estimates. After examination of each requisition or estimate Central Purchasing may revise it as to quantity, quality, or estimate cost; but revisions as to quality shall be in accordance with the standards and specifications established pursuant to this chapter.
- B. Requisition processing. Central Purchasing shall review and process all requisitions and shall place the orders resulting therefrom when the Controller shall have certified there are sufficient unencumbered funds available in the applicable account.

[1] *Cross-Reference: See Art. VI, § 6-35C, and Art. VII, § 6-41.*

§ 6-28. Competitive bidding.

- A. Competitive bidding required. All purchases of, and contracts for goods, supplies, and contractual services and all sales of personal property, except as specifically provided below, shall be based on competitive bids.
- B. Formal contract procedure.
- (1) Applicability.
 - (a) All goods and contractual services involving goods shall be purchased by formal, written contract from the lowest responsible bidder, or in the case of sales, to the highest bidder, after due notice inviting proposals, with the exception of those goods or services expressly excluded under § 6-29 of this chapter.

[Commentary: This provision provides that bidding procedures under this chapter must be followed for all purchases of goods or services or equipment valued over \$25,000 unless the services are unique, professional, or necessary to remedy an emergency as further defined under this article, and for sales of obsolete personal property valued over \$5,000.]

[Amended 12-1-1992 by Ord. No. 92-5]
 - (b) The total amount or price of awarded contracts shall, in all cases, be the entire amount that the County shall pay to the successful bidder or his assignee to procure required goods or contractual services involving goods. The total amount or price of said contracts shall not be construed to mean only the amount paid to acquire or to receive any particular benefit or bargain, but in all cases shall include any and all transportation or set-up charges unless specifically excluded in the invitation to bid or where in conflict with usage of trade as defined by the Uniform Commercial Code.
- C. Invitation to bid.
- (1) Notice inviting bids.

- (a) All notices inviting bids shall be advertised in one newspaper approved by the Delaware County Court of Common Pleas Newspaper Examining Board as a newspaper of general circulation in the County. Additionally, all notices inviting bids shall be posted on the County website. The posting on the County website shall continue until the date bids become due.

[Amended 6-12-2001 by Ord. No. 01-1; 12-10-2014 by Ord. No. 2014-4]

- (b) The newspaper notice required above shall include a general description of the articles to be purchased or sold, shall state where bid blanks and specifications may be obtained, and the time and place for opening bids.

- (c) Notice of invitation to bid shall also be posted prominently in the Courthouse.

- (2) Bidders list. The Central Purchasing Department shall also solicit sealed bids from all responsible prospective suppliers who have requested their names to be added to a bidders list, which the Department shall maintain, by sending them a copy of such newspaper notice or other such notice as will acquaint them with the proposed purchase or sale. Invitations sent to vendors on the bidders list shall be limited to cover commodities similar in character and ordinarily handled by the trade group to which the invitations are sent.
- (3) Bid blanks. The bid blanks to be used in publicly soliciting bids shall be a standard invitation to bid (ITB) which shall specify and describe goods, supplies and contractual services required, quantities, specifications, delivery requirements, and all applicable terms and conditions.
- (4) Bid opening. Bid opening shall not take place less than five days after the date of the last advertisement.

D. Bid deposits.

- (1) All bids when submitted must be accompanied by cash, certified good-faith check, corporate bid bond, bank check, cashier's check, or treasurer's check in the amount of 10% of the bid. The instrument shall be drawn to the order of the County of Delaware and no other instrument shall be accepted. Failure to post a bid bond in accordance with the provisions of this subsection shall automatically disqualify a bidder.
[Amended 8-12-1980 by Ord. No. 80-3; 12-1-1992 by Ord. No. 92-5]
- (2) In the case of a successful bidder, said check or the proceeds thereof shall be retained until the successful bidder has obtained a performance bond. In the event the successful bidder fails to execute a contract or fails to obtain a performance bond as set forth in the ITB within 20 days of receiving notice of contract award, he shall forfeit the bid deposit and the contract shall be awarded to the next lowest responsible bidder.
- (3) Unsuccessful bidders shall be entitled to return of their bond within 23 days of the awarding of the contract.

E. Bid opening procedure.

- (1) Sealed bids. All bids shall be received in the office of Central Purchasing and the time and date received shall be stamped thereon by that Department. Bids shall be submitted in sealed envelopes on or before the date and time stated in said proposal. Any bid received after that date and time shall not be opened but shall be returned to the bidder.
[Amended 8-12-1980 by Ord. No. 80-3]
- (2) Opening.
[Amended 2-10-1998 by Ord. No. 98-1]
- (a) All bids shall be held secure and unopened until opened by the County Clerk (or his/her designee) in the presence of the County Solicitor (or his/her designee) and the Director of

Central Purchasing (or his/her designee) who collectively shall constitute the Bid Opening Board, at the time and place specified in the ITB, which need not be a meeting of County Council, and read aloud.

- (b) If the public meeting stated in the ITB is cancelled for any reason, the bid submission deadline will remain as listed in the ITB, but the bids shall be opened at the next public meeting of the Bid Opening Board. The Director of Central Purchasing will keep all bids secured until the time for opening.
- (c) If cause arises to defer a bid opening, the responsible department head must make the request and state the reason to the Bid Opening Board. If approved by the Bid Opening Board, proper notice of postponement must be given to all bidders in a timely manner. In the case of bids where a fee is required, all bidders of record must be notified in writing. On all other cases of postponement, public notice by newspaper advertisement must follow.
- (3) Tabulation. All bids received shall be made available for public inspection and tabulated by the Purchasing Department and department head affected.
- (4) Award of contract.
 - (a) County Council shall have the authority to award contracts.
 - (b) The award of contract shall only be made at a meeting of County Council at which bids are opened or at a subsequent scheduled public meeting, the time and place of which shall be publicly announced or posted. This procedure shall be followed, for no more than three subsequent postponements, at which time County Council shall make an award or reject all bids.
- (5) Rejection of bids. County Council shall have the authority to reject all bids, parts of bids, or all bids of any one or more goods, supplies, or contractual services included in the proposed contract when it deems it to be in the County's best interest.

F. Lowest responsible bidder.

- (1) Pre-award evaluation. A pre-award evaluation of bidders shall be conducted by the Central Purchasing Department.
[Amended 8-12-1980 by Ord. No. 80-3]
- (2) Lowest responsible bidder. Contracts shall be awarded to the lowest responsible bidder. In determining lowest responsible bidder, in addition to price, the Central Purchasing Department in its pre-award evaluation shall, in consultation with the affected department head, ascertain and consider:
 - (a) The expertise of the bidder to perform the contract or provide the service required;
 - (b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified and with adequate supervisory personnel;
 - (c) The character, integrity, reputation and judgement of the bidder;
 - (d) The quality of performance on previous contracts and services;
 - (e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;
 - (f) The sufficiency of the financial resources of the bidder to perform the contract or provide the service;

- (g) The ready availability of supplies necessary to discharge performance in a prompt and workmanlike manner;
 - (h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;
 - (i) The number and scope of conditions attached to the bid;
 - (j) The applicability of § **6-281(1)**, Local vendors, as amended by this chapter.
[Added 8-12-1980 by Ord. No. 80-3]
- (3) Automatic rejection. The following factors will automatically disqualify a low bidder:
- (a) Default on the payment of taxes, licenses, or other monies due the County;
 - (b) Default, breach or repudiation on past contracts which reflect a course of performance deemed deleterious to the County's best interests.
- G. Award to other than low bidder. When an award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared and kept by Central Purchasing with all other documents relating to the transaction.
[Amended 8-12-1980 by Ord. No. 80-3]
- H. Total cost purchasing. Except as may otherwise be provided by statute, the Charter or ordinance, contracts in excess of \$25,000 composed of items on which bids have been individually received may be awarded to bidders whose total cost of all items is lowest, notwithstanding those bids on individual items submitted by other bidders may have been lower than the bid(s) of the bidder whose total cost is lowest, when deemed by County Council to be in the best interest of the County.
[Amended 12-1-1992 by Ord. No. 92-5]
- I. Tie bids and local bidder preference.
[Amended 8-12-1980 by Ord. No. 80-3]
- (1) Local vendors. If all bids received are for the same total amount or unit price, quality and/or service being equal, the contract shall be awarded to the bidder whose principal place of business is located within the County.
[Amended 8-12-1980 by Ord. No. 80-3; 1-13-1981 by Ord. No. 81-2]
 - (2) Outside vendors. Where Subsection **I(1)** does not apply, the contract shall be awarded to one of the tie bidders by drawing lots in public.
- J. Performance bonds.
[Amended 8-12-1980 by Ord. No. 80-3; 12-23-1980 by Ord. No. 80-5]
- (1) Contracts for one year or less. Except for bids of less than \$50,000 on items under express, ninety-day written manufacturer's warranties or supplier's warranty in a form satisfactory to the Central Purchasing Department, the successful bidder shall be required to enter into a contract and furnish a bond guaranteeing performance of the contract with sufficient surety in the amount of 100% of the bid where the length or term of the contract awarded is one year or less.
 - (2) Multiple-year contracts.
 - (a) Should a contract be awarded covering a period of time greater than one year, Council may, in its discretion, direct that the successful bidder shall be required to furnish a bond as specified in Subsection **J(1)** guaranteeing the contractor's performance for only the first year of the contract in an amount to be computed by dividing the total contract price by the number of years the contract is to run. In that event, Council shall require that the

contractor furnish a bond for each succeeding year of the contract at least 60 days prior to the expiration of the then current contract year. Should single year bonds as herein described be permitted, then the amount of the bond for the subsequent years shall be determined by subtracting from the total contract price the amounts already paid under the contract in previous year(s) and dividing this by the number of years remaining on the contract; however, an additional 10% shall be added to the amount of the bond for each year after the first year.

- (b) Where the total amount of the contract price in a multiple year contract cannot be determined with exactness because of varying factors that affect the contract price, then the Council may authorize a varying of the aforesaid method of arriving at the amount of each yearly bond.
- (c) Where Council decides to permit yearly bonds in a multiple-year contract pursuant to this subsection notice of such decision shall be made part of the bid documents.

- (3) Alternate forms of security. In addition to the traditionally utilized corporate performance bond, the successful bidder may submit cash or irrevocable letters of credit in satisfaction of the obligation to provide a performance bond. Council may also, at its option exercised by a vote at a public meeting, provide for exemption from the requirement of a performance bond where items are covered by a manufacturer's warranty of a reasonable period of time.
[Amended 12-1-1992 by Ord. No. 92-5]

K. Prohibitions.

- (1) Waiver. No provisions of this section relating to procedures for competitive bidding shall be waived or suspended except as specifically provided for in this chapter.
- (2) Subdivision. No contract or purchase shall be subdivided to avoid the requirements of this section.
- (3) Requirements contracts not to exceed budget line item. No invitation to bid shall be advertised nor a contract awarded where the contract is of the requirements type and the estimated maximum amount of the contract exceeds the current budget's line-item amount, except where the contract overlaps more than one budget year.

- L. Error in bidding. In cases where a bidder makes errors in submitting bids, if the error is found in extending unit prices, County Council may allow said bidder to correct such error by awarding the bid at the unit price bid.

§ 6-29. Exceptions to competitive bidding.

- A. Open market procedure and petty cash exception.
[Amended 8-12-1980 by Ord. No. 80-3]

- (1) Applicability.
[Amended 12-1-1992 by Ord. No. 92-5]
 - (a) All purchases of goods, supplies, and contractual services valued under \$25,000 and all sales of personal property which have become obsolete or unusable with estimated value under \$5,000 shall be made in the open market without newspaper advertisement and without observing other bidding procedures as set forth in § 6-28.
 - (b) The bidding and open market procedures shall not apply to the purchases of goods whose estimated value is less than \$1,000. The Central Purchasing Department shall keep a running account of all such expenditures which shall be open to public inspection.

- (c) The bidding and open market procedure shall not apply to the purchase of services, repairs, and routine maintenance whose estimated value is less than \$2,000, such as inspection or repair of roofing, electrical equipment, heating, air-conditioning controls or refrigeration controls or inspection of firesafety equipment.

- (2) Minimum number of solicited prices.
[Amended 12-1-1992 by Ord. No. 92-5]

- (a) All purchases between \$1,000 and \$10,000 shall, so far as feasible and practical, be based on three telephonically solicited prices and shall be awarded to the lowest responsible vendor in accordance with the standards set forth in § **6-28F(2)** of this article, except however, the provision of § **6-28F(2)(j)** thereof shall not be applicable.
- (b) All purchases in excess of \$10,000 and less than \$25,000 shall, so far as feasible and practical, be based on five written or telefaxed solicited proposals, and price quotes submitted in response to such proposals must be returned to Central Purchasing in sealed envelopes within the allotted time frame. The sealed quotes will be opened by the Director of Central Purchasing at the time and place designated at the time of solicitation. Awards shall be to the lowest responsible vendor in accordance with the standards set forth in § **6-28F(2)** of this article, except, however, the provision of § **6-28F(2)(j)** thereof shall not be applicable.^[1]

[1] *Editor's Note: Original Sec. 4.05.01.03, Notice inviting bids, which immediately followed this subsection, was repealed by Ord. No. 92-5.*

- (3) Record of order and bids. The Central Purchasing Department shall keep a record of all open market orders and prices obtained and such records shall be open to public inspection.

- B. Unusual services or goods.
[Amended 8-12-1980 by Ord. No. 80-3]

- (1) Applicability. In all cases involving unusual contractual services or goods and supplies, or the sale of items of personal property and/or removable fixtures, the purchase of items which are unique or sole source items, or where it is necessary to shorten the time period within which items must be purchased, and where competitive bidding procedures as conducted pursuant to § **6-28** are accordingly deemed by the Central Purchasing Department, on the advice of the Executive Director and County Solicitor, to produce prospective contract terms not in the best interests of the County, the Central Purchasing Department may enter directly into negotiations with prospective suppliers or contractors, but no such contract may be executed without approval of Council based on the affirmative recommendation of the Executive Director and the County Solicitor. Where items of personal property and/or removable fixtures are to be sold, Council in an attempt to obtain the highest price for such item or items may authorize the sale of such items by auction or through the services of a reputable and experienced broker.

[Amended 1-13-1981 by Ord. No. 81-2; 12-1-1992 by Ord. No. 92-5]

- (2) Minimum number of contractors. Negotiations should be attempted with more than one supplier, if feasible.
- (3) Recommendations of award. When the Central Purchasing Department has arrived at negotiated terms deemed to be in the best interests of the County, recommendations for award shall be presented to County Council for its consideration.

- C. Professional or unique services.

- (1) Applicability. Professional and other contractual services which are in their nature unique, such as the services of architects, planners, physicians, engineers, financial consultants and attorneys, shall be exempt from competitive bidding procedures as set forth in § **6-28** of this chapter.^[2]

[2] *Editor's Note: Original Sec. 4.05.03.02, Record, which immediately followed this section, was repealed 12-1-1992 by Ord. No. 92-5.*

- (2) Any contract for the provision of design or construction management services in connection with the construction, alteration, renovation, or repair of any public building shall be deemed a contract for professional services which are in their nature unique within the meaning of the exemption for professional and unique services set forth in § **6-29C(1)**. Any contract for the provision of guard, food, medical, or administrative services in connection with the operation of the Delaware County Prison, whether alone or in conjunction with the provision of any other goods or services in connection with the functioning of the prison, shall in its entirety be deemed a contract for professional services which are in their nature unique within the meaning of the exemption for professional and unique services set forth in § **6-29C(1)**.
[Added 8-15-1995 by Ord. No. 95-2]

D. Emergency purchases.

- (1) Applicability. In the case of an impending or actual emergency involving the cessation or breakdown of County operations which may vitally affect the life, health or convenience of County residents, and which is unavoidable and beyond the control of County officials, County Council shall be empowered to authorize the Central Purchasing Department in consultation with the affected department head to purchase directly any supplies or contractual services sufficient to prevent an impending emergency or to eliminate an actual emergency condition without following bidding procedures set forth in § **6-28C** of this chapter.
- (2) Recorded explanation. A full report of the circumstances of the emergency purchase shall be presented to County Council by the affected department head and shall be open to public inspection.

E. Specific exceptions to competitive bidding; types of purchases. The following types of purchases, whether less than or greater than \$25,000, shall be excepted from competitive bidding procedures:
[Amended 8-12-1980 by Ord. No. 80-3; 2-22-1983 by Ord. No. 83-3; 2-26-1985 by Ord. No. 85-3; 12-1-1992 by Ord. No. 92-5]

- (1) Purchases of items that are patented and manufactured or copyrighted;
- (2) Purchase policies of insurance or surety company bonds;
- (3) Purchase of public utility service under tariffs on file with the Pennsylvania Public Utility Commission;
- (4) Contracts with another unit of government or government agency or authority;
- (5) Purchase of items covered under certain state contracts;
- (6) Acquisition of labor, material supplies or professional services furnished by one unit of County government to another.
- (7) Purchase of goods subject to governmental price regulation;
- (8) All food items which are required for the daily operation of the various County institutions or departments; however, notwithstanding any other provision of Subsection E, the purchase of food items pursuant to this subsection shall be subject to the open market provisions of the Administrative Code;
- (9) Purchase of facilities and/or services in connection with the disposal of solid waste generated within the County of Delaware, and in connection therewith the County Council shall have the right to solicit proposals from entities in order to obtain terms and conditions which are the

most favorable and in the best interest of the County, including the right to negotiate exclusively with that entity whose proposal, in the opinion of the Council, would be the most feasible and in the best interest of the County to accept, and the County Council shall have the right to enter into a long-term contract with said entity to provide such facilities and/or services to the County, said initial term not to exceed 25 years;

(10) Purchase of items or services covered under state or federal contracts commonly known as "piggy-back" contracts;

(11) All medical/surgical supplies and drugs which are required for the daily operation of the various County institutions or departments; and notwithstanding any other provisions of Article V of the Administrative Code to the contrary, the Director of Purchasing is authorized to purchase such medical/surgical supplies and drugs from professional buying groups when it is in the best interest of the County to do so.

[Added 11-9-1993 by Ord. No. 93-5]

§ 6-30. Inspection of goods.

The Director of Purchasing shall request a prompt certification of inspection as required of any department head under § 6-15D(14) or architects or other parties to whom the inspection duties have been delegated by contract for all goods contracted for by the County and shall review said certifications prior to acceptance of any goods.

§ 6-31. Cooperative purchasing.

The Purchasing Department shall have the authority to join with other units of government in cooperative purchasing plans when the best interests of government would be served thereby. The Purchasing Department shall also be empowered to develop cooperative purchasing plans with municipalities and school districts for their mutual benefit.

§ 6-32. Execution of contracts.

A. The execution of contracts for goods or services for \$25,000 and more shall require the signature of the Council Chairman after the awarding of the contract by a majority vote of Council in a duly constituted meeting and the attention thereof by the County Clerk.

[Amended 12-1-1992 by Ord. No. 92-5]

B. Submission of contracts for final execution shall be in accordance with procedures set forth at Article VII, § 6-42, of this chapter.

C. The Director of Purchasing shall be authorized to execute those contracts and purchase orders for goods and services less than \$25,000 subject to the Controller's certification that there are sufficient unencumbered funds in the applicable account.

[Amended 12-1-1992 by Ord. No. 92-5]

Article VI. Budget Management

§ 6-33. Budget Management Department.

A. Function. The Budget Management Department shall be responsible for the preparation and monitoring of the County's operating and capital budgets; application of controls over expenditure

authorizations; budget analysis; spending requirements forecasting; and evaluation of the performance of all County-funded programs and operations.

- B. Department head. The Budget Management Department shall be headed by a Director who shall be responsible to the County Executive Director for the performance of the functions of the Department and who shall be personally responsible for the performance of the general duties in § 6-15D of this chapter.
- C. Duties. The Director of the Budget Management and through him the Budget Management Department shall be responsible for the County's budgeting programs, including:
- (1) Securing and analyzing budgetary requests from all County departments and offices to be used in preparing the ensuing annual and five-year capital budget proposals;
 - (2) Coordinating with the Planning Department, Public Works Department, and Intergovernmental Affairs Department in the development of the capital improvements plan and program;
 - (3) Planning, developing and recommending the total County budget to the County Executive Director for his consideration and submittal to County Council according to Article IX of the Home Rule Charter and § 6-34C of this chapter;
 - (4) Establishing and applying budget analysis and spending requirements forecasting and applying expenditure controls to insure that budget appropriations are not exceeded;
 - (5) Implementing interdepartmental budget transfers as authorized by Council;
 - (6) Implementing intradepartmental budget line-item transfers as necessary;
 - (7) Coordinating with the Controller and Treasurer to assure sound budget and financial management.

§ 6-34. Financial plan.

- A. Fiscal year. The fiscal year of the County shall commence on the first day of January and conclude on the last day of December of each year pursuant to Section 901 of the Charter.
- B. Scope and content of financial plan. The financial plan of the County shall be prepared and submitted annually by the County Executive Director to County Council as provided in § 6-34C of this chapter. The financial plan shall consist of a budget message; projected five-year capital improvements plan, including the current year; annual operating budget and capital spending program; and proposed tax ordinance.
- (1) Budget message. The budget message shall explain the proposed annual operating budget and capital spending program in terms of the objectives to be accomplished, the five-year capital improvements plan of which the latter is a part, the County's long-range comprehensive plan, and the County's long-range plan for services.
 - (2) Five-year capital improvements plan. The five-year capital improvements plan shall consist of those expenditures for a capital asset, i.e., a purchase of any item which has a useful life of more than one year and a value exceeding \$500. For capital expenditures greater than \$10,000, the five-year capital improvements plan shall contain an explicit statement of priorities and shall also contain for each project the estimated cost; year to be undertaken; estimated date of completion; the proposed method(s) and source(s) of financing; the estimated annual impact on the operating budget during and after three years of completion; the amounts authorized or expended for pending projects under prior capital budgets; the amount(s) of new authorization(s) by source of funds for each of the years covered by the capital improvements plan; and the amount(s) by source of funds that may be required to

complete the project in the years following the period covered by the capital improvements plan. The first year of the five-year capital improvements plan shall be included in the annual operating budget and capital spending program.

- (3) Annual operating budget and capital spending program. The annual operating budget and capital spending program shall include:
- (a) Actual operating expenditures by line item and by major category; and revenues for the last completed fiscal year;
 - (b) Budgeted operating expenditures by line item and by major category and revenues for the current fiscal year;
 - (c) Proposed operating expenditures by line item and by major category and all revenues by source for the ensuing fiscal year, classified by departments and offices and their subunits and by special funds;
 - (d) An estimate of all unexpended balances at the end of the present fiscal year which are available to meet the expenditure requirements for the ensuing fiscal year;
 - (e) A statement of debt service requirements for the ensuing fiscal year;
 - (f) A statement of the bonded indebtedness of the County;
 - (g) Proposed items of capital expenditure for the ensuing fiscal year, as further outlined at Subsection **B(2)**;
 - (h) Recommendations that a pending project be modified or abandoned or further authorization therefor postponed.

C. Procedures for preparation, adoption and modification.

(1) Preparation.

- (a) At least 180 days prior to the beginning of the fiscal year, County Council shall prepare a statement of budget policy for the ensuing fiscal year to guide all County departments and offices in the preparation of their budget requests.
- (b) At least 170 days prior to the beginning of the fiscal year, the County Executive Director, through the Budget Management Department, shall request all County departments and offices to submit capital and operating budgetary requests consistent with County budget policy on such standard forms and schedules and containing such information as the Budget Management Department may prescribe for this purpose.
- (c) The Budget Management Department shall assemble and evaluate all line-item capital projects. For those requests greater than \$10,000, the Planning Department shall assist the Budget Management Department in its evaluation by performing the following tasks:
 - [1] Evaluation of proposed capital projects in excess of \$10,000 based on priority guidance provided by County Council;
 - [2] Assignment of relative priorities to those capital project requests determined by the Planning Department to be essential to County operations and to the County Comprehensive Plan;
 - [3] Identification of actions required to effectuate projects approved by Council for implementation;
 - [4] Data gathering and analysis bearing on the project's essentiality to the County;

- [5] Recommending specific budget year(s) in which approved project should be commenced;
 - [6] Coordination of non-County agencies which may request capital funding assistance from the County, such as Southeastern Pennsylvania Transportation Authority (SEPTA); Pennsylvania Department of Transportation (PennDOT); County or municipal authorities, and units of municipal government in Delaware County.
- (d) The Director of Budget Management shall serve as head of the Capital Projects Committee consisting of the Director of Planning, Public Works, and Intergovernmental Affairs, and a person designated by County Council to serve on said Committee. The Committee shall review the proposed capital projects and advise the Budget Management Department on matters of priority, financing, budgetary impact, and grant availability.
 - (e) The Budget Management Department shall evaluate all budget requests in terms of overall County policy and budget direction as may be set by the County Council.
 - (f) At least 90 days prior to the beginning of the fiscal year, the Budget Management Department shall recommend the total County budget consisting of a projected five-year capital improvement plan and an annual operating budget and capital spending program to the County Executive Director;
 - (g) At least 60 days prior to the beginning of the fiscal year, the County Executive Director shall prepare and submit to County Council a financial plan as prescribed in § 6-34B of this chapter.
- (2) Adoption.
- (a) The proposed annual operating budget and capital spending program shall be public record, available for public inspection during regular business hours after submission to County Council.
 - (b) County Council or a committee of Council shall review the budget and spending program and, not later than the third Monday of November, file with the County Clerk its report, including any recommendations proposed therein.
 - (c) Not later than the fourth Monday of November, the County Clerk shall give notice of the time and place of a public hearing on the annual operating budget and capital spending program and the five-year plan of which they are a part. The public hearing shall take place between the third and tenth of December at a time and place designated by County Council.
 - (d) County Council, in considering the total budget, may revise, alter or decrease items in the annual operating budget, the capital spending plan, and the five-year plan. At least 10 days before the beginning of the forthcoming fiscal year; County Council shall adopt the total annual operating budget and capital spending program, and shall approve a five-year capital improvements plan, which shall be a statement of planned future needs dependent on availability of funds.
 - (e) If a total budget has not been adopted on or before the first day of January, there shall be an automatic authorization of monthly expenditures not exceeding 1/12 of total expenditures recorded for the fiscal year just completed. Such authorization shall have the effect of permitting the continued operations of County government and the borrowing of funds necessary to meet operational needs. The automatic authorization shall be for a period not to exceed three consecutive calendar months, that is, beyond the final calendar day of the month of March. Thereafter, if Council has not adopted the annual

budget, then the total annual budget as originally submitted by the County Executive Director shall be the approved total annual budget for the current fiscal year.

- (f) When the annual budget shall have been adopted, the Council shall thereupon establish tax rates so that the annual budget shall be balanced as to revenue and expenditures.
- (3) Modification. The County Council may by ordinance modify the annual budget after its final adoption.
- (4) Independent audit. Prior to the 31st of December of each year, Council shall provide for an independent annual audit of all fiscal affairs of the County government by a certified public accountant, a firm of certified public accountants, a competent independent public accountant, or a firm of independent public accountants, who have no personal financial interest, direct or indirect, in County government. Council may provide for more frequent audits, as well as special audits, as it deems necessary. The results of the annual audit and financial statements of the fiscal affairs of the County shall be presented to Council. A summary of the annual audit and financial statement shall be published in at least one newspaper of general circulation in the County by no later than the first day of April in the year following the audited fiscal year.
- D. Capital borrowing. County Council shall have the right to borrow funds for implementation of the capital improvements program.

[Commentary: The County, pursuant to Section 1013 of the Charter, shall be bound by the debt limit and other substantive provisions of the Local Government Unit Debt Act, 53 Pa.C.S.A. § 8001 et seq., as amended, of the Commonwealth of Pennsylvania.][¹]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-35. Budget management procedures.

- A. Monthly reports. The Budget Management Department shall request from each County department and office a monthly report on anticipated revenue and spending needs by month for the balance of the current fiscal year. The Budget Management Department shall prepare periodically, as requested by County Council, a summary budget status report by department and/or program recommending any necessary revisions in County budget policy.
- B. Approval of personnel actions. All personnel actions involving expenditures of County funds shall first require certification from the Budget Management Department that unencumbered funds are available within the budgets of the affected department to fund said personnel actions.
- C. Budget transfers.
- (1) During the budget year and after January 31, the Budget Management Department may authorize budget line-item transfers within or among the budgets of County departments and offices. All interdepartmental budget transfers shall be subject to approval of Council.
- (2) The Budget Management Department shall not affect any budget transfer or modifications of any nature, which shall have the effect of increasing overall budgeted expenditures of the County during any fiscal year; except, where unanticipated revenues have been received or funds have been obtained through appropriate borrowing and have the effect of increasing available funds, the Budget Management Department may recommend, for Council's approval, increased budget appropriations for necessary purposes. These increases shall not exceed additional revenues.
- [Amended 8-12-1980 by Ord. No. 80-3]

- (3) The Budget Management Department will notify the Controller of any budget revisions after Council approval therefor in a public meeting.

§ 6-36. Expenditure contract.

[Added 8-12-1980 by Ord. No. 80-3]

No appropriation shall be encumbered and no expenditure shall be made by any County unit unless the Budget Director shall certify that there is an unencumbered balance of appropriations and funds available within the applicable department budget.

§ 6-37. Submission of contracts.

[Added 8-12-1980 by Ord. No. 80-3]

All contracts requiring submittal to Council for final execution shall be accompanied by a certification by the Budget Director that there are sufficient unencumbered funds available in the applicable account, however, where a contract overlaps a budget year, the Budget Director need only certify that there are sufficient funds to cover expenditures projected over the current budget year prior to Council execution of said contract.

Article VII. Financial Management

§ 6-38. Treasurer.

[Amended 7-28-1992 by Ord. No. 92-3]

A. Functions.

- (1) The Treasurer shall be responsible for the receipt, collection, deposit, distribution, investment, borrowing, and management of all County funds, and shall have all the powers and duties granted by the commonwealth law, and laws applicable to Counties of the Second Class A for the Treasurers, the Home Rule Charter and this chapter.
- (2) The Treasurer shall supervise subordinate assessors, engineers and clerks appointed by the Board of Tax Assessment Appeals and administer rules and regulations promulgated by that Board.
- (3) The Treasurer shall be the Director of the Tax Claim Bureau which shall be a part of the Office of the Treasurer. As Director of the Tax Claim Bureau the Treasurer shall be responsible for the operation of the delinquent real estate tax collection systems, programs, and services of the County.

B. Department head. Pursuant to Sections 418 and 1213 of the Charter, the Office of Treasurer shall be headed by the Treasurer who shall be responsible to Council for the performance of the functions of the Office.

C. Powers and duties.

- (1) The Treasurer and through him the Office of the Treasurer shall be responsible for the County's treasury programs and activities, including:
 - (a) Receipt, collection, deposit and disbursement of all County funds;
 - (b) Selection, with County Council, of depositories for County funds and maintenance of records of deposits and withdrawals from said depositories;

- (c) Preparation of reports of monies received by the County to the Controller at such intervals as the Controller may prescribe, and make available to the Controller all records pertaining to the County's treasury programs and activities;
 - (d) The investment of County funds pending their application for current operations, and maintain custody of all investments and invested funds of the County or in the possession of the County in a fiduciary capacity, except as may be otherwise provided by law;^[1]
 - [1] *Editor's Note: Original Sec. 6.01.03(a)(5), regarding administration of the County debt and safekeeping of bonds and notes, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (e) Disbursement of County funds on authorized warrants drawn by the County Council when approved and countersigned by the Controller;
 - (f) In an agency capacity, perform the following: collection and transmittal of monies for the commonwealth; maintenance of separate accounts of all monies so received and transmitted; and the preparation of an annual statement of said monies for the Auditor-General; [Commentary: These separate accounts include but are not limited to licenses, fees and permits for dogs and kennels, places of amusement, hunting, peddling of goods, and motor boats.]
 - (g) Collection of real and personal property taxes and the maintenance of accounts of monies collected;
 - (h) Performance of such other duties with respect to the collection of County taxes as shall be assigned by County Council;
- (2) The Treasurer and through him the Office of the Treasurer shall perform the following duties pertaining to the tax assessment of real property and personal property in the County for taxation purposes:
- (a) Supervision of subordinate assessors, engineers, and clerks appointed by the Board of Tax Assessment.
 - (b) Appeals in accordance with the rules and regulations established by the Board of Tax Assessment of Appeals.
- (3) The Treasurer, as Director of the Tax Claim Bureau, and through him the Office of the Treasurer shall have the following duties and powers pertaining to the operation of the delinquent real estate tax collection systems, programs, and services of the County:
- (a) Duty to collect taxes, give proper receipts, and make proper distribution of monies received;
 - (b) Duty to pay taxes and municipal claims recovered to taxing districts entitled thereto;
 - (c) Duty to act as agent of any taxing district which returns its tax claims to the Bureau for collection and to enter such claims in dockets;
 - (d) Duty, upon request, to furnish lien certificates showing taxes due on any property;
 - (e) Duty, upon request, to give notice to a person selling land for collection claims of various tax liens and claims against the property;
 - (f) Duty to give property owner notice of delinquent taxes;

- (g) Power, prior to time tax claim becomes absolute, to set aside or reduce the amount of tax claim due to payment;
- (h) Duty to enter returns made to claims made up by the Bureau in appropriate Bureau dockets and indexes;
- (i) All other powers and duties as set forth in provisions of the Real Estate Tax Sales Law, 72 P.S. § 5860.101 et seq.

§ 6-39. Controller.

- A. Function. The Controller shall be responsible for overseeing and controlling the expenditure of County funds, and shall have the powers and duties granted by commonwealth law, by laws applicable to counties for the Second Class A Controllers, the Home Rule Charter, this chapter, or by ordinance of County Council.
- B. Department head. The Office of Controller shall be headed by an independently elected Controller who shall be responsible to the electorate of Delaware County for the performance of his duties. He shall appoint at least one deputy controller trained or experienced in the art of accounting and such other staff, including a solicitor, as may be required to assist him in the discharge of his duties, subject to the budgetary approval of County Council.
- C. Powers and duties. The Controller shall have the responsibility and power and duty to:
 - (1) Install and maintain the County's central accounting system and records, including payroll accounting, retirement accounting, employee benefits, general ledger and revenue accounting and accounts payable;^[1]
 [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (2) Prescribe and enforce a uniform chart of accounts for all County departments and offices and other budgeted agencies in consultation with the Budget Management Department, which system shall be consistent with sound accounting principles and shall facilitate the production of records of the cost of performance of each functional program or activity;
 - (3) Operate and maintain a central payroll system and procedure covering salary and wage payments and payroll deductions for all personnel paid out of County funds;
 - (4) Maintain travel expense reimbursement records;
 - (5) Develop and maintain time sheets and maintain accrual information within the system;^[2]
 [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (6) Preaudit all accounts of County agencies receiving, disbursing or authorizing disbursement of County funds on a continuing basis;
 - (7) Require reports of receipts and disbursements of each department and office to be made at such intervals as the Controller may determine will most efficiently protect the County's interest;
 - (8) Conduct fiscal postaudits;
 - (9) Conduct special fiscal audits as requested by County Council or the County Executive Director or on the initiative of the Controller;
 - (10) Report the results of all fiscal postaudits to County Council and the County Executive Director;

- (11) Cooperate with the Budget Management Department, the Treasurer, and the Board of Personnel Grievance and Performance Review to maximize the extent of intergovernmental audit coordination;
- (12) Submit a report on the County's revenues and expenditures to the County Council within 30 days of the end of each County fiscal year.^[3]

[3] *Editor's Note: Original Sec. 6.02.03(m), requiring the Controller to develop a manual within 90 days of adoption of this chapter, which immediately followed this subsection, was deleted 8-12-1980 by Ord. No. 80-3.*

§ 6-40. Timely payment of bills.

[Amended 8-12-1980 by Ord. No. 80-3]

The Controller shall effect payment of all duly authorized invoices and other bills for payment properly presented to the County by suppliers of goods and services, said payment to be effected within specified prompt payment discount periods or 30 calendar days, whichever is shorter. This provision is subject to the availability of County funds to effect said payments.

§ 6-41. Encumbering of funds.

[Amended 8-12-1980 by Ord. No. 80-3]

Once the Budget Director, pursuant to § 6-36 of this chapter, has certified that there are funds available within the applicable department budget to cover a proposed expenditure, the Controller shall encumber the funds.

§ 6-42. Retirement Board duties.

A. Pursuant to the Commonwealth Pension Act of 1971,^[1] the Controller is a member and serves as Secretary of the Retirement Board.

[1] *Editor's Note: See 16 P.S. § 11651 et seq.*

B. The Controller shall maintain records of individual retirement fund contributions and interest accrued thereon; prepare financial statements of the fund; and have the responsibility for refund and pension payments to members.

C. The Controller shall maintain the accounting records for the retirement fund and prepare reports as required by the Board and outside agencies.

§ 6-43. Petty cash funds.

The Controller shall provide for the establishment of petty cash funds, including an administrative services petty cash fund. Procedures governing the operation of such funds shall be set forth in procedures established by the Controller's Office.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

Article VIII. Surcharges

§ 6-44. Applicability.

The surcharge and enforcement provisions of this article shall apply to all County employees and elected officials.

- A. Prohibited expenditures causing loss. The amount of any balance or shortage, or any expenditure of a fund, made in a manner prohibited or unauthorized by law or ordinance, which causes financial loss to the County, shall be a surcharge against any official or employee who, by malfeasance, misfeasance, or nonfeasance, has permitted or approved such expenditure or shortage to occur.
- B. Shortages found by auditor are surcharged. Any shortage or illegal expenditure in any report filed by the independent auditor to the Council against any official or employee shall constitute a surcharge, and the Council shall cause appropriate legal actions to be commenced with respect to said shortage or illegal expenditure.
- C. Special report and hearing in some cases. In those instances where the Council finds that the shortage or expenditure, as aforesaid, was not caused by malfeasance, misfeasance, or nonfeasance of the official or employee responsible therefor, but occurred despite the good faith of such person, the shortage shall not be entered as a surcharge, but the Council shall issue a special report on the matter and shall hold a public hearing concerning the report within 30 days after the issuance thereof.
- D. Appeals. It shall be lawful for the County, or any resident thereof on its behalf, or any official or employee whose account is settled or audited, to appeal to the Court of Common Pleas of the County of Delaware from the settlement or audit as shown on the report of the auditor to the Council, not later than 30 days after public notice of the filing of the report.
- E. Enforcement. Judgements caused to be entered by the Council or by the Court after hearing an appeal shall be enforced by appropriate proceedings.

Article IX. Miscellaneous Provisions

§ 6-45. Subpoena power.

Council, the Controller, the District Attorney, and such other officers, commissions, boards, or agencies of the County as Council may provide by ordinance shall have the power to administer oaths, to compel the attendance of witnesses, and to require the production of records or other materials in connection with any investigation, inquiry or hearing authorized by law or the Charter.

§ 6-46. Extension of deadlines falling on Saturdays, Sundays and holidays.

Whenever any time established by this chapter for the taking of action expires on a Saturday, Sunday, or on a legal holiday, such time shall not expire on said day, but shall expire on the next week day.

§ 6-47. Equivalent functions.

Where law or ordinance prescribes certain functions to be performed by a designated department head under the former form of government, such function shall be performed by the equivalent department head to which the respective functions have been assigned by this chapter.

§ 6-48. Performance evaluations by Board of Personnel Grievance and Performance Review.

- A. Pursuant to Section 419 of the Charter, the Board of Personnel Grievance and Performance Review shall evaluate, upon the request of County Council, the performance of all County funded programs and operations to determine their efficiency, and make recommendations to Council based upon their findings.
- B. The Board shall conduct performance audits at least every four years in all entities of the County government, and upon completion of same, shall make appropriate recommendations to the Council.
- C. The Board shall have the power to delegate its responsibilities under Subsections **A** and **B** of this section, when necessary, to the Executive Director;
- D. Compensation for the Board members appointed by Council to perform duties under Subsections **A** and **B** of this section shall be as determined by Council.

[Commentary: This section implements the performance audits mandated by the Charter. However, in recognition of the fact that the Board of Personnel Grievance and Performance Review will be composed of individuals chosen for their knowledge of personnel matters for functions pursuant to Article IV, § 6-19, of this chapter, the right of delegation has been created. There is currently no in-house capability in the area of performance review, and delegation in-house will therefore require the later creation of a new department or a new division under the Executive Director.]

[1] *Cross-Reference: For other duties of this Board see Art. IV, § 6-19.*

§ 6-49. Multiyear leases of real property.

[Added 9-20-1994 by Ord. No. 94-3]

The County of Delaware, by and through the Delaware County Council, is hereby authorized to enter into leases for real property for periods of up to 10 years, including the buildings and improvements thereon and services for maintenance and repair thereto, and further to provide in such leases for renewal options on the part of the County of up to five years.

Part 4. Councilmanic and Executive Branches of Government

Article X. County Council

§ 6-50. Membership; terms; election; qualifications; vacancies.

The number of Councilpersons, their terms, election and qualifications and the filling of Council vacancies shall be as provided in the Charter.

§ 6-51. Organization meeting.

The day, time and place of the organization meeting of the Council shall be as provided in the Charter.

§ 6-52. Meetings of Council.

- A. Public notice. Provisions governing public notice of meetings shall be as provided by law.

- B. Regular meetings. Council shall meet formally at such time and place as the Council may from time to time designate. The Council may adjourn to a stated time for general business or for special business. If no quorum is present at a stated weekly or adjourned meeting, a majority of those who do meet may agree upon another date for a meeting and may continue to do so until the meeting is held.
- C. Special meetings. Special meetings may be called by the Chairman of the Council or upon the written request of a majority of the members of the Council. A written notice shall be delivered to each Council member at least 24 hours before a special meeting is held. Such notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meeting by the Council. Presence at the meeting constitutes waiver of notice. Public notice of special meetings shall also be given in accordance with applicable state law.
- D. Emergency meetings. The Council may hold and take action at an emergency meeting at any time. Such emergency meetings may be called by any member of the Council, provided that:
- (1) A quorum is present as provided in the Charter.
 - (2) A majority of the Council determines that the holding of such meeting and the taking of emergency action at that time is necessary to protect or promote the public health and safety of the County.
- E. Executive sessions. The Council may hold executive sessions as permitted by law. No official action shall be taken by the Council on any matter in executive session other than as provided by law.

[Commentary: Pennsylvania's Sunshine Act, 65 Pa.C.S.A. § 701 et seq., stipulates public notice and publication requirements for all regular, special and emergency Council meetings according to provisions in § 6-52A. The Sunshine Act of Pennsylvania, 65 Pa.C.S.A. § 701 et seq., limits executive sessions to the consideration of personnel problems and labor negotiations according to provisions in § 6-52E.][¹

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-53. Meeting to be public.

All official, regular, special and emergency meetings of the Council shall be open to the public as provided by law.

[Commentary: Requirements governing the openness of Council meetings are provided for in Pennsylvania's Sunshine Act, 65 Pa.C.S.A. § 701 et seq.][¹

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-54. Agenda.

- A. The proposed agenda for any meeting of the Council shall be prepared by the County Clerk in consultation with the Chairman or a councilmanic committee created for that purpose.
- B. The agenda for any stated meeting should be available to all members of the Council and be available to the public at 4:00 p.m. on the day prior to the stated weekly meeting. In addition, the agenda for stated weekly meetings shall be posted on the bulletin board in the Delaware County Courthouse and in other places in the Courthouse of frequent public use.
- C. The published agenda may be amended at the meeting by a majority of the members present.

§ 6-55. Conduct of business.

At the time appointed for any meeting of the Council, the Chairman shall take the chair and call the meeting to order. If a quorum is present, as provided in the Charter, the Chairman shall proceed with the order of business prescribed for the meeting. If, upon the call of the roll, a quorum is not present, the Chairman shall order a recess for a period of 15 minutes, and if a quorum has not developed by that time, the Chairman shall declare the meeting adjourned.

§ 6-56. Rules of procedure.

The Chairman shall be responsible for the orderly conduct of business at each Council meeting and shall preserve order and decorum at such meetings. In the Chairman's absence the Vice Chairman shall preside.

§ 6-57. Public participation.

- A. A citizen shall be provided the opportunity to address the Council on any agenda item without written notice. The presiding officer may limit the time each person shall speak, giving equal time to all.
- B. Citizens desiring to address the Council at its stated meetings on matters not on the agenda may do so without prior written notice so long as the subject is one of particular urgency as ruled upon by the Chairman. Each citizen shall limit his comments to five minutes.
- C. When a group of persons wishes to address the Council on the same subject matter, it shall be proper for the presiding officer to request that a spokesperson be chosen by the group to address the Council and to limit the number of persons addressing the Council on the same matter so as to avoid unnecessary repetition.
- D. Any person whose conduct is disorderly or disruptive of the orderly conduct of Council business while in the Council chamber may be removed from the meeting at the discretion of the presiding officer.

§ 6-58. Committees of Council.

The Chairman may, at any time, provide for standing and ad hoc committees to assist with the carrying out of its function. The presiding officer shall appoint the chairperson for each such committee. Each committee so designated by the Council shall elect its officers and provide for written rules governing its procedure. Any such committee appointed by the Council shall thereafter report to the Council at the regular stated meetings of that body.

§ 6-59. Official actions of Council.

Official actions of the Council shall be taken by motion, ordinance, or resolution as provided in the Charter.

§ 6-60. Ordinances requiring prior public notice and hearing.

Action by Council on ordinances shall be governed by Section 409 of the Charter.

§ 6-61. Duties regarding execution of contracts.

County Council shall execute contracts in accordance with § 6-32 of this chapter.

§ 6-62. Independent audit.

- A. Postaudits. The Council shall provide for an independent postaudit as mandated in the Charter. The Council may contract for the services of an accountant or accounting firm annually or for a period not exceeding three years.
- B. Financial report. The Council shall, within 30 days after completion of the audit, and consistent with Section 909 of the Charter, publish a statement setting forth the County's financial condition and the date the independent auditor's report was filed with the Council.

§ 6-63. Compensation and expenses.

Provisions as to salary and expense reimbursement shall be as provided in the Charter. Members of the Council shall receive no other compensation, direct or indirect, for the performance of their duties. However, nothing in this section shall preclude the right of the County to provide accident or liability insurance coverage for members of the Council when on County business, or when in the performance of their official duties, limited to the duration of their term. Members of the Council shall be entitled to reimbursement for actual expenses incurred, provided that the expenditure is related to the performance of official duties.

§ 6-64. Council staff.

The appointment, supervision, and duties of the County Clerk shall be as provided in the Charter. The Council may employ the services of independent legal counsel and such other staff as it deems appropriate.

§ 6-65. Policy and budgetary authority.

Nothing in this chapter or omitted hereunder shall in any manner be held to limit the final policy setting and budgetary authority of Council over all other departments, commissions or boards of County government as granted by the Home Rule Charter and by law.

Article XI. Councilmanic Service

§ 6-66. Departments, commissions and boards under supervision of Council.

The departments, commissions and boards under the direct supervision of Council shall be as set forth in § 6-15A of this chapter, with such duties and organizations as are detailed by this article.

§ 6-67. (Agricultural) Cooperative Extension Service.

- A. Function. The Delaware County Cooperative Extension Service shall be responsible for the operation of the Cooperative Extension facilities, programs, and services of the County and shall be headed by a Director.

[Commentary: The Delaware County Cooperative Extension Service is an educational delivery system which has both financial and program support from three primary sources: local government, commonwealth government, and federal government. The Service is, in effect, a partnership undertaking between the Pennsylvania State University, the Land-Grant University for Pennsylvania, the United States Department of Agriculture, and the Delaware County Council. The Service has access to faculty and facilities of the University, the Federal Extension Service, and other cooperating agencies.]

- B. Duties. The duties of the Cooperative Extension Service shall be to:

- (1) Extend continuing and informal educational opportunities to the people of Delaware County;^[1]
 [1] *Cross-Reference: See e.g., Act No. 142 of the Pennsylvania General Assembly, 1915; The Smith-Lever Act 1914.*
- (2) Improve the income-producing skills, and quality of life of people by providing educational assistance in:
 - (a) Horticulture and agriculture.
 - (b) Home economics and family living, including consumer education.
 - (c) Expanded nutrition education program.
 - (d) 4-H Youth Program.
 - (e) Advisory committees.

§ 6-68. Board of Elections and Registration Commission.

- A. Function of Board of Elections. The Board of Elections shall be responsible for the conduct of elections as required by law.
- B. Membership. Members of the Board of Elections shall be selected by Council. The Board of Elections shall consist of two appointees representing the party with the largest total vote cast for the seat on Council in the most recent municipal election, and one appointee representing the party with the second ranking total vote cast in the most recent municipal election. Council shall select the minority party representative from a list of three nominees submitted by the County Chairman of the party receiving the second ranking total vote cast in the most recent municipal election.
- C. Powers and duties. The Board of Elections is responsible for all elections held in the County of Delaware. The duties of the Board of Elections shall be to:
- (1) Send notices to municipal and school board secretaries as to elected offices to be filled at the next general election;
 - (2) Recommend the division of municipalities into election precincts and petition the Court, therefor finalize the Court's order, and advertise the division;
 - (3) Distribute nominating petitions for the primary election;
 - (4) Receive nominating petitions;

- (5) Type party lists of all candidates who filed nominating petitions;
- (6) Compare each petition and prepare ballots for printing;
- (7) Compare tabulation book and type ballot;
- (8) Compare sample ballots and absentee ballots;
- (9) Receive political committees' reports;
- (10) Receive political financial reports;
- (11) Advertise:
 - (a) Offices to be filled for the upcoming election;
 - (b) Election divisions; casting of lots for all candidates who filed nominating petitions;
 - (c) Home Rule questions;
 - (d) Other questions;
 - (e) List of all polling places;
 - (f) Proclamation of election; and
 - (g) Return Board report;
- (12) Issue:
 - (a) Machine inspectors' letters;
 - (b) Judges of election letters;
 - (c) New majority inspectors' letters of instruction;
 - (d) New minority inspectors' letters of instruction;
 - (e) Watches certificates;
 - (f) Certificates of election for elected officials; and
 - (g) Certified letters for recanvassing of voting machines;
- (13) Check voting certificates for each election district;
- (14) Check election supply box for each election district;
- (15) Certify returns to Harrisburg;
- (16) Complete tabulation of each small tabulation book;
- (17) Type posters for any questions on the ballot and place in supply box;
- (18) Process applications for absentee ballots;
- (19) Type absentee list for each district which has an absentee ballot;
- (20) Type absentee list for anyone in the military service;

- (21) Type absentee list for emergency absentee voter;
 - (22) Check financial reports;
 - (23) Check tabulation returns;
 - (24) Check and approve election officers pay vouchers;
 - (25) Complete tabulation of statewide candidates and send to Harrisburg;
 - (26) Make recommendations to Court of quarter sessions on petitions for redistricting;
 - (27) Select and equip polling places;
 - (28) Purchase and maintain election equipment;
 - (29) Appoint employees;
 - (30) Issue certificates and regulations for employees and voters;
 - (31) Instruct employees in their duties;
 - (32) Provide proper notice of elections;
 - (33) Investigate irregularities in elections;
 - (34) Receive certain nomination and candidacy papers;
 - (35) Receive and compute election results;
 - (36) File with the Secretary of the commonwealth, 20 days prior to an election, a total number of registered voters;
 - (37) Annually prepare, for appropriations, Board and election expenses for the ensuing fiscal year;
 - (38) Act on majority vote;
 - (39) Appoint a Chief Clerk who shall have power to sign vouchers and administer oaths;
 - (40) Issue subpoenas and make rules to govern Board's affairs;
 - (41) Preserve and keep public records;
 - (42) Ascertain offices to be filled if County classification is changed;
 - (43) Prepare voter certificates;
 - (44) Grant absentee ballots;
 - (45) File certified copy of voting returns.
- D. Organization. The Board of Elections is divided into two divisions:
- (1) Conduct of Elections; and
 - (2) Voting Machines.

- E. Function of the Voter Registration Commission. The Voter Registration Commission shall assume those functions regarding the registration of voters delegated thereto by state statutes on voter

registration, as set forth in 25 P.S. § 951-1 et seq.^[1]

[1] *Editor's Note: The voter registration provisions at 25 P.S. § 951-1 et seq. were repealed/renumbered 6-30-1995 by P.L. 170, No. 25. The subsequent Voter Registration Act was then repealed in its entirety 1-31-2002 by P.L. 18, No. 3.*

- F. Membership and organization. The Voter Registration Commission shall be headed by the members of County Council.
- G. Duties. The duties of the Voter Registration Commission shall be to:
- (1) Comply with all provisions of the Permanent Registration Act for Cities of the Second Class A, Cities of the Third Class, Boroughs, Towns, and Townships as set forth in 25 P.S. § 951-1 et seq., and any amendments thereto;^[2]

[2] *Editor's Note: The voter registration provisions at 25 P.S. § 951-1 et seq. were repealed/renumbered 6-30-1995 by P.L. 170, No. 25. The subsequent Voter Registration Act was then repealed in its entirety 1-31-2002 by P.L. 18, No. 3.*
 - (2) Receive and process all voters' registrations, removals, and changes of party;
 - (3) Arrange for any outside registration;
 - (4) Complete tabulations;
 - (5) Prepare election binders;
 - (6) Maintain all active and cancelled files;
 - (7) Prepare street cards and street lists;
 - (8) Challenge applicants right to register; and
 - (9) Cancel or suspend registration in certain cases.

§ 6-69. Board of Institution Management.

- A. Function. The Board of Institution Management shall assume the administrative duties and functions, lands, buildings, programs, records, appropriations, personnel and equipment of the Delaware County Institution District on the first Monday of January 1978, pursuant to Section 1205 of the Charter, except where otherwise provided by § 6-15A(1)(b) of this chapter.
- B. Membership and organization. The Board membership and period of service shall be as Council determines.
- C. Duties. The Board duties shall be as Council determines and as defined by state and federal regulations.^[1]
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- D. Institutions subject to Board supervision. The following County institutional agency shall be subject to the overall responsibility of the Board:
- (1) The Fair Acres Geriatric Center shall provide skilled nursing facility services (SNF) to all people that require long-term care services. It shall be headed by a licensed nursing home administrator (NHA).^[2]

[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-70. Board of Personnel Grievance and Performance Review.

The Board of Personnel Grievance and Performance Review shall have those duties set forth in Article IV, § 6-19, and Article IX, § 6-48, of this chapter.

[1] *Editor's Note: Original Sec. 10.04, Board of Merit Review, which immediately preceded this section, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-71. County Clerk.

- A. **Function.** The County Clerk shall be responsible to Council for performance of the duties listed in § 6-71B of this chapter and Section 413 of the Charter.
- B. **Duties.** The Clerk's duties shall include recording, certifying, and implementing County Council's resolutions, minutes of meetings and agenda. In all other respects, the statutory duties of Chief Clerk are retained in the Office of County Clerk. The County Clerk is assigned the following additional duties:
- (1) Returning all contracts after they are executed by Council to successful bidders, returning certified checks or bid bonds and notifying by mail the successful bidders and rejected bidders;
 - (2) Sending out bills and letters and recording of payments with reference to the Department of Emergency Services;^[1]
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (3) Sending out bills and letters and recording of payments with reference to fire and ambulance service;
 - (4) Approving the veterans' bills and Memorial Day expenses and recording them;
 - (5) Collecting and recording of rent payments for County properties;
 - (6) Supervise the leasing, rental, sale or other use of County property not used by other County units;
 - (7) Processing appointments to all boards and commissions;
 - (8) Making up certificates for tax collectors and receiving their bills;
 - (9) Acting on all matters bearing on and with reference to placement of surety contracts providing liability, property damage, life insurance, and all other insurance coverages which the County Council shall authorize from time to time;
 - (10) Acting on all matters bearing on and with reference to authorization by County Council, from time to time, for the conduct of professional auditing services of the several financial accounts and funds of the County;
 - (11) Evaluating and managing all other insurance contracts, including fidelity bonds to insure the lowest possible cost to the County;
 - (12) Giving public notice of the time and place of a public hearing on the operating budget and capital spending program of the County, pursuant to Section 905 of the Charter;
 - (13) Maintain on file copies of all authorized proposals, professional service agreements, ordinances, contracts, leases, and other executed documents of County Council. Said documents shall be maintained for a period of five years, and thereafter, the County Clerk shall retain said documents on file until they are no longer required for purposes of official business.

§ 6-72. Medical Examiner/Coroner.

[Amended 12-1-1992 by Ord. No. 92-5]

- A. Function. The Medical Examiner/Coroner shall be responsible for determining the cause and manner of death in those cases which fall within the jurisdiction of the Medical Examiner/Coroner.
- B. Head. The Office of Medical Examiner/Coroner shall be headed by a Medical Examiner/Coroner who shall be appointed by Council.
- C. Duties. The duties of the Medical Examiner/Coroner shall be to:
 - (1) Perform all duties assigned to coroners by the Second Class County Code;
 - (2) Operate the morgue;
 - (3) Operate such laboratory facilities and conduct such laboratory tests as are necessary for the performance of the duties of the Medical Examiner/Coroner.
- D. Compensation. After appointment by Council the Medical Examiner/Coroner may serve as a part-time employee at such per diem salary as Council may set.
- E. Inquest and subpoena powers. The Medical Examiner/Coroner shall have all of the authority and powers vested in a coroner by the Second Class County Code and, in addition thereto, shall have the authority to conduct an inquest without summoning a jury and shall, pursuant to Section 1007 of the Home Rule Charter, have the power to administer oaths, to compel the attendance of witnesses, and to require the production of records or other materials, whether or not in conjunction with an inquest, so long as such subpoenas are used to obtain information in any way relevant to the duties of the Medical Examiner/Coroner as set forth in § 6-72C of this Administrative Code or in the Second Class County Code. It is the intent of the County, in conferring such subpoena powers upon the Medical Examiner/Coroner, that such conferral of authority be liberally construed and that such subpoena powers be as broad as is consistent with the Constitution and laws of the Commonwealth of Pennsylvania.

§ 6-73. County Solicitor.

- A. Function. The Council shall appoint a County Solicitor who shall have the authority to appoint Assistant County Solicitors in such numbers and at such annual salaries as shall be fixed by Council. The County Solicitor shall provide legal advice and assistance to all County offices and department, whether elected or appointed, except for the offices of Controller, and District Attorney. The County Solicitor shall not be covered by Article III, § 6-13, of this chapter until such time as Council shall determine that budgeting for full-time service in this office is feasible.
- B. Duties. The duties of the County Solicitor shall be to:
 - (1) Prepare and revise ordinances or resolutions when so requested by the Council, or any subcommittee or delegates thereof, or the Executive Director;
 - (2) Provide legal opinions upon any legal matter or question submitted by the Council, its subcommittees or delegates or the Executive Director;
 - (3) Attend all Council meetings;
 - (4) Litigate all legal actions and claims brought by or against the County except in those cases in which other legal counsel is retained; and

- (5) Approve for legality all contracts, agreements, or other legal documents executed by authorized County officials.

§ 6-74. Courthouse and Park Police.

- A. Function. The Courthouse and Park Police shall maintain security, public safety and orderly conditions in respect to buildings and space comprising the County Courthouse complex, facilities and property, employee parking facilities and such other duties as required to enforce general security in the Courthouse complex and all other County property and facilities.
- B. Security duties. The security duties of the department shall be to:
[Amended 8-12-1980 by Ord. No. 80-3]
- (1) Maintain security, public safety, and orderly conditions in respect to buildings and spaces comprising the County Courthouse Complex and facilities, and such other duties as required to enforce general security in the Courthouse Complex and all other County facilities;
 - (2) Detect and apprehend persons committing all offenses on County property;^[1]
[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (3) Develop and conduct educational programs;
 - (4) Augment the prison force or the County Sheriff's Department in times of civil strife or labor disruptions or other emergencies threatening the security of the Courthouse and other County property.
 - (5) Maintain a system of employee identification cards;
- C. Additional duties. The following additional duties shall be undertaken by the Courthouse and Park Police:
- (1) Control of traffic where necessary on County property;
 - (2) Observe and report areas needing repair in County parks, and follow up to insure repairs have been completed;
 - (3) Aid the County Solicitor in collection of facts germane to lawsuits prosecuted by or against the County;
 - (4) Investigate accidents in which County vehicles are involved and provide all necessary documentation to the Office of County Risk Management for related claims.^[2]
[2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-75. Department of Emergency Services.

- A. Function. The Department of Emergency Services shall be responsible for the care, maintenance and coordination of use of all County-owned radio communications equipment and shall function as the County Department of Emergency Management.^[2] The Department shall be headed by a Director.
[2] *Editor's Note: See also Ch. 11, Alarm Systems.*
- B. Duties. The duties of the Director of the Department shall be to:
- (1) Provide the means for prompt and efficient citizen access to police, fire, and other public safety units of the County government;

- (2) Coordinate the usage by various County units of emergency radio communications equipment to insure compliance with Federal Communications Commission regulations and any other legal provisions governing the use of said equipment;
- (3) Maintain all County-owned communications equipment;
- (4) Keep abreast of legal or technical advances in the area of radio communications;
- (5) Make appropriate suggestions to Council on the sale or acquisition of radio communications equipment and review requests of all County units for radio systems expansion to determine the necessity or advisability of making such purchases;
- (6) Retain all the powers and duties granted by law or ordinance as Director of Emergency Management in states of emergency;
- (7) Coordinate the response to a hazardous material emergency response;
- (8) Coordinate the County's efforts under the Homeland Security Administration's laws and regulations.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-76. Heritage Commission.

- A. **Function.** The Heritage Commission shall be responsible for coordinating and continuing volunteer efforts to preserve the cultural heritage of Delaware County and for promoting cultural awareness among Delaware County residents.
- B. **Membership and organization.** The Commission shall be composed of 11 acting members and such other ex officio advisors as Council may determine. It shall be headed by a Chairman elected by the majority of the membership and ratified by Council. The Commission shall be organized in accordance with bylaws adopted by a two-thirds majority of its members.
- C. **Duties.** The duties of the Heritage Commission shall be to:
 - (1) Act as a liaison for volunteer historic preservation groups throughout Delaware County in order to coordinate preservation efforts, eliminate duplication, advise on the development of projects, and encourage the adaptive reuse and conservation of historic structures or districts;
 - (2) Advise units of the County government in matters concerning the identification, development, and activities of historic sites and districts and evaluate the impact of other development on historic resources;
 - (3) Identify and stimulate funding possibilities for County or privately owned historic sites to aid in the preservation of said sites and to increase public access to and interest in sites of architectural, cultural, or historic merit;
 - (4) Promote the cultural awareness of Delaware County residents by identifying educational projects that would further this goal;
 - (5) Facilitate the exchange of technical, financial management, and operating expertise among historic and cultural organizations in the County.
- D. **Compensation.** Members of the Commission shall serve without compensation.

§ 6-77. Jury Commissioner.

The Jury Commissioners shall have those powers designated in § 6-88 of this chapter.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-78. Library Board of Directors, Delaware County Library System.

- A. **Function.** The Delaware County Library System Board of Directors shall advise County Council with regard to the availability and quality of library services and facilities in the County and make recommendations concerning improvements in County-wide library services. The Board shall have all the powers and authority granted by the Pennsylvania Library Code, Act of June 14, 1961, P.L. 324, as amended, 24 P.S. § 4101 et seq.
- B. **Organization.** The Delaware County Library System Board of Directors shall consist of seven members appointed by Council and shall be headed by a President elected by the membership. The terms of office shall be as established by Council. The Board shall be organized in accordance with bylaws adopted by a majority of its members. The Board may hire such staff, including a System Administrator, as may be required to assist in the performance of its duties, subject to the budgetary approval of Council.
- C. **Duties.** The duties and responsibilities of the Board shall be as follows:
- (1) Evaluate library services available to County residents and identify deficiencies and strong points;
 - (2) Make recommendations to Council concerning methods of improving the availability and quality of library services and identification of funding requirements and sources;
 - (3) Meet with local library representatives, municipal officials, and citizens concerning library issues;
 - (4) Provide technical advice and assistance to local libraries at their request;
 - (5) Submit annual reports to Council in which findings and recommendations regarding library service shall be set forth;
 - (6) Set policies and develop long-range plans for the Delaware County Library System.
- D. **Compensation.** Members of the Board shall serve without compensation.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-79. Military and Veterans Affairs.

- A. **Function.** The Department of Military and Veterans Affairs shall be responsible for the operation of the military affairs facilities, offices, programs, and services of the County and shall be headed by a Director.^[2]

[2] *Cross-Reference: The Act of April 9, 1929, Pamphlet Law Number 177, created the Pennsylvania State Veterans Commission, which in turn created a Department of Veterans Affairs in each county of the commonwealth.*

- B. **Duties.**

- (1) The Department is responsible for directing through proper channels all federal, state, and County veterans appropriations.

[Commentary: Through the Adjutant General of the Pennsylvania Department of Military Affairs, the Department handles all directions from the Pennsylvania Department of Military Affairs, such as veterans assistance programs, employment and state bonuses.]

- (2) The Department, in conjunction with the United States Veterans Administration, assists all veterans or their widows and dependent children to seek and secure the benefits of the G.I. Bill.
- (3) The Department handles all military functions, such as maintaining a record of every veteran in Delaware County that dies and marking veterans' graves.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-80. Office of Judicial Support.

A. Applicability.

- (1) The Office of Judicial Support shall have all the duties of the clerk of courts as set forth under § 6-80C(1) of this chapter.
- (2) The Prothonotary shall have those duties as set forth under § 6-80C(3) of this chapter until the first Monday of January 1980, pursuant to Section 1213m of the Charter, at which time all those duties of the Prothonotary shall automatically be absorbed by the Office of Judicial Support.

B. Function. The Office of Judicial Support shall be responsible for the operation of the Office of Judicial Support, its programs, services, and facilities and shall be headed by a Director.

C. Duties and powers.

- (1) Clerk of courts related duties.
 - (a) Recordkeeping. The Office shall be responsible to index, docket, and maintain all records filed with the Criminal Division of the Court of Common Pleas of the County, including the following:
 - [1] Criminal records beginning with magistrates' transcripts, court motions and affidavits, and final disposition of the case;
 - [2] Extradition records;
 - [3] Provide copies of all records of persons committed to the County Prison to the Prison Records Office on the day the action takes place;
 - [4] Official records required to be filed by municipal auditors, municipal tax collectors, bonding companies and the approvals of bonded indebtedness by the Courts;
 - [5] Documents required to be filed pursuant to elections, including changes in polling places and records of court proceedings authorizing appointments of election officials.
 - (b) Licenses The Office shall issue and keep record of licenses for private detectives.
 - (c) Collection and recording of fees. The Office shall:
 - [1] Record all fines imposed and collected by the Courts and all forfeited recognizances;

- [2] Collect all fees for filing original papers and maintain an accounting to the Controller and the Treasurer;
 - [3] Collect and issue receipts for fees charged for certified copies of criminal decrees, orders, and other criminal court documents, maintain an accounting therefor, and send monthly reports of the accounting to the Treasurer and Controller;
 - [4] Collect, in an agency capacity for the Commonwealth of Pennsylvania, fines and other monies required to be paid by commonwealth law, which fees will be transmitted periodically to the commonwealth.
- (d) Court clerks. The Office shall furnish court clerks assigned to the Courts to perform such services while the Court is in session as are necessary and proper.
- (2) Clerk of court related powers. The clerk of court related powers of the Director of this Office shall include the following:
- (a) Power to administer oaths and affirmations pursuant to 42 Pa.C.S.A. § 327;^[1]
 - [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (b) Power to certify, when appropriate, the approval of the Court on two copies of the report and map, files in the office, and, within 30 days, transmit a copy by mail to the Secretary of Internal Affairs and the Department of Highways pursuant to 16 P.S. § 3306(c);
 - (c) Power to sign and affix the Court seal to writs, processes, judgments and exemplifications of records;
 - (d) Power to take bail;
 - (e) Power to enter judgments at the instance of plaintiffs upon confessions of judgment of defendants;
 - (f) Power to make acknowledgment of satisfaction of judgments or decrees;
 - (g) Power to take custody of records and seal of the Court pursuant to 17 P.S. § 411;^[2]
 - [2] *Editor's Note: Unable to verify statutory reference, so in original.*
 - (h) Duties concerning the Election Code pursuant to 25 P.S. § 3153;
 - (i) Duties concerning legal notices pursuant to 45 P.S. § 71;^[3]
 - [3] *Editor's Note: The provisions of 45 P.S. § 71 were repealed 12-10-1974 by P.L. 867, No. 203, § 19.*
 - (j) Duties concerning penal institutions pursuant to 61 P.S. §§ 291,^[4] 302^[5] and 377;
 - [4] *Editor's Note: The provisions of 61 P.S. § 291 were repealed 4-28-1978 by P.L. 202, No. 53, § 2(a)[931].*
 - [5] *Editor's Note: The provisions of 61 P.S. § 302 were repealed 4-28-1978 by P.L. 202, No. 53, § 2(a)[955].*
 - (k) Duties concerning taxation pursuant to 72 P.S. §§ 3220, 4161, 4162 and 4663;
 - (l) Duties concerning the Vehicle Code;^[6]
 - [6] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

(m) Duties concerning civil and equitable remedies pursuant to 42 Pa.C.S.A. §§ 323, 912, 1721, 1722, 1726, 2731, 2751 and 3561.^[7]

[7] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

(n) All other duties delegated by law to the clerk of courts.

(3) Prothonotary related duties.

(a) Recordkeeping. The Office shall be custodian for all original papers filed in civil court proceedings, and shall maintain a judgment docket and index, and other indexes, dockets and registries necessary for the discharge of recordkeeping duties in order to adequately serve the courts, attorneys and people of the County.^[8]

[8] *Editor's Note: The commentary that followed original Sec. 10.16.03.03.01, regarding recordkeeping for the civil and equitable legal processes of the County, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

(b) Collection and recording of fees.

[1] The Office shall collect and issue receipts for the following: master's fees; fees for civil and equitable processes; posting of bonds; duplication and certification of court documents fees; notaries' registration and certification fees; and filing fees for civil or equitable actions;

[2] The Office shall maintain an accounting of fees collected pursuant to this subsection and shall send a monthly report of the accounting to the Controller and Treasurer.

(4) Prothonotary related powers. The Office shall have the power to issue writs, including writs of habeas corpus in custody; issue passports and take applications for naturalization; enter judgment upon praecipes and upon confession of judgment; issue oaths; sign and affix the seal of the Court to all civil and equitable processes; take bail for civil actions; certify notaries; and undertake all other powers granted by law.

§ 6-81. Park Board.

A. Function. The Park Board shall be an advisory body to County Council on long-range park policy and shall serve as a liaison between the Department of Parks and Recreation and local municipalities and school districts.

B. Membership and organization. The Park Board shall be composed of 11 members, one from each of the six planning districts, and five at large to serve for such terms as Council shall determine. The Board shall be headed by a President elected by majority vote of the membership and shall be organized in accordance with bylaws adopted by its members.

[Amended 3-26-1985 by Ord. No. 85-4]

C. Duties. The duties of the Park Board shall be to:

(1) Periodically inspect the parks and make appropriate suggestions on maintenance and capital improvements in park property;

(2) Make recommendations to the Council on open space and park planning acquisition and development;

(3) Hold public meetings.

§ 6-82. Department of Parks and Recreation.

[Amended 12-1-1992 by Ord. No. 92-5; 9-17-1996 by Ord. No. 96-2]

- A. Function. The Department of Parks and Recreation shall be responsible for planning, operating, and maintaining the parks of the County and developing, conducting and supervising recreational programs. The Department shall be headed by a Director, who shall also serve as an ex officio member of the Park Board.
- B. Duties. The duties of the Department shall be to:
- (1) Plan, develop, design and administer all County parks and recreation facilities;
 - (2) Organize and conduct recreation programs for all citizens of the County and confer with municipal and school officials and civic groups to develop cooperation in meeting recreational needs;
 - (3) Review conservation plans on all parks as submitted by the Conservation District and establish task guidelines to implement said plans;
 - (4) Maintain all County parks in good condition and eliminate potential hazards to citizens using the parks;
 - (5) Identify areas to be acquired and maintained as County parks, and identify surplus County parcels for sale or trade;
 - (6) Coordinate security for special events in County parks in cooperation with the Department of Courthouse and Park Police;
 - (7) Program recreational and cultural activities in County facilities;
 - (8) Prepare funding applications in cooperation with the Department of Intergovernmental Affairs.
- C. Organization. The Department of Parks shall be organized into the following divisions:
- (1) Maintenance and Security shall eliminate hazards and provide upkeep in County parks and coordinate security and special events in County parks;
 - (2) Recreational Services shall do programming of recreational and cultural activities in County facilities;
 - (3) Planning and Development shall recommend land acquisition, park design and development and shall prepare funding applications.

§ 6-83. Planning Commission.

- A. Function. The Planning Commission shall advise County Council concerning the County Comprehensive Plan and advise municipal governments concerning land use regulations and the approval of plats.
- B. Membership and organization. The Planning Commission shall have nine members appointed by County Council. Six members shall be designated as representatives of each of the County's six planning districts and reside in the district which they represent. The remaining three members shall be at large and may reside anywhere in the County. The Commission shall be headed by a Chairman elected by the members and shall conduct business according to bylaws adopted by a majority of the membership.

[Commentary: Act 247^[1] sets forth other provisions governing Planning Commission membership and organization. See Article XIII, § 6-98, for relation to the Planning Department.]

[1] *Editor's Note: See 53 P.S. § 10101 et seq.*

C. Duties. The Planning Commission shall:

- (1) Prepare and present to County Council ordinances pertaining to land development and amendments thereto;
- (2) Advise municipalities by review and report concerning land use regulations and approval of plats as required by the Pennsylvania Municipalities Planning Code;^[2]
[2] *Editor's Note: See 53 P.S. § 10101 et seq.*
- (3) Make recommendations to County Council concerning the adoption or amendment of the County Comprehensive Plan;
- (4) At the request of County Council, make recommendations concerning the effectiveness of proposals by governmental, civic, and private agencies and individuals;
- (5) Hold public hearings and meetings.

D. Compensation. Members of the Commission shall serve without compensation.

§ 6-84. Public Defender's Office.

A. Function. The Public Defender's Office shall be responsible for defending indigent persons under arrest or charged with an indictable offense and shall be headed by the Public Defender.

B. Duties.^[1]

- (1) Legal counsel for indigents. The Public Defender, after being satisfied of a criminal defendant's inability to procure funds to obtain legal counsel to represent him/her, shall provide such counsel in the following situations:
 - (a) Where the person is charged with juvenile delinquency;
 - (b) Critical pretrial identification procedures;
 - (c) Preliminary hearings;
 - (d) State habeas corpus proceedings;
 - (e) State trials, including pretrial and post-trial motions;
 - (f) Superior Court appeals;
 - (g) Supreme Court appeals;
 - (h) Post-conviction hearings, including proceedings at the trial and appellate levels;
 - (i) Criminal extraditions proceedings;
 - (j) Probation and parole proceedings and revocation thereof;
 - (k) Any other situation where representation is constitutionally required.
- (2) The Public Defender, when appointed by the Court, shall furnish legal counsel to persons who are or may be subject to commitment in proceedings under the Mental Health and Retardation Act of 1966, 50 P.S. § 4101 et seq.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- C. Witness related services. The Public Defender's Office shall give legal advice and representation in every criminal proceeding to indigent witnesses, either prosecution or defense, whose rights the Court has determined must be protected.

§ 6-85. Prison Board.

- A. Function. The Prison Board shall be responsible for the operation of the penal institutions and related detention facilities, for the appointment of all prison personnel, and for the establishment of prison programs.
- B. Membership. The Prison Board shall be composed of five Prison Inspectors who shall serve without compensation. Three shall be appointed by the President Judge of the Court of Common Pleas of Delaware County and two by the Council. The Board shall be headed by a President who shall be responsible for the performance of the functions of the Board.
- C. Duties. The duties of the Board shall be to:
- (1) Provide for the safekeeping of individuals remanded to the prison or detention facility;
 - (2) Provide health care, training, and rehabilitation programs for all prisoners;
 - (3) Appoint a Superintendent who is charged with administration of all functions performed by the prison;
 - (4) Hold public meetings;
 - (5) Provide for sound fiscal management of the prison;
 - (6) Review all capital expenditure programs and make recommendations thereon to Council; and
 - (7) Insure compliance of the prison with state and federal laws applicable thereto.

[Commentary: Statutory foundations for the conduct of the prison functions are recorded in Purdons Pennsylvania Statutes Annotated, Title 61, Penal and Correctional Institutions. Guidelines for the administration of the institution are provided through the Pennsylvania Bureau of Corrections, "Minimum Standards and Operating Procedures for Pennsylvania County Prisons," April 1973.]

- D. Prison organization.
- (1) The organization of the prison shall be broken down in to five divisions:
 - (a) Administration.
 - (b) Security.
 - (c) Auxiliary Services.
 - (d) Treatment.
 - (e) Records.
 - (2) Each function of the prison shall be delegated to the division in which it belongs and implemented under the director or deputy of that division who shall report to the Superintendent. There shall be continuous coordination between and among all divisions.

- E. Nothing herein contained shall be construed or interpreted to alter or amend any statute of this commonwealth relating to the Delaware County Board of Prison Inspectors or to enlarge, diminish, or otherwise affect the rights, powers, duties, obligations, and functions of the Board as established and imposed by any such statute.
[Added 8-15-1995 by Ord. No. 95-2]

§ 6-86. Board of Tax Assessment Appeals.

[Amended 7-28-1992 by Ord. No. 92-3]

- A. **Function.** The Board of Tax Assessment Appeals shall be responsible for tax assessment appeals from real property tax assessments in the County and other tax assessment functions as provided by the laws of the Commonwealth of Pennsylvania.
- B. **Membership and organization.** The Board of Tax Assessment Appeals shall consist of three members appointed by County Council for terms of four years. The Board shall be convened as required. The qualifications and compensation of the members of the Board shall be determined by County Council, and the Board shall be responsible to County Council.
- C. **Powers and duties.**
- (1) The Board of Tax Assessment Appeals shall adjudicate appeals from real property and personal property tax assessments in the County and shall have such other functions relating to the appointment of subordinate assessors and the establishment of rules and regulations as provided by the laws of the Commonwealth of Pennsylvania.
 - (2) The Board of Tax Assessment Appeals shall also have the following other tax assessment functions as provided by the laws of the Commonwealth of Pennsylvania:
 - (a) Supervision and conduct of all annual and interim assessments of persons, property, and occupations subject to taxation;
 - (b) Supervision and preparation of lists and assessments of any property exempted or excluded from taxation;
 - (c) Establishment and application of a ratio of assessed valuation to market value when assessments are made at less than market value;
 - (d) Accomplishment of equalization among all properties in the taxing district;
 - (e) Preparation of the annual assessment roll and the sending of notices of assessments as required by law;
 - (f) Participation in all court proceedings to prosecute or defend its actions and decisions.^[1]
- [1] *Editor's Note: Original Sec. 10.23, Tax Claim Bureau, which immediately followed this subsection, was deleted 7-28-1992 by Ord. No. 92-3.*

§ 6-87. Recorder of Deeds.

[Added 8-12-1980 by Ord. No. 80-3]

- A. **Function.** The Recorder of Deeds shall be responsible for the operation of the Recorder of Deeds Office with its attendant facilities, programs and services.
- B. **Head.** The Recorder of Deeds Office shall be headed by the Recorder of Deeds who shall be appointed by County Council after the first Monday of January 1980.

- C. Duties. The Recorder of Deeds shall have all the duties and powers granted by commonwealth law, by laws applicable to Counties of the Second Class A for Recorder of Deeds, by the Home Rule Charter of Delaware County, by ordinance of County Council, or by this chapter.

§ 6-88. Jury Commissioner.

[Added 8-12-1980 by Ord. No. 80-3]

- A. Function. The Jury Commissioners, along with the President Judge of the Court of Common Pleas or any other judge of the Court of Common Pleas designated by him or her, shall make up the Jury Board which shall be responsible for selecting lists of jurors in the manner prescribed by law.
- B. Duties. The duties of the Jury Commissioners shall be as prescribed by state law, the Charter or County ordinance.
- C. Membership and compensation. Pursuant to Sections 416 and 12131 of the Charter, the Jury Commissioners, after the first Monday of January 1980, shall number two and shall include one appointee representing the party with the largest total vote cast in the most recent County municipal election and one appointee representing the party with the second ranking vote cast in the most recent municipal election. Compensation for services of the Jury Commissioners is set at the rate of \$50 per diem not to exceed \$1,250 per Commissioner in any calendar year. The term of office for Jury Commissioner shall be four years.

[1] *Editor's Note: See also Ch. 88, Jury Commission.*

Article XII. County Executive Director

§ 6-89. Powers and duties.

The County Executive Director shall have those powers and duties prescribed by law, the Charter, and County ordinances and may also:

- A. Prescribe, revoke, or amend rules and regulations as shall be deemed necessary or expedient for the conduct and operation of administrative departments unless said rules are preempted by an ordinance or resolution adopted by the Council;
- B. Subject to the approval or authorization of Council, investigate or inquire either personally or through a delegate into the operations of any department and employ consultants and professional counsel to aid in such investigations or inquiries;
- C. Overrule or set aside any action taken by a department head subject to his supervision and assume the duties of that department;
- D. Establish committees within the executive service and appoint officers and confidential employees as shall be necessary for the purpose of considering and resolving administrative problems;
- E. Assign any employee of the executive service to any department requiring the services of that employee.
- F. Develop a manual of rules for the reporting of travel expenses, employee time and leave, and execution of invoices and submission or receipts for money paid to County units on account of services, licenses or refunds.

[Added 8-12-1980 by Ord. No. 80-3]

§ 6-90. Executive service.

The departments under the direct supervision of the Executive Director shall be as set forth in § 6-15B of this chapter, with such duties as are further specified in Article XIII of this chapter.

Article XIII. Executive Services

§ 6-91. Administrative Services.

- A. Function. The Department of Administrative Services shall be responsible for the operation of the administrative services facilities and programs of the County and shall be headed by a Director who shall be responsible to the Executive Director for the performance of the functions of the Department.
- B. Duties. The duties of the Department shall be to:^[1]
- (1) Provide a mail room, a receiving office, photocopy center and a record storage room;
 - (2) Provide in-house studies on copy service needs and record storage needs;
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- C. Organization. The Department of Administrative Services shall be organized into four divisions:^[2]
- (1) The Mail Room shall process all incoming and outgoing mail, including weighing and signature of receipt for all County departments;
 - (2) The Receiving Office shall receive and check all deliveries to the County made through the Receiving Office and maintain an inventory of all office supplies delivered to and stocked by the Office;
 - (3) The Record Storage Room shall maintain the records of the County and the Court and provide indexes in order to make said records available to court reporters, judges, lawyers, title searches, and the general public;
 - (4) The County Photocopy Center shall satisfy requirements of County units for photocopying services where feasible and cost effective.
- [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-92. Consumer Affairs.

- A. Function. The Office of Consumer Affairs shall be responsible for the operation of the consumer affairs facilities and programs of the County, and shall be headed by a Director, who shall also be known as the Chief Sealer of Weights and Measures for the County.
- B. Duties.
- (1) The duties of the Office of Consumer Affairs shall be:
 - (a) To serve as a central clearinghouse for receiving and investigating complaints from citizens of illegal, fraudulent, deceptive or dangerous business practices, and referring some complaints to the local or state departments or agencies charged with enforcement of consumer laws;
 - (b) To attempt to resolve complaints received hereof by means of voluntary mediation or arbitration;

- (c) To coordinate, with the Department of Public Relations, the development of programs of community consumer education and information;
 - (d) To maintain records of consumer complaints and their eventual disposition, provided that records disclosing business interests of any person, trade secrets or the names of customers be held confidential except to the extent that disclosures of such matters may be necessary for the enforcement of laws and the investigation of consumer complaints.
- (2) The duties of the Chief Sealer and Deputy Sealers of the Weights and Measures Division shall be:
- (a) To inspect and test to ascertain if they are correct, not less than once a year, all weighing and measuring devices commercially used within the County in determining:
 - [1] The weight, measurement or count of commodities or things sold, offered or exposed for sale on the basis of weight, measure or count; or
 - [2] In computing the basic charge or payment for services rendered on the basis of weight, measure or count;
 - (b) To complete all necessary forms resulting from said testing and to file monthly reports to the Pennsylvania Department of Agriculture, Bureau of Standard Weights and Measures, stating all actions taken, including information on weighmasters' licenses, investigations and prosecutions;
 - (c) To conduct all activities in accordance with PA Title 70 and all other laws and regulations pursuant thereto.^[1]
 - [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (d) In accordance with the above acts, the Chief Sealer and Deputy Sealers of the Weights and Measures Division are granted police powers and shall therefor investigate and prepare for prosecution all violations of any provision of the above acts.

§ 6-93. Budget management.

The duties, powers, and organization of the Budget Management Department shall be as set forth in Article VI of this chapter.

§ 6-94. Human Resources.

- A. Function. The Department of Human Resources shall be responsible for the delivery of coordinated human resources services provided by the County and shall be headed by a Director.

[Commentary: The Offices within the Department of Human Resources individually receive federal and state grants and are therefore subject to federal and state statutory requirements concerning program content, organization, and personnel procedures. However, County funds are required to match certain of these federal and state grants and, therefore, pursuant to Section 428d of the Charter, the County hereby establishes a coordinating Department to ensure the most effective delivery of human resources services.]

- B. Duties. In order to ensure that the delivery of social services is coordinated under the supervision of the County Executive Director, the Department of Human Resources shall be responsible for the following:

- (1) Establishment of an administrative structure encompassing child care and welfare services; mental health services; mental retardation services and supports; and drug and alcohol abuse treatment services; and such other related services as may be directed by County Council;
 - (2) Reviewing for consistency and duplication the individual service plans prepared by each office and division to ensure that services are integrated to the maximum extent feasible to meet the human service needs of County residents;
 - (3) Preparation of a methodology for all its offices and divisions for allocating private, local, state and federal monies to meet County needs and goals;
 - (4) Development of integrated procedures for personnel, planning, budget preparation and management, financial reporting, information technology systems and evaluation for all services and department personnel not otherwise covered by Part 3 of this chapter;
 - (5) Ensuring that all office and divisions receiving federal and state monies fully comply with all applicable laws and regulations.
- C. Organization. The Department of Human Resources shall be responsible for coordinating the social services provided by all human resource offices and divisions.
- (1) Office of Children and Youth Services. This Office shall be responsible for the following functions:
 - (a) Receipt and investigation of reports of child abuse and neglect as mandated by state law;
 - (b) Protection of abused and neglected children from birth to age 18. Services also are provided to adolescents who are at severe risk due to their behavior or that of their parent;
 - (c) Provision of the full range of mandated child welfare services, either directly or through a purchase of service contract, designed to prevent neglect and abuse, maintain children in their own homes, and provide in foster family homes and residential placements adequate substitute care for any child in need of such care;
 - (d) Initiation of dependency proceedings in the Delaware County Court of Common Pleas if supervision by that Court is required in order to perform a mandated function for child protection or child placement to achieve child protection. When an alternate permanent plan is required for a child, the agency shall petition the Orphans' Court to move to adoption;
 - (e) Preparation of service plans and funding requests as required by statute.
 - (2) Office of Behavioral Health. This Office shall be responsible for functions related to mental health and substance abuse services.
 - (3) Division of Mental Health. The functions related to the Division of Mental Health shall include:
 - (a) Provision of information and referral, consultation and community education;
 - (b) Development, implementation and monitoring of contracts for the purchase of acute inpatient, crisis/emergency care and outpatient treatment and support services and such other services as may be deemed necessary to provide a range of mental health services to meet the needs of County residents;
 - (c) Development of an annual mental health plan identifying services, needs and priorities;
 - (d) Management of information systems for utilization management of consumer services;

- (e) Monitoring and evaluation of service programs;
 - (f) Provision of fiscal, personnel, programmatic and administrative oversight and consultation to contracted service providers/vendors.
- (4) Division of Drug and Alcohol. The functions related to the Division of Drug and Alcohol shall include:
- (a) Provision of information and referral services, consultation and education regarding drug and alcohol treatment;
 - (b) Development, implementation and monitoring of contracts for the purchase of services for medically managed and monitored detoxification, long- and short-term residential programs, outpatient treatment, prevention activities and such other services as may be deemed necessary to the overall functioning of the drug and alcohol treatment system of care;
 - (c) Preparation and annual review of the single county authority treatment and prevention plans;
 - (d) Management of information systems for utilization management of consumer services;
 - (e) Monitoring and evaluation of service programs;
 - (f) Provision of fiscal, personnel, programmatic and administrative oversight and consultation to contracted service providers.
- (5) Office of Mental Retardation. This Office shall be responsible for the following functions:
- (a) Provision of information and referral, consultation and community education services;
 - (b) Registration, determination of eligibility and management of a priority system for the distribution of available funds for service;
 - (c) Development, implementation and monitoring of community, residential, in-home support, vocational and other services deemed necessary to provide a range of services to meet the needs of mentally retarded County residents;
 - (d) Development, implementation and monitoring of early intervention purchase of service contracts for children from birth to three years who experience developmental delays;
 - (e) Development of annual mental retardation plan to include service needs and funding requests;
 - (f) Maintenance of information systems to track consumer services and expenditures in compliance with reporting requirements;
 - (g) Provision of fiscal, programmatic and administrative consultation to provider agencies.
- (6) Office of Adult Services. This Office shall be responsible for the coordination and integrated delivery of services to families and adults that do not fall under the jurisdiction of other human resource program offices and as may be designated by County Council. The Office of Adult Services shall be responsible for the following:
- (a) Provision of information, referral and community education;
 - (b) Development, implementation and monitoring of purchase of service contracts to include case management, emergency shelter, rental subsidies and support services, emergency food programs and other services as designated;

- (c) Monitoring and evaluation of service programs;
 - (d) Preparation of plans, programs and financial reports as required;
 - (e) Provision of fiscal, programmatic and administrative consultation to provider agencies.
- (7) Office of Child Care Information Services. This Office shall be responsible for the following functions:
- (a) Provision of information, referral and community education;
 - (b) Intake and determination of initial and ongoing eligibility of families applying for subsidized day care;
 - (c) Development, implementation and monitoring of purchase of service contracts with approved day-care providers;
 - (d) Maintenance of information systems to track subsidized day-care services and expenditures;
 - (e) Development of plans and funding requests and submission of required reports;
 - (f) Provision of fiscal, programmatic and administrative consultation to provider agencies.
- D. Status and duties of program office heads. The status and duties of the heads of program offices within the Department of Human Resources shall be analogous to the status and duties of department head as set forth in Article III, § 6-15D, of this chapter, including the responsibility to prepare budgets and develop annual service plans.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-95. Intercommunity Health Coordination.

- A. Function. The Department of Intercommunity Health Coordination shall be responsible for the operation of the County's intercommunity health program, and shall be headed by a Director.
- B. Duties. The duties of the Department shall be to:
[Amended 12-1-1992 by Ord. No. 92-5]
- (1) Work with local boards of health and local ambulance and rescue associations in coordinating and disseminating pertinent information and educational material;
 - (2) Provide personal health services to County employees and act as a source of referral to the public on health problems and questions, including the provision of direct services to the public;
 - (3) Provide emergency health services and emergency health services training to appropriate groups;
 - (4) Provide and staff a County medical dispensary;
 - (5) Facilitate disease control and immunization programs with various organizations, both public and private, throughout the County;^[1]
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (6) Coordinate with municipal officials, environmental and general health programs and provide health care planning evaluation and research programs;

- (7) Promulgate and carry out, with the approval of the Executive Director and the Council, such regulations as are deemed necessary for the protection of the public health;
- (8) Ensure the abatement of all nuisances detrimental to the public health in County-owned facilities;^[2]
 - [2] *Editor's Note: Original Sec. 12.04.02(k), regarding the maintenance of records pertaining to reportable communicable diseases, which immediately followed this subsection, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- (9) Provide a source of community health education.

C. Organization. The Department shall be organized into the following divisions:

- (1) Health, Education and Administration shall maintain liaison with municipal boards of health; provide referral, resource and statistical information to the public; coordinate with other health agencies in the County concerned with community health projects; and provide health screening services to employees and residents of the County.
- (2) County Medical Dispensary shall provide personal health care for County employees and visitors and shall provide referral services.^[3]
 - [3] *Editor's Note: Original Sec. 12.04.03(c), Vector Control, which immediately followed this subsection, was repealed 12-1-1992 by Ord. No. 92-5.*
- (3) Emergency Health Services shall seek funds, grants and contracts from federal, state and regional agencies and advise the County Communications Center; it shall in those areas of communications dealing with emergency health services, advise the Health Coordinator in areas of emergency health care and training of ambulance and rescue squad personnel.

§ 6-96. Intergovernmental Affairs.

- A. Function. The Department of Intergovernmental Affairs shall be responsible for the operation of the intergovernmental affairs program of the County and shall be headed by a Director.
- B. Duties. The Director shall be responsible for the coordination of governmental activities relating to grant and subsidy programs managed by the Commonwealth of Pennsylvania and the United States of America, including:
 - (1) Survey of County needs and identification of desirable federal and state programs to meet these needs;
 - (2) Evaluation of the appropriateness of various programs as they relate to the County's needs and recommendation to the Executive Director or Council on actions to be taken;
 - (3) Provide information on federal and state grant-in-aid programs to department and agency heads by researching specific programs and directing relevant aid information to appropriate functional personnel;
 - (4) Assist department or agency heads in the preparation of grant applications as requested;
 - (5) Development of comprehensive programs to receive and utilize the latest federal and state grant information;
 - (6) Act as a liaison with legislative bodies and representatives on proposed legislation of interest to the County.

§ 6-97. Personnel.

The Duties of Personnel shall be as set forth in Article **IV** of this chapter.

§ 6-98. Planning Department.

- A. **Function.** The Planning Department shall be responsible for assisting County Council and the County Executive Director in developing short- and long-range policies and plans, and programs of implementation. The Department shall also be responsible for providing technical assistance to municipalities. The Department shall be headed by a Director.
- B. **Duties.** The duties and responsibilities of the Department shall include but shall not be limited to:
- (1) Prepare, review and maintain the Comprehensive Plan of the County, including data collection, mapping, analyses, and recommendations; make recommendations for adoption of plan elements to the Planning Commission;
 - (2) Coordinate with other County departments and agencies in the development of plans for human services, including health care and employment, and other social services;
 - (3) Assist the Budget Management Department in the evaluation of proposed capital projects;
 - (4) Serve as liaison with federal, state, and regional agencies under the policy guidance of Council;
 - (5) Provide technical assistance to the County's municipalities;
 - (6) Hold public meetings and hearings.
- C. **Organization.** The Planning Department shall be organized into the following four units in order to carry out the responsibilities and duties described in § **6-98B** above:
- (1) **Policy, Planning, and Programming.** This section shall be responsible for the preparation of elements of the long- and short-range plan for the physical and economic development of the County as a whole. This shall include land use, housing, parks/open space, highways and public transportation, and community facilities. This section shall take into consideration the probable environmental, fiscal, economic and social consequences of the proposed programs and set forth the desired sequence, patterns, and characteristics of future programs; this section also shall be responsible for assisting the Budget Management Department in the evaluation of proposed capital projects as set forth in § **6-34C(1)**;
 - (2) **Government Assistance Services.** This section shall be responsible for assisting the 49 units of local government in Delaware County in the preparation and/or update of local comprehensive plans, land use regulations, and other studies concerning local government;
 - (3) **Environmental and Site Planning.** This section shall be responsible for recommending action to the Planning Commission on all reviews mandated by the Municipalities Planning Code,^[1] such as subdivision and zoning reviews, zoning changes and curative amendments and site plan reviews. This section shall be responsible for environmental planning activities of the Department.
[1] *Editor's Note: See 53 P.S. § 10101 et seq.*
 - (4) **Support Services.** This section shall be responsible for word processing, graphics, and the administrative details incidental to the operation of the other sections.

§ 6-99. Public Relations.

- A. Function. The Department of Public Relations shall be responsible for operation of the public relations facilities, programs, and services of the County, and for reviewing, before release, all written public announcements, circulars, and press releases of all County units except the Courts and elected officials. The Department shall be headed by a Director.
- B. Duties.^[1]
- (1) The Director shall, as needed, write and circulate to the press all press releases on matters of public interest.
 - (2) Inquiries by the press. All press inquiries on County affairs shall be referred to the Department of Public Relations which shall speak on behalf of the County.
- [1] *Editor's Note: Original Sec. 12.08.02.01, Annual report, which immediately followed this subsection title, was deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-100. Department of Public Works.

[Amended 7-28-1992 by Ord. No. 92-3; 9-17-1996 by Ord. No. 96-2]

- A. Function. The function of the Department of Public Works is the responsibility for the development, engineering design, and administration for construction projects for physical structures and facilities owned and maintained by the County. The Department shall be headed by a Director.^[1]
- [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- B. Duties. The duties of the Department include, but are not necessarily limited to, the following:^[2]
- (1) Administration of liquid fuels tax fund distributions to County municipalities.
 - (2) Development of comprehensive capital and maintenance programs for all County-owned bridges.
 - (3) Planning, development and implementation of short-term and long-term capital improvements.
 - (4) Analysis of requests for improvements and determination of necessity, validity, and cost effective means for solution.
 - (5) Supervision of preparation of construction bidding documents and cost estimates by design professionals.
 - (6) Inspections of construction projects in progress to ensure compliance with design concepts and schedules.
 - (7) Development of chronology required for distribution from capital monies.
- [2] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
- C. Organization. The Department shall be organized into the following divisions:
- (1) County Buildings Engineering Division shall be responsible for providing engineering services for all County buildings;
 - (2) Roads and Bridges Division shall be responsible for maintenance of all County roads and bridges in Delaware County.

§ 6-101. Department of County Facilities Management.

[Amended 12-1-1992 by Ord. No. 92-5; 9-17-1996 by Ord. No. 96-2^[1]]

- A. The Department of County Facilities Management is responsible for the management, operation and maintenance of County-owned buildings and facilities, including custodial, grounds and snow removal, assists in the design and construction management for any proposed County facilities, and also assists in locating and leasing space outside County buildings when required. The Department provides technical advice, guidance and design assistance for miscellaneous projects that other departments may want to complete. It shall be headed by a Director.
- B. Duties.
- (1) The County Facilities Management Department is to inspect and maintain all County-owned or leased facilities to eradicate health hazards, nuisances and unsafe conditions.
 - (2) The Department provides repair services to all departments, including minor construction/renovations, painting, electrical, plumbing, grounds maintenance and snow removal services, by qualified County employees.
 - (3) The Department procures and oversees contractual services that may be required for the above.
 - (4) Duties include assisting in plan preparation, reviewing specifications and recommending contract awards, along with the Public Works Department overseeing major construction and renovation projects as they are developed and approved by County Council/Executive Director.
 - (5) The Department provides facility management services, which includes developing and implementing preventive maintenance and cost-control programs, monitoring the budget and the compliance as to specifications and codes and safety. During the day-to-day operations, the Department is responsible for the adherence by all employees to established personnel policies and developing and implementing safety procedures, preparation of operating and capital budget, recommending equipment upgrades, maintaining facility cost records, implementing cost-cutting procedures and preparation of statistical reports for various agencies.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-102. Senior Citizen Services (COSA).

- A. Function. The County Office for Services to the Aging (COSA) is hereby designated to undertake the duties and responsibilities of the Department of Senior Citizen Services pursuant to Section 428j of the Charter. It shall be responsible for the delivery of services to assist senior citizens in matters relating to programs and problems of the aged, excluding services incidental to the operation of Fair Acres Geriatric Facility.
- B. Duties. COSA shall develop a program of comprehensive and coordinated community services for the aging and assist senior citizens through direct services or through purchase of service contracts. Further responsibilities of the Department shall be:
- (1) Preparation of an annual plan for services subject to the approval by the Pennsylvania Department of Aging;^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (2) Receiving guidance from an advisory council appointed by County Council consisting of a majority of senior citizens as well as members of the general public as required by the Older Americans Act;^[2]

[2] *Editor's Note: See 42 U.S.C. § 3001 et seq.*

- (3) Monitoring and evaluating contracts, preparing program reports, and providing for technical assistance to local agencies and governments;
- (4) Development and coordination of community services and linkages with other County departments, including the Department of Human Resources;
- (5) Implementation of grant programs and contracts between the County and federal and state government for service programs that affect senior citizens, including Foster Grandparents and Senior Employment Program.^[3]

[3] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-103. Soil and Water Conservation.

- A. Function. The Delaware County Soil and Water Conservation District shall provide technical assistance to land developers, engineers, citizens, and to local units of government in the area of erosion and sedimentation control, reviewing erosion control plans for adequacy and compliance with local and state regulations.
- B. Advisory duties to County Council; municipalities. The District shall, upon request, provide technical guidance to the Council to assist in the formation of erosion control ordinances as well as provide assistance in resolving conservation problems in municipalities.
- C. Conservation plans for County parks. The District shall prepare and periodically review conservation plans for each County park and submit same to the Parks Department to aid in the development of task guidelines for the purpose of improving soil and water conservation in the County's park facilities.^[1]

[1] *Editor's Note: Original Sec. 12.11 (also referred to as 12.12), Solid Waste Management, which immediately followed this subsection, was repealed 7-28-1992 by Ord. No. 92-3.*

§ 6-104. Department of Vehicle Management.

[Amended 12-1-1992 by Ord. No. 92-5; 9-17-1996 by Ord. No. 96-2]

- A. Function. The Department of Vehicle Management shall be responsible for purchase, preventive maintenance, repair, inspection, and administration of the County motor pool and all other County motor vehicles and shall be headed by a Director.
- B. Duties. The Department shall have responsibility for the following duties:
 - (1) Operation and management of the County motor pool which shall include implementing County policy on motor vehicles to prevent misuse or personal use of County vehicles;
 - (2) Procurement, maintenance, inspection and repairs on all County motor vehicles;
 - (3) Operation of the County Garage and filling facilities.
- C. County motor vehicle utilization.
 - (1) Utilization of County-owned motor vehicles, when available, shall be exclusively for the conduct of necessary and official tasks and duties;
 - (2) Utilization of County vehicles, gasoline or vehicle parts and maintenance for private or personal purposes is strictly prohibited. Employee retention of County motor vehicles during overnight or weekend periods is strictly prohibited, except when said use for specific official tasks and duties has been authorized by responsible supervisors in advance for completion during the same evening or weekend periods.

- D. Procedure for departmental use of County vehicles. Supervisors of offices and departments which are assigned and use County motor vehicles shall maintain Form DPW-1 for local records documenting County motor vehicles utilization and expenses incurred by employees therefor. The form shall require supervisory review and authorization, or requests for usage and reimbursement.
- (1) Form DPW-1 shall also serve as the basis for reimbursement to employees for travel expenses incurred through the authorized use of privately owned motor vehicles for performance of official tasks and duties;
 - (2) Employee requests for travel expense reimbursements shall be certified by supervisors and supported by Form DPW-1.
- E. Audits. From time to time, the Director of the Department of Vehicle Management shall analyze said records to evaluate compliance with policy and property of travel reimbursements.

§ 6-105. Information Technology Department.

- A. Function. The Information Technology Department evaluates, designs, implements and enhances automated information systems and shall be headed by a Director. Greater emphasis is being placed on automated data communications systems in order to insure that various County, Court and government agencies accurately store, retrieve and update vital information.
- B. Duties.
- (1) Continue to implement DP best practices in the areas of computer and network security, standards development, and service and support methods to ensure high quality, cost-effective DP system delivery, operations, and support.
 - (2) Work with Telecommunications to continue to upgrade/enhance the County's computing and telecommunication infrastructure to provide a more reliable, responsive, highly available, secure, and scalable IT environment for County business functions.
 - (3) Work with County and Court departments to enable them to share information, deliver quality services and improve the cost effectiveness of their operations.
 - (4) Continue to maintain and support existing production systems to minimize business workflow interruption as defined by our customers.
 - (5) Update and enhance the DP disaster recovery plan for the County and Courts so as to provide for a timely return to normal business operations in the event of a disaster.
 - (6) Continue to enhance and expand the availability of information to County citizens and staff through the County Web site.

[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 6-106. Telecommunications Department.

- A. Function. The Telecommunications Department is responsible for meeting all the communications needs of all County and Court departments and shall be headed by a Director.
- B. Duties.
- (1) The Department is responsible for the evaluation of the requirements of each department, the subsequent purchase, implementation, training of users, troubleshooting, and repair of all

voice processing systems, telephone systems, fax machines, cellular telephones/devices, and all other types of telecommunications equipment and ancillary products.

- (2) The Department is responsible for the installation of all newly required voice and data wiring, the subsequent relocation, troubleshooting, and repair of the existing wiring.
- (3) The Department acts as the sole contact with all telecommunications related vendors and service providers for the purpose of purchasing equipment and/or services, accounts payable, and repair.
- (4) The Department is responsible for the development and maintenance of the telecommunications infrastructure.
- (5) The Department is responsible for the maintenance of all telecommunications records and databases.
- (6) The Department is responsible for the design and maintenance of all voice processing menus.
- (7) The Department is responsible for the coordination of the 911-Emergency Communications System.
 - (a) The Department is responsible for the sole contact with the vendors and service providers for the purchase, installation, negotiation of maintenance contracts, equipment, telephone lines, circuitry, fiber repair and maintenance of the same, and all other telecommunications related issues.

[1] *Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

Part 5. Elected Officials

Article XIV. Register of Wills

§ 6-107. Function.

The Register of Wills shall be responsible for the Register of Wills and Clerk of Orphans Court Division of the Court of Common Pleas facilities, programs, and services of the County, and shall have all the powers and duties granted by commonwealth law, laws applicable to Counties of the Second Class A for the Register of Wills and Clerks of the Orphans Court, by the Home Rule Charter, this chapter, or by ordinance of County Council.

§ 6-108. Head.

The Office of the Register of Wills and Clerk of the Orphans Court shall be headed by an independently elected Register of Wills who shall be learned in the law and admitted to the practice of law in the commonwealth throughout his term of office. The Register of Wills shall be responsible to the electorate of Delaware County for the performance of his duties. He shall appoint a deputy or deputies and such other assistants as may be required to assist him in the discharge of his duties, subject to the budgetary approval of County Council.

§ 6-109. Duties, powers and organization.

- A. To carry out the powers and duties of the Office of Register of Wills and Clerk of Orphans Court Division of the Court of Common Pleas the Office is organized into sections each of which is assigned responsibilities as follows:
- (1) The Inheritance Tax Section shall accept filing of reports and appraisals and submit same to the commonwealth Department of Revenue for appraising. This Section shall maintain an Inheritance Tax Docket and shall calculate and accept monies for inheritance taxes due. This Section shall provide assistance to taxpayers in settling estates.
 - (2) The Probate Section shall have the responsibility to probate wills, to grant letters of administration, to grant letters of testimony, and shall have the duty to charge fees for said services.
 - (3) The Marriage License Section shall, where applicants have a right to a marriage license, issue such licenses for a fee, record license applications, consent certificates, and marriage licenses, make transcripts of said documents, and forward same to the commonwealth Department of Health. This Section shall also answer inquiries regarding certified copies of duplicate birth records, death records, marriage applications and licenses.
 - (4) The Orphans Court Section shall be custodian for all Orphans Court papers; shall receive fees for filing Orphans Court papers and issue receipts therefor.
 - (5) The Budget, Microfilming, Transcribing, and Filing Section shall provide administrative support services for the Office, including photocopying, binding documents into dockets and indexing same.
- B. The Register of Wills shall make a monthly accounting of fees received to the Controller and make accountings to the commonwealth on escheated estates as required by law.

Article XV. District Attorney

§ 6-110. Function.

The District Attorney shall be responsible for the prosecution of criminal cases arising in the County of Delaware and the operation of programs and services associated with the prosecutorial function, and shall have all the powers and duties granted by commonwealth law, by laws applicable to Counties of the Second Class A for District Attorneys, by the Home Rule Charter, by this chapter, or by ordinance of County Council.

§ 6-111. Head.

The District Attorney's Office shall be headed by an independently elected District Attorney who shall be responsible to the electorate of Delaware County for the performance of the prosecutorial affairs of the County, subject to the budgetary approval of Council.

§ 6-112. Powers, duties and organization.

[Amended 12-1-1992 by Ord. No. 92-5]

In order to carry out the powers and duties of the Office of District Attorney, the Office shall be organized into such divisions and in such a manner as shall be prescribed by the District Attorney.

Article XVI. Sheriff

§ 6-113. Function.

The Sheriff shall be responsible for the operation of the Sheriff's Office and its facilities, programs, and services for the County of Delaware, and shall have all the powers and duties granted by commonwealth law, by laws applicable to Counties of the Second Class A for Sheriffs, by the Home Rule Charter, or by ordinance of Council.

§ 6-114. Head.

The Office of Sheriff shall be headed by an independently elected Sheriff who shall be responsible to the electorate of Delaware County for the performance of his duties, subject to the budgetary approval of Council.

§ 6-115. Powers, duties and organization.

- A. Chief Deputy Sheriff. The Sheriff shall appoint, by Commission duly recorded in the Office for Recording Deeds, a Chief Deputy whose appointment shall be revocable by the Sheriff at pleasure upon recording in said office a signed revocation thereof. The Chief Deputy, during his continuance in office, shall have full power and authority to perform any duty incumbent upon such Sheriff with like effect in law as if such official act has been done by the Sheriff in person, regardless of the ability or temporary disability of such Sheriff to act while such Sheriff continues in office.
- B. Real Estate Deputy. The Sheriff may appoint a Real Estate Deputy to take charge of all matters relating to sheriffs' sales of real estate and distribution of the proceeds thereof, whose appointment shall be made and be revocable as hereinbefore provided for the Chief Deputy. Such Deputy shall have full power to perform all duties incumbent upon the Sheriff with respect to sale of real estate and distribution of proceeds thereof, in like manner as his Chief Deputy, with like manner as Chief Deputy, with like effect in law as if such official act had been done by the Sheriff in person. Such duties shall include the execution and acknowledgement of sheriffs' deeds for real estate upon receipt of the purchase price thereof.
- C. Deputies and clerks. The Sheriff may appoint such deputies and clerks as may be required to assist him in the discharge of his duties, subject to the budgetary approval of Council.

§ 6-116. Liability under bond.

Nothing herein shall operate to relieve the Sheriff or his sureties from liability upon their official bond.

§ 6-117. Affidavit requirement.

Prior to the appointment of any person as a Chief Deputy or any other deputy sheriff, the Sheriff shall file with the Office of Judicial Support the name and photograph of such person, together with an affidavit of such person setting forth the following:

- A. His or her full name, age, and residency address;
- B. That he or she is a citizen of the United States of America and at least 18 years of age;
- C. That he or she has resided in the County for a period of at least two years immediately preceding the filing;

- D. That he or she has a valid Pennsylvania driver's license;
- E. That he or she is a high school graduate.^[1]
- [1] *Editor's Note: Original Art. XVI, Elective Offices to Become Appointive, which immediately followed this subsection, was repealed 8-12-1980 by Ord. No. 80-3.*

Part 6. Construal of Provisions

Article XVII. Amendment, Repealer and Severability

§ 6-118. Repealer.

All ordinances and parts of ordinances heretofore enacted which are inconsistent with any provision of this chapter are, to the extent of such inconsistencies, hereby repealed.

§ 6-119. Effect of repeal.

The repeal of any ordinance or part thereof by this chapter shall not revive any former ordinance or part thereof which may have been repealed by such repealed ordinance or part thereof.

§ 6-120. Severability.

The provisions of this chapter are severable, and if any portion is held by a court of competent jurisdiction to be in violation of federal or state constitutional or statutory law, or the Home Rule Charter of Delaware County, that portion is hereby repealed and the decision of the court will not affect or impair any of the remaining provisions of this chapter. It is hereby declared to be the Council's intent that this chapter would have been adopted had such unconstitutional or ultra vires provisions not been included herein.

§ 6-121. Amendments.

This chapter may be amended by ordinance of the County Council, except where the Charter provides for abolishment or establishment of boards or commissions by resolution under Sections 408h and 1208.

§ 6-122. Effect of collective bargaining agreements.

Provisions of various collective bargaining agreements shall control with regard to those items specifically spelled out in said contracts and those personnel covered by said agreements except where violative of the Charter.

§ 6-123. When effective.

This chapter shall become effective 10 days after adoption by the County Council.

Chapter 11. Alarm Systems

[HISTORY: Adopted by the County Council of the County of Delaware 1-1-1983 by Ord. No. 82-4. Amendments noted where applicable.]

GENERAL REFERENCES

Department of Emergency Services — See Ch. 6.

§ 11-1. Definitions.

As used in this chapter, the following words and phrases shall be defined as set forth below:

DELAWARE COUNTY DEPARTMENT OF EMERGENCY SERVICES

That Department of County government defined in § 6-75 of Chapter 6, Administrative Code, of the Code of the County of Delaware.

DIGITAL DIALER CONNECTIONS

Monitoring systems which respond to normal telephone line communications generated by digital telephone dialers. The digital telephone dialer is a device which automatically dials a predetermined telephone number upon activation of an alarm system. This telephone number accesses, via the telephone company system, a receiving device located in the Department of Emergency Services, which receiving device communicates a two-way electronically coded tone transmission to acknowledge receipt of the ring signal, receives a tone-coded alarm number, and finally emits a tone-coded signal (sometimes referred to as a "handshake" signal) to acknowledge successful reception of the alarm code number.

DIRECT ALARM CONNECTIONS

Monitoring systems which respond to a change in current flow over supervised leased lines. "Supervision" is defined as, at a minimum, a four-milliamp direct current signal transmitted from the alarm generating device to the appropriate equipment in the Department of Emergency Services. "Leased line" is defined as a pair of conductors provided by the telephone company. The response to a direct alarm connection is an audible and visual indication of either:

- A. An alarm transmission, indicated by a polarity reversal of the supervisory signal; or
- B. A trouble signal, indicated by a loss of the supervisory signal.

PERSON

Includes natural persons as well as all other organizations, corporations, and associations, both public and private.

VOICE DIALER CONNECTIONS

Monitoring systems which, upon activation of an alarm system, automatically dial a predetermined telephone number and communicate tape-recorded voice messages to the recipients of the telephone calls.

§ 11-2. Connections necessary for communication.

On and after the effective date of this chapter, it shall be unlawful for any person to communicate with the Department of Emergency Services by means of a voice dialer connection. Such communication with the Department of Emergency Services shall only be by means of a direct alarm connection or a digital dialer connection.

§ 11-3. Technology required for alarm monitoring.

All direct alarm connections and digital dialer connections shall employ such communications technology as, in the judgment of the Director of the Department of Emergency Services or his

designee, is necessary to insure sufficient and adequate alarm monitoring by the Department of Emergency Services and/or its designated contractor.

§ 11-4. Monitoring fee.

The fee for such alarm monitoring service, payable to the County of Delaware, shall be the prevailing fee set forth from time to time by resolution of County Council and, as to the County's designated contractor, shall be that contained in his contract with the County. Upon nonpayment of such fees for any particular calendar period, the Director of the Department of Emergency Services shall terminate the alarm monitoring service for such person. No fees shall be refunded in the event that alarm monitoring service is terminated by the Director of the Department of Emergency Services for violations of § 11-3 of this chapter.^[2]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

[2] *Editor's Note: Original Sec. 5, regarding termination of service for excessive false alarms, and original Sec. 6, regarding penalties for violation of Sec. 2, which immediately followed this section, were deleted at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 11-5. Hearing before termination of service.

Alarm monitoring services shall not be terminated for any person, save for nonpayment of fees, except after a hearing before the Director of the Department of Emergency Services held in accordance with the provisions of the Local Agencies Law, 2 Pa.C.S.A. §§ 551 through 555 and 751 through 754. Unless such person demands the presence, at his own expense, of a court reporter, pursuant to the provisions of the Local Agencies Law, the record shall be maintained by tape recording in lieu of transcription and all persons testifying shall be advised that their testimony is given pursuant to the provisions of 18 Pa.C.S.A. § 4904 (unsworn falsifications to authorities).

§ 11-6. Separate connections for particular types of emergencies.

To determine fees charged, separate connections shall be required for police, fire, medical alert, and other particular types of public safety emergencies. The Director of the Department of Emergency Services may require more than one connection for a particular type of emergency if the facility is of such size as to require more precise identification of the specific emergency site.

Chapter 29. Contractors

[HISTORY: Adopted by the County Council of the County of Delaware 9-11-2007 by Ord. No. 2007-5. Amendments noted where applicable.]

GENERAL REFERENCES

County bidding procedures — See Ch. 6.

§ 29-1. Findings; purpose.

- A. The County of Delaware recognizes that there is a need to ensure that all work on public construction and maintenance contracts is performed by responsible, qualified firms that maintain the capacity, expertise, personnel and other qualifications and resources necessary to successfully perform such contracts in a timely, reliable and cost-effective manner.
- B. To effectuate the purpose of selecting responsible contractors for public contracts and to protect the County of Delaware investments in such contracts, prospective contractors and subcontractors should be required to meet preestablished, clearly defined, minimum standards relating to

contractor responsibility. Such standards include requirements and criteria concerning technical qualifications, competency, experience, adequacy of resources, including equipment, financial and personnel, and satisfactory records regarding past project performance, safety, law compliance and business integrity.

- C. Further, due to the critical impact that skilled construction craft labor has on public works projects, and due to the limited availability of skilled construction craft labor and imminent craft labor skill shortages, it is necessary to require contractors and subcontractors to participate in established, bona fide apprenticeship training programs for the purpose of both promoting successful project delivery and ensuring future workforce development. The County of Delaware also recognizes that it is beneficial to the local community to ensure that firms receiving public contracts provide adequate wages and benefits to their employees and utilize fair business, employment and training practices that have a positive impact on local communities affected by such contracts.
- D. Therefore, the County of Delaware shall require compliance with the provisions of this chapter by business entities seeking to provide services to the County of Delaware as specified herein. The requirements of this chapter are intended to supplement, not replace, existing contractor qualification and performance standards or criteria currently required by law, public policy or contracting documents. However, in the event that any of the provisions of this chapter conflict with any law, public policy or contracting documents of the County of Delaware, this chapter shall prevail.

§ 29-2. Responsible contractor requirements.

- A. All contractors and subcontractors of any tier that perform work valued at over \$50,000 on any public facility or public works project, including construction, alteration, renovation, repair, and maintenance work, shall meet the requirements of this chapter.
- B. All firms engaged in contracts covered by this chapter shall be qualified, responsible contractors or subcontractors that have sufficient capabilities in all respects to successfully perform contracts on which they are engaged, including the necessary experience, equipment, technical skills and qualifications and organizational, financial and personnel resources. Qualified, responsible firms shall also have a satisfactory past performance record and a satisfactory record of law compliance, integrity and business ethics.

§ 29-3. Contractor responsibility certifications.

- A. As a condition of performing work on a public works contract subject to this chapter, a general contractor, construction manager or other lead or prime contractor seeking award of a contract shall submit a contractor responsibility certification at the time it submits its bid for a contract.
- B. The contractor responsibility certification shall be completed on a form provided by the Central Purchasing Department and shall reference the project for which a bid is being submitted by name and contract or project number.
- C. In the contractor responsibility certification the construction manager, general contractor or other lead or prime contractor shall confirm the following facts regarding its past performance and work history and its current qualifications and performance capabilities:
 - (1) The firm has or will obtain all valid, effective licenses, registrations or certificates required by federal, state, County, or local law, including, but not limited to, licenses, registrations or certificates required to:
 - (a) Do business in the designated locale; and

- (b) Perform the contract work it seeks to perform, including, but not limited to, licenses, registrations or certificates for any type of trade work or specialty work which the firm proposes to self perform.
- (2) The firm meets the bonding requirements for the contract, required by applicable law or contract specifications and any insurance requirements, as required by applicable law or contract specifications, including general liability insurance, workers' compensation insurance and unemployment insurance requirements.
 - (3) The firm has not been debarred on any project by a federal, state or local government agency or authority in the past three years.
 - (4) The firm has not defaulted on any project in the past three years.
 - (5) The firm has not had any type of business, contracting or trade license, registration or other certification suspended or revoked in the past three years.
 - (6) The firm has not committed a willful violation of federal or state safety laws as determined by a final decision of a court or government agency in the past three years.
 - (7) The firm and its owners have not been convicted of any crime relating to the contracting business by a final decision of a court or government agency for the past 10 years.
 - (8) The firm has not within the past three years been found by a final decision of a court or government agency in violation of any law applicable to its contracting business, including, but not limited to, licensing laws, tax laws, prompt payment laws, wage and hour laws, prevailing wage laws, environmental laws or others, where the result of such violation was the imposition of a fine, back pay damages or any other type of penalty in the amount of \$1,000 or more.
 - (9) The firm will pay all craft employees that it employs on the project the current wage rates and benefits as required under applicable state or federal law for the duration of the referenced project.
 - (10) The firm participates in a Class A apprenticeship program for each separate trade or classification in which it employs craft employees and shall continue to participate in such program or programs for the duration of the project.
 - (a) For purposes of this section a "Class A apprenticeship program" is an apprenticeship program that is currently registered with and approved by the U.S. Department of Labor or a state apprenticeship agency and has graduated apprentices to journeyperson status for three of the past five years.
 - (b) If a firm is identified as the lowest responsible bidder or otherwise selected as the prospective awardee or as a subcontractor of an awardee, it shall provide appropriate documentation, as determined by the Central Purchasing Department and/or Department of Public Works, to verify it meets the requirements of this section for each trade or classification of craft workers it will employ on the project. This verification shall be provided prior to performance of work by the firm.
 - (11) The firm has all other technical qualifications and resources, including equipment, personnel and financial resources, to perform the referenced contract, or will obtain same through the use of qualified, responsible subcontractors.
- D. Execution of the contractor responsibility certification required by this chapter shall not establish a presumption of contractor responsibility, and the Central Purchasing Department and/or Department of Public Works may require any other additional information it deems necessary to evaluate a prospective contractor's technical qualifications, financial capacity or other resources

and performance capabilities. The Central Purchasing Department and/or Department of Public Works may require that such information be included in a separate statement of qualifications and experience or as an attachment to the contractor responsibility certification.

- E. In the contractor responsibility certification, the submitting firm shall stipulate that if it receives a notice of intent to award contract it will provide a subcontractor list and required subcontractor information as specified in § 29-5 of this chapter.
- F. If the submitting firm has ever operated under another name or controls or is controlled by another company or business entity or in the past five years controlled or was controlled by another company or business entity, whether as a parent company, subsidiary or in any other business relation, it shall attach a separate statement to its contractor responsibility certification that explains in detail the nature of any such relationship. Additional information may be required from such an entity if the relationship in question could potentially impact contract performance.
- G. Contractor responsibility certifications shall be executed by a person who has sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that all information submitted is true, complete and accurate.
- H. If a firm fails to provide a contractor responsibility certification required by this section, it may be disqualified from bidding. No action of any nature shall lie against the County of Delaware because of its refusal to accept a bid for failing to provide information required by this section.

§ 29-4. Notice of intent to award contract.

- A. After if has received bids for a project, the County of Delaware shall issue a notice of intent to award contract to the firm offering the lowest responsive bid.
- B. Such notice shall be issued immediately or as soon as practicable after bids are submitted and shall stipulate that the contract award will be conditioned on the issuance of a written contractor responsibility determination, as required by § 29-6 of this chapter and any other conditions determined appropriate by the County of Delaware.

§ 29-5. Subcontractor lists; subcontractor responsibility certifications.

- A. Within seven days from the date of notice of intent to award contract, a prospective awardee shall submit to the Central Purchasing Department a subcontractor list containing the names of subcontractors that will be used for the referenced project, their addresses and a description of the work each listed subcontractor will perform on the project.
- B. At the time a prospective awardee submits the subcontractor list it shall also submit subcontractor responsibility certifications for all listed subcontractors to the Central Purchasing Department. Subcontractor responsibility certifications shall be executed by the respective subcontractors and contain the same information and representations required in contractor responsibility certifications.
- C. Subcontractor responsibility certifications shall be executed by persons having sufficient knowledge to address all matters in the certification and shall include an attestation stating, under the penalty of perjury, that all information submitted is true, complete and accurate.

§ 29-6. Contractor responsibility review and determination.

- A. After a notice of intent to award contract has been issued, the Central Purchasing Department shall undertake a review process for a period of at least 30 days to determine whether the prospective awardee is a qualified, responsible contractor in accordance with the requirements of this chapter and other applicable laws and regulations and has the resources and capabilities to successfully perform the contract.
- B. As part of this review process, the Central Purchasing Department shall ensure that the contractor responsibility certification, the subcontractor list and subcontractor responsibility certifications, as required by this chapter, have been submitted and properly executed.
- C. The Central Purchasing Department may conduct any additional inquiries to verify the prospective awardee and its subcontractors have the technical qualifications and performance capabilities necessary to successfully perform the contract and that the firms have a sufficient record of law compliance and business integrity to justify the award of a public contract. In conducting such inquiries, the Central Purchasing Department may seek relevant information from the firm, its prior clients or customers, its subcontractors or any other relevant source.
- D. If at the conclusion of its internal review, the Central Purchasing Department determines that all responsibility certifications have been properly completed and executed and if it concludes that the qualifications, background and responsibility of the prospective awardee and the firms on its subcontractor list are satisfactory, it shall issue a written contractor responsibility determination verifying that the prospective awardee is a qualified, responsible contractor. In the event a firm is determined to be nonresponsible, the Central Purchasing Department shall advise the firm of such finding, in writing, and proceed to conduct a responsibility review of the next lowest, responsive bidder or, if necessary, rebid the project.
- E. The contractor responsibility determination shall be issued at least 30 days after the date of the notice of intent to award contract. This responsibility determination may be revoked or revised in any manner at any time in the event the Central Purchasing Department obtains relevant information warranting such revocation or revisions.

§ 29-7. Subcontractor responsibility review requirements.

- A. A construction manager, general contractor or other lead or prime contractor shall not be permitted to use a subcontractor on any work performed for the County of Delaware unless it has identified the subcontractor on its subcontractor list and provided a subcontractor responsibility certification in accordance with the requirements of § 29-5 of this chapter.
- B. A subcontractor listed on a firm's subcontractor list shall not be substituted unless written authorization is obtained from the Central Purchasing Department and a subcontractor responsibility certification is provided for the substitute subcontractor.
- C. In the event that the Central Purchasing Department or the Department of Public Works determines that a prospective subcontractor listed by the apparent low bidder does not meet the responsibility standards of this chapter, it may, after informing the prospective awardee, exercise one of the following options:
 - (1) Permit the awardee to substitute a qualified, responsible subcontractor in accordance with the requirements of this chapter;
 - (2) Require the awardee to self perform the work in question if the firm has the required experience, licenses and other qualifications to perform the work in question; or
 - (3) Disqualify the prospective awardee.
- D. In the event that a subcontractor is disqualified under this chapter, the general contractor, construction manager or other lead or prime contractor shall not be permitted to make any type of

contractual claim against the Central Purchasing Department or Public Works Department and County of Delaware on the basis of a subcontractor disqualification.

§ 29-8. Public review process.

- A. The contractor responsibility certification for a firm identified in a notice of intent to award contract, subcontractor lists and subcontractor responsibility certifications shall be made immediately available to the public for inspection through a publicly accessible Web site or other comparable means.
- B. During the public review period, any person or organization may protest a contractor or subcontractor for failing to meet applicable requirements of this chapter or on any other relevant grounds by submitting a written objection with supporting evidence to the Central Purchasing Department or the Public Works Department.
- C. If the Central Purchasing Department determines that the contractor or subcontractor responsibility certification contains false or misleading material information that was provided knowingly or with reckless disregard for the truth or omits material information that was omitted knowingly or with reckless disregard of the truth, the firm for which the certification was submitted may be prohibited from performing work for the County of Delaware for a period of up to three years. Such firms may also be subject to any other penalties and sanctions, including contract termination, available to the County of Delaware under law. A contract terminated under these circumstances shall further entitle the County of Delaware to withhold payment of any monies due to the firm as damages.
- D. A procurement contract subject to this chapter shall not be executed until all requirements of this chapter have been fulfilled and until contractor and subcontractor responsibility certifications and subcontractor lists have been made available for public inspection for at least 21 days.
- E. The applicability of this chapter to any contract shall be determined by the Director of the Central Purchasing Department, and such applicability may be waived in the event of emergency or in such other event when, in the opinion of the Director of Central Purchasing and with the approval of County Council, it is determined that such action would be in the best interest of the County of Delaware.

§ 29-9. Severability; effective date; applicability.

- A. If any provision of this chapter shall be held to be invalid or unenforceable by a court of competent jurisdiction, any such holding shall not invalidate any other provisions of this chapter and all remaining provisions shall remain in full force and effect.
- B. This chapter shall become effective October 4, 2007, but the Central Purchasing Department and Public Works Department shall take such anticipatory administrative action in advance as shall be necessary for the implementation of this chapter.
- C. The requirements of this chapter shall not apply to contracts executed prior to the effective date of this chapter, except that the exercise of an option on a contract covered by this chapter shall be deemed to create a new contract for purposes of this chapter.

Chapter 57. Fees

[HISTORY: Adopted by the County Council of the County of Delaware 12-11-2013 by Ord. No. 2013-4. Amendments noted where applicable.]

§ 57-1. Fees set by resolution.

Fees shall be as set by resolution of the County Council from time to time.

§ 57-2. Fee schedules on file.

All fee schedules are on file in the office of the County Clerk and are available for review during regular office hours.

Chapter 62. Floodplain Protection

[HISTORY: Adopted by the County Council of the County of Delaware 11-9-1977 by Ord. No. 77-5. Amendments noted where applicable.]

GENERAL REFERENCES

Stormwater management — See Ch. 187.

Subdivision and land development — See Ch. 195.

Article I. Scope

§ 62-1. Title.

This chapter may be cited as the "Delaware County Floodplain Protection Ordinance."

§ 62-2. Statutory authority.

The Delaware County Council by authority of the Act of July 31, 1968 (P.L. 805, No. 247),^[1] as amended, known as the "Pennsylvania Municipalities Planning Code," hereby adopts this chapter known as "The Delaware County Floodplain Protection Ordinance for Subdivision and Land Developments of 1977."

[1] *Editor's Note: See 53 P.S. § 10101 et seq.*

§ 62-3. Effective date.

This chapter shall become effective on the 20th day of November 1977 and shall remain in effect until modified, amended, or rescinded by Council.

§ 62-4. Purpose.

The specific purpose of this chapter is:

- A. To regulate the subdivision and/or development of land within any designated floodplain district in order to promote the general health, welfare, and safety of the residents of the County;
- B. 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 flooding at the time of initial construction;

- C. To protect individuals from buying lands which are unsuitable for use because of flood by prohibiting the improper subdivision and/or development of unprotected lands within the designated floodplain districts;
- D. To comply with Section 1910.3 of the National Flood Insurance Program Regulations of the Federal Insurance Administration.

§ 62-5. Jurisdiction.

This chapter shall apply to all subdivisions and land developments being undertaken in those cities, boroughs, or townships of the First or Second Class, wholly or partly within the County of Delaware, which are eligible for Federal Flood Insurance and which have no subdivision and/or land development ordinance in effect on the effective date of this chapter. In addition this chapter shall also apply to all subdivisions and land developments being undertaken in those cities, boroughs, or townships of the First or Second Class, wholly or partly within the County of Delaware, which are eligible for Federal Flood Insurance which have subdivision and/or land development ordinances in effect on the effective date of this chapter but that said ordinance does not contain provisions for floodplain protection as required by Section 1910.3 of the National Flood Insurance Program regulations. This chapter shall remain in effect until the city, borough or township of the First or Second Class adopts subdivision and land development ordinances containing provisions for floodplain protection which are in compliance with Section 1910.3 of the National Flood Insurance Program regulations, and a certified copy of such ordinance is filed with the Delaware County Planning Department together with certification of approval from the Federal Insurance Administrator.

§ 62-6. Municipal liability.

The grant of approval of a plan for any proposed subdivision and/or land development to be located within any designated floodplain district shall not constitute a representation, guarantee, or warranty of any kind by the County of Delaware or by any official or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the County of Delaware, its officials or employees.

Article II. Application Procedures and Requirements

§ 62-7. Preapplication procedures.

- A. Prior to the preparation of any plans, it is recommended that a determination should be made as to whether or not any portion of land is in a designated floodplain district and whether any flood hazards would exist from the proposed subdivision and/or land development.
- B. Prior to the preparation of any plans, it is suggested that prospective developers consult with the Municipal Act 537^[1] enforcement officer concerning soil suitability when on-site sewage disposal facilities are proposed.
[1] *Editor's Note: See 35 P.S. § 750.1 et seq.*
- C. Prospective developers should consult the Delaware County Conservation District representative concerning erosion and sediment control and the effect of soil conditions on the proposed development if the development is under 25 acres. A soil and erosion control permit from the Pennsylvania Department of Environmental Protection is required for developments of 25 or more acres.

§ 62-8. Preliminary plan requirements.

The following information shall be required as a part of the preliminary plan for subdivision and/or land developments any portion of which is in a designated floodplain district as determined by the Administrator.

- 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 and/or land development with respect to any designated floodplain district, including information on, but not limited to, the one-hundred-year flood elevations, boundaries of the floodplain districts, proposed lots and sites, fills, flood or erosion protective facilities, and areas subject to special deed restrictions.
- C. Where the subdivision and/or land development lies partially or completely within any designated floodplain districts, or where the subdivision and/or land development borders on a floodplain district, 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 two feet if slope is 15% or less or five feet if slope exceeds 15% and identify accurately the boundaries of the floodplain districts.
- D. All other information required by Chapter **195**, Subdivision and Land Development, and Resolution of the Delaware County Planning Commission No. 7601 of March 18, 1976, as amended, for preliminary plan review.
[Amended 10-31-1978; 12-19-1978 by Ord. No. 78-7]

§ 62-9. Final plan requirements.

The following information shall be required as a part of the final plan for subdivision and/or land development, any portion of which is in a designated floodplain district 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 Delaware County Planning Commission.
- 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 district. All such maps shall show contours at intervals of two feet if the slope is 15% or less or five feet if the slope exceeds 15% and identify accurately the boundaries of the floodplain districts.
- 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 of the proposed alteration or relocation. The Federal Insurance Administrator and the Pennsylvania Department of Community and Economic Development shall also be notified whenever any such activity is proposed.
- D. All other information required by Chapter **195**, Subdivision and Land Development, and Resolution of the Delaware County Planning Commission No. 7601 of March 18, 1976, as amended, for final plan review.
[Amended 10-31-1978; 12-19-1978 by Ord. No. 78-7]

Article III. Design Standards and Improvements in Designated Floodplain Districts

§ 62-10. Development restrictions.

- A. Where not prohibited by this or any other laws or ordinances, land located in any designated floodplain district 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 and/or land development, or part thereof, shall be approved if the proposed development and/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 if the sites or dwelling units are elevated to the regulatory flood elevation. If fill is used to raise the elevation of a site, the fill area shall extend out laterally for a distance of at least 15 feet beyond the limits of the proposed structures and in compliance with § 62-10B certified by a registered engineer.
- D. Building sites for structures or buildings other than for residential uses shall also not be permitted in any floodway area. Also, such sites for structures or buildings outside the floodway shall be protected as provided for in § 62-10C above. However, the Delaware County Planning Commission may allow the subdivision and/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 at least up to that height.
- E. If the Delaware County Planning Commission 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. The Planning Commission, at its discretion, may recommend that the local municipality consider modifying its density requirements to permit an equal number of units on the remainder of the tract as would have resulted under existing ordinances prior to the determination that only a part of a proposed plat can be safely developed. Such recommendation shall not be binding on the local municipality.
- F. When a developer does not intend to develop that plat himself and the Delaware County Planning Commission determines that additional controls are required to insure safe development, it may require the developer to impose appropriate deed restrictions on the land. Such deed restrictions shall be inserted in every deed and noted on every recorded plat.

§ 62-11. Design standards.

- A. Excavation and grading. Where any excavation or grading is proposed or where any existing trees, shrubs, or other vegetative cover will be removed in the designated floodplain district, the developer shall consult the Delaware County Conservation District representative concerning plans for erosion and sediment control and to also obtain a report from the Conservation District on the soil characteristics of the site so that a determination can be made as to the type and degree of development that the site may accommodate. A copy of this report shall be forwarded to the Delaware County Planning Commission. Before undertaking any excavation or grading, the developer shall obtain a grading and excavation permit if such is required by the local municipality.
- B. Drainage facilities.
 - (1) 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.
 - (2) Drainage plans shall be consistent with local and regional drainage plans. The facilities shall be designed to prevent the discharge of excess runoff onto adjacent properties. The

Delaware County Planning Commission may require retention basins prior to discharge to prevent increase in flood elevation downstream.

- C. Streets. The finished elevation of proposed streets shall not be less than the one-hundred-year flood elevation. The Delaware County Planning Commission may require, where necessary, profiles and elevations of streets to determine compliance with the requirements. Drainage openings shall be sufficient to discharge flood flows without unduly increasing flood heights.
- D. Sewer facilities. All public sanitary sewer systems located in any designated floodplain district shall be floodproofed up to the regulatory flood elevation. The installation of sewage disposal facilities requiring soil absorption systems where such systems will not function due to high groundwater, flooding, or unsuitable soil characteristics shall be prohibited. The Delaware County Planning Commission may require that the developer note on the face of the plat and in any deed of conveyance that soil absorption fields are prohibited in designated areas.
- E. Water facilities. All water systems located in any designated floodplain districts, whether public or private, shall be floodproofed up to the regulatory flood elevation. If there is an existing public water supply system on or near the subdivision, the Delaware County Planning Commission shall require the developer to connect to this system where it is economically feasible.
- F. Other utilities and facilities. All other public and/or private utilities and facilities, including gas and electric, shall be elevated or floodproofed up to the regulatory flood elevation.
- G. Channel alterations, etc.
 - (1) 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.
 - (2) Prior to any proposed alteration or relocation of any watercourse, stream, etc., within the County, a permit shall be obtained from the Department of Environmental Protection. Further, notification of the proposal shall be given by the local municipality to all affected adjacent municipalities. Copies of such notifications shall be forwarded to the Federal Insurance Administration, the Pennsylvania Department of Community and Economic Development, Delaware County Planning Commission, and the local municipality.

Article IV. Terminology

§ 62-12. Definitions.

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

ADMINISTRATOR

The Federal Insurance Administrator to whom the Secretary of the U.S. Department of Housing and Urban Development has delegated the administration of the National Flood Insurance Program.

BUILDING

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

DESIGNATED FLOODPLAIN DISTRICTS

Those areas subject to inundation by waters of the one-hundred-year flood as delineated in the Flood Insurance Studies for the local municipalities located within Delaware County, Pennsylvania, as prepared by the U.S. Department of Housing and Urban Development, Federal Insurance

Administration. Included would be areas identified as the floodway, flood-fringe, general floodplain, and/or special floodplain.

DEVELOPER

Any landowner, agent or 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

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

ELIGIBLE COMMUNITY

Any community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program.

FLOOD ELEVATION DETERMINATION

A determination by the Administrator of the water surface elevations of the one-hundred-year flood.

FLOOD HAZARD BOUNDARY MAP (FHBM)

An official map of a local municipality, issued by the Administrator, where the boundaries of the flood and related erosion areas having special hazards have been designated as Zone A, M, and/or E.

FLOOD INSURANCE RATE MAP (FIRM)

An official map of a community on which the Administrator has delineated both the special hazard areas and the risk premium zones applicable to the local municipality.

FLOOD or FLOODING

A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland or tidal waters;
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOODPLAIN

Any land area susceptible to being inundated by water from any flood.

FLOODPLAIN MANAGEMENT REGULATIONS

Any zoning ordinances, building codes, health regulations, special purpose ordinances (such as floodplain ordinances, grading ordinances, soil and erosion ordinances), and other application of police power. The term describes such state laws and regulations as well as local ordinances, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

FLOODPROOFING (NONRESIDENTIAL)

Any combination of structural additions, changes or adjustment of structures such that the structure becomes watertight with walls substantially impermeable to the passage of water with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

FLOODPROOFING (RESIDENTIAL)

Any combination of structural additions, changes, or adjustment of structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY

The channel of a river or other watercourse and the adjacent land areas that must be reserved to carry and discharge a flood of the one-hundred-year magnitude.

FREEBOARD

A factor of safety, usually expressed in feet above a flood level for purposes of floodplain management.

LOCAL MUNICIPALITY OR COMMUNITY

Any city, borough or township of the First or Second Class wholly within the County of Delaware.

MOBILE HOME

A structure, transportable in one or more sections, which is built on a permanent chassis and designed as a dwelling unit, office, or place of assembly used with or without a permanent foundation when connected to the required utilities.

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).

REGULATORY FLOOD ELEVATION

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

STRUCTURE

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

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 division of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership or building or lot development; provided, however, that the division of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access, shall be exempted.

Chapter 83. Intergovernmental Cooperation

[HISTORY: Adopted by the County Council of the County of Delaware as indicated in article histories. Amendments noted where applicable.]

Article I. Broadband Internet Access

[Adopted 7-25-2006 by Ord. No. 2006-2]

§ 83-1. Findings.

- A. The Delaware County Intermediate Unit an intermediate unit established by Article IX-A of the Public School Code of 1949, 24 P.S. § 9-956 et seq., (DCIU) has obtained the equipment necessary to, among other things, allow state-of-the-art communications of voice, video and other data transmissions between and among DCIU and the public school entities (the "schools") that it serves and to allow DCIU's administrators, employees and staff to access the Internet so as to obtain information and materials necessary for DCIU to provide the program of services to the schools that has been duly and properly authorized in accordance with 24 P.S. § 9-956.
- B. In order to fully utilize the above-referenced equipment while performing its statutorily mandated duties, DCIU requires broadband Internet access.

- C. In order to obtain broadband Internet access, DCIU entered into a contract with RCN Telecom Services, Inc. (RCN) pursuant to which RCN is serving as DCIU's internet service provider.
- D. DCIU's contract with RCN provides it with a greater bandwidth than DCIU reasonably requires.
- E. The County of Delaware (the "County") has obtained the equipment necessary, among other things, to allow state-of-the-art communications of voice, video and other data transmissions between and among its different facilities, to allow the County's officers, administrators, employees and staff to access the Internet and utilize e-mail for more efficient communication, and to allow the public to access the County's Web site, its computerized records and the different forms and resources that the County makes available through its Web site.
- F. In order to fully utilize the above-referenced equipment while performing its statutorily-mandated duties, the County requires broadband Internet access.
- G. The Area Government and Intergovernmental Cooperation Act (the "Act"), 53 Pa.C.S.A. § 2301 et seq., and, in particular, § 2305 of the Act, permits a local government to delegate functions, powers or responsibilities to another governmental unit or local government.
- H. The County wishes to delegate to DCIU its ability to obtain and maintain broadband Internet access.
- I. DCIU is prepared to accept the delegation by the County of the County's ability to obtain and maintain broadband Internet access.
- J. The County and DCIU wish to enter into an agreement governing the delegation to DCIU of the County's ability to obtain and maintain broadband Internet access (hereafter the "agreement").

§ 83-2. Authorization of agreement; conditions.

The County of Delaware hereby enacts this article, pursuant to the provisions 53 Pa.C.S.A. § 2301 et seq., authorizing it to cooperate and enter into an agreement with DCIU to obtain and maintain broadband Internet access under the following terms and conditions:

- A. This article shall not become binding upon the County to delegate the County's ability to obtain and maintain broadband Internet access and to negotiate and enter into the agreement unless and until the DCIU shall also pass an ordinance, resolution or other action authorizing the aforementioned delegation of powers.
- B. Once the DCIU has enacted an enabling ordinance authorizing the intergovernmental cooperation, the County shall promptly negotiate and enter into an acceptable agreement. The material terms of the agreement shall provide, in part, that the County shall reimburse DCIU for the expenses that it incurs as a result of the intergovernmental cooperation.

§ 83-3. Duration.

This article shall remain in effect for the duration of the agreement with the DCIU and will not be repealed or rescinded by the County during said period of time.

Chapter 88. Jury Commission

[HISTORY: Adopted by the County Council of the County of Delaware 5-16-1979 by Ord. No. 79-2. Amendments noted where applicable.]

GENERAL REFERENCES

Jury Commissioner — See Charter, Section 416.

Jury Commissioner — See Ch. 6.

§ 88-1. Creation; membership; employees.

- A. There is hereby created for the County of Delaware a commission as the Jury Commission hereinafter called "Commission." Said Commission shall consist of three members. One of said members and its Chairman shall be the President Judge of the Court of Common Pleas of Delaware County. The President Judge may from time to time for cause assign a judge of said Court to perform his duties temporarily. The other two members of said Commission shall be appointed by the County Council of the County of Delaware in accordance with the provisions of Section 416 of the Delaware County Home Rule Charter. In the event that two of the members of the Commission are unable by reason of illness or other cause to temporarily perform the duties imposed upon them by this chapter, the remaining member, if he or she be the President Judge or judge assigned to act in the place of the President Judge, may act alone.
- B. The Commission shall employ an administrative assistant and such other employees as are necessary to assist it in the performance of its duties required by this chapter.

§ 88-2. Qualifications of jurors.

Every citizen of the minimum age eligible to vote for state or local officials residing in the County of Delaware shall be eligible to serve as a juror unless disqualified for one or more of the following reasons:

- A. He or she is unable to read, write, speak and understand the English language.
- B. He or she is over 70 years of age, or is incapable, by reason of mental or physical infirmity, to render efficient jury service.
- C. He or she has been convicted within the preceding six years of the commission of a felony or of a misdemeanor of the first or second degree under the laws of any jurisdiction punishable by imprisonment for more than one year and has not been granted pardon or amnesty.

§ 88-3. Jury duty exemptions and excuses.

No persons shall be exempt or excused from jury duty except the following:

- A. Persons in active service of the Armed Forces of the United States or with the National Guard.
- B. Persons who have served as grand or petit jurors in a state or federal court within the preceding two years.
- C. All ministers of religion and members of religious orders actively so engaged.
- D. All actively practicing attorneys, physicians, dentists, druggists, undertakers and professional nurses.
- E. Persons who are school teachers in public, parochial or private schools and actively teaching.
- F. Persons who are sole proprietors of businesses which are unable to function without such persons.
- G. Persons who have the care of a child or children under the age of 10 years.

- H. Persons demonstrating to the Commission, its administrative assistant or to the Court undue hardship or extreme inconvenience may be excused for such period as is determined necessary, at the end of which period such jurors shall again be summoned for jury duty.

§ 88-4. Selection and summons of jurors.

- A. Each year at a time specified by the Court the Delaware County Information Technology Department shall provide the Jury Commission with an alphabetical list and tape copy of names, street addresses, municipalities and zip codes selected impartially and at random from the Voter Registration List of Delaware County. Said list shall contain the number of names as specified by the Court. The names of this list of electors shall constitute the master list of prospective jurors. Said list shall be available in the office of the Jury Commission and shall be open to the public. Any person who was not registered to vote in the current year and who meets the qualification for jurors set forth in this chapter may be added to the master list of prospective jurors by the Commission on its own initiative or upon the application of said person.^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

- B. At least 45 days before the first day that a prospective juror may be called for service there shall be selected from the master list the number of names designated by the President Judge, said names to be selected in random order to insure a fair cross section of the eligible population of the County. The names, addresses, occupations and numbers of the persons so drawn for jury service shall be typewritten or printed upon a list, and the list shall be posted in the office of the Jury Commission, in the Office of Judicial Support, and such other place or places as the Jury Commission so designates, at least 25 days before the first day that the prospective juror is to report for jury service. These lists shall be signed by the members of the Jury Commission and also by the administrative assistant of the Commission.
- C. At least 30 days before the first day of the period for which said jurors have been drawn for service, there shall be mailed by first-class mail to each person whose name has been selected in a random manner, as set forth in Subsection **B**, a juror qualification form devised by or for the Jury Commission in such manner that there may be determined from the answers thereto whether or not the particular juror is qualified. The juror qualification form shall be executed by the prospective juror under penalty of perjury, and shall be returned to the Jury Commission within 10 days from the date of the mailing. Should the qualification form not be properly executed or not returned within said period of time, the Commission may request any such juror to appear at the office of the Commission to complete the qualification form or resolve any ambiguity contained therein. In the event the prospective juror fails to appear as directed, the Commission may make application to the Court of Common Pleas for an order requiring the prospective juror to appear before said Court to show cause why he or she has failed to appear. Failure to comply with such order or any further order of the Court after he or she has appeared shall constitute contempt of Court, and the Court may impose a fine not exceeding \$250 or imprisonment not exceeding 10 days, or both.
- D. At the same time and in the same mailing that a juror qualification form is mailed to each prospective juror whose name has been selected, as set forth in Subsections **B** and **C** hereof, there shall be mailed to each such juror a summons signed by the Sheriff of Delaware County to appear for jury service at the proper date, time and place. Said summons shall have attached to it a postage prepaid return card setting forth that notice to appear at the hour and date therein stated is accepted. This return card shall be addressed to the said Sheriff. The citizens to whom cards have been mailed and from whom return cards have not been received five days after the cards were mailed to them shall be served personally by the Sheriff or his deputies with notice to appear for jury service at the proper time.

§ 88-5. Ascertaining qualified jurors.

- A. After receipt of the juror qualification form as provided in § 88-4 hereof, the Commission through its members, its administrative assistant, or its duly authorized employees shall ascertain whether or not those individuals returning the questionnaire are qualified for jury service as provided in § 88-2 hereof, and/or whether such individuals should be excused, given an exemption or a postponement of jury duty. The Commission shall notify each prospective juror who has requested to be excused, or an exemption or postponement, whether such request has been granted; if such request is denied, then said notice shall advise said juror of his starting date of service.
- B. The names of the qualified persons as set forth in this section, exclusive of those persons excused, exempted or granted a postponement of jury duty, shall constitute the list of qualified jurors and shall be open to the public. The names, addresses, occupations and numbers of said qualified jurors shall be typewritten or printed upon a list, and the list shall be posted in the office of the Jury Commission, in the Office of Judicial Support, and such other place or places as the Jury Commission so designates.

§ 88-6. Length of service; failure to appear.

- A. Jurors shall be chosen for such period of time as the Court shall, from time to time, designate; however, said period of service may be extended by the Court when necessary to complete a trial for which a juror has already been selected.
- B. A prospective juror who has been summoned to serve and fails to appear as summoned shall, unless exempt, excused or granted a postponement pursuant to § 88-5, be punishable for contempt of Court, and the Court may impose a fine not exceeding \$250 or imprisonment not exceeding 10 days, or both.

§ 88-7. Manner of selection of jurors for service.

- A. Except as otherwise provided in Subsection B hereof, the Jury Commission shall maintain a jury wheel or wheels and shall place therein the names of persons included on the qualified list of prospective jurors. From time to time, as provided for in this chapter, the Commission shall publicly draw at random from the said wheel or wheels such number of names of persons as may be required for assignment to jury panels.
- B. Use of mechanical or electromechanical devices or equipment.
 - (1) The Jury Commission for the selection of jurors in its discretion, in the interest of efficiency, speed and economy, is authorized to use mechanical or electromechanical devices or business machines, including, but not limited to, punch cards, electronic tape, sorting, computing and data processing type devices or machines and any future technological advances or improvements as an aid to it in the random selection, drawing, investigating, summoning, and listing of jurors.
 - (2) Where such data processing equipment, devices, cards, etc., are being so used, the President Judge may order that such aforementioned equipment, devices or cards, or some of them, be used in the drawing of jury panels, in lieu of pieces of paper and jury boxes as otherwise provided by law. In such case, the President Judge shall direct the manner of use of such aforementioned equipment, devices or cards so as to provide for impartial drawings of the names of the persons to constitute the jury panels and for the preparation of the lists of the names so drawn.

§ 88-8. Venire for jurors; form.

Venire for jurors in the several Courts of Delaware County shall be issued from time to time by the President Judge of the Court of Common Pleas of Delaware County specifying the number and type of jurors to be selected, and also the dates and location when and where said jurors shall be present; the form of said venire shall be as prescribed by the Jury Commission.

§ 88-9. Form of summons.

The form of the summons to the jurors drawn upon each venire shall be as prescribed by the Jury Commission; said summons shall be signed by the Sheriff of Delaware County and shall indicate the dates and location when and where said jurors shall be present for jury service.

§ 88-10. Juror attendance; compensation.

Jurors shall receive compensation and mileage allowances allowed by law for each day he or she is in attendance for jury duty. The Jury Commission shall establish appropriate telephone call-in procedures to ensure that no juror shall be in attendance for jury duty on any given day for which his or her attendance is not required.

Chapter 114. Measurement Devices

[HISTORY: Adopted by the County Council of the County of Delaware 12-14-1999 by Ord. No. 99-6. Amendments noted where applicable.]

§ 114-1. Definitions.

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

BUREAU

Bureau of Weights and Measures, Delaware County Office of Consumer Affairs.

FUEL DISPENSER

A device designed for the measurement and delivery of gasoline, diesel or kerosene fuel.

PERSON

A corporation, partnership, limited-liability company, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.

PLU DEVICE (PRICE LOOK-UP DEVICE)

A device that can access a database price file or retail price retrieval system. The term includes bar code beam or contact scanners, optical character recognition (OCR) scanners or readers, magnetic scanners or readers, alpha or numeric keyboards, or both, voice response systems and computer based retail price retrieval systems.

SCALE

Any weighing device.

SCANNING DEVICE

A general term for any of the several types of PLU technologies capable of communicating with a database price file or retail price retrieval system. The term includes hardware, software and supporting computer systems.

TIMING DEVICE

A device used to measure the time during which a particular paid-for service is dispensed. Examples of timing devices are laundry driers, car wash timers, and recorders.

VEHICLE TANK METER

A meter mounted on vehicle tanks, including those used for the measurement and delivery of domestic petroleum products.

WEIGHTS AND MEASURES

Weights and measures of every kind, instruments and devices for weighing and measuring and any appliances and accessories associated with any or all such instruments or devices.

§ 114-2. Permit required.

Every person that operates or maintains a weighing, measuring or scanning device for commercial purposes, including, but not limited to, fuel dispenser, vehicle tank meter, scale and/or PLU device, is required to obtain an annual license/permit for each device from the Bureau.

§ 114-3. Permit application; fee.

The Bureau shall issue an annual device license/permit upon the following:

- A. The applicant furnishes such information relative to the application for a device permit as the Bureau may require from time to time.
- B. The applicant pays the following annual license/permit fee for each weighing, measuring or scanning device:
[Amended 1-2-2001 by Ord. No. 2000-3; 11-25-2008 by Ord. No. 2008-8]
 - (1) Fuel dispensers.
 - (a) \$25 per dispenser hose of a single blend.
 - (b) \$25 per blend for single hoses dispensing multiple blends.
 - (c) There is a maximum fuel dispenser fee of \$1,000 per location with either type of dispensing hoses.
 - (2) Vehicle tank meters: \$50 per meter on domestic fuel oil trucks.
 - (3) Scales used in commercial trade and/or noncommercial use but required by user to be inspected.
 - (a) One to 1,000 pounds: \$25 per device.
 - (b) 1,000 pounds or more: \$100 per device.
 - (c) There is a maximum small scale fee of \$1,000 per location.
 - (4) PLU device/scanners.
 - (a) Three or less terminals per location: \$65.
 - (b) Four or more terminals per location: \$125.
 - (5) Timing device.
 - (a) \$10 per timing device.

(b) There is a maximum timing device fee of \$1,000 per location.

(6) Businesses with different types of devices (i.e. scales, scanners and fuel pumps) shall pay the fee for the total of all types up to a total maximum of \$1,000.

§ 114-4. Violations and penalties.

Any person violating any provision of this chapter shall, upon conviction thereof at a summary proceeding, be sentenced to pay a fine of not more than \$500 per violation, to be paid to the use of the County, with costs of prosecution, or to be imprisoned in the County Correctional Facility for not more than 30 days, or both.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 114-5. Rules and regulations.

The Bureau of Weights and Measures shall, from time to time, establish rules and regulations for the implementation of this chapter.

Chapter 125. Noise

[HISTORY: Adopted by the County Council of the County of Delaware as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Smoking on public transportation — See Ch. 173, Art. I.

Article I. Public Transportation

[Adopted 10-30-1979 by Ord. No. 79-5]

§ 125-1. Definitions.

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

AUTHORIZED DEVICE

A paging device which, by the use of a tone signal, notifies its user to communicate with a particular person or office; a scanning device by which the user is able to listen to police, fire, or other emergency communication broadcasts but which is not equipped to receive commercial broadcasts; a two-way radio which is not equipped to receive commercial broadcasts but by which the user can transmit and receive verbal communications.

AUTHORIZED PERSON

A vehicle operator or service supervisor; a policeman; a fireman; a paramedic or other deliverer of emergency medical services; a civil defense worker; a physician or registered nurse licensed to practice in the Commonwealth of Pennsylvania; an officer or employee of the United States, of the Commonwealth of Pennsylvania, or of a political subdivision of the Commonwealth; any other person so designated in writing by the Director of the Delaware County Department of Emergency Services.^[1]

PUBLIC TRANSIT VEHICLE

Any vehicle (including, but not limited, to rolling stock) owned, operated, used, or controlled by the Southeastern Pennsylvania Transportation Authority (SEPTA).

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 125-2. Restriction on operation of noise receiving and noise producing devices.

No person shall operate or use any radio, tape recorder, tape player, or other noise receiving or noise producing device or devices on any public transit vehicle within the County of Delaware, except in connection with an earplug or earphones which will prevent the noise from reaching other persons in the public transit vehicle.

§ 125-3. Exception for authorized persons.

The prohibitions of this article shall not apply to any authorized person so long as:

- A. Such authorized person is using an authorized device in the course of his official duties or of his profession; and
- B. Such authorized person is carrying with him documents or other papers reasonably sufficient to identify him as an authorized person.

§ 125-4. Violations and penalties.

Any person violating the provisions of this article shall, upon summary conviction before a Magisterial District Judge, be sentenced to pay a fine of not less than \$10 and not more than \$500 and costs of prosecution, and in default of the payments thereof, shall undergo imprisonment in the County Jail for not more than 30 days.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 125-5. Notice to passengers.

Upon the effective date of this article, the Southeastern Pennsylvania Transportation Authority (SEPTA) shall forthwith post signs in all public transit vehicles setting forth the prohibitions, fines, and penalties as provided for in this article.

§ 125-6. Nonapplicability in certain local municipalities.

The provisions of this article shall not apply in any local municipality within the County of Delaware which has an ordinance similarly prohibiting the operation of radios, tape recorders, tape players, and other noise receiving and noise producing devices on public transit vehicles within said municipality and imposing penalties for violations of said ordinance.

Chapter 141. Parks and Recreation Areas

[HISTORY: Adopted by the County Council of the County of Delaware 4-21-1971 by Ord. No. 1-71; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Subsequent amendments noted where applicable.]

§ 141-1. Park hours.

- A. All parks are open to the public between 8:00 a.m. and 9:00 p.m., June through September, and 8:00 a.m. to sundown, during the remainder of the year (exception by permit only).

- B. Any park may be closed for public use at the discretion of the park supervisor due to weather, water, fire or other condition.
- C. No person shall be permitted within the park after hours, except as authorized by the County Department of Parks and Recreation.

§ 141-2. Permits; fees.

- A. A charge for use of any County park shall be in accordance with any fee schedule that may be adopted by County Council and utilized by the Parks and Recreation Department. Inquiry should be made to the Delaware County Parks and Recreation Department regarding applicable fees and deposits.
- B. No group of 10 or more persons shall use a County park or recreation area for a picnic or outing without first having obtained a permit in advance from the Parks Department, with the exception of Rose Tree Park, where permits will not be issued for picnicking (except events of more than 50% of the park's total picnic area or more than 150 persons, see Subsection **G** below) and all may picnic on a first-come-first-served basis. Permits are required for all other uses of Rose Tree Park. Groups arriving more than 1/2 hour late will forfeit their right to any reservation made should others occupy the area. A permit must be obtained in advance for the use of any playing fields.
- C. Permits will be issued only in the year requested and not for future years. Requests for permits are not accepted before January 1 of the reserved date year.
- D. To prevent over use of park facilities, to resolve conflicts arising from same time, same facility requests for facility use or facility privileges, the following list of potential facility users, in decreasing order of priority, will determine precedence.
 - (1) The Delaware County Parks Department.
 - (2) All other Delaware County departments.
 - (3) A Delaware County municipality or school district.
 - (4) A local branch of the United States government or the Commonwealth of Pennsylvania.
 - (5) A resident of Delaware County or an incorporated nonprofit IRS 501(c)(3) organization with its principal place of business in Delaware County.
 - (6) A corporation with its principal place of business in Delaware County.
 - (7) A resident of another county or an incorporated nonprofit IRS 501(c)(3) organization with its principal place of business outside of Delaware County.
 - (8) A corporation with its principal place of business outside of Delaware County.
- E. Subject to the provisions of this section, each application for a permit shall be reviewed by the Parks and Recreation Department, and such application shall not be considered approved until a permit is issued; and said permit shall be available for inspection at all times while using a facility. Application for the use of park system facilities shall be in writing and made on a form provided for the purpose. Such application will be signed by an authorized representative of the organization making application and will be submitted at least three months prior to the date of the proposed function. All requested events are subject to the approval and discretion of the Delaware County Parks and Recreation Board.
- F. Reservations and requests for permits to utilize a park should be made by contacting the Delaware County Parks Department, 8:30 a.m. to 4:30 p.m., Monday through Friday, at: (610)

891-4663.

- G. Permits for picnickers or park users requesting use of less than 50% of the park's total picnic area or less than 150 persons (whichever is smaller) will be issued to all users on a first-come-first-served basis and in accordance with the priority use list stated above. Large group picnics requiring use of more than 50% of the park's total picnic area or more than 150 persons (whichever is smaller) will be restricted to the picnic area and/or the playing field designated on their permit.
- H. Large-scale events (any use involving 150 or more persons) require a permit and will be limited to two per month per park. County Park Police and park groundskeepers must be utilized and paid for by the user for large-scale events. Appropriate insurance and damage deposits are required for all events commensurate with the size and scope of the event (specific requirements can be obtained by contacting the County Parks and Recreation Department).
- I. An hourly or per day rate will be charged for use of the buildings. Appropriate insurance and damage deposits are required when a building will be used.
- J. Long-term use (any use longer than two weeks' total use in a one-year period) of any building requires a lease agreement that must be handled through the Delaware County Solicitor's Office. An application for such use must be made in writing to the Parks and Recreation Board and also submitted to the County Solicitor's Office. Short-term lease of land for gardening is available to all users by permit issued through the Department of Parks.
- K. No large-scale event (an event of 150 persons or more) will be permitted in the Rose Tree Park 10 days prior to the Rose Tree Summer Festival or 10 days thereafter.
- L. Playing fields. A permit is required for the use of playing fields in any park. Permits for weekend use of playing fields will be issued to all users on a first-come-first-served basis, and in accordance with the priority list stated above. Seasonal permits are required for use of a specific playing field, Monday through Friday, after 5:00 p.m. If you are the permit holder for a specific playing field from the prior season, you will be given priority for reissuance of the permit for the same field in the following season. Insurance and damage deposits are required commensurate with the size and scope of use.
- M. Picnic permits shall be issued on a first-come-first-served basis on Memorial Day, Flag Day, July 4th and Labor Day. (Note: Picnic permits are not required at Rose Tree Park except for large-scale events, see Subsection **G** above.)
- N. Rain date permits will not be issued. If cancellation is due to weather no penalty will be assessed against the user for failing to appear for use.
- O. Notice of cancellation of use must be given to the Parks and Recreation Department seven days prior to the reservation date in order to receive a full refund of any fee paid for park use. If a permitted user fails to appear for their scheduled use or fails to cancel seven days prior to the scheduled use, any and all fees paid to the Parks and Recreation Department will not be refunded.
- P. All fees shall be charged in accordance with the Parks and Recreation Fee Schedule in effect.

§ 141-3. Memorials, plaques and other installations.

- A. No memorials, plaques, commemorative installations, or construction or installation of any kind is permitted in any County park without the express written approval of the Delaware County Parks and Recreation Board and Delaware County Council.

- B. Any memorials, plaques, commemorative installations, buildings, and existing appurtenances of any kind must be insured with comprehensive liability insurance coverage of \$1,500,000. Evidence of this insurance coverage must be provided on a yearly basis and upon the request of the Parks and Recreation Department. Failure to provide a certificate of insurance evidencing such coverage to the Delaware County Parks and Recreation Department may result in the removal of the appurtenance, memorial plaque, installation or building structure. Structures identified in this subsection, but in existence as the result of prior approval of Delaware County Council (including the Smedley Park World War I Memorial, the Delco Police Memorial, the Delco Flag Foundation structure, the Dr. Jason Korean Memorial and the Fire Memorial), prior to January 1, 2004, are exempt from insurance requirements. Any memorials placed without the prior written approval of County Council and the Delaware County Parks and Recreation Board will be removed.

§ 141-4. Alcoholic beverages and controlled substances.

Alcoholic beverages or controlled substances of any kind are prohibited in all County parks.

§ 141-5. Firearms, weapons and fireworks.

Possession or discharge of explosives, bows and arrows, air guns, slingshots, rockets, any type of firearm, weapon or fireworks is prohibited.

§ 141-6. Vehicles.

- A. Operation of minibikes, go-carts, motorcycles, snowmobiles, ATVs (all-terrain vehicles) and other similar types of vehicles and motorized vehicles are prohibited.
- B. All the provisions of the Pennsylvania Motor Vehicle Code^[1] and traffic laws shall apply in the parks and shall be strictly enforced with such further restrictions as may be stated herein. The park police will strictly enforce speed restrictions.
[1] *Editor's Note: See 75 Pa.C.S.A. § 101 et seq.*
- C. No person shall ride or drive any type of vehicle within or upon a walk, bridle path, or any part of the park not designated or customarily used for such purpose except or unless authorized by a specific permit issued by the Parks Department.
- D. When a park police officer or any law enforcement officer is directing traffic, all drivers of vehicles and pedestrians shall obey his orders and directions whether by hand, voice or other manner.
- E. No owner or driver shall park any vehicle anywhere outside of designated parking spaces or leave the vehicle parked anywhere on Parks Department property after sunset except at such times and in such places as the Parks Department may designate.
- F. When a road, drive or parkway shall be restricted as to traffic or closed or where there are road restrictions, duly marked signs, road markings or barricades it shall be a violation of this section to fail to observe and obey restrictions, signs, road markings or barricades.

§ 141-7. Public access.

No facility or park user is permitted to deny or block access to a park to the general public. No facility or park user is permitted to charge admission or donation to enter or use a park, facility or parkland or

charge a fee to exit a park, facility or parkland. Any requisite fees will be charged by and payable to Delaware County.

§ 141-8. Advertising, signs and decoration.

No person shall advertise within a County park without the written authorization of the Parks and Recreation Department and Board. The location of any such advertising shall be selected by and then specified in writing by the Parks and Recreation Department and Board. No person shall place any kind of signage or decoration upon or in County parks without the written authorization of the Parks and Recreation Department and Board.

§ 141-9. Solicitation and commercial use.

No person, business, group or organization shall solicit donations or contributions for any purpose without written authorization of the Parks Department. Commercial use of any parkland will be by permit only.

§ 141-10. Animals.

- A. No person shall be permitted to hunt or trap animals.
- B. No person without a permit shall cause or permit any animal owned by him, in his custody or under his control, except a dog in a permitted area when restrained by a leash not exceeding six feet in length, or those animals permitted by state statute, to go or be in any park area, and each such animal so found at large may be seized and disposed of as provided by the law or ordinance covering the disposal of stray animals on highways or public property then in effect at the place where such stray animal may be seen. Any person having control, or person that should have control, over an animal or animals within the park shall dispose of any feces left by the animal(s). Such feces shall be disposed of in a sanitary manner.
- C. No dog training is permitted in County parks.

§ 141-11. Poisons.

No person shall bring into or have in said parks any poison or poisonous substance, without the written authorization of the Parks Department.

§ 141-12. Fires.

No person shall build, light or maintain any fire or discard any burning materials.

§ 141-13. Sale of merchandise.

No person shall sell or offer for sale any object or merchandise or any other thing, whether corporeal or incorporeal, except pursuant to written authorization issued by the Parks Department.

§ 141-14. Urinating or defecating.

No person shall urinate or defecate except in facilities provided for such use.

§ 141-15. Changing/disrobing.

No person shall change in and out of any clothing or bathing attire except in areas designated or customarily provided for such use.

§ 141-16. Camping.

No person shall erect or maintain a tent or shelter and/or camp in any park without the written authorization of the Parks Department. Security for after-dusk activities or use must be provided by the user, and after-dusk park or facility use is at the user's own risk.

§ 141-17. Bathing, wading and swimming.

No person shall bathe, wade or swim in any park waters except at such times and places as the Parks Department may designate.

§ 141-18. Boating.

No person shall use or operate a boat, kayak, canoe, inflated float, raft or other watercraft in any park waters.

§ 141-19. Golf.

Golf and use of golf clubs is permitted in designated areas only.

§ 141-20. Skating, skiing and sledding.

No person shall coast, tube, snowboard, sled or ski except where, when and if there are places designated by the Parks Department. No person shall use in-line skates or roller skates except at places designated by the Parks Department. No person shall ice skate or go upon the ice except at such times and upon such places designated by the Parks Department. The use of skateboards is prohibited in all County parks.

§ 141-21. Model devices.

No person shall engage in the use of gas or battery powered model aviation devices, model motor vehicles or boats, whether radio controlled or not, except at areas designated by the Parks Department or as authorized by permit.

§ 141-22. Horses.

No person shall use, ride or drive a horse except at such times and only on paths and areas designated by the Parks Department.

§ 141-23. Other regulated activities.

A. Additional specific prohibited uses.

- (1) All flea markets, car shows, carnivals, fairs, circuses or events of similar nature are not permitted in any Delaware County park. For purposes of this rule, a "fair" includes the assembly of amusement rides, games or other attractions. The following uses are also specifically prohibited: lotteries, bingo, games of chance, card games and gambling of any kind; the display of animals customarily displayed in zoos; helicopter rides; bungee jumping; use of heavy equipment or machinery by anyone not specifically authorized to operate within the park by the Parks and Recreation Department; the parking or presence of trailers, mobile homes, motor homes or other similar mobile sleeping facilities; boisterous, immoral or indecent conduct.
- (2) All weddings (civil or otherwise), religious services or ceremonies are not permitted in any Delaware County Park.

§ 141-24. Protection of property.

- A. Damage to property. No person shall damage, deface, remove or tamper with any property within the park.
- B. Wildlife.
- (1) No person shall kill, wound, harass, trap, hunt, remove or have in his possession any animal, reptile, bird or nest or remove the eggs or young of any of the above.
 - (2) No person shall fish in any of the park waters, unless in possession of the required fishing license.
 - (3) No person shall feed any animal or waterfowl any food or other substance except such food expressly permitted by the Commission.

§ 141-25. Pollution and refuse.

- A. Pollution of waters. No person shall, within or without said parks, discharge into the waters of the parks or any tributary, river, brook, stream, storm sewer or drain flowing into said waters any substance which may result in the pollution of said waters.
- B. Littering. No person shall throw, deposit or leave litter or recyclable material within the park except in designated receptacles provided therefor. Users of parks and facilities categorized as "large-scale events" must bring their own trash bags and trash cans and remove all trash from the premises at the conclusion of their event.
- C. Dumping. No person or company shall dump any material anywhere within the park without the written authorization of the Parks Department. This is to include depositing in any dumpster, waste station, garbage can, or recycling can any waste which is generated outside of the park.

§ 141-26. Violations and penalties.

- A. All local, state and federal laws must be strictly complied with and will be enforced by appropriate authority.
- B. The park police officers have the right and power to enforce all the rules and regulations of the Parks Department, and violators of the rules and regulations may be directed to leave and may be subject to further penalties as determined by the Parks Department and/or applicable law. Any

person who shall violate any provision of this chapter will be punished by fine, the costs of prosecution, and any penalty required or permitted by local, state or federal authority.

Chapter 173. Smoking

[HISTORY: Adopted by the County Council of the County of Delaware as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Noise on public transportation — See Ch. 125, Art. I.

Article I. Public Transportation

[Adopted 3-28-1978 by Ord. No. 78-2]

§ 173-1. Prohibited acts.

From and after the effective date of this article, the smoking or carrying of lighted cigars, pipes, or cigarettes in buses, trolleys, elevated railway cars, or light rail vehicles within the County of Delaware is declared to be a nuisance prejudicial to the welfare and safety of persons riding such conveyances and the same is hereby prohibited.

§ 173-2. Violations and penalties.

Any person smoking or carrying a lighted cigar, pipe, or cigarette on a bus, trolley, elevated railway car, or light rail vehicle within the County of Delaware shall, upon summary conviction before a Magisterial District Judge, be sentenced to pay a fine of not less than \$10 nor more than \$500, and costs of prosecution, and in default of the payment thereof, shall undergo imprisonment in the County Jail for not more than 30 days.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 173-3. Posting of signs.

Upon the effective date of this article, all agencies of public transportation affected hereby shall forthwith post "No smoking" signs, setting forth the fines and penalties as provided for in this article, in each of their transportation vehicles.

§ 173-4. Applicability.

The provisions of this article shall not apply in any local municipality within the County of Delaware which has an ordinance similarly prohibiting smoking or the carrying of a lighted cigar, pipe or cigarette on buses, trolleys, elevated railway cars or light rail vehicles within said municipality and imposing penalties for violations of said ordinance.

Chapter 180. Solid Waste

[HISTORY: Adopted by the County Council of the County of Delaware 12-26-1990 by Ord. No. 90-4. Amendments noted where applicable.]

§ 180-1. Definitions.

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

ACCEPTABLE WASTE

That portion of solid waste which can be processed and has characteristics such as that collected and disposed of as part of normal municipal collection of solid waste in the County, such as, but not limited to: garbage, trash, rubbish, paper and cardboard, plastics, refuse, beds, mattresses, sofas, white goods, bicycles, baby carriages, automobile or small vehicle tires, as well as processible portions of commercial, industrial and institutional solid waste, and wood and lumber, tree limbs, ties, logs and trees if no more than six feet long and/or six inches in diameter, branches, leaves, twigs, grass and plant cuttings; excepting, however, unacceptable waste or hazardous waste.

ACT 101

The Municipal Waste Planning, Recycling and Waste Reduction Act, Act of July 28, 1988, P.L. 556, No. 101, 53 P.S. § 4000.101 et seq. (Purdon Supp. 1990), as now or hereafter amended.

ACT 97

The Solid Waste Management Act, Act of July 7, 1980, P.L. 380, No. 97, 35 P.S. § 6018.101 et seq. (Purdon Supp. 1990), as now or hereafter amended.

COMMERCIAL WASTE

All acceptable waste other than residential waste.

COUNTY

The County of Delaware, Pennsylvania.

COUNTY-DESIGNATED FACILITY or COUNTY-DESIGNATED FACILITIES

The solid waste processing or disposal facilities designated in § 180-2B(1) and (2) of this chapter and/or subsequently designated pursuant to § 180-2B(3) of this chapter.

DELAWARE COUNTY SOLID WASTE MANAGEMENT PLAN or PLAN

The Delaware County Solid Waste Management Plan of 1985, as amended and as revised from time to time pursuant to Act 101.

EXISTING FACILITY

Any facility which, on the effective date of this chapter, is permitted to or otherwise does operate within the County of Delaware.

FACILITY

Land, structures and other appurtenances or improvements where the processing, treatment, disposal or other handling of solid waste is permitted or takes place, whether or not such operation processes, treats, disposes or otherwise handles solid waste generated within the County of Delaware.

HAZARDOUS WASTE

- (1) Any material, substance or waste, regardless of quantity, which by reason of its composition or characteristic is:
 - (a) Toxic or hazardous waste as defined in or identified in either the Solid Waste Disposal Act, 42 U.S.C. § 6901 et seq., as replaced or amended, and the regulations thereunder, or in the Pennsylvania Solid Waste Management Act, 35 P.S. § 6018.101 et seq., as replaced or amended, and the regulations thereunder; or
 - (b) Special nuclear or by-products material within the meaning of the Atomic Energy Act of 1954, 42 U.S.C. § 2201 et seq., as replaced or amended.

- (2) If any governmental agency or unit having appropriate jurisdiction shall determine that substances which are not presently considered harmful, toxic or dangerous are harmful, toxic or dangerous, then such substances shall be included as hazardous waste upon the effective date of such determination.

LICENSEE

A person applying for or issued a solid waste hauling license pursuant to the provisions of § 180-3 of this chapter.

MANDATED RECYCLABLES

Materials that are required to be separated from acceptable waste at the point of generation in accordance with the Plan or as required by County or municipality ordinance.

MUNICIPALITY

A township, borough or city located within the County of Delaware, Pennsylvania.

NEW FACILITY

Any facility which, after the effective date of this chapter, is permitted to or otherwise does operate within the County of Delaware.

PERSON

Any individual, firm, partnership, corporation, association, institution, cooperative enterprise, municipality, municipal authority, governmental entity or agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties. In connection with any provision of this chapter prescribing a fine, penalty, remedy, or suspension or revocation of any license, or any combination of the foregoing, the term "person" shall include the officers and directors of any corporation or other legal entity having officers and directors, if the officer or director actively participated in the act or omission resulting in the fine, penalty, remedy, or suspension or revocation of any license.

PROCESS, PROCESSIBLE, PROCESSED or PROCESSING

Incineration to dispose of acceptable waste and obtain energy and other materials that are economically recoverable from the facility operation.

RESIDENTIAL WASTE

Acceptable waste generated in the County of Delaware from single-family dwelling units, individually owned townhouses and condominiums, or a building or group of buildings under common ownership and comprising multiple-family dwelling units not exceeding four units per building or group of buildings, provided that all residents of such single-family dwelling units, townhouses, condominiums, building or group of buildings utilize individual refuse containers not requiring the use of container handling devices on collection vehicles. Acceptable waste generated from a building or group of buildings under common ownership and comprising more than four multiple-family dwelling units shall constitute "commercial waste." "Residential waste" shall also include such items of public municipal waste as street sweepings and the like.

RESOURCE RECOVERY FACILITY

The Westinghouse Corporation owned and operated solid waste resource recovery facility and all additions and replacements thereto and improvements thereof, including all buildings, roadways, equipment and other improvements located on the premises on which the facility is located.

SOLID WASTE

All materials, substances or wastes that are generally discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including garbage, refuse, industrial, institutional and commercial waste, rubbish, ashes, demolition and construction debris and offal; excluding sewage and other highly diluted water-carried materials or substances, and materials and substances in gaseous form.

SOLID WASTE HAULING LICENSE or LICENSE

A license issued pursuant to § **180-3** of this chapter governing the collection and transportation of acceptable waste.

SOLID WASTE HAULING STICKER or STICKER

An authorization issued pursuant to § **180-3** of this chapter for a particular vehicle or container used for the collection or transportation of acceptable waste.

UNACCEPTABLE WASTE

Mandated recyclables and that portion of solid waste, exclusive of hazardous waste, such as, but not limited to, explosives; infectious, pathological, chemotherapeutic and biological waste; radioactive materials; ashes; foundry sand; sludges; cesspool and other human waste; human and animal remains; offal from slaughterhouses and wholesale food processing establishments; motor vehicles, including such major motor vehicle parts as automobile transmissions and blocks, batteries, engines, rear ends, springs, and fenders, trailers, wire and cable; agricultural and farm machinery and equipment; marine vessels and major parts thereof, any other large type of machinery or equipment; substantial quantities of liquid wastes (excluding moisture in solid waste resulting from precipitation) or nonburnable construction materials and/or demolition debris, rock, gravel and other earthen materials.

WHITE GOODS

Refrigerators, washing machines, dryers, window air conditioners, hot-water heaters and other major home appliances.

- B. All other words and phrases not specifically defined herein shall have the same meanings as set forth in Act 97 or Act 101, as they may hereinafter be amended or supplemented by legislation or by regulation.^[1]

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 180-2. (RESERVED)

- [1] *Editor's Note: Original Sec. 2, Mandated flow control of acceptable waste to County-designated facilities, was temporarily suspended 1-21-1997 by Ord. No. 97-1, was reenacted 2-26-2008 by Ord. No. 2008-1, which reenactment was then repealed 11-18-2008 by Ord. No. 2008-7 to reinstate the suspension of the effect, operation and enforcement of this section.*

§ 180-3. Solid waste hauling licenses and stickers.

- A. Solid waste hauling license. All persons collecting and transporting acceptable waste within the County shall obtain a solid waste hauling license from the office of the Solid Waste Management Department of the County of Delaware; and no generator of acceptable waste within the County shall contract with, employ, or otherwise allow any person to collect or transport such generator's acceptable waste unless that person is so licensed by the Solid Waste Management Department of the County of Delaware. Violations of this Subsection **A** shall constitute summary offenses under § **180-9J** of this chapter; and each day of violation shall constitute a separate and distinct offense.

[Amended 11-26-1991 by Ord. No. 91-3]

- B. Solid waste hauling stickers. Each vehicle or roll-off or lugger container used for the collection and transportation of acceptable waste generated within the County must be registered with the office of the Solid Waste Management Department and identified with two solid waste hauling stickers issued pursuant to § **180-3D** of this chapter. It shall be a summary offense under § **180-9J** of this chapter for any person to use any vehicle or roll-off or lugger container for the collection and transportation of acceptable waste generated within the County unless said solid waste hauling stickers are affixed to such vehicle or roll-off or lugger container; and it shall be a summary offense

under § 180-9J of this chapter for any generator of acceptable waste within the County to contract with, employ or otherwise allow any person to collect or transport such generator's acceptable waste unless such acceptable waste is collected and transported in a vehicle or roll-off or lugger container to which such solid waste hauling stickers are affixed. Each day of violation by each separate vehicle or roll-off or lugger container shall constitute a separate and distinct offense. [Amended 11-26-1991 by Ord. No. 91-3]

- C. Solid waste hauling license application. Solid waste hauling license application forms may be obtained at the office of the Solid Waste Management Department of the County of Delaware on or after the first day of December of each calendar year. Only one license application form may be submitted for any person. A completed application and a certified check payable to the Treasurer, County of Delaware, in payment of the license application fee and sticker fees, as hereinafter set forth, must be filed in the office of the Solid Waste Management Department for processing on or before the first day of January of each calendar year. Data, including, but not limited to, the following shall be included in each solid waste hauling license application:
- (1) Vehicles and containers. The identification of each and every vehicle and/or container to be used by the licensee for the collection and transportation of acceptable waste.
 - (2) Stickers. The number and type of stickers being applied for.
 - (3) Vehicle registration. A photostat on an eight-and-one-half-inch by eleven-inch sheet of paper of the certificate of registration or owner's card for each vehicle.
 - (4) Insurance. A certificate of insurance for each vehicle for which stickers are to be issued, attesting to the fact that there is in effect for each such vehicle a policy of insurance issued by a company authorized to issue insurance in the Commonwealth of Pennsylvania providing liability insurance coverage in an amount not less than \$1,000,000 for bodily injury and property damage for a licensed hauler with six or more hauling stickers, and liability insurance coverage in an amount not less than \$500,000 for bodily injury and property damage for a licensed hauler with five or fewer hauling stickers.
[Amended 5-14-1991 by Ord. No. 91-1]
 - (5) Municipality collection rules, regulations, and ordinances. A copy of the rules and regulations and/or ordinances governing the collection or transportation of acceptable waste in each municipality in which the licensee proposes to operate.
 - (6) Hauler certification. Each nonmunicipality applicant for Type M stickers shall provide written certification from each municipality served that the applicant is under current contract with either the municipality or residential occupants to provide refuse disposal service and must also supply written certification from said municipality as to the number and type of residences served, and the approximate number of occupants served. These certifications shall be kept current by the licensee.
 - (7) Vehicle inspection sticker. Evidence that, for each authorized vehicle, the applicant is in possession of a current vehicle inspection sticker issued either by the Commonwealth of Pennsylvania or by the state in which the vehicle is registered.
 - (8) Establishment of tare weight. In making application for stickers for any new or replacement vehicle or container, the licensee must make arrangements for a weighing of such units on the County truck scales for the purpose of establishing a tare weight. This shall be done prior to making application or putting the unit into service, and all vehicles and containers must be completely empty or they will not be weighed. The County weigh master shall issue a form (No. 302) to the driver, on which the correct tare weight of the vehicle or container will be written. It shall be the responsibility of the licensee to affix a copy of this form (No. 302) to his application and also to have the correct tare weight printed on both sides of the unit prior to sticker issuance.

- (9) Quantities of refuse. Each applicant shall state the quantities of refuse to be accepted and delivered to the County-designated facilities. Licensees shall not, on their applications, overestimate the quantities of refuse in any other than a de minimis fashion.
 - (10) Additional data. Each applicant shall provide any additional data, information, certification, etc., including information as to commercial pickups, deemed necessary by the Solid Waste Management Department in order to verify the information contained in the application and to implement the provisions of this chapter.
- D. Types of solid waste hauling stickers. No vehicle or container shall be eligible to receive more than one type of sticker. The following types of stickers shall be available:
- (1) Type M. This type of sticker shall be issued for vehicles owned by municipalities that collect residential waste, and for vehicles owned by private haulers who collect residential waste either under the terms of a contract with a specific municipality or under the terms of an agreement, either direct or indirect, with the owner or tenant of a dwelling unit generating residential waste. Trucks equipped with container handling attachments or which co-mingle residential waste and commercial waste will not be issued Type M stickers.
 - (2) Type C. This type of sticker shall be issued for vehicles and for containers used in the collection of commercial waste whether such vehicles or containers are owned by a municipality, a private hauler, or the generator of such commercial waste. Licensees who co-mingle in the same vehicle or container both residential waste and commercial waste shall, if otherwise eligible, be issued only a Type C sticker for such vehicle or container.
 - (3) Type S. This type of sticker shall be issued, at the option of the Director of the Solid Waste Management Department, for vehicles or containers used in the collection of commercial waste, where the vehicle or container will be used to collect commercial waste from a waste generator whom the Director of the Solid Waste Management Department identifies as being engaged in a specialized type of activity which generates commercial waste, but also generates unacceptable wastes or hazardous wastes. Such a sticker may be issued to the waste generator itself or to the licensee. The Director shall also have the authority to designate the type of vehicle or container for which such a sticker shall be issued, for the purpose of insuring that the vehicle or container is used only for the collection of acceptable waste from the waste generator or licensee to whom the sticker is issued.
 - (4) Type R. This type of sticker shall be issued to roll-off and lugger containers.
- E. License application and sticker fees.
- (1) Fees.
 - (a) The application fee for a solid waste hauling license pursuant to this section shall be, for the present time, \$150 per application.
 - (b) The fee for solid waste hauling stickers pursuant to this section, for each vehicle or container to be used for the collection and/or transportation of acceptable waste, shall be, for the present time, \$50 per sticker for Type M stickers; \$50 per sticker for Type C stickers; \$100 per sticker for Type S stickers; and \$20 per sticker for Type R stickers.
 - (c) The Director of the Solid Waste Management Department may from time to time amend the solid waste hauling license application fee, and the solid waste hauling sticker fees.
 - (2) The intent of charging such fees is to cover the administrative costs of implementing this chapter, with particular reference to the determination that vehicles and containers used to deliver acceptable waste to the County-designated facilities comply with the provisions of this chapter; it is not the intent of such fees that any vested rights in a license or stickers be conferred upon the holder, or that any licensee have a vested right to deliver acceptable waste to the County-designated facilities.

- F. License issuance. The Solid Waste Management Department shall issue a solid waste hauling license on the basis of a complete and accurate application meeting the requirements of this section and payment of the required application and sticker fees. The Solid Waste Management Department will issue two stickers for each vehicle or container applied for in the application. A solid waste hauling license and solid waste hauling stickers shall be valid from March 1 to February 28 of each calendar year.

§ 180-4. Solid waste hauling license rules and regulations.

The following rules and regulations govern the use of solid waste hauling licenses issued by the Solid Waste Management Department:

- A. Vehicle design and construction. A solid waste hauling sticker will not be issued, and may not be used, for any vehicle or container which does not meet the following specifications:
- (1) Totally and permanently enclosed body of welded steel construction. Roll-off containers and dump trucks shall be completely covered with a tarpaulin and made as airtight as possible.
 - (2) Provided with a means of loading only at the top, side, or rear, depending upon the design of the totally and permanently enclosed body.
[Amended 5-13-1997 by Ord. No. 97-2]
 - (3) So constructed that no waste can be carried at any place upon said vehicle other than in the enclosed body.
 - (4) So equipped that all loading or unloading openings on the bodies have adequate, tightly fitted doors or covers with latches or clamps to keep them closed and rubber or other suitable gaskets to render them leakproof, spillproof, dustproof, and odorproof.
- B. Sticker display. Stickers shall be permanently affixed to both sides of the cab or body of each vehicle, in full view of the scale house operator. Any sticker which is excessively marred, defaced, or otherwise rendered unidentifiable shall be declared void, and a new sticker must be obtained from the Solid Waste Management Department.
- C. Vehicle registration. Licensees must notify the Solid Waste Management Department, in writing, within 72 hours after receipt of a new license issued to a vehicle for which stickers have previously been granted, attaching thereto a copy of the new registration or owner's card. The stickers of a vehicle which is traded in on another vehicle or sold become void. New stickers are required when a different vehicle is acquired.
- D. Certificates of insurance. Certificates of insurance must be kept current for each vehicle for which stickers have been issued; and, in the event a policy of insurance should lapse, be suspended or revoked, the stickers issued to the vehicle shall be suspended until such time as a current policy is obtained and a certificate so attesting is filed with the Solid Waste Management Department.
- E. Municipality collection rules, regulations and ordinances. Each licensee shall have the responsibility of filing with the Solid Waste Management Department current regulations or ordinances relating to the municipalities served by the licensee, if they are changed or revised. In the event the licensee does not do so, his license shall be suspended until there is compliance with this subsection.
- F. Vehicle inspection stickers. Vehicle inspection stickers must be kept current for each vehicle for which solid waste hauling stickers have been issued; in the event that any such vehicle inspection sticker should lapse, be suspended or revoked, the solid waste hauling stickers for that vehicle shall be suspended until a new vehicle inspection sticker is acquired and submitted to the Solid Waste Management Department.

- G. Quantities of refuse. Only the quantities of refuse estimated in the license application will be accepted. Additional waste, significantly and frequently beyond the estimate, will be accepted only if approved by the Solid Waste Management Department and accompanied by a written statement from the hauler explaining why the quantities differ from those stated in the application. All acceptable waste quantities have been designated for disposal at specific plants and will be treated on a plant-by-plant and day-to-day basis.
- H. Nontransferability. A licensee shall not transfer, assign, or in any way alter a license or sticker, except with the written approval of the Solid Waste Management Department.
- I. Hauler identification. The collector's name and address as well as the tare weight of the vehicle shall be painted on both sides of the vehicle cab with letters not less than six inches high. The tare weights of all roll-off containers must similarly be clearly and permanently printed on both sides of the container.
- J. Inspection of facilities and records. It shall be a condition of holding a license or stickers that each licensee or generator:
- (1) Open his facilities to inspection by the Director of the Solid Waste Management Department and his designees during reasonable hours but not necessarily on prior notice by the Director of the Solid Waste Management Department; and
 - (2) Maintain an accurate logbook of incoming and outgoing vehicles/containers, including location of containers, routes of vehicles, and place of final disposal of waste, which shall be open to inspection by the Director of the Solid Waste Management Department and his designees.
- K. Designation of specialized waste generators. The Director of the Solid Waste Management Department is hereby authorized to designate individual waste generators as being engaged in a specialized type of activity which generates commercial waste but also generates unacceptable wastes or hazardous wastes, which list shall be maintained for public inspection in the Solid Waste Management Department. The purpose of so designating such specialized waste generators is not to imply that any such waste generator in fact disposes of unacceptable wastes or hazardous wastes in an improper manner but only to recognize the possibility of such improper disposal; and, accordingly, there is no right to a hearing on or appeal of the Director's designation. If the vehicle or container is the property of the waste generator, then the vehicle or container shall bear the waste generator's name and address thereon, in accordance with § 180-41 of this chapter. If the vehicle or container is the property of a hauler and is leased to the waste generator, then the vehicle or container shall bear both the hauler's and the waste generator's names and addresses, in accordance with § 180-41 of this chapter. It shall be a violation of this chapter for any licensee to deliver to the County-designated facilities any acceptable waste from such a waste generator unless such acceptable waste is in a vehicle or container bearing Type S stickers; and it shall be a violation of this chapter for any licensee to deliver to the County-designated facilities, in a vehicle or container bearing Type S stickers, any acceptable waste other than that generated by the waste generator to whom the Type S stickers have been issued.
- L. Co-mingling waste. No commercial waste or out-of-County solid waste shall be co-mingled with residential waste in any vehicle for which Type M stickers have been issued.

§ 180-5. Operating procedures.

- A. Weigh-in. All vehicles approaching a County-designated facility shall stop at the scale to be weighed. Vehicles must come to a full stop prior to driving into the scales; quick stopping or starting on a scale is prohibited. All personnel must leave the vehicle during weighing, and all helpers shall remain outside the limits of the dumping floor. After weighing, the vehicle must not leave the scales until authorized by the scale operator; thereupon, the driver alone shall proceed as directed. At the discretion of the scale operator, vehicles may be required to return to the scales for verification of tare weight. The Solid Waste Management Department reserves the right, as a

condition of retaining a valid license, to order a licensee to adjust the printed tare weight on the vehicle to reflect the accurate tare weight.

- B. **Dumping.** After weighing, and at the direction of the scale operator, each vehicle shall proceed to a dumping location and unload as directed by the dumping floor operator. If no operator is on duty, the vehicle shall proceed to any open dumping location. In no case shall any vehicle dump directly onto the tipping floor unless specifically directed to do so by duly authorized plant personnel. Each vehicle shall discharge its contents as quickly as possible and leave by the opposite end of the tipping floor, or as directed by plant personnel. Any raised body must be lowered prior to moving. In addition, each vehicle shall be equipped with a backup warning alarm which will operate when the vehicle is in reverse gear.
- C. **Scavenging.** No hand sorting or picking over of trash is permitted at any time.
- D. **Safety.** Each vehicle and operator shall exercise safety in all operations at the County-designated facilities. The speed limit on County-designated facility roads is 15 miles per hour.
- E. **Hours of operation.** The days and hours during which materials will be accepted for disposal at the County-designated facilities will be posted at each facility, and no acceptable waste may be disposed at the County-designated facilities at any other time.
- F. **Inspection of facilities.** The issuance of a license to a licensee, and its continued validity, shall give to the County a right to inspect the licensee's facilities during reasonable hours for the purpose of insuring the licensee's compliance with this chapter. Refusal by the licensee to permit such inspection shall result in the suspension of the license and all stickers issued to the licensee until such time as the licensee has authorized such inspection.
- G. **Voluntary submission of loads for inspection.**
 - (1) No person shall be guilty of a violation of this chapter if, prior to dumping a load at a County-designated facility, he:
 - (a) Informs a code enforcement officer or the plant superintendent that the load may contain hazardous waste or unacceptable waste;
 - (b) Dumps the load at a place designated by the code enforcement officer or the plant superintendent;
 - (c) Remains present, with his vehicle and/or container, while the load is inspected; and
 - (d) Promptly removes any hazardous waste, or unacceptable waste, as directed by the code enforcement officer or plant superintendent.
 - (2) The code enforcement officer or plant superintendent may, however, in his sole discretion, refuse to inspect such a load (for example, because he believes that the time taken in inspection will cause a backup or delay in dumping by other vehicles) and direct the licensee to dispose of the load at a PA Department of Environmental Protection permitted facility.
- H. **Refusal to dump.** Except as provided in § 180-5G, no licensee or his driver, once having entered the County-designated facility, shall leave without having dumped the load in the place and in the manner specifically directed by duly authorized plant personnel and/or code enforcement officers of the Solid Waste Management Department. In the event that any alleged failure of the licensee's equipment prevents dumping, he shall move his vehicle to such location on the plant premises as he is directed by plant personnel and/or code enforcement officers and make prompt arrangement for equipment repair, at his own expense, so that the load may be dumped before the vehicle leaves the plant.

- I. Removal of hazardous or unacceptable waste. The licensee shall, at the direction of plant personnel and/or code enforcement officers and at his own expense, remove any hazardous waste or unacceptable waste deposited by the licensee at any County-designated facility within two hours of being directed to do so.

§ 180-6. Control and discretion of County.

- A. Reservation of rights. The County reserves the right, in its sole discretion, to limit either the days or hours of operation when it will receive acceptable waste at County-designated facilities. The County also reserves the right, in its sole discretion, to refuse to receive acceptable waste on a temporary basis. Should the County elect to refuse to accept any such acceptable waste, then the holder of any current license issued by the County shall be required to make his own arrangements, at his own expense, to dispose of any acceptable waste collected by him at facilities other than the County-designated facilities, and shall be relieved during such period of the imposition of violations.
- B. Right to direct or redirect. The County, acting through its Solid Waste Management Department, reserves the right, in its sole discretion, to designate the particular County-designated facility at which a particular stickered vehicle may dump acceptable waste and also reserves the right to redirect any such vehicle to an alternate County-designated facility if for any reason the Solid Waste Management Department deems it to be in the best interests of the County to do so.

§ 180-7. Charges.

- A. Residential waste. There shall be no charge at this time for the disposal of residential waste by a licensee as to those vehicles owned by such licensee for which Type M stickers have been issued pursuant to the provisions of this chapter.^[1]

[1] *Editor's Note: Original Sec. 7b, Commercial Waste, which originally followed this subsection, was repealed 1-21-1997 by Ord. No. 97-1. Section 2b of Ord. No. 97-1 also stated "The Authority shall have the discretion to establish the tipping fees to be charged for the disposal of commercial waste, as well as the other terms under which commercial work will be accepted for disposal, at County-designated facilities."*

- B. Payments. All charges pursuant to this section are payable monthly to the Solid Waste Management Department. In the event that a licensee demonstrates a pattern of delinquency in completing payments, the Director of the Solid Waste Management Department, in his sole discretion, may suspend the licensee's solid waste hauling license and solid waste hauling stickers until all delinquencies have been satisfied, and may also require the licensee to make advance payment in the approximate value of one month's bill, or require payment in the form of cash or a certified check.

§ 180-8. Registration and reporting of existing and new facilities, transporters and generators.

- A. Registration of existing and new facilities. On or before January 1, 1991, every existing facility, other than County-designated facilities, shall register with the office of the Solid Waste Management Department of the County of Delaware. All new facilities shall be required to register with the office of the Solid Waste Management Department of the County of Delaware within 60 days prior to beginning operation. Registration is required whether or not a Pennsylvania Department of Environmental Protection permit was, is or will be issued for the facility.
- B. Registration requirements for existing and new facilities. Registration by existing facilities and by new facilities shall be on a form prepared by the Solid Waste Management Department of the

County of Delaware and shall include the following information:

- (1) Name and address of the facility owner.
 - (2) Name and address of the facility operator.
 - (3) Name and address of the facility.
 - (4) Identification of all PA DEP and/or U.S. EPA permits issued or applied for, and the effective date and any expiration date for each such permit.
 - (5) Description of solid waste received, including the type and amount of solid waste processed or disposed.
 - (6) Identification of all persons from whom solid waste is received, including for each such person the name, address and contact telephone number.
 - (7) Identification of all persons to whom solid waste is sent for processing or disposal, including for each such person the name, address, contact telephone number and permit number.
 - (8) Description of transportation, storage, processing or disposal operation.
 - (9) Days and hours of operation.
 - (10) Such other information as required by the County of Delaware or the Solid Waste Management Department of the County of Delaware.
- C. Annual reporting by facilities. On or before January 30 of each calendar year, each facility operating in the County of Delaware, other than County-designated facilities, shall be required to report to the Solid Waste Management Department of the County of Delaware the following information pertaining to the facility which relates to the operation of the facility during the previous calendar year, or portion thereof:
- (1) Identification of all persons from whom solid waste is received.
 - (2) The type and amount (in tons) of solid waste delivered by each person from whom solid waste is received.
 - (3) The identification of all persons or facilities to whom solid waste is sent for processing or disposal, including for each such person or facility the name, address, contact telephone number and permit number, and the type and amount (in tons) of solid waste sent to each such person or facility.
 - (4) Any change to the registration information on file in the Solid Waste Management Department of the County of Delaware.
 - (5) Such other information as required by the County of Delaware or the Solid Waste Management Department of the County of Delaware.
- D. Registration of solid waste transporters. On or before January 1, 1991, every transporter of solid waste that transports solid waste in or through the County of Delaware to facilities other than the County-designated facilities, shall register with the office of the Solid Waste Management Department of the County of Delaware. Any transporter of solid waste who, on the effective date of this chapter, does not transport solid waste in or through the County of Delaware to facilities other than the County-designated facilities shall register with the office of the Solid Waste Management Department of the County of Delaware within 30 days prior to transporting solid waste in or through the County of Delaware to facilities other than the County-designated facilities.

- E. Registration requirements for solid waste transporters. Registration by transporters of solid waste that transport solid waste in or through the County of Delaware to facilities other than the County-designated facilities shall be on a form prepared by the Solid Waste Management Department of the County of Delaware and shall include the following information:
- (1) Name, address and contact telephone number of the transporter.
 - (2) Identification of all state or federal licenses or permits issued to, or applied for by, the transporter, including the effective date and any expiration date for each such license or permit.
 - (3) Identification of all persons from whom solid waste not sent to a County-designated facility is received, including for each such person the name, address, contact telephone number, and type of solid waste received.
 - (4) Identification of all persons or facilities (other than the County-designated facilities) to whom solid waste is sent for processing or disposal, including for each such person or facility the name, address, contact telephone number, permit number and type of solid waste processed or disposed.
 - (5) Such other information as required by the County of Delaware or the Solid Waste Management Department of the County of Delaware.
- F. Annual reporting of solid waste transporters. On or before January 30 of each calendar year, each transporter of solid waste that transports solid waste to facilities other than the County-designated facilities shall be required to report to the Solid Waste Management Department of the County of Delaware the following information pertaining to the transporter which relates to operations during the previous calendar year, or portion thereof:
- (1) Identification of all persons from whom solid waste not sent to a County-designated facility is received.
 - (2) The type and amount (in tons) of all solid waste received from each person from whom solid waste not sent to a County-designated facility is received.
 - (3) Identification of all persons or facilities (other than the County-designated facilities) to whom solid waste is sent for processing or disposal, including for each such person or facility the name, address, contact telephone number, permit number and type of solid waste processed or disposed.
 - (4) Any change to the registration information on file in the Solid Waste Management Department of the County of Delaware.
 - (5) Such other information as required by the County of Delaware or the Solid Waste Management Department of the County of Delaware.
- G. Registration of generators of unacceptable waste and hazardous waste. On or before January 1, 1991, every commercial, institutional and industrial generator of unacceptable waste and/or hazardous waste located in the County of Delaware shall register with the office of the Solid Waste Management Department of the County of Delaware. Any commercial, institutional or industrial establishment that does not generate unacceptable waste or hazardous waste on the effective date of this chapter, but generates unacceptable waste or hazardous waste subsequent to the effective date of this chapter, shall register with the office of the Solid Waste Management Department of the County of Delaware within 30 days after the initiation of operations.
- H. Registration requirements for generators of unacceptable waste and hazardous waste. Registration by commercial, institutional and industrial generators of unacceptable waste and/or hazardous waste located in the County of Delaware shall be on a form prepared by the Solid

Waste Management Department of the County of Delaware and shall include the following information:

- (1) Name, address and contact telephone number of the commercial, institutional or industrial establishment.
 - (2) Description of each type of unacceptable waste or hazardous waste generated.
 - (3) Identification of all persons transporting, processing and disposing of the unacceptable waste or hazardous waste generated, including for each such transporter, processor or disposer the name, address, state or federal license or permit number and contact telephone numbers.
 - (4) Such other information as required by the County of Delaware or the Solid Waste Management Department of the County of Delaware.
- I. Annual reporting by generators of unacceptable waste and hazardous waste. On or before January 30 of each calendar year, each commercial, institutional and industrial generator of unacceptable waste and/or hazardous waste located in the County of Delaware shall be required to report to the Solid Waste Management Department of the County of Delaware the following information pertaining to the commercial, institutional or industrial establishment which relates to operations during the previous calendar year, or portion thereof:
- (1) The type and amount (in tons) of each unacceptable waste or hazardous waste stream generated by the commercial, institutional or industrial establishment.
 - (2) The transporter or transporters of each unacceptable waste or hazardous waste stream generated, including the type and amount (in tons) of unacceptable waste or hazardous waste received by each such transporter.
 - (3) The destination of each unacceptable waste or hazardous waste stream generated, including the type and amount (in tons) of unacceptable waste or hazardous waste sent to each such person or facility.
 - (4) Any change to the registration information on file in the Solid Waste Management Department of the County of Delaware.
 - (5) Such other information as required by the County of Delaware or the Solid Waste Management Department of the County of Delaware.
- J. Registration and annual reporting fees. There shall be a fee for each registration and annual report filed pursuant to this section.
- (1) Fees shall be as set from time to time by resolution of County Council.^[1]
 [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
 - (2) Fees shall be payable to the Treasurer, County of Delaware, at the time the registration form or annual report is filed with the office of the Solid Waste Management Department of the County of Delaware.

§ 180-9. Violations and penalties; suspensions; revocations.

The following suspensions, revocations and penalties shall be imposed for violations of this chapter.

- A. Hazardous waste. Any licensee that delivers, or causes to be delivered, hazardous waste to a County-designated facility shall:
- (1) For a first offense, suffer a suspension of the licensee's solid waste hauling license for a period of 30 days, and said solid waste hauling license shall not be reinstated until the

licensee has paid a civil penalty in an amount not to exceed \$5,000. In the event the licensee persuades the hearing officer that the licensee acted in good faith and was unaware of the presence of hazardous waste in the licensee's load, and if the hazardous waste was de minimis in quantity, then the suspension on a first offense shall be five days and the civil penalty shall be in an amount not to exceed \$5,000.

- (2) For a second offense, the penalty shall be a permanent revocation of the licensee's solid waste hauling license, which license may be reinstated, if ever, only in the sole discretion of the Director of the Solid Waste Management Department. If the licensee establishes the above-described mitigating factors, the penalty on a second offense shall be reduced to a suspension of the licensee's solid waste hauling license for a period of 30 days and a civil penalty in an amount not to exceed \$10,000.
- (3) For a third offense, the penalty shall be a permanent revocation of the licensee's solid waste hauling license.

B. Unacceptable waste. Any licensee that delivers, or causes to be delivered, unacceptable waste to a County-designated facility shall:

- (1) For a first offense, suffer a suspension of the licensee's solid waste hauling license for a period of 10 days, and said solid waste hauling license shall not be reinstated until the licensee has paid a civil penalty in an amount not to exceed \$2,500. In the event the licensee persuades the hearing officer that the licensee acted in good faith and was unaware of the presence of unacceptable waste in the licensee's load, and if the unacceptable waste was de minimis in quantity, then the suspension on a first offense shall be two days and the civil penalty shall be in an amount not to exceed \$2,500.
- (2) For a second offense, the penalty shall be a suspension of the licensee's solid waste hauling license for a period of 30 days, and said solid waste hauling license shall not be reinstated until the licensee has paid a civil penalty in an amount not to exceed \$5,000. If the licensee establishes the above-described mitigating factors, the penalty on a second offense shall be reduced to a suspension of 10 days and a civil penalty in an amount not to exceed \$5,000.
- (3) For a third or subsequent offense, the penalty shall be a permanent revocation of the licensees' solid waste hauling license, which license may be reinstated, if ever, only in the sole discretion of the Director of the Solid Waste Management Department and upon the payment of a civil penalty in an amount not to exceed \$10,000.

C. (RESERVED)^[1]

- [1] *Editor's Note: Original Sec. 9c, Use of non-County-designated facilities, was temporarily suspended 1-21-1997 by Ord. No. 97-1, was reenacted 2-26-2008 by Ord. No. 2008-1, which reenactment was then repealed 11-18-2008 by Ord. No. 2008-7 to reinstate the suspension of the effect, operation and enforcement of this subsection.*

D. Co-mingling of residential and commercial waste.

- (1) Any licensee that collects or transports, or causes to be collected or transported, any commercial waste or any out-of-County solid waste in a vehicle bearing Type M stickers shall:
 - (a) For a first offense, suffer a suspension of the licensee's solid waste hauling license for a period of 10 days, and said solid waste hauling license shall not be reinstated until the licensee had paid a civil penalty in an amount not to exceed \$2,500.
 - (b) For a second offense, the licensee shall suffer a suspension of the licensee's solid waste hauling license for a period of 20 days, and said solid waste hauling license shall not be reinstated until the licensee has paid a civil penalty in an amount not to exceed \$5,000.

- (c) For a third offense and all subsequent offenses, the licensee shall suffer a suspension of the licensee's solid waste hauling license for a period of 30 days, and said solid waste hauling license shall not be reinstated until the licensee has paid a civil penalty in an amount not to exceed \$10,000.
 - (2) In determining whether an offense is a first, second, third or subsequent offense under this subsection, it shall not matter whether the prior offense was of the same nature so long as it was an offense as defined in this section. A licensee who has had no prior offenses of this chapter for a continuous period of three years shall be deemed to have had no prior offenses for purposes of this subsection.
- E. Other ordinance violations:
- (1) Any licensee or other person violating any other provision of this chapter shall:
 - (a) For a first offense, be subject to a civil penalty in an amount not to exceed \$500.
 - (b) For a second offense, be subject to a civil penalty in an amount not to exceed \$1,000.
 - (c) For a third offense and all subsequent offenses, be subject to a civil penalty in an amount not to exceed \$2,000.
 - (2) In determining whether an offense is a first, second, third or subsequent offense under this subsection, it shall not matter whether the prior offense was of the same nature so long as it was an offense as defined in this section. A licensee or person who has had no prior offenses of this chapter for a continuous period of three years shall be deemed to have had no prior offenses for purposes of this subsection.
- F. Amount of civil penalty. The amount of any civil penalty provided for in this section shall be established by the Director of the Solid Waste Management Department. In determining the amount of any civil penalty pursuant to this section, the Director of the Solid Waste Management Department shall consider the seriousness of the violation; the willfulness of the violation; the effect of the violation on implementation of the Solid Waste Management Plan; savings resulting to the person or licensee in consequence of such violation; the deterrence of future violations; and other relevant factors.
- G. Imposition of penalties and administrative hearings. The penalties provided by this section shall be imposed by the Director of the Solid Waste Management Department after giving a minimum of 10 days' written notice to the licensee or other person. Upon a request of the licensee or other person, an administrative hearing shall be held before a hearing officer designated by the Delaware County Council; and, if such a hearing is requested, the imposition of the penalty shall be held in abeyance pending the result of the hearing. Said penalty shall be deemed purely civil in nature and in no way shall be considered criminal violations. In any hearing the burden of proof shall be upon the County by a preponderance of the evidence; but good faith shall not be a defense, except in Subsections **A** and **B** of this section, although the defense of de minimis shall be retained. In addition to the suspension and civil penalties provided in this section, a licensee adjudicated as having violated this chapter shall also pay the cost of the proceeding, namely the cost of attendance by a court reporter and any necessary transcription; and if the Delaware County Council appoints as the hearing officer a person paid by a fee for holding individual hearings, the fee of the hearing officer. The sole reason for providing for a hearing is to provide a record adequate for judicial review in the event that the adjudication is challenged. Adjudications pursuant to this section shall be appealable pursuant to the Local Agency Law, 2 Appendix, 2 Pa.C.S.A. § 752.
- H. Suspension of solid waste hauling license. If a solid waste hauling license is suspended or revoked pursuant to this section, all solid waste hauling stickers held by the licensee shall similarly be suspended or revoked until such time as the solid waste hauling license is reinstated. In

computing the period of suspension, any days on which the County-designated facilities are not open shall not be included in or credited toward the suspension period.

- I. Failure to pay civil penalty. In the event that any civil penalty imposed under this chapter remains unpaid after 10 days following the full and final disposition of the penalty proceedings, the licensee's solid waste hauling license shall be suspended until the civil penalty is paid.
- J. Summary offenses. Any person violating any provision of this chapter, or any provision of the rules and regulations adopted hereunder may, upon conviction thereof at a summary proceeding, be sentenced to pay a fine of not more than \$1,000, together with the costs of prosecution, or be imprisoned in the County Jail for not more than 30 days, or both.
- K. Multiple violations. Each violation of any provision of this chapter, or any provision of the rules and regulations adopted hereunder, and each day that such a violation exists, shall constitute a separate violation and offense.
- L. Cumulative remedies. In addition to any other remedy provided in this chapter, the County may institute proceedings to restrain any violation of, or to require compliance with, this chapter and/or the rules and regulations adopted hereunder. The existence or exercise of any remedy under this section shall not prevent the County or the Solid Waste Management Department from exercising any other remedy provided under this chapter or under the rules and regulations adopted hereunder, or any remedy available at law or equity.
- M. Solid waste enforcement officers. The office of Solid Waste Enforcement Officer is hereby created. Such officers shall be employees of the County of Delaware under the supervision of the Director of the Solid Waste Management Department and shall be responsible for investigation and reporting on violations of this chapter. They shall also have the authority to issue citations for summary offenses pursuant to § 180-9J of this chapter, but shall otherwise have no greater arrest power than that of any other citizen. All persons holding solid waste hauling licenses under this chapter shall, as a condition of holding such licenses, permit such Solid Waste Enforcement Officers access to their facilities and records pursuant to § 180-4J of this chapter; shall stop their vehicles and shall provide personal identification of themselves when so directed by such Solid Waste Enforcement Officers; and shall require their employees to stop their vehicles and provide personal identification of themselves to such Solid Waste Enforcement Officers whenever so directed by such officers.

[Added 11-26-1991 by Ord. No. 91-3]

§ 180-10. Regulatory authority of Director of Solid Waste Management Department.

The Director of the Solid Waste Management Department is authorized to enact rules and regulations consistent with the intent of this chapter. Violations of such rules and regulations shall be considered violations of this chapter, subject to the sanctions provided in § 180-9E hereof.

§ 180-11. Subpoenas.

Pursuant to Section 1007 of the Delaware County Home Rule Charter, the hearing officer conducting hearings on violations of this chapter shall have the power to administer oaths, to compel the attendance of witnesses, and to require the production of records or other materials in connection with the subject of the hearing. Such power shall be to the full extent permitted by the Constitution and laws of the Commonwealth of Pennsylvania and shall be enforced in the manner prescribed by law.

§ 180-12. Severability.

In the event that any provision of this chapter is held invalid or is enjoined by any court or other forum of appropriate jurisdiction, it is the intent of this chapter that the remaining provisions be severable and remain in effect; provided, however, that in the event of any such finding of invalidity, or in the event of entry of any injunction, whether preliminary or final, or of any temporary restraining order, the Director of the Solid Waste Management Department shall have the authority, pending further action by the County Council of the County of Delaware, to refuse to accept any and all acceptable waste from any person at County-designated facilities.

§ 180-13. Repealer.

This chapter repeals County of Delaware Ordinance No. 82-3, as amended, and Ordinance 86-7 (as heretofore amended by Ordinance Nos. 89-1, 89-3 and 90-2), and all other existing ordinances and resolutions inconsistent with the intent and requirements of this chapter. The resolution adopted by Delaware County Council on October 4, 1988 (entitled "County of Delaware Acceptance and Approval of Ordinances Adopted by Local Municipalities Adopting and Approving the Delaware County Solid Waste Management Plan"), is specifically not repealed and shall remain in full force and effect.

Chapter 187. Stormwater Management

[HISTORY: Adopted by the County Council of the County of Delaware 5-2-1989 by Ord. No. 89-2. Amendments noted where applicable.]

GENERAL REFERENCES

Floodplain protection — See Ch. 62.

Subdivision and land development — See Ch. 195.

Article I. General Provisions

§ 187-1. Title.

This chapter may be cited as the "Ridley Creek Stormwater Management Ordinance of 1989."

§ 187-2. Statutory authority.

The Delaware County Council, by authority of the Act of July 31, 1968 (P.L. 805, No. 247), as amended, known as the "Pennsylvania Municipalities Planning Code,"^[1] and pursuant to Act 167, as amended, known as the "Pennsylvania Stormwater Management Act,"^[2] hereby adopts this chapter known as the "Ridley Creek Stormwater Management Ordinance of 1989."

[1] *Editor's Note: See 53 P.S. § 10101 et seq.*

[2] *Editor's Note: See 32 P.S. § 680.1 et seq.*

§ 187-3. Purpose.

The specific purposes of this chapter are:

- A. To manage stormwater runoff resulting from land alteration and disturbances in accordance with the Ridley Creek Stormwater Management Plan and the Pennsylvania Stormwater Management Act (Act 167).^[1]

[1] *Editor's Note: See 32 P.S. § 680.1 et seq.*

- B. To utilize and preserve the desirable existing natural drainage systems and to preserve and restore the flood-carrying capacity of streams.
- C. To maintain existing flows and quality of streams.
- D. To maximize recharge of groundwaters and encourage natural infiltration of rainfall to preserve groundwater supplies and stream flows.
- E. To provide for adequate maintenance of all permanent stormwater management structures in the watershed.

§ 187-4. Applicability.

This chapter shall apply to all forms of land alteration and disturbances relating to subdivisions and land developments within the Ridley Creek watershed, unless specifically exempted or modified by this chapter, being undertaken in those cities, boroughs, or townships of the First or Second Class wholly or partly within the County of Delaware, and which have no subdivision ordinance in effect on the effective date of this chapter or have specified coverage under this chapter.

§ 187-5. County liability.

The grant of approval of a plan for any proposed subdivision and/or land development to be located within any designated stormwater management district shall not constitute a representation, guarantee, or warranty of any kind by the County of Delaware or by any officials or employee thereof of the practicability or safety of the proposed use, and shall create no liability upon the County of Delaware, its officials, or employees.

Article II. Terminology

§ 187-6. Definitions.

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

BASEFLOW

The normally occurring small flow in a stream.

DATE OF ADOPTION

June 15, 1988, or the adoption by County Council of subsequent watershed plan updates.

DESIGN STORM

A statistically determined rainfall event having a specific distribution of rainfall (inches of precipitation) over a specific time interval with an associated frequency.

DETENTION BASIN

A basin designed to retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate.

DEVELOPMENT

Any improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose (including the expansion of, or addition to, existing improvements) resulting in the creation of an additional 7,500 or more square feet of impervious land area.

DIRECT DISCHARGE

A stormwater management option which allows for the discharge of the total stormwater runoff flows from a development site through outfalls directly into Ridley Creek.

DISCHARGE RATE

The flow rate at which runoff is allowed to leave a development site.

DOWNSTREAM IMPACT EVALUATION

One of two hydrologic studies which may relieve a developer from implementing the release rate percentage stormwater runoff control criterion.

DRAINAGE

Surface water runoff.

DRAINAGE SYSTEM

Natural features, pipes, swales and other man-made improvements to carry drainage.

EXISTING/PREDEVELOPMENT CONDITIONS

Those conditions which were present on any site prior to the date of adoption of the stormwater management plan or subsequent updates by the County.

FLOW RATE

See "rate of runoff."

FREQUENCY

The likelihood of a storm occurrence developed from recorded events, typically expressed as a return period such as the twenty-five-year storm.

GROUNDWATER RECHARGE

Replenishment of existing natural groundwater supplies.

HYDROGRAPH

A record of the flow rate leaving a site or passing a point in a stream channel with respect to time, and displayed as a graph of flow rate vs. elapsed time or as a listing of flow rates at respective times of occurrence. For the purpose of this chapter, the hydrographs developed as part of the Ridley Creek Stormwater Management Plan shall be used.

IMPERVIOUS SURFACE

A surface which prevents the absorption of water into the ground. All buildings, driveways, roads, sidewalks and any areas in concrete, asphalt, etc., are considered impervious within this definition.

IMPROVEMENT

Any man-made, immovable structure or facility which becomes part of, is placed upon, or is affixed to real estate.

INFILTRATION

The penetration and movement of water through the earth's surface.

MUNICIPALITY

A municipal civil division of the County of Delaware contained wholly or partly within the Ridley Creek watershed.

NORMAL FLOW

See "baseflow."

PEAK DISCHARGE

The maximum rate of flow of water at a given point and time resulting from a specified storm event.

RATE OF RUNOFF

Expression (in cubic feet per second) of the volume of water passing a particular point at defined time intervals as specified by the Act 167 Stormwater Management Plan for the Ridley Creek Watershed.

RELEASE RATE PERCENTAGE

The primary performance standard of the watershed plan which defines the percentage of the predevelopment peak stormwater runoff rate that shall be considered the base runoff rate for a particular site. The specific release rate percentage for each subarea prescribes the percentage of the predevelopment rate of runoff which may leave the site after development.

RETURN PERIOD

A storm event which is expected to occur over specific time intervals (i.e., twenty-five-year storm, which is expected to occur every 25 years, or has a four-percent chance of occurring in any given year). See "frequency."

RUNOFF

Stormwater runoff.

SHARED STORAGE

Facilities which control the stormwater runoff from more than one development site.

STORAGE FACILITY

Any facility used for temporary or permanent storage of stormwater runoff.

STORMWATER MANAGEMENT FACILITIES/STRUCTURES

Any and all elements of stormwater control systems, including basins, swales, pipes, conduits, etc.

STORMWATER MANAGEMENT PLAN

The portion of the development plan which indicates the existing site conditions and method(s) for the postdevelopment control of stormwater runoff in conformance with Act 167^[1] and the watershed plan.

STORMWATER RUNOFF

The excess water resulting from a precipitation event which exceeds the amount that can percolate (infiltrate) or be absorbed into the ground, collects in channels and conduits, and is carried by receiving streams.

SUBAREA

One of the 63 subwatersheds contained within the Ridley Creek watershed as indicated on Plate 1 of the Act 167 Stormwater Management Plan for the Ridley Creek Watershed.

SWALE

A low-lying stretch of land which gathers or carries surface water runoff.

WATERSHED

The total drainage area of a stream and its tributaries.

WATERSHED PLAN

Act 167 Stormwater Management Plan for the Ridley Creek Watershed, adopted by Delaware County as required by the Act of October 4, 1978, P.L. 864 (Act 167), and known as the "Pennsylvania Stormwater Management Act."^[2]

[1] *Editor's Note: See the Pennsylvania Stormwater Management Act, 32 P.S. § 680.1 et seq.*

[2] *Editor's Note: See 32 P.S. § 680.1 et seq.*

Article III. Stormwater Plan Requirements

§ 187-7. Plan submission.

No earth/moving or land disturbance activity shall commence before stormwater management plans for the site have been reviewed by an engineer with expertise in stormwater management and are approved by the municipality.

§ 187-8. Exemptions.

- A. Subdivisions or land developments that do not create more than 7,500 square feet of new impervious land area shall be exempt from the stormwater plan requirements of this chapter.
- B. For parcels under single ownership, no more than one subdivision or land development creating less than 7,500 square feet of new impervious surface shall be permitted before requiring a stormwater management plan for the entire parcel.
- C. Application procedures for exempt developments:
 - (1) Persons engaged in land alteration of exempt development sites are exempt only from the full stormwater plan requirements of this chapter. They are still responsible for applying sound stormwater management practices in accordance with the standards of this chapter and the Pennsylvania Stormwater Management Act (Act 167)^[1] in the development of the site.
[1] *Editor's Note: See 32 P.S. § 680.1 et seq.*
 - (2) A sketch stormwater plan showing the name of the watershed, its subarea, the appropriate release rate percentage as well as the location and nature of the proposed stormwater management techniques for the site shall be submitted to the municipal engineer and shall conform to the standards of § 195-22F of Chapter 195, Subdivision and Land Development, of the Code of the County of Delaware.
 - (3) The stormwater plan for the site must be approved by the municipal engineer prior to the issuance of any building permits.

§ 187-9. Contents of stormwater plan submission.

In addition to the plan requirements contained in §§ 195-13, 195-15 and 195-17 of Chapter 195, Subdivision and Land Development, of the Code of the County of Delaware, the following stormwater-related items shall be included as part of the plan submission:

- A. Sketch plan contents.
 - (1) The name of the watershed and the subarea in which the site is located as well as the appropriate release rate percentage.
 - (2) Existing ground cover conditions.
 - (3) Definition of existing drainage paths and drainage area boundaries.
 - (4) Definition of existing drainage problems.
 - (5) Appropriate stormwater management performance standards as defined in the standards and criteria section of the Ridley Creek Stormwater Management Plan.
 - (a) Release rate percentage.
 - (b) Direct discharge.

(c) Downstream impact evaluation.

B. Preliminary plan contents.

- (1) Data requirements as set forth for the sketch plan.
- (2) Architectural layout of existing and proposed streets, buildings, approximate building dimensions, parking areas, walkways, and other impervious areas.
- (3) Configuration of the storm and sanitary sewer system layout.
- (4) Approximate location and layout of the stormwater management system with a description of its proposed design and operation.
- (5) Existing and proposed drainage easements.
- (6) Preliminary runoff calculations as set forth in the Ridley Creek Stormwater Management Plan.
- (7) Tentative ownership and maintenance provisions for all stormwater related facilities.

C. Final plan contents.

- (1) Data requirements as set forth for the preliminary plan.
- (2) Final layout of existing and proposed streets and buildings, actual building dimensions, parking areas, and other impervious areas.
- (3) Exact location and layout of the stormwater management system with a detailed description of its proposed design and operation.
- (4) Detailed runoff calculations as set forth in the Ridley Creek Stormwater Management Plan.
- (5) Final ownership and maintenance provisions for all stormwater-related facilities.
- (6) Modifications requested by the municipality during the preliminary review phase.

Article IV. Performance Standards

§ 187-10. Stormwater runoff control measures.

Any landowner and any person engaged in the alteration or development of land which may affect stormwater runoff characteristics shall implement such measures as are reasonably necessary to prevent injury to health, safety, or other property. Such measures shall include such actions as are required:

- A. To assure that the maximum rate of stormwater runoff is no greater after development than prior to development activities; or
- B. To manage the quantity, velocity, and direction of resulting stormwater runoff in a manner which otherwise adequately protects health and property from possible injury.

§ 187-11. Release rate percentages.

For purposes of stormwater management, each subarea of the Ridley Creek watershed is assigned a release rate percentage, as defined by this chapter and shown on the Ridley Creek Watershed Release Rate Map (Plate No. 1) available in the municipal offices. (This percentage is applicable to

any particular site in that subarea.) The postdevelopment peak stormwater runoff rate discharging from the outfalls of a development site cannot exceed the subarea release rate percentage in order to comply with the Ridley Creek Watershed Plan. The following procedure should be followed in applying the release rate percentage.

A. Computations.

- (1) Compute predevelopment and postdevelopment runoff hydrographs and peak discharges for the two-, ten-, twenty-five-, and one-hundred-year storms using the U.S. Soil Conservation Service's (SCS) Soil-Cover Complex Method. The twenty-four-hour total runoff depths for these return periods for the Ridley Creek watershed shall be:

Return Period	Depth (inches)
2-year	2.92
10-year	4.68
25-year	5.54
100-year	6.85

- (2) The computations should assume actual existing soil and land use conditions on the site as of the date of adoption of the watershed plan or its most recent update, using the existing land use map used in the development of the watershed plan (and subsequent updates) and the SCS Soil Classification Map for the watershed. The computations for postdevelopment discharges should include all reduction for proposed on-site infiltration techniques.
- B. Compare postdevelopment discharges to the predevelopment discharges. If the postdevelopment rate is greater, on-site storage is required. Off-site storage may be substituted, provided that:
- (1) Proper legal arrangements (easements, perpetual covenants, etc.) are made;
- (2) No problems are created between the development site and the off-site storage location; and
- (3) It is approved by the municipal engineer.
- C. If on-site storage is required, the size of the facility(s) shall be determined by applying the release rate percentage to the postdevelopment discharges for the two-, ten-, and twenty-five-year design storms. Provisions shall also be made for safely passing the postdevelopment one-hundred-year runoff flows without damaging (i.e., impairing the continued function of) these systems. The storage area shall be designed in conformity with the provisions of this chapter.
- D. The proposed plan and computations must be prepared by a registered professional engineer with expertise in stormwater management.

§ 187-12. Direct discharge.

This section applies only in subareas that are immediately adjacent to Ridley Creek.

- A. Development sites in these subareas may discharge total stormwater runoff flows through outfalls directly into Ridley Creek.
- B. Stormwater outfalls must be constructed so as to prevent erosion and scour of the Ridley Creek channel. Under these conditions, postdevelopment peak runoff rates may exceed predevelopment peak runoff rates.
- C. Stormwater management plans for sites proposing to use direct discharge must be approved by the engineer for the municipality in which the development is to take place.

§ 187-13. Downstream impact evaluation.

If an applicant proposes to exceed the specified release rate percentage for a subarea, one of the following evaluations must be completed.

- A. If the stormwater runoff flow from the development is proposed to be directed into an existing or proposed stormwater conveyance channel (i.e., closed storm sewers and concrete lined or rip-rap protected channels), the postdevelopment discharge may exceed the prescribed release rate percentage. The applicant must demonstrate sufficient capacity in the proposed conveyance channel, and the proposed system must be approved by the municipal engineer.
- B. An applicant may demonstrate through acceptable engineering analysis and design that an increase in the postdevelopment discharge rate will not result in injury or damage to persons or property downstream from the development site.
 - (1) The evaluation of downstream impacts must show that at any point in time, the flow rates on the existing conditions runoff hydrograph at the outlet of the subarea(s) in which the development site is located shall not be increased by more than 5% for storm discharges resulting from future conditions runoff (with stormwater management provisions) from the two-, ten-, and twenty-five-year rainfall events for the particular site. Existing conditions runoff hydrographs for all applicable subareas shall be those used in the analyses performed for the development of the Ridley Creek Watershed Plan or its most recent update (available at the Delaware County Planning Department).
 - (2) The municipal engineer may identify points of interest downstream of the site where there are existing obstructions or known problems or other points, and the applicant shall be required to demonstrate no adverse impact as a result of exceeding the prescribed release rate percentage(s) for the subarea(s).
 - (3) All plans and computations must be prepared and certified by a registered professional engineer with expertise in stormwater management. These must be submitted to the municipal engineer for review and approval.

Article V. Standards and Criteria

§ 187-14. Stormwater management techniques.

- A. Applicants may utilize any appropriate stormwater management techniques or a combination of techniques as approved by the municipal engineer. Off-site control measures, including storm sewers and/or storage facilities, may be used in accordance with the watershed stormwater plan and as approved by the municipality.
- B. All such stormwater management techniques shall be in strict conformance with all other applicable regulations, including, but not limited to, dam safety and encroachments, floodplains,^[1] and erosion and sedimentation control.

[1] *Editor's Note: See also Ch. 62, Floodplain Protection.*

§ 187-15. Stormwater control measures.

Possible stormwater control measures, including on-site infiltration techniques, detention facilities, and other measures, are described in the Ridley Creek Watershed Plan. Other measures are acceptable when approved by the municipal engineer. Information and standards for developing stormwater management controls may be found in the following references:

- A. "Urban Hydrology for Small Watersheds," Technical Release No. 55, USDA, Soil Conservation Service, January 1975.
- B. "Soil Erosion and Sedimentation Control Manual," Pennsylvania Department of Environmental Resources,^[1] May 1976.
[1] *Editor's Note: Now Pennsylvania Department of Environmental Protection.*
- C. "Engineering Field Manual for Conservation Practices," USDA, Soil Conservation Service, 1975.
- D. "Practices in Detention of Urban Stormwater Runoff," Special Report No. 43, American Public Works Association, June 1974.

§ 187-16. Special physical site conditions.

If special geological hazards or soil conditions are identified on the site, the developer's engineer shall consider the effect of proposed stormwater management measures on these conditions. In such cases, the municipality may require an in-depth report by a competent soils engineer.

§ 187-17. Storage facility design.

Storage facilities shall be designed to control the postdevelopment peak stormwater runoff rates for the two-, ten-, and twenty-five-year design rainfall events to the subarea's release rate percentage or that approved through the downstream impact evaluation.

- A. Provisions shall also be made for passing the postdevelopment one-hundred-year runoff flows through a stormwater detention facility without damaging or causing failure of (i.e., impairing the continued function of) the facility.
- B. Storage facilities shared by more than one development site are permitted within a single subarea of the watershed, provided that they meet the above criteria.
- C. Runoff from the development sites involved shall be conveyed to the facility from its source in a manner so as to avoid adverse impacts, such as flooding or erosion and scour of natural channels, to downstream channels and property.
- D. Storage facilities shall be located such that they remain accessible for maintenance based upon the type of equipment and procedures required.
- E. Municipalities may, at their discretion, require any necessary measures to ensure the security and general safety of proposed storage facilities.

§ 187-18. Storm sewer systems.

When storm sewers are proposed, developers must show:

- A. Compliance with all other state and local regulations and specifications governing the installation of such systems.
- B. That there is sufficient channel capacity from the point where the storm sewer outlets into the natural drainage system and further downstream to the base of the watershed.

§ 187-19. Stormwater collection.

The safety of the public shall be considered at all times in the design of such facilities and provided for to the satisfaction of the municipal engineer. Except as otherwise provided for by municipal ordinances, the standards and specifications of the Pennsylvania Department of Transportation shall be used in the construction of stormwater collection system components.

§ 187-20. Stormwater discharge.

The discharge of concentrated, collected stormwater runoff from control facilities, such as detention basins or storm sewers, onto adjacent properties where there is no existing natural watercourse or drainageway to receive the discharge shall be avoided unless deemed absolutely necessary. Where such a discharge is absolutely necessary, easements and/or other provisions shall be proposed, approved, and implemented to prevent damage to the adjacent properties to the satisfaction of the municipal engineer. Where discharges are proposed to natural watercourses and drainageways, such discharges shall be made in a manner so as not to result in property damage or deterioration of channel stability.

Article VI. Maintenance of Stormwater Facilities

§ 187-21. Ownership; responsibility for maintenance.

- A. Stormwater control facilities located on or serving properties developed for commercial, industrial, or multifamily residential (including condominium uses) shall be owned and maintained by the owner of the property or the complex. If a homeowners' association is formed, then the facilities shall be the responsibility of this association.
- B. Stormwater control facilities serving single-family (individual lots) or multifamily developments wherein the streets, sewers, and other public improvements are to be accepted by the municipality shall likewise be accepted and maintained by the municipality or a homeowners' association at the municipality's discretion.
- C. Stormwater control facilities serving public or semipublic uses, such as schools, hospitals, churches, or similar institutional facilities, shall be owned and maintained by the property owner.
- D. Stormwater control facilities serving state, County, or municipal facilities, such as parks, shall be owned and maintained by the respective political entity.

§ 187-22. Maintenance plan for shared-storage facilities.

Where shared-storage facilities are proposed, the applicant shall submit a plan for their maintenance with the preliminary and final stormwater management plans, identifying the facility owner, easements, covenants providing for access to the facility, and a proposed maintenance funding plan (if the facility is not to be accepted by the municipality).

§ 187-23. Maintenance schedule and funding plan required when facility not to be accepted by municipality.

In single-family, multifamily, commercial, or industrial developments where the stormwater control facilities (especially basins) are not to be accepted by the municipality, the developer shall submit a proposed maintenance schedule and funding plan as part of the stormwater plan for the development site which shall be approved by the municipality. Prior to approval of the final S/LD plan, the developer

shall establish an escrow or similar account to set aside funds for the first year's (after completion) maintenance costs.

§ 187-24. Responsibility for stormwater control measures on individual lots or structures.

Stormwater control measures located on an individual lot/structure, such as rooftop storage, drainage swales, and seepage pits, shall be the responsibility of the property/structure owner. These responsibilities shall be included in the deed or lease for the property or structure. This section is applicable although other stormwater control facilities, such as storm sewers or storage basins, are to be owned and maintained by another public or private agency.

§ 187-25. Requirements for municipal acceptance of stormwater facilities.

- A. Prior to the acceptance of any stormwater facility, the municipal engineer shall inspect the facility to ensure its proper construction and functioning. All facilities must be free of sediment or debris before acceptance and/or dedication. Any required access easements should be obtained.
- B. The municipality shall require that a maintenance guarantee, in accordance with the provisions of the Pennsylvania Municipalities Planning Code (Section 509),^[1] be provided.
[1] *Editor's Note: See 53 P.S. § 10509.*
- C. Before acceptance and/or dedication of any facility, the developer shall submit as-built plans and a schedule for required maintenance. As-built plans need not be submitted for facilities located on an individual lot/structure

Article VII. Inspections

§ 187-26. Periodic inspections required.

Periodic inspection of stormwater management facilities is required throughout the development phase. It is the responsibility of the developer/builder to notify the municipal engineer well in advance of the completion of each identified phase and to arrange for the required inspection.

§ 187-27. Compliance with plans; corrections.

Work should not commence on a subsequent stage until the preceding stage has been inspected and approved. Any portion of the work which does not comply with the approved stormwater plan must be corrected by the permittee within a stipulated time. No work shall proceed on any subsequent phase of the stormwater management plan, the subdivision or land development, or building construction until the required corrections have been made.

§ 187-28. Revocation of permits; plan revisions.

If at any stage of the work the municipal engineer determines that the stormwater management controls or other requirements are not being installed as shown in the approved plans, the municipality may revoke existing permits until a revised plan is submitted and approved.

§ 187-29. Key phases for inspection.

The following are key phases during which a municipality shall, at its discretion, perform routine inspections of the development site:

- A. At the completion of preliminary site preparation, including stripping of vegetation, stockpiling of topsoil, and construction of temporary stormwater management and erosion control facilities.
- B. At the completion of rough grading, but prior to placing topsoil, permanent drainage, or other site development improvements and ground covers.
- C. During construction of the permanent stormwater facilities at such time as specified by the municipal engineer.
- D. At the completion of permanent stormwater management facilities, including established ground covers and plantings.
- E. At the completion of any final grading, vegetative control measures, or other site restoration work done in accordance with the approved plan and permit.

Article VIII. Performance Assurances, Fees, and Penalties

§ 187-30. Performance assurances.

Reference Sections 509 and 510 of the Pennsylvania Municipalities Planning Code (Act 247),^[1] as amended.

[1] *Editor's Note: See 53 P.S. §§ 10509 and 10510.*

§ 187-31. Fees.

The local agency responsible for the administration of this chapter may, in accordance with Section 503 of the Pennsylvania Municipalities Planning Code,^[1] establish reasonable fees necessary to administer the provisions of this chapter.

[1] *Editor's Note: See 53 P.S. § 10503.*

§ 187-32. Violations and penalties.

Reference Sections 511, 515.1 and 515.3 of the Pennsylvania Municipalities Planning Code.^[1]

[1] *Editor's Note: See 53 P.S. §§ 10511, 10515.1 and 10515.3.*

Article IX. Validity

§ 187-33. Severability.

Should any court of competent jurisdiction decide:

- A. That any section or provision of this chapter is unconstitutional or invalid, such a decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

- B. That the application of any provision of this chapter to any premises be unconstitutional or invalid, such a decision shall be limited to the person, property, or situation immediately concerned and shall not affect the applicability of this chapter to other persons, properties, or situations.

Chapter 195. Subdivision and Land Development

[HISTORY: Adopted by the County Council of the County of Delaware 8-3-2016 by Ord. No. 2016-2.^[1] Amendments noted where applicable.]


GENERAL REFERENCES


Planning Commission — See Ch. 6.

Floodplain protection — See Ch. 62.

Parks and recreation areas — See Ch. 141.

Stormwater management — See Ch. 187.

Attachment 1 - Appendix A Subdivision and Land Development Agreement 

Attachment 2 - Appendix B Sketch Plan Checklist 

Attachment 3- Appendix C Preliminary Plan Checklist 

Attachment 4 - Appendix D Final Plan Checklist 

Attachment 5 - Appendix E Minor Subdivision and or Land Development Checklist 

[1] *Editor's Note: This ordinance also repealed former Ch. 195, Subdivision and Land Development, adopted 10-17-1978 by Ord. No. 78-5, as amended.*

Article I. General Provisions

§ 195-100. Short title.

This chapter shall be known and may be cited as the "The Delaware County Subdivision and Land Development Ordinance of 2016."

§ 195-101. Effective date.

This Subdivision and Land Development Chapter (chapter) shall become effective on August 13, 2016, and shall remain in effect until modified, amended, or rescinded by Delaware County.

§ 195-102. Purposes.

A. The purposes of this chapter are:

- (1) To provide for the harmonious, orderly, efficient, and integrated growth of Delaware County by encouraging redevelopment in eastern municipalities to help reduce development pressures in the western municipalities and to conserve remaining open space;
- (2) To promote and protect the public safety, health, and general welfare of the residents of the County;
- (3) To establish reasonable standards of design and procedures for land development, subdivision, and reverse subdivision in order to promote the orderly layout and use of land;
- (4) To ensure that sites are suitable for building and human habitation and for the intended use;

- (5) To ensure that the arrangement and design of subdivisions and land developments conform to any applicable municipal zoning ordinance, official map, official sewage facilities plan, county and municipal open space, recreation, or greenway plans, comprehensive plans, and to all relevant county and municipal codes, regulations, plans, maps, and ordinances adopted in furtherance thereof;
- (6) To facilitate and accommodate prospective pedestrian, vehicular, and other intermodal movement, fire protection, life safety, and other essential services through a coordinated circulation system and design of streets, trails, paths and sidewalks;
- (7) To ensure the coordination and conformity of subdivision and/or land development plans with the capital improvement plans of municipalities regarding such facilities as streets, sewers, and other facilities and improvements;
- (8) To establish standards that ensure the proper management of natural and historic resources by requiring the conservation of these existing resources to the greatest possible extent in areas affected by excavation, construction, or other land development activities;
- (9) To provide for drainage, water supply, sewage disposal, and other appropriate utility service for land that is scheduled for growth under the County and municipal comprehensive plans;
- (10) To provide for the arrangement of building lots, blocks, and streets so as to afford adequate light, view, and air and to facilitate emergency services;
- (11) To encourage subdivision and land development in accordance with principles and practices which conserve energy, both during and after construction, and which encourage the use of alternative energy sources by the layout of the lots and the siting of buildings.
- (12) To enable the development and redevelopment of a broad range of housing types which are affordable by residents of varying income levels;
- (13) To establish a uniform and equitable procedure for the review and processing of subdivision and land development plans; and
- (14) To ensure the recording of proper legal descriptions of subdivided land.

§ 195-103. Interpretation.

The provisions of this chapter shall be deemed to be the minimum requirements necessary to meet the foregoing purposes. However, when interpreting such requirements, the following shall be noted:

- A. Where, owing to special or unique conditions, life, health, safety, or property of persons may be threatened or endangered by the application of any of the requirements of this chapter, more stringent or restrictive requirements necessary to eliminate or alleviate such menace or jeopardy may be applied or imposed by the municipality.
- B. Where, owing to special or unique conditions, the provisions of this chapter will inflict unnecessary hardship upon the applicant, reasonable exceptions to such provisions which will not be contrary to the foregoing purposes or to the public interest and will be in conformance with the existing character of the community may be made by the municipality.
- C. Where the provisions of this chapter impose more stringent requirements than those of any statute, ordinance, code, or regulation, the provisions of this chapter shall prevail; where the provisions of any statute, ordinance, code, or regulation impose more stringent requirements than those of this chapter, such statute, ordinance, code, or regulation shall prevail.

- D. Where it is desirable to effect economy and ingenuity in the layout of subdivisions and land developments and to protect sensitive natural and historic resources, modifications of site requirements may be made in accordance with the guidelines set forth in § 195-1105 of this chapter, and the municipality may alter site requirements to encourage other practices which are in accordance with modern and evolving principles of site planning and development.

§ 195-104. Authority.

- A. In accordance with § 195-501 of the Pennsylvania Municipalities Planning Code, Act 247,^[1] as amended, municipalities shall have the authority to regulate subdivision and land development by enacting a subdivision and land development ordinance. Through such authority the following shall apply:

- (1) No subdivision, reverse subdivision, or land development of any lot, tract, or parcel of land within the municipality shall be made, and no street, alley, sanitary sewer, capped sewer, storm sewer, water main, or gas, oil, or electric transmission line or other facilities in connection therewith shall be laid out, constructed, opened, or dedicated for public use or travel or for the common use of occupants of buildings abutting thereon except in accordance with the Ordinance regulations adopted herein and all other applicable municipal ordinances, codes, regulations, plans, and maps, as amended. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 507-A.)
- (2) No lot in a subdivision may be sold, no permit to erect, alter, or add to any building or other structure or portion thereof upon land in a subdivision and/or land development may be issued, and no building may be erected in a subdivision or land development unless and until a final subdivision and/or land development plan is filed in accordance with § 195-306 of this chapter, has been approved and recorded in the Office of the Recorder of Deeds of the County of Delaware, Pennsylvania, and either the required improvements in connection therewith have been constructed or the municipality has been assured by means of a corporate bond or other security acceptable to the municipality that the improvements will subsequently be installed.

[1] *Editor's Note: See 53 P.S. § 10101 et seq.*

- B. The following are subject to the regulations of this chapter:

- (1) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving 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 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, including the division, reverse subdivision of a lot, tract, or parcel of land, 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.

§ 195-105. Jurisdiction.

- A. This chapter shall apply to all subdivisions and land developments undertaken in those cities, borough, or incorporated towns or township wholly or partly within Delaware County, Pennsylvania, which have no Subdivision and Land Development in effect. It shall remain in effect in such a city, borough, or incorporated town or township (heretofore referred to as municipality)

until a subdivision and land development ordinance is put into effect and a certified copy of such ordinance is filed with the Delaware County Planning Commission.

- B. The municipal governing body shall have jurisdiction over subdivision and land development within the municipality. In order for the actions of the municipal governing body under this chapter to be correlated with all relevant data and procedures, the municipal governing body hereby designates the Municipal Planning Commission as the agency to which the following responsibilities are assigned:
- (1) To engage in all preliminary consultations with the applicant relating to subdivision and/or land development plans.
 - (2) To review, upon filing with the municipality, all sketch subdivision and/or land development plan proposals.
 - (3) To review, upon filing with the municipality, all chapter application packets for either preliminary or final approval of subdivision and/or land development plans.
 - (4) To make recommendations to the municipal governing body concerning approval, disapproval, modification, and conditions of approval of subdivision and/or land development plans.
 - (5) To make recommendations to the municipal governing body concerning the rationale for the granting of modifications to the provisions, requirements, and standards of this chapter.
 - (6) To review this chapter and make recommendations to the municipal governing body on proposed amendments to it.
 - (7) In the performance of the Municipal Planning Commission functions, to enter upon any land to make examinations and surveys with the consent of the owner.
 - (8) Any municipality may, by separate ordinance, designate the Delaware County Planning Commission, with the Delaware County Planning Commission's concurrence, as its official administrative agency for review and approval of plats. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 502(c).)
- C. The municipal governing body authorizes the designated municipal official to determine whether or not any preliminary or final subdivision and/or land development plan application packets are complete, thereby being deemed an "officially submitted plan," and acceptable to the municipal governing body for the purpose of establishing the date of filing.
- (1) The municipality shall, within seven calendar days, inspect such application packet to see if it contains the required information as listed in § **195-300D** of this chapter.
 - (2) In the event that the submission is found to be incomplete, the municipality shall notify the applicant by certified mail return receipt requested or in person that the date of filing will not be effective until all required forms, fees, types, and copies of plans and papers are correctly submitted.
- D. The municipal governing body may designate to additional boards or commissions of the municipality the following responsibilities:
- (1) Should a municipal Open Space Committee and/or Park and Recreation Board exist, to review and make recommendations to the Municipal Planning Commission concerning the adequacy or appropriateness of open space, parks, or recreation proposed by either preliminary or final subdivision and/or land development plans.
 - (2) Should a municipal Historical Commission exist, to review and make recommendations to the Municipal Planning Commission or other appropriate municipal body concerning the impact

upon historic resources of the municipality by proposed preliminary or final subdivision and/or land development plans.

- (3) Should a Sewer Authority exist, to review and make recommendations to the Municipal Planning Commission concerning the consistency with the municipality's Act 537 Plan and the adequacy of any public sanitary sewage system proposed by preliminary or final subdivision and/or land development plans.
- E. The municipal governing body shall designate a municipal official to enforce the provisions of this chapter.
- F. Inspection of actual construction under any approved subdivision and/or land development plan shall be the sole responsibility of the municipality, which shall undertake reasonable measures to provide an adequate inspection of all projects.
- G. In the event that any action by the applicant is inconsistent with the provisions of this chapter, the municipal governing body or its authorized representative may issue a cease and desist order or take such other appropriate action as is deemed necessary under the circumstances.

§ 195-106. Severability.

Should any court of competent jurisdiction decide that any section or provision of this chapter is unconstitutional or invalid, this decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid. Moreover, should any court of competent jurisdiction decide that the application of any provision of this chapter to any premises is unconstitutional or invalid, this decision shall be limited to the person, property, or situation immediately concerned and shall not affect the applicability of the relevant provision to other persons, properties, or situations.

Article II. Interpretations and Definitions

§ 195-200. Language interpretation.

- A. Unless otherwise expressly stated, the following words and phrases shall be construed throughout this chapter to have the meanings indicated below:
- (1) Words in the singular shall include the plural, and those in the plural shall include the singular.
 - (2) Words in the present tense shall include all other tenses.
 - (3) The masculine gender shall include the feminine and neuter.
 - (4) The word "used" shall include the words "designed" or "arranged."
 - (5) The words "person," "developer," and "owner" shall include an individual, corporation, unincorporated association, partnership, estate, trust, fiduciary, or other legal entity including the principal officers thereof or any person or entity acting directly or indirectly by, through, or under any of the foregoing.
 - (6) The word "building" shall include "structure" and shall be construed to be followed by the phrase "or part thereof."
 - (7) The word "occupied" shall include the words "intended to be occupied."
 - (8) The words "should" and "may" are permissive.

- (9) The words "shall" and "will" are mandatory and directive.
- (10) The words "as amended" as applied to any statute, ordinance, code, regulation, plan, or map includes replacements, supplements, or restatements thereof.
- (11) Reference to a particular article, section, or subsection inherently refers to other articles, sections, or subsections.
- B. The terms "such as" and "including" are intended to introduce matters which are illustrative of the meaning of the sentence, clause, or phrase in which such terms appear without limiting or taking away from the sense of the sentence, clause, or phrase in which such terms appear.

§ 195-201. Specific definitions.

For the purposes of this chapter, the following words, terms, and phrases shall have the meanings indicated herein:

ACCELERATION LANE

An added street lane that permits integration and merging of slower moving vehicles into lanes of the main vehicular flow.

ACCESS

A way or means of approach to provide physical ingress to and egress from a parcel, tract, or lot.

ACCESSORY BUILDING OR STRUCTURE

A building or structure subordinate to the principal permitted building on a lot and used for purposes customarily incidental to those of such principal building.

ACCESSWAY

A drive, driveway, aisle, private street, sidewalk, walkway, or other pavement that connects parking areas, buildings, and other structures to a street or highway.

ACT 167 (STORMWATER MANAGEMENT PLAN)

The plan for managing stormwater runoff in a respective watershed as required by the Act of October 4, 1978, P.L. 864, (Act 167).

ACT 247 REVIEW FORM

A County of Delaware form that is to be used to provide information that aids in the review of a subdivision and/or land development plan and for general administrative purposes.

AGENT

Any person or entity other than the landowner or developer who, acting upon written authority of the landowner or developer, files subdivision and/or land development application packets with the municipality for the purpose of obtaining approval thereof.

AISLE

An accessway within a parking area or parking lot that provides space for the maneuvering of vehicles.

ALLEY

A paved lane that provides secondary service access for vehicles to the side or rear of abutting properties.

ALTERATION

A. Any change in the exterior or structural portions of a building.

- B. Any change to or in a building that would alter its use classification.
- C. Any change which would substantially alter an existing sewage system, traffic condition, or other infrastructure element.

ALTERNATIVES

Choices between or among two or more plans, layouts, approaches, solutions, and/or results.

APPLICANT

A landowner or developer who has filed a complete application for subdivision and/or land development, including heirs, successors, assigns, and grantees.

APPLICATION PACKET

Includes the required number of plans with all other plan requirements, a fully completed County Application for Act 247 Review Form, a completed subdivision and/or land development checklist, and payment of fees in accordance with the fee schedules adopted by the municipality and § 195-1201 of this chapter.

ARCHITECT

A person licensed to practice architecture in the Commonwealth of Pennsylvania.

ARTERIAL STREET

A street connecting to major traffic generators and serving a large volume of comparatively high speed and long distance traffic, including all facilities classified as main and secondary highways by the Pennsylvania Department of Transportation (PennDOT).

AS-BUILT PLAN

A plan prepared by a licensed surveyor or engineer per state registration law showing dimensions and locations of all improvements as actually constructed.

BEARINGS AND DISTANCES

See "metes and bounds."

BENCHMARK

A mark on a fixed and enduring object (as a concrete post set into the ground) indicating a particular elevation and used as a reference in topographical surveys.

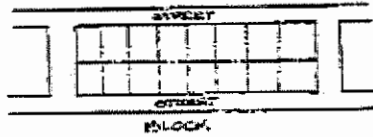
BERM

A raised earth mound of sufficient height that constitutes an effective screen and gives maximum protection and immediate visual screening. The maximum slope on any berm shall not exceed 30% in grade.



BLOCK

Property bounded on one side by a street and on the other three sides, by a street, railroad right-of-way, waterway, unsubdivided area, or other definite boundary.



BOUNDARY LINE

A line bounding a lot or tract as shown on the officially filed plan.

BUFFER

An area adjacent to a property boundary that is landscaped and maintained for a width as required in the municipal zoning ordinance and this chapter. Buffers serve to separate the uses of land and eases the transition between them.

BUILDABLE AREA (BUILDING ENVELOPE)

The area of a lot remaining after the minimum yard and setback requirements of the municipal zoning ordinance have been met, within which a principal permitted building shall be located. Such setback requirements include yard setbacks and setbacks from regulated floodplain areas and such features as steep slopes, very steep slopes, and easements. Where a buildable area is shown on a plan as extending into an area subject to flooding or any other area that may involve a conditional use or special exception, those portions of the buildable area extending into any such area shall be delineated, depicted, and otherwise noted on all plans in an accurate and conspicuous manner to disclose the specific uses which may occur in such areas.

BUILDER

A person who is not necessarily the owner of the land or agent of the same who, by contract or other agreement, is charged with the construction of buildings or other structures or making any construction improvements on any parcel of land.

BUILDING

Any structure that is built for the support, shelter, or enclosure of persons, animals, or property of any kind.

BUILDING AREA

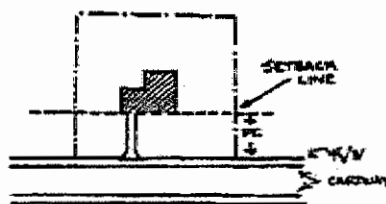
The aggregate of the maximum horizontal cross-sectional areas of the buildings on a lot, excluding cornices, eaves, gutters, or chimneys projecting not more than 18 inches, bay windows not extending through more than one-story and not projecting more than five feet, one-story open porches projecting not more than 10 feet, steps, and balconies.

BUILDING PERMIT

A document issued by the municipality granting permission for the construction, repair, alteration of, or addition to a structure.

BUILDING SETBACK LINE

For the purpose of determining the minimum width of a lot, building setback line shall mean the line parallel to the edge of the right-of-way, and at a distance therefrom at least equal to the depth of the front yard required for the zoning district in which the lot is located.



CALIPER

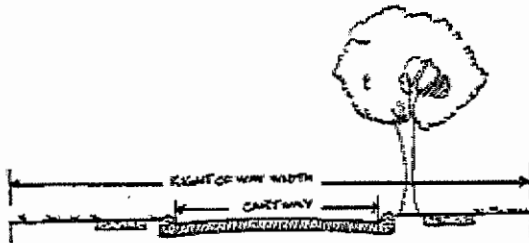
An instrument utilized for obtaining outside measurements of trees. For measuring trees, the caliper measurement shall be taken at a point on the trunk 36 inches above the natural ground line.

CAPPED SEWERS

Sanitary sewage facilities that are installed and capped where existing sanitary sewage facilities are not accessible and available, but may be proposed for connection at a later date in the Official Sewage Facilities Plan of the municipality. Such facilities shall include sanitary sewers, force mains, pumping stations, and all other appurtenances necessary to serve the entire subdivision and/or land development.

CARTWAY

That area of a street where vehicles are permitted including travel lanes, but not including shoulders, curbs, gutters, or pedestrian spaces.



CENTERLINE

A line equidistant from and parallel to the street, right-of-way, or property lines on each side of the street.

CERTIFICATE OF OCCUPANCY

A statement signed by the municipality, setting forth that a building, structure, or use legally complies with the municipal zoning ordinance and other applicable codes and regulations and that the same may be used for the purposes stated therein.

CHANNEL

An area that conveys the normal continuous or intermittent flow of water.

CHECKLIST

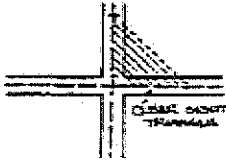
Forms included in the appendices of this chapter that are to be used to provide information relative to the completeness of the subdivision and/or land development plan application packet.

CLEAR SIGHT DISTANCE

- A. For local streets, the longest line of unobstructed vision along a street cartway from a point 3 1/2 feet above the centerline of the street to the top of an object six inches high on the same centerline.
- B. For all other streets, the longest line of unobstructed vision along a street cartway from a point 3 1/2 feet above the centerline to an object 4 1/4 inches above the pavement.
- C. The American Association of State Highway Officials' (AASHTO) publication entitled A Policy on Geometric Design of Highways and Streets, latest edition, shall govern all sight distance situations, unless the municipality requires more stringent control to improve known or potentially hazardous conditions.

CLEAR SIGHT TRIANGLE

An area of unobstructed vision at a street intersection defined by lines of sight between points at a given distance from the intersection of the street centerlines.



COLLECTOR STREET

A street which, in addition to providing access to abutting properties, intersects local streets to provide a route giving access to other collector and arterial streets. Streets in nonresidential subdivisions and/or land developments shall generally be considered collector streets.

COMMON OPEN SPACE

A parcel of land or an area of water or a combination of both within a tract that is 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.

COMMUNITY FACILITIES

The services that provide for various community health, education, safety, leisure, and related needs and the locations at which these services are provided.

COMMUNITY MANAGEMENT

The person who owns or has charge, care, or control of the mobile home park or homeowners' association.

COMMUNITY SANITARY SEWAGE SYSTEM

A sewage facility, whether publicly or privately owned, for the collection of sewage from two or more lots, or two or more equivalent dwelling units and the treatment or disposal, or both, of the sewage on one or more of the lots or at another site.

COMMUNITY WATER SUPPLY SYSTEM

A system for supplying water from a common source to two or more dwellings and/or other buildings, generally serving a single land development, subdivision, or neighborhood and operated by a private utility or developer.

COMPACT RESIDENTIAL DEVELOPMENTS

Multifamily and cluster subdivision and/or land developments whereby the buildings on a tract, attached or detached, are grouped closely together and set off from similar groups by intervening space held in common ownership or by the public.

COMPLETE APPLICATION PACKET

The requisite number of plans, all supplementary information, data, and documents, together with a completed and signed application form provided by the municipality and the appropriate filing fees, as required by Article XII of this chapter.

COMPLETE STREETS

A policy to ensure that the entire right-of-way is routinely designed and operated to enable safe access for all users. Pedestrians, bicyclists, motorists and transit riders of all ages and abilities can safely move along and across a complete street.

COMPLETION GUARANTY

The financial security that may be accepted by the municipality as a guaranty that improvements required as part of a final subdivision and/or land development plan are completed to the satisfaction of the municipality.

COMPREHENSIVE PLAN

The maps, charts, and textual matter adopted by the municipality in accordance with Article III of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

CONDITIONAL USE

A use permitted in a particular zoning district pursuant to the provisions of Article **VI** of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

CONDOMINIUM

An estate in real property consisting of the all of the following characteristics:

- A. Individual ownership of units (the interior and associated exterior areas designated for private use in a land development plan);
- B. Undivided, common interest in all or a portion of the exterior open space and any community interior spaces in accordance with the Pennsylvania Uniform Condominium Act, as amended, and with the provisions for open space, streets, or other development features in the municipal zoning ordinance and this chapter.

CONSTRUCTION

Any disturbance of the land or the erection of structures thereon, including the cutting of trees or clearing of brush. However, staking or clearing for survey lines or performing engineering or other scientific tests to obtain data shall not be deemed as construction.

CONTIGUOUS PROPERTY OWNER

The owner of record of a lot that is contiguous at any point to the lot in question or that is contiguous to that section of street on which the subject lot has frontage.

CONTINUOUS VISUAL BUFFER

A visually impenetrable screen created through the effective use of plant materials, fencing, walls, and/or earthen berms.

CONTOUR

An invisible line on the surface of the earth along which all points are at the same elevation above sea level.

CROSSWALK

A publicly or privately owned right-of-way for pedestrian use that crosses areas paved for motor vehicle use.

CUL-DE-SAC

A single access street intersecting a through street at one end and terminating in a permanent vehicular turnaround at the other end.

CURB

A stone or concrete boundary marking the edge of the cartway or paved area.

CUT

- A. An excavation.
- B. The difference between a point on the original ground and a designated point of lower elevation on the final grade.

DATE OF FILING

The date on which a complete application packet for subdivision and/or land development has been submitted and officially accepted by the municipality.

DATUM

A reference point from which elevations are measured. The standard datum is sea level as established by the United States Geological Survey (USGS).

DECELERATION LANE

An added roadway lane that permits vehicles to slow down and leave the main vehicular flow.

DEDICATION

A gift or other donation of property by the owner thereof to the municipality or other entity.

DEED

A legal document conveying an estate or other right, title, or interest in property.

DENSITY

The number of units per acre of gross area.

DESIGN STANDARDS

Standards appearing in Article **VIII** and Article **IX** of this chapter.

DETENTION BASIN

An impoundment designed to collect and retard stormwater runoff by temporarily storing the runoff and releasing it at a predetermined rate. Detention basins are designed to drain completely soon after a rainfall event and become dry until the next rainfall event.

DEVELOPER

Any landowner, equitable owner, authorized agent of such landowner, or tenant with permission of such landowner who makes or causes to be made a subdivision and/or land development application.

DEVELOPMENT

- A. The construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure.
- B. Any mining, excavation, landfill, or land disturbance.
- C. Any use or extension of the use of land.

DITCH

A small drainage channel.

DOUBLE FRONTAGE LOT

A lot extending between and having frontage on two generally parallel streets (excluding corner lots). Also known as reverse frontage.

DRAINAGE

A system for conveying stormwater runoff, surface water, or groundwater from the land by facilities or structures which serve to control or otherwise manage runoff and minimize sedimentation and soil erosion during and after construction or development.

DRAINAGE EASEMENT

A right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.

DRAINAGE PLAN

A plan for controlling surface water runoff on a given development site so that it will preclude erosion or flooding and/or the adverse effects of impervious areas on surface water runoff as required by the municipal ordinances, codes, regulations, and maps. See "stormwater management site plan."

DRAINAGEWAY

Any watercourse or trench, ditch, swale, gutter, piped flow, or other similar depression or structure in which water flows in a definite direction, either continuously or intermittently, and has a definite

channel, bed, and banks and includes any area adjacent thereto subject to inundation by reason of overflow.

DRIVEWAY

A gravel or paved surface on a lot that provides access for vehicles to a parking space, garage, dwelling, or other structure from a street.

DWELLING

A building designed for and occupied exclusively for residential purposes, including a mobile home.

DWELLING UNIT

Any structure, or part thereof, designed to be occupied as living quarters as a single housekeeping unit.

EASEMENT

A right, privilege, or other interest granted or reserved for the use of land for a particular purpose; the land to which such right or privilege pertains.

EGRESS

An exit.

ELEVATION

- A. A vertical distance above or below a fixed reference level.
- B. A scale drawing of the front, rear, or side of a building.

ENGINEER

A person registered by the Commonwealth of Pennsylvania to practice professional engineering.

ENLARGEMENT

- A. An addition to the floor area of an existing building.
- B. An increase in size of another existing structure.
- C. An increase in that portion of a tract of land occupied by an existing use.

EROSION

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

EXCAVATION

The removal or recovery of soil, rock, minerals, mineral substances, or organic substances other than vegetation from water or land or beneath the surface thereof, whether exposed or submerged.

EXISTING GRADE

The elevation, relative to a given datum, of the ground surface prior to any excavation, cut, or fill.

FENCE

A vertical structure or enclosure designed as a barrier and erected as a freestanding unit.

FILED

The complete submission of a subdivision and/or land development plan application packet with the proper forms, plans, documents, and other submissions and fees, as required by this chapter, according to the timetable set forth herein.

FILL

- A. A material such as sand, gravel, earth, and other suitable and approved composition.
- B. 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 a stripped or otherwise cut surface.

FINAL PLAN

A subdivision plan and/or land development plan prepared for official recording purposes depicting all features required in Article VI, Article VII and all plans, documents, and submissions required therein.

FINISHED GRADE

The elevation, relative to a given datum, of the ground surface after completion of any excavation, cut, or fill.

FLAG LOT

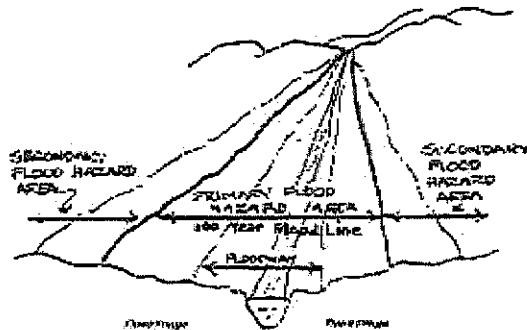
A lot which has street frontage connected to the major portion of the lot by means of a narrow strip of land. A lot whose configuration resembles a flag and a connecting pole or post.

FLOOD

The general and temporary inundation or partial and complete inundation of normally dry land areas from the overflow of streams, rivers, watercourses, or other inland water from any source.

FLOOD-FRIDGE

The area as described in the municipal zoning ordinance and delineated based upon a Federal Emergency Management Agency's Flood Insurance Rate Map.



FLOODING

A general or temporary condition of partial or complete inundation of areas from the overflow of inland waters and/or the unusual and rapid accumulation of water on or under the ground.

FLOODPLAIN

- A. Any land area susceptible to being inundated by water from any flood.
- B. Any land area designated as such by an official municipal ordinance.
- C. Any land area capable of accommodating a one-percent annual chance flood.

FLOODWAY

The designated area of a floodplain required to carry and discharge floodwaters of a given magnitude.

FRONT LOT LINE

The line separating the lot from the street right-of-way.

FRONTAGE

The length of any one property line of a lot that abuts a street line, ordinarily regarded as the front of the lot. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered front lot lines and shall be subject to the applicable yard requirements.

GRADE

- A. The slope of a street or other installation, expressed as a percent.
- B. The elevation of existing, finished, or proposed conditions, as hereinafter defined.

GRADING

The changing of the surface of the ground by cutting, filling, or excavation, including land in its cut or filled condition.

GROSS ACREAGE

The acreage of a lot within the boundary lines.

GROUNDWATER RECHARGE

The replenishment of geologic structures and rock or soil interstices that have the capacity to store water or permit the transfer of water to a geologic storage area.

GUTTER

That portion within a street right-of-way designed for surface drainage.

HISTORIC RESOURCE

All buildings, sites, structures, objects, and districts identified in the County historic and archaeological resources maps/surveys or any other official federal, state, county, or local inventory.

HORIZONTAL CURVE

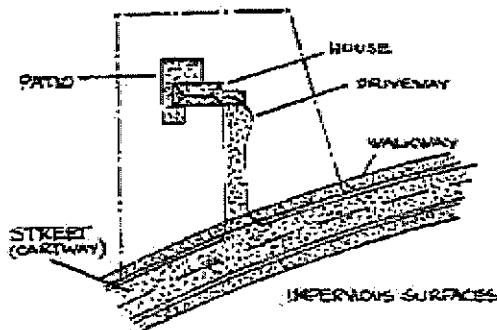
A geometric design feature of a roadway – provides a smooth change in direction to the left or right.

IMPACT

The power of an event to produce changes in a condition.

IMPERVIOUS SURFACE

A surface that prevents the infiltration of water into the ground. Impervious surfaces include, but are not limited to, streets, sidewalks, pavements, driveway areas, or roofs. Any surface areas designed to be gravel or crushed stone shall be regarded as impervious surfaces.

**IMPROVEMENTS AGREEMENT**

A list of improvements approved by the municipality that the applicant agrees to install as a prerequisite to final plan approval.

INFRASTRUCTURE

The basic installations and facilities on which the continuance and growth of a community depend, such as streets, sewers, electrical transmission facilities, transportation, and communication systems.

INGRESS

An entrance.

INTERIOR LOT

See "flag lot."

INVERT

The lowest visible surface of a drainage conduit or channel.

LAKES AND PONDS

Natural or artificial bodies of water that retain water year round. Artificial ponds may be created by dams or result from excavation. Lakes are bodies of water of two or more acres. Ponds are any water body less than two acres. The shoreline of such water bodies shall be measured from the spillway crest elevation rather than the permanent pool, if there is a difference.

LAND DEVELOPMENT

- A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:
 - (1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots, regardless of the number of occupants or tenure.
 - (2) 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.
- B. A subdivision of land.
- C. Land developments do not include:
 - (1) The conversion of an existing single-family detached dwelling or single-family semidetached dwelling into not more than three residential units.
 - (2) The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.
 - (3) The addition or conversion of buildings or rides within the confines of an enterprise that would be considered an amusement park. For this purpose, 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.

LAND DEVELOPMENT PLAN

A sketch, preliminary, or final subdivision and/or land development plan, submitted in compliance with Articles IV, V, VI, and VII of this chapter.

LAND PLANNER

A design professional who is recognized as a certified planner by the American Planning Association.

LAND USE

The use to which land is used, arranged, and the like. Use is typically expressed in terms of the type of activity or development that exists, such as agricultural, residential, municipal, and the like.

LANDOWNER

The legal or beneficial owner of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition) or a lessee if he is authorized under the lease to exercise the rights of the landowner or other person having a proprietary interest in land that is the subject of an application for subdivision and/or land development.

LANDSCAPE ARCHITECT

A design professional registered by the Commonwealth of Pennsylvania to practice landscape architecture.

LANDSCAPE SCREEN

Any combination of hedges, walls, trees, or earth berms arranged so as to create a continuous visual barrier.

LANDSCAPED AREA (LANDSCAPED BUFFER)

That portion of a tract or lot in which plantings have been installed in accordance with the landscaping requirements of Article VIII of this chapter. The landscaped area includes the buffer planting strip, as well as plantings which serve a functional and/or aesthetic purpose when located around and between buildings, streets, parking areas, pedestrian spaces, walkways, sitting areas, service or maintenance structures, courtyards, and the like.

LOADING AREA

A space accessible from a street for the temporary use of vehicles while loading or unloading merchandise or materials.

LOCAL STREET

A street used primarily to provide access to abutting properties.

LOT

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

LOT AREA

The area enclosed by the boundary lines of a lot, as herein defined, exclusive of:

- A. Rights-of-way of dedicated streets.
- B. Fire lanes.
- C. Rights-of-way or easements proposed for dedication.
- D. Utility easements and other underground lines beyond those directly servicing the lot, except for sewer authority easements that may be included in the computation of lot area.
- E. Stormwater management basins.
- F. Any land within a floodway.
- G. Any wetlands.
- H. Any slope in excess of 25%.

LOT COVERAGE

The proportion of the lot area (expressed as a percent) that is covered by the maximum horizontal cross-section of a building or buildings.

LOT LINE

A legally recorded property boundary line. In the case of any lot abutting a street, the lot line for the portion of the lot abutting the street shall be deemed to be the same as the street line and shall not be the centerline of the street or any other line within the street.

LOT WIDTH

The distance measured between the side lot lines at the required building setback line. When there is only one side lot line, as in the case of two-family or single-family attached dwellings, the lot width shall be measured between the side lot line and the centerline of the party wall of the end dwelling unit. In the case of a corner lot, the lot width shall be measured between the side lot line and the front lot line opposite it.

MAINTENANCE GUARANTY

The financial security that may be accepted by the municipality as a guaranty that improvements required as part of an application for subdivision and/or land development will be in first-class condition, state of repair, and working order for a specific period of time. Such financial security shall be similar to that accepted for a completion guaranty.

MAJOR SUBDIVISION

The division or reverse subdivision of a lot, tract, or parcel of land by any means into five or more lots, tracts, parcels, or other divisions of land, including changes in existing lot lines for the purposes of lease, transfer of ownership, or building or lot development. The division of land for agricultural purposes into parcels of more than 10 acres not involving any new street shall not be considered a major subdivision.

MANUFACTURED HOME

As defined by the Department of Housing and Urban Development Code, is a structure built from 1983 to the present that is transportable in one or more sections, which in traveling mode is eight feet or more in width or 40 feet or more in length, or when erected on a lot, is 320 or more square feet and is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities.

METES AND BOUNDS

A method of describing the boundaries of land by directions or bearings and distances from a known point of reference, including the content of the land and each lot, in square feet and acres and fractions thereof.

MINOR SUBDIVISION

The division or reverse subdivision of land, as described hereinbefore, from two to four lots, tracts, or parcels not involving any new street. The division of land for agricultural purposes into parcels of more than 10 acres shall not be considered a minor subdivision.

MITIGATION

The act of precluding a potentially adverse effect and/or making a potentially adverse effect less severe through measures that will improve a condition and/or lessen the impact.

MOBILE HOME

A manufactured home that was built prior to 1983, defined as a transportable, single-family dwelling intended for permanent occupancy, contained in one unit 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 is constructed so that it may be used without a permanent foundation. This designation identifies all manufactured homes built before the enactment of the Department of Housing and Urban Development Code.

MOBILE HOME PARK

A parcel or contiguous parcels of land that are designated and improved with two or more mobile home lots for the placement thereon of mobile homes.

MOBILE HOME STAND

That part of an individual lot that has been reserved and prepared for the placement of the mobile home, including the paved portion of any outdoor living area.

MODIFICATION

A waiver from this chapter's requirements.

MONUMENTS AND MARKERS

Structures that mark and identify lot lines and street lines or corners of lots and streets in accordance with § 195-802 of this chapter.

NATIONAL REGISTER OF HISTORIC PLACES

The official federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, engineering, or culture as authorized by the National Historic Preservation Act of 1966, as amended.

NET ACREAGE

See "lot area."

NOTABLE TREES

Trees of a twelve-inch caliper or greater.

OFFICIAL MAP

A map showing desired future public facilities adopted by ordinance pursuant to Article IV of the Municipalities Planning Code, Act 247, as amended.

OFFICIAL SEWAGE FACILITIES PLAN

A plan adopted by the municipality and approved by the Pennsylvania Department of Environmental Protection (PADEP) that sets forth recommendations for the provision of adequate sewage systems within the municipality in accordance with the Pennsylvania Sewage Facilities Act, Act 537, as amended.

OFFICIALLY FILED PLAN

Any plan that has been accepted for processing by the municipality. This means that the plan application packet must be recognized by the municipality as satisfactorily meeting the requirements of the appropriate checklist.

ON-LOT SANITARY SEWAGE DISPOSAL

A single system of piping, septic tanks, or other facilities serving a single lot that collects and disposes of sewage into the soil on the lot where such system is used through septic tank filter fields and in compliance with the prevailing federal, state, county, and municipal regulations.

ON-LOT WATER SUPPLY SYSTEM

An individual well and/or water distribution system supplying water to a single dwelling or on a lot occupied or to be occupied by another permitted building from a source located on the same lot and in compliance with the prevailing federal, state, county, and municipal regulations.

ONE-PERCENT ANNUAL CHANCE FLOOD

(100-year flood), also known as the base flood, is the flood that has a one-percent chance of being equaled or exceeded in any given year.

OPEN SPACE

A parcel of land, an area of water, or a combination of both within a development not including streets, off-street parking areas, private yard space, and areas set aside for nonresidential and public facilities. Common or public open space shall be substantially free of structures but may contain such improvements as are appropriate for recreational use.

PARKING SPACE

A reasonably level space available for the temporary parking of one motor vehicle, exclusive of passageways, driveways, or other means of circulation or access. A parking space shall include either covered garage spaces or uncovered parking lot space located off of the street right-of-way.

PEDESTRIAN SPACE

An improved or unimproved area reserved for foot traffic.

PENNSYLVANIA MUNICIPALITIES PLANNING CODE

Pennsylvania Act 247 of 1968, P.L. 805,^[1] as amended.

PHASE

A section or sections for which an applicant proposes to commence development at the same time, as part of a timetable for development of any development over a period of years.

PLAN

A draft, diagram, drawing, or set thereof showing the present and proposed physical features of and improvements to land and the proposed development thereto; see also Article III of this chapter for classification and requirements of plans. The term "plan" includes profiles, cross-sections, and the like.

PLANNED RESIDENTIAL DEVELOPMENT

An area of land controlled by a landowner to be developed as a single entity for a number of dwelling units or a combination of residential and nonresidential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling or use, density or intensity, lot coverage, and required open space to the regulations established in the municipal zoning ordinance.

PLANTINGS (PLANTING SCREEN)

Trees, shrubs, and ground covers that are installed and maintained in accordance with a landscaping plan as set forth in § 195-817 of this chapter.

PLAT

The map or plan of a subdivision or land development.

PRELIMINARY PLAN

A subdivision and/or land development plan filed as a basis for consideration and approval prior to preparation of a final plan, depicting all features required in Article V and Article VII of this chapter, including an improvements construction plan, conservation plan, and all other plans, documents, and submissions required therein.

PRINCIPAL BUILDING

- A. A roofed structure enclosed within exterior or fire walls erected of component structural parts and designed for the housing, shelter, enclosure, and support of individuals, animals, or property of any kind.
- B. The main structure on a given lot.

PRIVATE STREET

A street designed to public street standards, but not offered or required to be offered for dedication or duly accepted by the municipality as a public street.

PROPOSED GRADE

The elevation, relative to a given datum, of the ground surface proposed to be achieved by excavation, cut, or fill.

PUBLIC GROUNDS

Includes publicly owned and operated facilities such as parks, playgrounds, trails, paths, and other recreational areas, public areas, sites for schools, sewage treatment, refuse disposal, scenic sites, and historic sites.

PUBLIC HEARING

A formal meeting held pursuant to the Pennsylvania Municipalities Planning Code's public notice requirements by the municipality, intended to inform and obtain public comment prior to taking action in accordance with the provisions of this chapter.

PUBLIC NOTICE

A notice, as defined by the Pennsylvania Municipalities Planning Code, as amended, that is published once each week for two successive weeks in a newspaper of general circulation in the municipality. 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 be not more than 30 days and the second publication shall be not less than seven days from the date of the hearing.

PUBLIC RIGHT-OF-WAY

Any street, avenue, boulevard, highway, sidewalk, alley, or similar place that is owned or controlled by a governmental entity.

PUBLIC SANITARY SEWAGE SYSTEM

Any system other than an on-lot sewage disposal system which is administered and operated by a governmental agency, authority, or commission for the collection, conveyance, treatment, and disposal of wastes from customers in compliance with prevailing federal, state, county, and municipal regulations.

PUBLIC WATER SUPPLY SYSTEM

Any system for water distribution and water supply, other than an on-lot water supply system, which is owned, administered, and operated by an organization that is regulated by a governmental agency, authority, or commission.

RECORD PLAN

The copy of the final subdivision and/or land development plan that contains the original endorsement of the municipality and evidence of review by the Delaware County Planning Commission (DCPC) and is intended to be recorded with the Delaware County Recorder of Deeds. The record plan contains only that part of the information presented on final subdivision and/or land development plans that is required by the County Recorder of Deeds for the purposes of recording. Such plans shall be of mylar or linen and shall not exceed 30 inches by 42 inches; however, the Office of Recorder of Deeds of Delaware County prefers 24-inch-by-36-inch prints.

REDIVISION

The further division of lots or the relocation of lot lines of any lot or lots within a subdivision previously made and approved or recorded or the alteration of any streets or the establishment of any new streets within any such subdivision.

RESTRICTION

A limitation on property that may be created in a deed, lease, or mortgage through zoning, subdivision, or other municipal codes, ordinances, regulations, plans, or maps, or conditions of approval of a subdivision and/or land development plan.

RETENTION BASIN

An impoundment in which stormwater is stored and not released during the storm event. Retention basins are designed for infiltration purposes and do not have an outlet.

REUSE

A use for an existing building or parcel or lot of land other than the use for which it was originally intended or made.

REVERSE SUBDIVISION

The consolidation of two or more previously subdivided lots into a smaller number of lots.

REVIEW

An examination of the sketch, preliminary, or final plan by the municipality and/or County to determine compliance with this chapter and all other municipal ordinances, codes, regulations, plans, or maps.

RIGHT-OF-WAY

A strip of land granted or reserved for public or private use.

RIPARIAN BUFFER

An area of land adjacent to a stream and managed to maintain the integrity of stream channels and shorelines to reduce the impact of upland sources of pollution by trapping, filtering, and converting sediments, nutrients, and other chemicals, and supply food, cover and thermal protection to fish and other wildlife. (Refer to Appendix H of the Pennsylvania Handbook of Best Management Practices for Developing Areas).

SAG

A measure of the vertical curve of the roadway at the bottom portion of the curve.

SANITARY SEWAGE

Any liquid waste containing animal or vegetable matter in suspension or solution, or the water-carried waste resulting from the discharge of toilets, laundry tubs, washing machines, sinks, bathtubs, showers, dishwashers, or any other source of water-carried waste of human origin.

SANITARY SEWER

A pipe that conveys sanitary sewage.

SCALE

The relationship between distances on a map and the actual ground distances.

SCREEN PLANTING

The plantings that are used in a buffer planting strip or other landscaping arrangement to create a continuous visual buffer.

SCREENING

The use of plant materials, fencing, walls, and/or earthen berms or combinations thereof to aid in the concealment of such features as parking areas and vehicles within them and to provide privacy between two or more different land uses or activities. A visual, sound, and/or other barrier.

SEDIMENT

Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by water.

SEDIMENTATION

The process by which mineral or organic matter is accumulated or deposited by wind, water, or gravity.

SEPTIC TANK

A watertight receptacle that receives the discharge of sewage from a building, sewer, or part thereof and is designed and constructed so as to permit settling of solids from this liquid, digestion of the organic matter, and discharge of the liquid portion into a disposal area.

SEPTIC TANK FILTER FIELD

A system of open-jointed pipes intended to distribute septic tank effluent into the ground for absorption and evaporation.

SEWAGE

All effluent carried by sewers, whether it is sanitary sewage, residential, commercial, institutional, or industrial wastes.

SEWAGE ENFORCEMENT OFFICER

The official of the local agency who issues and reviews sewer permit applications and conducts such investigations and inspections as are necessary to implement the rules and regulations of the Pennsylvania Sewage Facilities Act, Act 537, as amended.

SEWERAGE

The entire system of sewage collection, conveyance, treatment, and disposal.

SHADE TREE

A woody plant, usually deciduous, which normally grows with one main trunk and has a canopy that screens and filters the sun.

SHARED DRIVEWAY

A commonly shared or used gravel or paved way on a lot which provides access for vehicles to a maximum of two dwellings or other structures from a street.

SIDEWALK

A paved, surfaced, or leveled area paralleling and separated from the cartway of the street used as a pedestrian walkway within a pedestrian space.

SIGN

A visual communication that is used for the purpose of bringing the subject thereof to the attention of others. Signs include letters, numbers, symbols, trademarks, illustrations, or designs as they may appear on billboards, banners, storefronts, marquees, canopies, poles, and other stationary locations on or off the premises of the activity to which the message pertains.

SINGLE ACCESS STREET

An interior street, including but not limited to cul-de-sac and loop designs, which is designed to provide only one point of intersection with an existing through street.

SITE

A tract or parcel of land or combination of contiguous lots on a tract that form an area for a development project.

SKETCH PLAN

A schematic plan, not necessarily to exact scale, indicating topographic, vegetative, and other salient existing features of a tract, tract surroundings, and the general layout of the proposed subdivision and/or land development in sufficient detail to allow for disclosure of all significant review matters prior to the filing of a preliminary subdivision and/or land development application packet.

SKIRTING

Panels specifically designed for the purpose of screening the underside of a mobile home by forming an extension of the vertical exterior walls of the mobile home and covering the entire distance between the bottom of the exterior walls and the ground elevation below.

SLOPE

The face of an embankment or cut section or any ground whose surface makes an angle with the plane of the horizon. Slopes are usually expressed as a percentage, based upon vertical difference in feet per 100 feet of horizontal distance.

SOIL EROSION

The detachment and movement of soil or rock fragments or the wearing away of the land surface by water, wind, and ice.

SOIL EROSION AND SEDIMENTATION CONTROL PLAN

A plan and related narrative report required in accordance with Article **VIII** of this chapter.

SOIL PERCOLATION TEST

A field test, accordance with criteria of PADEP and the municipal Sewage Facilities Plan, conducted to determine the suitability of the soil for on-site sewage disposal facilities and infiltration structures by measuring the absorptive capacity of the soil at a given location and depth.

SPECIAL EXCEPTION

A use permitted in a particular zoning district pursuant to the provisions of Articles **VI** and **IX** of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

STATEMENT OF INTENT

A brief description of the proposed land development explaining in very general and concise terms everything that, according to the applicant's view, may be of importance for a site plan review. The purpose of this statement is to facilitate the review task by providing the reviewer with a departure point, a context that may enable him to place the factual information otherwise stated on plans in a proper perspective.

STEEP SLOPE

Those areas of land that are characterized by a change in elevation of 15% or more but not exceeding 25% over the specified distance or contour.

STORM SEWER

A sewer that carries stormwater, surface water, and groundwater drainage but excludes sewage and residential, commercial, and industrial wastes.

STORMWATER

Drainage runoff from the surface of the land resulting from precipitation, snow, or ice melt.

STORMWATER MANAGEMENT SITE PLAN

The plan prepared by the applicant or his representative indicating how stormwater runoff will be managed at the particular site of interest according to this chapter, and including all necessary design drawings, calculations, supporting text, and documentation to demonstrate that Ordinance requirements have been met.

STREAM

Any perennial current or flow of water, especially running along the surface of the earth.

STREET

Includes any avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct, and any other ways used or intended to be used by vehicular traffic or pedestrians.

STREET LINE

The dividing line between a lot and the outside boundary or right-of-way line of a street, road, or highway legally open or officially platted.

STREET TREE

A shade tree within a street right-of-way in accordance with Article **VIII** of this chapter.

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 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 to any residential dwelling shall be exempted.

SUBDIVISION AND LAND DEVELOPMENT PLAN

A sketch, preliminary, or final plan proposal for land development or planned residential developments including a subdivision plan, locations and intensity of various uses, locations and bulk of their related structures, all covenants, grants of easement, and other conditions relating to use or density of development.

SURVEYOR

A person registered by the Commonwealth of Pennsylvania to practice surveying.

SWALE

An elongated depression in the ground that collects and channels surface water runoff.

TENURE

The form of occupancy of a unit, i.e., fee simple, rental, condominium, cooperative, etc.

TIEDOWN

Any device designed for the purpose of anchoring a mobile home to ground anchors.

TILE ABSORPTION FIELD

A system of open, jointed, or perforated pipes laid in the upper strata of the soil to distribute sewage effluent into the soil for absorption.

TOPSOIL

Soil material containing organic matter that is normally characterized as the "A horizon" in a soil profile.

TRACT

An area, lot, parcel, site, or property that is the subject of a subdivision and/or land development application packet.

TRAIL (OR PATH)

A linear route used for nonmotorized recreation or transportation purposes, such as walking, jogging, hiking, bicycling or horseback riding. Depending on their intended use, trails may be paved or unpaved.

TREE MASS

A natural contiguous grouping of trees.

USE

The specific purpose for which land or a building is proposed to be subdivided and/or developed or is otherwise designed, arranged, intended, or for which it is proposed or may be occupied or maintained.

UTILITIES

- A. Facilities such as sewers, water mains, fire hydrants, streetlights, and other facilities of the same general character.
- B. Installations of a community that pertain to their consumption and emission characteristics, including facilities such as those used for water supply, sewage disposal, refuse disposal, storm drainage, communications, and electrical transmission.

VERTICAL CURVE

A geometric design feature of a roadway – provides a smooth transition between an ascending grade and descending grade, or visa-versa. A crest vertical curve begins with an ascending grade and ends with a descending grade. A sag vertical curve begins with a descending grade and ends with an ascending grade.

VERY STEEP SLOPE

The area of land that is characterized by a change in elevation of 25% or more over the specified distance or contour.

WALKWAY

A thoroughfare for pedestrian travel.

WATERCOURSE

A channel or conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

WETLANDS

Areas with hydric soils that are inundated or saturated by surface and/or ground water that support hydrophytic vegetation, such as swamps, bogs, marshes, and the like, such areas being regulated by the United States Army Corps of Engineers and/or PADEP.

WETLANDS MARGIN

The transitional area extending outward from the edge of the wetlands. The wetlands margin shall extend 100 feet from the wetland boundary or to the limit of the hydric soils, whichever is greater.

WOODLANDS

Those areas of extensive vegetation in which the dominant plants are trees that are indigenous to the area.

Words not defined above shall have the meaning given in the Pennsylvania Municipalities Planning Code,^[2] the municipal zoning ordinance, other municipal codes, applicable federal and state regulations, and, if not defined in the aforementioned documents, the most recent edition of Webster's Unabridged Dictionary.

[1] *Editor's Note: See 53 P.S. § 10101 et seq.*

[2] *Editor's Note: See 53 P.S. § 10101 et seq.*

Article III. Application Procedure

§ 195-300. Requirement of Review.

- A. Whenever any subdivision and/or land development is proposed and before any permit for the erection of a structure shall be granted, the applicant shall apply to the municipality in which the subdivision, land development or structure is proposed to be located, for approval of such application in accordance with the procedures and standards specified in this chapter (§ 195-105 and §§ 195-301 through 195-308 and elsewhere) and Article V of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
- B. Where a subdivision and/or land development plan is required as part of an application for a conditional use approval, a variance, or a special exception, the municipality may require that the subdivision and/or land development plan be submitted to the Delaware County Planning Department (DCPD) for review as a sketch plan.
- C. The applicant shall submit an application packet for each subdivision and/or land development plan to the municipality no less than 21 calendar days prior to DCPC's meeting at which the plan may be reviewed. DCPC's regularly scheduled meetings are on the third Thursday of each month.

The municipality shall then submit the application packet to DCPD no less than 14 calendar days prior to DCPC's meeting at which the plan may be reviewed.

- D. Subdivision and/or land development plans shall be accepted for review only when the application packet contains all plan requirements, a fully completed County Application for Act 247 Review Form, a completed checklist, and payment of fees in accordance with the fee schedules adopted by the municipality and § **195-1201** of this chapter. The municipality shall review the application packet within seven calendar days to determine whether or not it is complete. If complete, the application packet is deemed an officially filed plan, then the review time period as described in § **195-303M** of this chapter applies. If the application packet is incomplete, then it shall be returned to the applicant with the missing information noted through written correspondence.
- E. A complete application packet shall be forwarded to DCPC for advisory review and report prior to action by the municipality. Approval or disapproval by the municipality shall be in accordance with the procedures specified in this chapter and in Article **V** of the Pennsylvania Municipalities Planning Code, Act 247, as amended.
- F. DCPC's review and report process shall be no longer than 30 calendar days, starting from the day the officially filed plan is filed in DCPD's office and accepted for review.
- (1) If the application packet is not accepted for review by DCPD, then the developer and municipality shall be notified, through written correspondence, of the deficiency within seven calendar days of application packet receipt.
- (2) Failure to so notify the developer and municipality by DCPD within the allotted seven calendar days shall cause the application packet to be accepted for DCPC's review and report.
- G. Each new or revised subdivision and/or land development plan which involves substantive change requiring an additional review shall be considered a new submission, and an additional DCPC thirty-calendar-day review and report period may apply.
- H. Whenever an application for a major subdivision and/or land development is proposed that may affect adjacent municipalities, either the municipality or DCPC may solicit reviews and reports from such municipalities.
- I. The review of subdivision and/or land development plans by DCPC consists of three stages: sketch, preliminary, and final plans. Sketch plans, although not required, are strongly recommended for the benefit of both the applicant and the municipality. Table 3-1 indicates the required plans for the different types of submissions.

Table 3-1

Plans by Submission Type

Submission	Sketch	Preliminary	Final
Minor subdivision	Recommended	Recommended	Required
Major subdivision	Recommended	Required	Required
Land development	Recommended	Required	Required

- J. The specific procedures for all plans shall be in accordance with § **195-302** and Article **IV** of this chapter for sketch plans, § **195-303** and Article **V** of this chapter for preliminary plans, and § **195-304** and Article **VI** of this chapter for final plans.
- K. All subdivision and/or land development plans must be accompanied by the information as indicated in Table 3-2.

Table 3-2

Plans Reports and Papers	Additional Information by Submission Type		
	Sketch Plan	Preliminary Plan	Final Plan
Delaware County Planning Department Application for Act 247 Review Form	Required	Required	Required
Coversheet including index and title	Recommended	Required	Required
Pennsylvania Department of Environmental Protection Act 537 Planning Module or Act 537 exemption letter	Recommended	Required	Required
Street profiles	Recommended	Required	Required
Conservation plan	Recommended	Recommended	Recommended
Improvements construction plan and profile(s) plan	Recommended	Required	Required
Drainage plan	Recommended	Required	Required

- L. Three copies of the subdivision and/or land development plan shall be submitted by the municipality to DCPD immediately upon the municipality's acceptance of an officially filed plan.
- M. The appropriate fee in effect at the time of application packet filing, in accordance with § 195-1201 this chapter, shall also accompany the subdivision and/or land development plan submittal.

§ 195-301. Classification of subdivision and/or land development.

- A. Minor subdivision and/or land development.
- (1) All minor subdivisions and/or land developments shall be in conformance with Article VII of this chapter.
 - (2) The determination of which subdivisions and/or land developments are minor shall be made in accordance with the following conditions of eligibility:
 - (a) A subdivision and/or land development for residential purposes only shall be determined to be minor, provided that:
 - [1] The total number of lots shall not exceed four. If there is only one existing dwelling unit on a lot, then this means that only three additional lots could be created.
 - [2] Such subdivision and/or land development does not involve any new streets or easements for access.
 - (b) The subdivision of a tract into not more than four lots for agricultural use shall be determined to be minor, provided that such lots are 10 acres or greater.
 - (c) The subdivision of a portion of a lot, the lot area of which does not meet the minimum requirements of the municipal zoning ordinance, for the purpose of conveyance to an

adjoining property shall be determined to be minor. Such substandard lot area shall not be considered a building lot.

- (d) During any five-year period, no more than four lots may be subdivided by an applicant for a single tract through the minor subdivision and/or land development process; otherwise, the subdivision shall be considered a major subdivision.

- B. Major subdivision and/or land development. All major subdivisions and/or land developments shall be in conformance with Articles III, IV, V, and VI of this chapter.

§ 195-302. Sketch plan submission and review.

- A. A sketch plan application packet for any proposed subdivision and/or land development may, at the option of the applicant, be submitted to the municipality for review. The submission of a sketch plan application packet represents a basis for an informal discussion between the municipality and the applicant, which may prove to be valuable to the prospective applicant in formulating plans, documents, and other submissions for preliminary and/or final plan approval. In the event that the applicant submits a sketch plan application packet, the following shall apply:
 - (1) The applicant shall consult the municipality regarding the required number of sketch plan application packets to be submitted in accordance with § 195-300 of this chapter.
 - (2) Should the municipality deem the application packet an officially filed plan, it shall forward three copies of the officially filed plan to DCPD for staff review and report. When appropriate, DCPD will forward one copy to the Delaware County Soil Conservation District for review and comment.
- B. In addition to furnishing copies of the sketch plan, the applicant shall identify the name, address, and telephone number of the holder of legal title to the land involved, the nature of the applicant's interest in the land (whether holder of legal or equitable title or otherwise), and the name, address, and telephone number of the agent, if any. Such information shall be provided in writing.
- C. DCPD shall review the sketch plan and shall indicate, within 30 calendar days, any and all review comments pertaining to the sketch plan to the applicant and municipality by written correspondence.
- D. DCPD's review shall take into consideration the requirements of this chapter, the municipal zoning ordinance, and the municipal comprehensive plan and shall pay particular attention to the following: the arrangement, location, and width of streets and their relation to the topography of the site; the arrangement, size, and location of lots and proposed structures, if any; drainage; sewage disposal and water supply; the relation of the subdivision and/or land development to the natural and historic features of the site; and the potential further development of adjoining lands which may not yet be subdivided.
- E. After receipt of DCPD's report, the municipality shall review the findings and render its decision. In the event that the sketch plan does not meet the purposes and requirements of this chapter, the applicant shall be advised of the specific deficiencies by the municipality either in person or through written correspondence. In the event that the sketch plan is satisfactory, the municipality shall recommend that the applicant proceed to the preliminary plan stage.

§ 195-303. Preliminary plan submission and review.

- A. The preliminary subdivision and/or land development plan shall be prepared in accordance with this Section and Articles V and VII of this chapter. When a preliminary plan application packet is filed, it shall meet all of the provisions of §§ 195-300 and 195-302 of this chapter.

- B. A stormwater management plan shall be submitted with preliminary plans for relevant land developments.
- C. The applicant shall consult the municipality regarding the required number of preliminary plan application packets to be submitted. The preliminary subdivision and/or land development plan shall be provided as black-line or blue-line prints.
- D. Where any one or combination of the following items are involved, two additional sets of plans shall be required and submitted to the municipality:
 - (1) Pumping stations.
 - (2) Sewage treatment plants.
 - (3) Retaining walls.
 - (4) Public water supply systems or community water supply systems.
 - (5) Traffic control systems.
- E. The municipal Engineer may submit review comments on the preliminary subdivision and/or land development plan in writing to DCPC. This correspondence shall be submitted no less than 14 days prior to the meeting at which DCPC may review and report on the preliminary subdivision and/or land development plan.
- F. The applicant shall contact the municipality regarding contiguous property owner notification requirements.
- G. DCPC shall perform the following:
 - (1) Determine whether the preliminary subdivision and/or land development plan meets the requirements of this chapter, municipal zoning, and the municipal comprehensive plan.
 - (2) Recommend that the preliminary subdivision and/or land development plan proceed to final plan or be revised and resubmitted and communicate such by letter to the municipality and the applicant. In the case of a recommended disapproval, DCPC shall indicate the specific deficiencies and the chapter provisions that have not been met.
- H. DCPC may perform the following:
 - (1) Review all applicable reports from the municipal Engineer, municipal Planning Commission, appropriate Water and/or Sewer Authority, PennDOT, Delaware County Soil Conservation District, and other reviewing agencies.
 - (2) Discuss the submission with the applicant.
 - (3) Recommend revisions so that the plan will conform to this chapter and other applicable municipal ordinances.
- I. During the course of DCPC's review of the preliminary subdivision and/or land development plan and prior to any action by the municipality within the required 90 calendar day period, the preliminary subdivision and/or land development plan may be revised by the applicant as requested by the municipality. The submittal of a revised plan not precipitated by municipal comments that involves substantive change requiring an additional review shall restart the required ninety-calendar-day review period. The required number of any revised preliminary subdivision and/or land development plan and accompanying data shall be submitted which shall note the dates of any and all revisions and a summary of the nature thereof. The revised preliminary subdivision and/or land development plan shall be submitted to the municipality at

least 21 calendar days prior to the regular monthly meeting of DCPC. Three copies of the revised preliminary plan shall be delivered to DCPD for DCPC's review and report.

- J. After the DCPC report on the preliminary subdivision and/or land development plan has been submitted to the municipality, the municipality shall place such preliminary subdivision and/or land development plan on its agenda for review and action.
- K. The municipality shall, within the ninety-calendar-day review period:
- (1) Review the recommendation of DCPC and other reviewing agencies.
 - (2) Determine whether the preliminary subdivision and/or land development plan meets the purposes and requirements of this chapter and other applicable regulations.
 - (3) Approve or disapprove the preliminary subdivision and/or land development plan or approve the preliminary subdivision and/or land development plan subject to conditions, changes, or additions. Whenever the municipality approves a preliminary subdivision and/or land development plan subject to conditions, the applicant shall indicate, in writing, whether such conditions are accepted or rejected within 15 calendar days of notification of the decision by the municipality. Any conditional approval by the municipality that is not accepted or rejected by the applicant within the fifteen-calendar-day period shall be rescinded automatically.
- L. Municipal approval of the preliminary subdivision and/or land development plan shall constitute preliminary approval of the intent and proposed density of the subdivision and/or land development but shall not constitute approval of the detail required of the final subdivision and/or land development plan nor authorize the sale of lots or construction of buildings.
- M. The municipality shall render a decision on every preliminary subdivision and/or land development plan and communicate it to the applicant not later than 90 calendar days following the date of the regular monthly meeting of the municipality or DCPC (whichever first reviews the officially filed plan) next following the date the application packet was deemed an officially filed plan or after a final order of the court remanding an application, provided that should the next said meeting occur more than 30 calendar days following the designation of an officially filed plan or the final order of the court, said ninety-calendar-day period shall be measured from the 30th day following the day the complete application packet was deemed an officially filed plan. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 508).
- N. The decision of the municipality shall be in writing and shall be communicated to the applicant personally or mailed to him at his last known address not later than 15 calendar days following the decision or at the end of the ninety-calendar-day period whichever shall occur first. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 508).
- O. In the event that the preliminary subdivision and/or land development plan is not approved in terms as filed, the decision shall specify the defects found in the preliminary subdivision and/or land development plan and describe the requirements which have not been met and shall, in each case, cite the provisions of the statute or ordinance relied upon. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 508).
- P. If the preliminary subdivision and/or land development plan is approved by the municipality, then the applicant may proceed to submit a final subdivision and/or land development plan for approval as set forth in § 195-304 and Article VI of this chapter.

§ 195-304. Final plan submission and review.

- A. The procedure for approval of final subdivision and/or land development plans shall be identical to the procedure as outlined for preliminary subdivision and/or land development plans in § 195-303 of this chapter, except that:

- (1) Within one year after the date of approval of the preliminary subdivision and/or land development plan, the applicant shall file a final subdivision and/or land development plan application packet.
- (2) Unless an extension of time has been granted by the municipality upon written request of the applicant, a final subdivision and/or land development plan filed after the one-year period shall be considered a new preliminary subdivision and/or land development plan which shall be required to comply with all preliminary subdivision and/or land development plan application procedures of § **195-303** of this chapter and shall be subject to the preliminary plan application fees.
- (3) The municipality may authorize submission of the final subdivision and/or land development plan in sections, each covering approximately 1/3 of the entire area proposed for subdivision and/or land development or 1/3 of the number of buildings or other structures proposed for land development as shown on the approved preliminary subdivision and/or land development plan, provided that the first final subdivision and/or land development plan section shall be submitted within the aforementioned one-year period and the last final subdivision and/or land development plan section shall be submitted within three years after the date of preliminary subdivision and/or land development plan approval.
- (4) The final subdivision and/or land development plan shall conform in all respects to the preliminary subdivision and/or land development plan as required by Article **V** of this chapter.
- (5) The applicant shall submit the required fees and financial security associated with the completion guaranty.
- (6) The applicant shall prepare a planning module for land development, as required by Chapter 71 of the Pennsylvania Sewage Facilities Act.^[1]
 [1] *Editor's Note: See 35 P.S. §§ 750.1 - 750.20.*
- (7) The applicant shall submit a final subdivision and/or land development plan that includes all of the requirements set forth in Article **VI** of this chapter.
- (8) Highway occupancy permit.
 - (a) No final subdivision and/or land development plan which will require access to a highway under the jurisdiction of PennDOT shall be finally approved unless the final subdivision and/or land development plan contains a notice that a highway occupancy permit is required, pursuant to Section 420 of the Act of June 1, 1945 (P.L. 1242, No. 428), known as the "State Highway Law"^[2] before driveway access to a state highway is permitted. PennDOT shall, within 60 calendar days of the date of receipt of an application for a highway occupancy permit. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 508(6)).
 - [1] Approve the permit, which shall be valid thereafter unless, prior to commencement of construction thereunder, the geographic, physical, or other conditions under which the permit is approved change, requiring modification or denial of the permit, in which event the Department shall give notice thereof in accordance with regulations. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 508(6)).
 - [2] Deny the permit. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 508(6)).
 - [3] Return the application for additional information or correction to conform to PennDOT regulations. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 508(6)).

- [4] Determine that no permit is required, in which case PennDOT shall notify the municipality and the applicant in writing.
- [5] If PennDOT shall fail to take any action within the sixty-day period, the permit will be deemed to be issued. The final subdivision and/or land development plan shall be marked to indicate that access to the state highway shall be only as authorized by a highway occupancy permit. Neither PennDOT nor any municipality to which permit-issuing authority has been delegated under Section 420 of the State Highway Law^[3] shall be liable for damages for any injury to persons or property arising out of the issuance or denial of a driveway permit or for failure to regulate any driveway. Furthermore, the municipality from which the building permit approval has been requested shall not be held liable for damages to persons or property arising out of the issuance or denial of a driveway permit by the Department. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 508(6)).
- [3] *Editor's Note: See 36 P.S. § 670-420.*
- [2] *Editor's Note: See 36 P.S. § 670-101 et seq.*
- (9) In the event that the final subdivision and/or land development plan is not approved, then the applicant, if he desires to proceed, shall file a revised final subdivision and/or land development plan with the municipality, following the same submission and review procedures required for the initial final subdivision and/or land development plan submission as required by this section.
- (10) If the final plan is approved:
- (a) Approval shall not be final until entry into a contract and the production of completion and maintenance guaranties as set forth in § **195-1001** of this chapter.
 - (b) The exact copies of the approved final subdivision and/or land development plan, as determined by the municipality, shall be signed in accordance with § **195-306D(2)(g)** of this chapter.
- (11) Approval of the final subdivision and/or land development plan shall not authorize the sale or transfer of lots or the development of land until construction is permitted to commence in accordance with § **195-307** of this chapter. Such approval shall not constitute a waiver, release, or assumption by the municipality of any requirements of any municipal ordinances, codes, regulations, plans, or maps.
- (12) Every final subdivision and/or land development plan approval shall be subject to the following conditions:
- (a) The applicant shall execute a subdivision and/or land development agreement, in accordance with § **195-305** unless exempted as a minor subdivision and/or land development plan.
 - (b) The applicant shall execute a completion guaranty, in accordance with § **195-1001** of this chapter, where deemed applicable by the municipality.
 - (c) The applicant shall tender a deed of dedication to the municipality, if requested by the municipality, for public improvements, easements, and other appurtenances and improvements thereto after such improvements are completed and the Municipal Engineer certifies such completion as being satisfactory.
 - (d) The filing with the municipality of copies of all required permits, approvals, agreements, clearances, and the like from all required governmental agencies (such as PennDOT, PADEP, and/or the municipality), authorities, companies which may provide water supply or sewage disposal facilities, pipeline easement holders, or others.

- (e) The applicant shall pay any fees that may be outstanding in accordance with §§ **195-1201, 195-1202, 195-1203, 195-1204,** and 195-1205 of this chapter.
- (f) Proof of recording of the final subdivision and/or land development plan in accordance with § **195-306** of this chapter.

§ 195-305. Subdivision and/or land development agreement.

- A. Every applicant who seeks to obtain final subdivision and/or land development plan approval, unless exempted as a minor subdivision and/or land development plan, shall execute a subdivision and/or land development agreement (Appendix A^[1] of this chapter) satisfactory to the municipality before the final subdivision and/or land development plan is signed by the municipality and recorded in accordance with § **195-306** of this chapter. The agreement shall include, but need not be limited to, the following:
 - (1) That the applicant agrees that he will accurately lay out and properly construct all improvements and follow all practices according to the plans, profiles, notes, and other forms of documentation filed as part of the final subdivision and/or land development plan application packet as approved or where any or all of these improvements or practices are required as conditions of approval and that the applicant will file an as-built plan in accordance with § **195-308** of this chapter to confirm the same.
 - (2) That the applicant shall complete the improvements and engage in the practices as referenced in § **195-305A(1)** of this chapter within the time or times specified by the municipality and in accordance with § **195-307** of this chapter.
 - (3) That the applicant guarantees completion and maintenance of all improvements by means of acceptable forms of financial security to the municipality as set forth in § **195-1001** of this chapter.
 - (4) That the applicant agrees to tender a deed of dedication to the municipality, if requested by the municipality, for public improvements, easements, and other appurtenances and improvements thereto, except that the municipality shall not accept any offer of dedication of the same by ordinance or resolution until their completion is certified as being satisfactory by the municipality and an as-built plan is submitted and approved by the municipality.
 - (5) That the applicant shall comply fully with all of the terms and conditions of this chapter as the same relate to the subdivision, land development, or redevelopment and all municipal ordinances, codes, regulations, plans, and maps.
 - (6) That the applicant shall establish a three-party agreement and account for the creation, maintenance, and/or inspection of improvements, sewer authority security, and the park and recreational facilities when required by this chapter.
 - (7) That the applicant shall obtain all necessary permits, as applicable, including a land disturbance permit, a building permit, and those from PADEP, PennDOT, and the municipal Zoning Hearing Board.
 - (8) That the applicant, in the event that any proposed street is not intended to be offered for dedication or is not accepted by the municipality, accepts stipulations which shall be noted on the final subdivision and/or land development plan, such as the following:
 - (a) That the municipality shall not be responsible for repairing or otherwise maintaining any undedicated streets.
 - (b) That the method of assessing repair and maintenance costs of undedicated streets shall be established in recorded deed restrictions so as to be binding on all successors,

assigns, or grantees.

(c) That if dedication be sought at any time, the street shall conform in its entirety to municipal design standards for the same in all respects or that the owners of the lots shown on the approved final subdivision and/or land development plan, at their own expense, restore the street to conform with or otherwise render the street in conformance with such standards.

(9) The subdivision and land development agreement shall be structured by the municipality to include provisions relating to the above, as well as other matters pertaining to certificates of insurance, water and sewer availability, emergency access, a three-party escrow agreement, and the like.

[1] *Editor's Note: Appendix A is included as an attachment to this chapter.*

B. A bond, certified check, or other security to guarantee the completion and maintenance of improvements in accordance with the provisions of § **195-1001** of this chapter.

§ 195-306. Recording the final plan.

A. Upon municipal approval of a final subdivision and/or land development plan, the applicant shall, within 90 calendar days of such final approval or 90 calendar days after the date of delivery of an approved plat signed by the municipality, following completion of conditions imposed for such approval, whichever is later, and after the applicant executes the subdivision and land development agreement and the completion and maintenance guaranties, as set forth in § **195-1001** of this chapter, record such subdivision and/or land development plan in the Office of the Recorder of Deeds in and for the County of Delaware, Pennsylvania (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 513(a)). Should the final subdivision and/or land development plan not be recorded within such period, the action of the municipality in approving the final subdivision and/or land development plan shall be considered automatically rescinded.

B. The final subdivision and/or land development plan to be recorded or "record plan" shall be an exact copy, including original signatures, of the approved final subdivision and/or land development plan and shall be filed with the Office of Recorder of Deeds of Delaware County before proceeding with the sale of lots or the construction of buildings or other structures or improvements. The recording of the final subdivision and/or land development plan shall not constitute grounds for assessment increases until such time as lots are sold or improvements are installed on the land included within the subject plan. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 513(a)).

C. No subdivision or land development may be recorded unless the record plan bears the DCPC stamp certifying that it reviewed such plan.

D. The maximum "record plan" sheet size is 30 inches by 42 inches; however, the Office of Recorder of Deeds of Delaware County prefers 24-by-36-inch prints for recording purposes. The scale of the location map on a record plan shall be one inch equals 1,000 feet.

(1) Prints of the completed and signed "record plan" shall be provided and distributed in the following manner:

(a) Applicant receives one print.

(b) Office of the Recorder of Deeds of Delaware County receives one print.

(c) DCPD receives one print.

- (d) The applicant shall contact the municipality to determine the number of recorded plans that it requires for its use.
- (2) The following information shall appear on the record plan, in addition to the information required in § 195-602 of this chapter for the final plan:
- (a) The seal of the state-licensed engineer or surveyor who prepared the record plan.
 - (b) The corporation seal, if the applicant is a corporation.
 - (c) The seal of a notary public or other qualified officer acknowledging owner's statement of intent.
 - (d) The municipal seal certifying approval. If the municipality utilizes a crimp seal, then an area shall be reserved that allows for the seal to be oriented in the upright position. The bottom right hand corner is recommended.
 - (e) The DCPC stamp certifying that it reviewed such plan.
 - (f) A statement to the effect that the applicant is the owner of the land proposed to be subdivided, that the subdivision shown on the final subdivision and/or land development plan is made with his free consent, and that it is desired to record the same.
 - (g) The following signatures shall be placed directly on the record plan in black ink:
 - [1] The signature of the owner of the land. If the owner of the land is a corporation, the signatures of the president and secretary of the corporation shall appear.
 - [2] The signature of the notary public or other qualified officer, acknowledging the owner's statement of intent.
 - [3] The signatures of the licensed professional engineer or surveyor who prepared the final subdivision and/or land development plan.

E. Effect of recording.

- (1) After a final subdivision and/or land development plan has been approved and recorded as provided in this section, all streets and public grounds on such plan shall become a part of the official map (as adopted by Article IV of the Pennsylvania Municipalities Planning Code, Act 247, as amended)^[1] of the municipality without public hearing, should one exist. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 514).
- (a) Streets, parks, and other public improvements shown on a record plan may be offered for dedication to the municipality by formal deed of dedication, and intent thereof shall be noted on the record plan or the owner may note that such improvements have not been offered for dedication to the municipality.
 - (b) Every street, park, or other improvement shown on a record plan shall be deemed to be a private street, park, or improvement until such time as the same has been offered for dedication to the municipality and accepted, by resolution, and recorded in the Office of the Clerk of the Court of Delaware County or until it has been condemned for use as a public street, park, or improvement.

[1] *Editor's Note: See 53 P.S. § 10101 et seq.*

F. Amendments to approved final subdivision and/or land development plans.

- (1) Proposed amendments to approved final subdivision and/or land development plans shall be acted on in the same manner as the original approved plan.

§ 195-307. Commencement and completion of construction and improvements.

- A. No construction shall be commenced until the municipality has issued all applicable permits.
- B. No construction shall be commenced until the applicant files with the municipality all permits, approvals, clearances, and the like from governmental agencies (such as those from PennDOT, PADEP, and/or the municipality), authorities, companies that may provide water supply or sewage disposal facilities, pipeline easement holders, or others.
- C. If the applicant does not commence construction of improvements within one year from the approval date of the final subdivision and/or land development plan, then the municipality may reevaluate the required escrow amount in accordance with the Pennsylvania Municipalities Planning Code, Act 247, as amended,^[1] and § 195-1001G of this chapter.
[1] *Editor's Note: See 53 P.S. § 10101 et seq.*
- D. In the case where development is projected over a number of years, each section except for the last section, shall contain a minimum of 25% of the total number of lots, dwelling units, or buildings as depicted in the final subdivision and/or land development plan, unless a lesser percentage is approved by the municipality. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 508(4)(vi)).
- E. A copy of the record plan shall be available at the construction site.

§ 195-308. As-built plan.

- A. After final subdivision and/or land development plan approval and upon completion of all required improvements, the applicant shall submit an as-built plan, prepared by a licensed engineer or surveyor as per state registration law, showing the location, dimension, and elevation of all improvements in accordance with § 195-1003 of this chapter.
- B. Said as-built plan shall indicate the actual location, dimensions, and/or elevations of all completed improvements.
- C. Said as-built plan shall indicate that the resultant construction, grading, and drainage are in conformance with the previously approved drawings and specifications.
- D. Said as-built plan shall note any and all deviations from the previously approved drawings and specifications.
- E. Two copies of the as-built plan shall be filed with the municipality.
- F. The as-built plan shall be submitted before the final release of escrow funds for any major subdivision and/or land development. Refer to § 195-1002 of this chapter for more details.

Article IV. Sketch Plan

§ 195-400. Purpose.

The purpose of the sketch subdivision and/or land development plan is to provide an opportunity for the applicant to consult early with the municipality before incurring any costs associated with preparing a preliminary or final subdivision and/or land development plan. During the sketch subdivision and/or

land development plan review process, matters pertaining to access, circulation, water supply, sewage disposal, lot layout, building layout, and conceptual drainage design are analyzed relative to existing natural and man-made conditions, the municipal comprehensive plan, the zoning ordinance, and any other pertinent plans and ordinances.

§ 195-401. General requirements.

- A. A licensed engineer, architect, landscape architect, surveyor, land planner, or other design professional may prepare sketch subdivision and/or land development plans. When the above-mentioned professional does not prepare a sketch subdivision and/or land development plan, the applicant can submit a to-scale drawing.
- B. The sketch subdivision and/or land development plan shall reflect the following:
 - (1) Conformance with § 195-302 of this chapter regarding sketch subdivision and/or land development plan procedure.
 - (2) All sketch subdivision and/or land development plans shall meet the requirements of § 195-402 of this chapter.
- C. Sketch subdivision and/or land development plans shall be submitted on sheet sizes no smaller than 11 inches by 17 inches or larger than 30 inches by 42 inches.
- D. The sketch subdivision and/or land development plan checklist, which appears in Appendix B^[1] of this chapter, shall be completed and submitted as part of the sketch subdivision and/or land development plan application packet.
[1] *Editor's Note: Appendix B is included as an attachment to this chapter.*
- E. Upon submission of a sketch subdivision and/or land development plan, the applicant shall and does authorize the municipality and DCPD to enter the tract for the purpose of site evaluation.

§ 195-402. Sketch plan requirements.

- A. The following sketch subdivision and/or land development plan requirements shall be met:
 - (1) Location map based on a USGS quadrangle map with the tract outlined.
 - (2) Legibly drawn sketch subdivision and/or land development plan to a scale of not more than one inch equals 100 feet.
 - (3) Name of the subdivision and/or land development.
 - (4) Name, complete mailing address, and telephone number of the holder of legal title of the land involved and the nature of the landowner's interest, whether holder of legal title, equitable title, or other.
 - (5) If the applicant is not the landowner, then the name, complete mailing address, and telephone number of the applicant and proof that the applicant is an authorized agent of the landowner to make application.
 - (6) Name, complete mailing address, and telephone number of the person who prepared the sketch subdivision and/or land development plan, when someone other than the applicant prepares the sketch subdivision and/or land development plan.
 - (7) Zoning district and the degree to which the sketch subdivision and/or land development plan conforms to such requirements, including overlay districts. Include any variances, special

exceptions, conditional uses, or modifications requested and/or required.

- (8) A note pertaining to the degree to which the layout or arrangement conforms to the municipal comprehensive plan and to any regulations or maps adopted in furtherance thereof. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 503(2)(i)).
- (9) A note of the proposed intensity of use: gross density in residential development or the number and type of prospective tenants in office, commercial, or industrial developments.
- (10) North arrow and date.
- (11) Written and graphic scale.
- (12) Tract boundaries.
- (13) Total acreage of the tract, together with the approximate gross and net lot area for each proposed lot.
- (14) Existing man-made features such as buildings and their uses, streets, sidewalks, driveways, motor vehicle and bicycle parking areas, sewer lines, storm drains, culverts, bridges, utility easements, and water lines.
- (15) Significant natural features within the tract, including contours measured at vertical intervals of not less than 10 feet, watercourses, ponds, lakes, wetlands, tree masses, and proposed major changes in these features.
- (16) Significant historic structures, buildings, ruins, sites, and objects within the tract, including those identified as a National Historic Landmark, a National Register of Historic Places (or eligible) property or district, and those found on a Delaware county historic and archaeological resources map/survey or any other county or local inventory/survey and district.
- (17) Historic structures proposed to be adaptively reused, significantly altered, and/or demolished.
- (18) Boundaries of all contiguous properties with owner names.
- (19) Proposed lot layout, with building setback lines and buildable areas as defined in Article II of this chapter.
- (20) Proposed open space and/or recreational areas, including notes describing the proposed use and improvement.
- (21) Proposed method of water supply.
- (22) Proposed method of sanitary sewage disposal and anticipated flows.
- (23) Proposed method of stormwater drainage.
- (24) Proposed streets on the tract with consideration of the potential for further development of adjoining tracts and the existing street network.
- (25) The one-percent annual chance flood and floodway based upon a Federal Emergency Management Agency Flood Insurance Rate Map.
- (26) Proposed number, type, and location of all buildings and major structures.
- (27) Proposed location of parking areas and parking lots.

- (28) A copy of the sketch subdivision and/or land development plan checklist for a major subdivision and/or land development completed and signed by the person who prepared the sketch subdivision and/or land development plan.

§ 195-403. Phased development.

In the case of sketch subdivision and/or land development plans that call for development in phases or sections, a freehand map at an appropriate scale showing the successive phases will be required.

Article V. Preliminary Plan

§ 195-500. Purpose.

- A. The purpose of the preliminary subdivision and/or land development plan is to obtain formal approval before proceeding with the preparation of detailed final subdivision and/or land development plans.
- B. The preliminary subdivision and/or land development plan submitted shall reflect any changes that may have been recommended during a sketch subdivision and/or land development plan review. All information and procedures relating to the preliminary subdivision and/or land development plan shall comply with this chapter, except where modifications therefrom may be specifically recommended by DCPC and approved by the municipality, pursuant to the requirements of §§ **195-103** and **195-1105** of this chapter.

§ 195-501. General requirements.

- A. The preliminary subdivision and/or land development plan and all plans forming a part thereof required by this chapter shall be submitted as clear and legible black-line or blue-line paper prints in accordance with § **195-306D** of this chapter. The preliminary subdivision and/or land development plan shall reflect the following:
- (1) Conformance with § **195-303** of this chapter regarding preliminary subdivision and/or land development plan procedure.
 - (2) All preliminary subdivision and/or land development plans shall meet the requirements of § **195-502** of this chapter.
- B. The preliminary subdivision and/or land development plan checklist, which appears in Appendix C^[1] of this chapter, shall be completed and submitted as part of the preliminary subdivision and/or land development plan application packet.
- [1] *Editor's Note: Appendix C is included as an attachment to this chapter.*
- C. Upon submission of a preliminary subdivision and/or land development plan, the applicant shall authorize the municipality and DCPD to enter the tract for the purpose of site evaluation.

§ 195-502. Preliminary Plan Requirements.

- A. In addition to the requirements listed in § **195-402** of this chapter, the following shall apply:
- (1) The preliminary subdivision and/or land development plan shall be drawn at a scale of no less than one inch equals 50 feet unless the average size of the proposed lots of the subdivision is

in excess of five acres, in which case, a scale of not more than one inch equals 100 feet may be used.

- (2) If the preliminary subdivision and/or land development plan requires more than one sheet, each sheet shall be numbered and shall show its relationship to the total number of sheets.
- (3) The maximum sheet size is 30 inches by 42 inches; however, the Office of Recorder of Deeds of Delaware County prefers 24-inch-by-36-inch prints for recording purposes.
- (4) Location map based on a USGS quadrangle map with the tract outlined. In the case of development of a section of the entire tract, the location map shall show the relationship of the section to the entire tract.
- (5) Dates of the original and any revised subdivision and/or land development plans.
- (6) Name, complete mailing address, signature, and seal (as permitted by the professional registration laws of the Commonwealth of Pennsylvania) of the licensed engineer, architect, landscape architect, surveyor, or land planner responsible for preparing a development plan, and any other documents or submissions forming a part of the preliminary subdivision and/or land development plan application packet.
- (7) Tract boundaries, with dimensions, bearings, and distances and the source of boundary information.
- (8) When the preliminary subdivision and/or land development plan includes only a portion of an applicant's entire tract or such portion is contiguous to another tract of the applicant, the dimensions and metes and bounds of the balance of such entire tract or other tract shall also be shown.
- (9) Names and complete mailing address of abutting owners with tax parcel numbers.
- (10) Zoning on and adjacent to the tract, including notes regarding the relevant area and bulk regulations for each zoning district that pertains to the tract, with an indication of conformance to the same, such as the percent of any lot area covered by impervious surfaces and the percent of any lot covered by buildings. Include any variances, special exceptions, conditional uses, or modifications requested and/or required.
- (11) Floodway, flood-fringe, and the one-percent annual chance flood shall be accurately and conspicuously delineated. Benchmarks shall be used to determine flood elevations.
- (12) The use proposed in the municipal comprehensive plan that pertains to the tract.
- (13) Existing contours at vertical intervals of two feet based on contour information derived from an actual topographic survey for the tract, due evidence of which may be required by the municipality and/or DCPC, including the date and source of the contours. For tracts that are relatively flat with grades of less than 2%, contours shall be shown at one-foot intervals or through the use of spot elevations. Slopes shall be accurately depicted and identified as follows:
 - (a) Very steep slopes and steep slopes shall be shown for all portions of the tract based on two-foot contours.
 - (b) The preliminary subdivision and/or land development plan shall also include a legend that clearly differentiates between such steep and very steep slopes specified in **§ 195-816A(7)** of this chapter.
- (14) Datum to which contour elevations refer and reference to known, established benchmarks and elevations.

- (15) All existing surface water resources, such as watercourses, wetlands, ponds, lakes, springs, drainage swales, and other natural drainage features.
 - (16) Existing tree masses, hedgerows, and freestanding trees 12 inches in caliper or greater, indicating which are to be removed and which are to remain. The edge of woodlands to remain shall be shown as a scalloped line. In addition, the types of vegetation associations that exist on the tract shall be noted in terms of their species, type, and sizes.
 - (17) Natural resources as identified in the Pennsylvania Natural Heritage Program's Pennsylvania Natural Diversity Inventory (PNDI) and the Delaware County Natural Areas Inventory.
 - (18) Soil types as identified in the United States Department of Agriculture's Soil Survey of Chester and Delaware Counties, including a table listing the soil characteristics pertaining to slope, depth to seasonal high-water table, depth to bedrock, flood hazard potential, and limitations for septic tank filter fields.
 - (19) Location of existing man-made features such as buildings and their uses, driveways, wells, sewer lines, septic tanks and other on-lot sewage disposal systems, storm drains, culverts, bridges, utility easements, utility poles, water lines and mains, fire hydrants, railroads, and other significant man-made features within the tract.
 - (20) All existing streets by type on or adjacent to the tract, including the name, state route numbers if applicable, rights-of-way widths, and cartway widths.
 - (21) All existing property lines, easements, and rights-of-way, dimensions, bearings, and distances for same, and the purpose for which such easements or rights-of-way have been established.
 - (22) Proposed lot lines with dimensions, lot numbers in consecutive numerical order, proposed minimum setback areas, and the proposed buildable area (using a dashed line to reflect the minimum yard and setback requirements). Where a buildable area is shown on a preliminary subdivision and/or land development plan as extending into the floodway, flood-fringe, and the one-percent annual chance flood or any other area that may involve a conditional use or special exception, those portions of the buildable area extending into any such areas shall be delineated, depicted, and otherwise noted on all preliminary subdivision and/or land development plans in an accurate and conspicuous manner to disclose the specific uses that may occur in such areas.
 - (23) Proposed location and method of water supply on each lot.
 - (24) Proposed location and method of sanitary sewage disposal on each lot.
- B. In the case of a land development, the following additional requirements shall apply:
- (1) Location, alignment, and width of all proposed streets, driveways, rights-of-way, and easements, the identification of street names (as provided in § **195-803** of this chapter), and the purpose for which private rights-of-way or other easements are proposed.
 - (2) Location, alignment, and width of the proposed pedestrian circulation system.
 - (3) Building locations and motor vehicle and bicycle parking areas together with an appropriate indication of size (e.g., the number of prospective dwelling units shall be indicated for multiple dwelling buildings), preliminary provisions for traffic control, loading areas and docks, signage, curbing, and other proposed structures.
 - (4) A preliminary landscaping plan depicting proposed street trees, buffer area plantings, and other plantings as required by Article **VIII** of this chapter. For major subdivisions, this landscaping plan is to be prepared, signed, and sealed (as permitted by the professional registration laws of the Commonwealth of Pennsylvania) by a landscape architect.

- (5) A preliminary lighting plan depicting proposed light standards, locations, height, cut-off angle, and illumination value in accordance with all applicable municipal codes and ordinances.
 - (6) A schematic diagram of the proposed method for stormwater management.
 - (7) If on-lot water is to be utilized, then include the proposed method of water supply for each lot and a schematic layout of water lines.
 - (8) If on-lot sanitary sewers are to be utilized, then include the proposed method of sanitary sewage disposal for each lot and a schematic layout of sewer lines and capped sewers, when applicable.
 - (9) The location and description of all off-tract improvements.
- C. The preliminary subdivision and/or land development plan shall also be accompanied by the following:
- (1) A copy of the deed for the subject tract along with any covenants and/or restrictions.
 - (2) A statement on the preliminary subdivision and/or land development plan of the types of buildings, other structures, and/or dwelling units proposed to be constructed, indicating whether the same will be of uniform construction or different in design and whether same will be custom or production styled. The statement is to be accompanied by an elevation drawing of the proposed buildings and/or dwelling units.
 - (3) A preliminary traffic impact study, if required by the municipality, as set forth in § **195-503** of this chapter.
 - (4) A preliminary phasing schedule, if applicable, for the proposed sequence of the subdivision and/or land development. The phasing schedule shall indicate the order in which construction activities will occur.
 - (5) A planning module for land development as required by Act 537 of 1967, known as the Pennsylvania Sewage Facilities Act^[1] unless granted an exemption or not required.
[1] *Editor's Note: See 35 P.S. § 750.1 et seq.*
 - (6) Water supply.
 - (a) A written statement indicating the method of water supply.
 - (b) Whenever on-lot systems are proposed, a feasibility report shall reflect the following:
 - [1] There shall be an objective description of the ability of achieving a reliable, safe, and adequate water supply for an individual or community well, whenever such well is proposed, within the capacity of available resources. The description shall reference geologic and hydrogeologic data relative to groundwater conditions and potential yields.
 - [2] In addition to such information regarding water supply, the description shall indicate the demand for water from the proposed subdivision and/or land development and its related uses and users.
 - (c) When water is to be provided by means other than by private wells owned and maintained by the individual owners of lots within the subdivision and/or land development, applicants shall present evidence that the subdivision and/or land development is to be supplied by a certificated 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 evidence.
(NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 503.1).

- (7) Sanitary sewage disposal.
- (a) A written statement indicating the method of sanitary sewage disposal.
 - (b) Whenever on-lot systems are proposed, a feasibility report shall reflect the following:
 - [1] There shall be an objective description of the ability of achieving a successful system for the disposal of sewage. The description shall reference soils data relative to limitations for septic tank, filter fields, or other systems and shall indicate various indices of suitability for such a system, such as permeability and depth to seasonal high water table. In addition, percolation test results shall be discussed and exhibited.
 - (c) When connection to public sewage facilities is proposed, assurance of the availability of such service. An officer of the company or authority concerned shall in the form of a letter sign this assurance, indicating the ability and willingness to make such service available.
- (8) A drainage plan shall be filed in conformance with local codes, the stormwater management ordinance,^[2] the Pennsylvania Stormwater Best Management Practices Manual (latest revision) and the respective Act 167^[3] watershed plan and shall include at a minimum, tract boundaries, existing and proposed contours, existing natural features, and proposed subdivision and/or land development layout. The drainage plan shall also include all proposed buildings, driveways, parking areas, lot layouts, and profiles of all proposed sewers, including elevation, sizes, slopes, and materials, at a scale of one inch equals 50 feet horizontal and one inch equals five feet vertical.
- [2] *Editor's Note: See Ch. 187, Stormwater Management.*
- [3] *Editor's Note: See 32 P.S. § 680.1 et seq.*
- (9) Whenever improvements are to be constructed or installed, a preliminary improvements construction plan in accordance with § 195-505 of this chapter.
- (10) A draft of any proposed covenants or restrictions upon or against the property, subject to the approval of the municipality.
- (11) When the proposed tract involves a gas pipeline, petroleum products transmission line, electric power transmission line, or any other pipeline or cable located thereon, a letter from the owner or authorized agent of such a facility indicating minimum setback distance requirements or a true and correct copy of the easement or grant of record shall be filed.
- (12) When the preliminary subdivision and/or land development plan includes only a portion of the entire or contiguous tract owned by the applicant, a conceptual plan that shows the prospective future street system and other improvements of the remaining land shall be submitted when required by the municipality.
- (13) A list of all permits, agreements, approvals, clearances, and the like required to be obtained in connection with the proposed subdivision and/or land development and the federal, state, county, or other agencies, authorities, and companies from which the same are to be obtained.
- (14) A draft of all other plans, documents, and submissions which by terms of any municipal ordinance, code, or regulation may be required by the municipality for final subdivision and/or land development plan approval shall be required in preliminary form and shall accompany and form a part of any preliminary subdivision and/or land development plan when the application packet for approval thereof is filed.

- (15) If the applicant is not the landowner, a notarized statement (i.e., agreement of sale) signed by the landowner, indicating that the applicant has the approval of the owner to submit the subdivision and/or land development application packet.
- (16) Certification as to the accuracy of the preliminary subdivision and/or land development plan and details of such plans shall be prepared in accordance with Act 367 of 1945, known as the "Engineer, Land Surveyor, and Geologist Registration Law," P.L. 913, No. 367, 63 P.S. § 148 et seq., as amended.
- (17) If the subject tract abuts a street under the jurisdiction of the state, a note shall be added to the preliminary subdivision and/or land development plan that indicates that a highway occupancy permit is required before a driveway or street can access a state highway.

§ 195-503. Traffic impact study.

- A. A traffic impact study shall be required for proposed subdivisions and/or land developments that meet one or more of the criteria identified in Table 5-1.
- B. A licensed engineer shall prepare the traffic impact study.
- C. The applicant shall consult with the municipality to determine the extent of the traffic impact study area.

Table 5-1

Type of Developments Requiring a Traffic Impact Study

Type of Development	Threshold Criteria
PennDOT Highway Occupancy Permit (HOP) required	3,000 or more Average Daily Trips (ADT's) (NOTE: The anticipated number of peak hour trips, trips per day, and classification of proposed land use shall be determined using the current edition of ITE's Trip Generation Manual, most recent edition, as amended. Threshold criteria are PennDOT's.) generated 1,500 or more day 100 or more vehicles entering or exiting the development within a one hour period
No HOP required	500 or more Average Daily Trips 50 or more Average Daily Trips during site's peak hours

- D. A traffic impact study shall include the following information:
 - (1) A tract description that includes the size, location, proposed land uses, construction phasing, and completion date. A brief description of major existing and proposed subdivision and/or land developments within 1/2 mile of the tract or as directed by the municipality.
 - (a) If the proposal is residential, then the types of dwelling units, number of bedrooms, and probable socioeconomic characteristics of the residents (pertinent to transportation needs) shall also be included.
 - (2) A traffic facilities description that includes:
 - (a) A full documentation of the proposed and existing internal street network. This full description shall include proposed vehicular and nonvehicular circulation, proposed ingress and egress locations, street widths and rights-of-way, parking areas, traffic

channelizations, traffic calming devices, and traffic control devices within the tract. The proposed street design shall accommodate public transportation usage, including bus turnarounds, bus shelters, and bus route sign locations, when appropriate and done in accordance with transit agency specifications. (NOTE: SEPTA has provided SEPTA Bus Stop Design Guidelines with local specifications)

- (b) A full documentation of the external street network within the study area. This full description shall include diagrams of major intersections, existing and proposed public transportation facilities, and bicycle and pedestrian spaces facilities. If available, future street improvements from proposed surrounding subdivisions and/or land developments shall be noted and included in the calculations.
- (3) An existing traffic conditions report shall be measured and documented for all arterial and collector streets and major intersections in the study area. This report shall include:
- (a) Existing average daily traffic volumes and peak traffic counts by hour shall be recorded.
 - (b) Complete traffic counts at major intersections encompassing the peak traffic and peak development-generated hours shall be documented.
 - (c) Intersection turning movements shall be documented.
 - (d) A volume/capacity analysis based upon existing volumes shall be performed during the peak hours and the peak development-generated hours. Levels of service shall be determined for each street and major intersection.
 - (e) A traffic safety analysis based on accident records for the past two years, sight distances, and potential conflict points shall be performed.
 - (f) Detailed traffic counts on local streets or access roads are not required, unless the municipality deems it necessary.
- (4) The anticipated traffic impact of the subdivision and/or land development shall be evaluated.
- (a) An estimation of vehicular trips to result from the proposal shall be computed for both the existing street system and the development-generated peak hours. Vehicle trip generation rates to be used for this calculation shall be obtained from the most recent edition of the Trip Generation Manual, published by the Institute of Transportation Engineers. These development-generated traffic volumes shall be provided for the inbound and outbound traffic movements as estimated, and the reference sources(s) and methodology followed shall be documented. These generated volumes shall be distributed to the study area and assigned to the existing streets and intersections throughout the study area. Documentation of all assumptions used in the distribution and assignment phase shall be provided. Traffic volumes shall be assigned to all access points.
 - (b) All turning movements shall be calculated.
 - (c) Pedestrian and bicycle volumes shall be calculated.
 - (d) Public transportation ridership shall be calculated.
 - (e) Any characteristic of the tract that will cause particular trip generation problems shall be noted.
- (5) The total future traffic demand based upon full occupancy of the proposed subdivision and/or land development shall be calculated.

- (a) This demand shall consist of the combination of the existing traffic expanded to the completion year (straight line projections based on historical data), the development-generated traffic, and the traffic generated by other proposed subdivisions and/or land developments in the study area. If phasing of the proposed subdivision and/or land development is anticipated, then calculations for each phase of completion are required. Public transportation, bicycle, and pedestrian trips will be taken into account.
 - (b) This analysis shall be performed using the peak traffic hours and peak development-generated hours for arterial and collector streets and their major intersections.
 - (c) Volume/capacity calculations shall be completed for all major intersections.
 - (d) All access points shall be examined for the necessity of installing traffic control devices. This evaluation shall compare the projected traffic to PennDOT's warrants for the traffic control device installation.
- (6) Levels of service for arterial and collector streets and their intersections shall be listed.
- (a) Arterial and collector streets and their intersections with a level of service below C shall be considered deficient, and specific recommendations for the elimination of these problems shall be listed. This listing of recommended improvements may include, but not be limited to, internal circulation design, tract access location and design, external street and intersection design and improvements, traffic signal installation and operation, public transportation service, and pedestrian and bicycle facility design.
- (7) The traffic impact study shall make recommendations for street improvements bordering the tract that will accommodate the traffic generated by the subdivision and/or land development. Cost estimates for said improvements shall also be provided.
- (8) Should the traffic impact study identify off-tract transportation improvements, the applicant shall make financial contributions in accordance with the municipal Act 209 study (Municipalities Planning Code, Article V-A). In the event that an Act 209 study is not applicable, then the applicant and municipality shall discuss the degree to which the applicant may contribute to any off-tract street improvements that will benefit the subdivision and/or land development.
- (9) The municipality may combine contributions for traffic impact studies from more than one applicant to accomplish one major coordinated traffic study.

§ 195-504. Improvements construction plan and profile(s) plan.

- A. Whenever improvements are proposed such as a new street or the upgrading of an existing street, the improvements construction plan shall accompany and become a part of the preliminary and final subdivision and/or land development plans. The improvements construction plan shall be drawn at a ten-to-one ratio of horizontal to vertical scale, whereby the horizontal scale shall be at least 50 feet to the inch and the vertical scale shall be five feet. However, the horizontal scale may be 40 feet to the inch with a vertical scale of four feet to the inch; or, 20 feet to the inch and two feet, respectively, when directed by the municipality. The improvements construction plan shall be prepared by a licensed engineer and shall show thereon or be accompanied by the following:
- (1) On all plans, profiles, and other sheets which depict the information required in this section, the following shall be provided:
 - (a) Proposed subdivision and/or land development name or identifying title.
 - (b) North arrow, scale, and date.

- (c) Name of the landowner, developer, and the authorized agent, if any.
 - (d) Name of the licensed engineer responsible for having prepared the plan(s), profile(s), cross-section(s), documents, and/or other submissions forming the improvements construction plan.
- (2) The horizontal plan shall show details of the horizontal layout of streets, including:
- (a) Centerline with bearings, distances, curve data, and stations corresponding to the profile.
 - (b) Right-of-way and curb lines with radii at intersections.
 - (c) Tie-ins by bearings and distances to intersections of all public streets, with the names and widths thereof.
 - (d) Location of all proposed monuments with references thereto.
 - (e) Property lines and ownership of abutting properties.
 - (f) Proposed lot lines, storm and sanitary sewers, water and other utility lines, and fire hydrants.
 - (g) Location and size of all drainage structures, public utilities, the pedestrian circulation system, lighting standards, street name signs, and other improvements.
- (3) The profile shall be a vertical section of streets, with details of vertical alignment, including:
- (a) Profiles and elevations at 50-foot stations along the centerline of the existing ground surface and along both right-of-way lines, if available.
 - (b) Profiles and percentage of grade along the proposed centerline and elevations at 50-foot intervals.
 - (c) The length of vertical curves and elevations at 25-foot intervals.
 - (d) Profile of any storm or sanitary sewer location under any proposed street, showing the length, size, grades, material, inverts, and rim elevations of manholes and outlets.
- (4) The cross-section of streets prepared in accordance with the design standards and requirements in Article **VIII** of this chapter, including:
- (a) Right-of-way width and location and width of paving within the right-of-way.
 - (b) Type, thickness, and crown of paving.
 - (c) Type and size of curb, with detail of curb.
 - (d) Grading of the pedestrian circulation system.
 - (e) Location, width, type, and thickness of the improved pedestrian circulation system.

§ 195-505. Phased development.

- A. In the case of subdivision and/or land development plans to be developed in phases or sections over a period of time, a map delineating each phase or section of the proposed subdivision and/or land development consecutively numbered so as to illustrate phasing of development and a schedule indicating the approximate time for which application for final approval of each phase or section are intended to be filed.

Article VI. Final Plan

§ 195-600. Purpose.

The purpose of the final subdivision and/or land development plan is to allow formal review and approval by the municipality before final subdivision and/or land development plans are recorded as required by § **195-306** of this chapter.

§ 195-601. General requirements.

- A. The final subdivision and/or land development plan and all plans forming a part thereof required by this chapter shall be submitted on clear and legible black-line or blue-line paper prints. If two or more sheets are required, a key map shall be shown on each sheet, and an overall index of sheets shall be submitted. The final subdivision and/or land development plan scale and size shall be the same as that described in § **195-306D** of this chapter. The final subdivision and/or land development plan shall reflect the following:
- (1) Conformance with § **195-306** of this chapter.
 - (2) Requirements of §§ **195-304** and **195-602** of this chapter.
- B. The final subdivision and/or land development plan checklist that appears in Appendix D^[1] of this chapter shall be completed and submitted as part of the final subdivision and/or land development plan application packet.
- [1] *Editor's Note: Appendix D is included as an attachment to this chapter.*
- C. Upon submission of a final subdivision and/or land development plan, the applicant shall authorize the municipality and DCPD to enter the tract for the purpose of site evaluation.

§ 195-602. Final plan requirements.

- A. In addition to all of the requirements set forth in Article **V** of this chapter, the final subdivision and/or land development plan shall contain the following:
- (1) All dimensions shall be shown with accurate distances to hundredths of a foot and bearings to 15 seconds.
 - (2) Tract boundaries and individual lot boundaries with dimensions, bearings, and distances, closing with an error of not more than one foot in 10,000 feet.
 - (3) Total gross acreage and net acreage of the tract and total net acreage of the individual lots proposed therein to the hundredths of a foot.
 - (4) Number of lots, dwelling units, buildings, and other structures proposed.
 - (5) Lots numbered in a logical sequence including street addresses for use by Delaware County's 911 system.
 - (6) Location of existing and proposed permanent reference monuments and markers and a note indicating the materials and size of the same, as required by § **195-802** of this chapter.
 - (7) Pedestrian circulation system, including all sidewalks, walkways, pedestrian rights-of-way, and other improvements to be used for general public use.

- (8) A final landscaping plan indicating precise types, quantities, and sizes of proposed trees, shrubs, ground covers, and other landscaping elements, in accordance with Article **VIII** of this chapter. For major subdivisions, this landscaping plan is to be prepared, signed, and sealed (as permitted by the professional registration laws of the Commonwealth of Pennsylvania) by a landscape architect.
- (9) A final lighting plan indicating the precise location and height of light standards, their cut-off angle, and illumination value in accordance with all applicable municipal codes and ordinances.
- (10) Signature blocks used for signing the final subdivision and/or land development plan in accordance with § **195-306D(2)** of this chapter.
- (11) The location of percolation test pits, whenever on-site sewage disposal is proposed, and the location of the proposed on-site sewage systems.
- (12) The location of test pits where stormwater is to be disposed and a listing of absorption rates, whenever seepage pits are proposed.
- (13) The location of the proposed well(s) for on-lot water supply.
- (14) The following shall also be noted on the final subdivision and/or land development plan:
 - (a) The seal of the licensed engineer responsible for having prepared the plans forming a part of the final subdivision and/or land development plan.
 - (b) A statement indicating the intent to make an offer of dedication of the streets and other improvements.
 - (c) A statement indicating who is responsible for the maintenance of the tract improvements.
- (15) In addition to all materials required in Article **V** and under this section, the following shall be submitted:
 - (a) A final traffic impact study, as set forth in § **195-503** of this chapter.
 - (b) A final phasing schedule, if applicable, for the proposed sequence of the subdivision and/or land development. The phasing schedule shall indicate the order in which construction activities will occur. Phases shall be shown on the drainage plan required under § **195-502** of this chapter and all other applicable municipal codes and ordinances.
 - (c) A final stormwater management site plan reflecting, in final form, the information required by § **195-603** of this chapter and all other applicable municipal codes and ordinances.
 - (d) Whenever improvements are to be constructed or installed, a final improvements construction plan and a final profile(s) plan, reflecting in final form the information required under § **195-505** of this chapter.
 - (e) Final documents for any proposed covenants or restrictions upon the property, subject to the approval of the municipality and the final legal descriptions for all lots.
 - (f) An approved planning module or PADEP Letter of Exemption for land development as required by the Pennsylvania Sewage Facilities Act, Act 537 of 1967,^[1] if available.
[1] *Editor's Note: See 35 P.S. § 750.1 et seq.*
 - (g) A licensed engineer's and/or sewage enforcement officer's report describing percolation test results and the ability to create a successful system for on-lot or community sewage disposal whenever such a system is proposed.

- (h) A licensed engineer's report evidencing the ability to create a successful system for on-lot water supply whenever such a system is proposed.
 - (i) All other plans, documents, and submissions which were filed in preliminary form as required in § 195-502 of this chapter shall be filed in final form to accompany and form part of any final subdivision and/or land development plan application packet.
- (16) The following additional information requirements shall apply only to final land development plans:
- (a) The locations and heights of all structures, including freestanding signs, and distances between buildings and between buildings and streets or property lines.
 - (b) Number of dwelling units by type by number of bedrooms and the location and square footage of floor space to be devoted to nonresidential use, together with use specifications.
 - (c) The location, square footage, and number of vehicular parking spaces in all parking areas, and specifications of type and size of other parking facilities.
 - (d) Locations and widths of all private driveways and any controls proposed at their intersections with streets carrying vehicular traffic.
 - (e) The exact locations and sizes of all public or common open space areas, recreational areas and facilities, and the ownership and proposed maintenance, offers of dedication, or covenants governing their use.

§ 195-603. Stormwater management site plan.

- A. The drainage plan shall be filed in accordance with §§ 195-502 and 195-602 of this chapter.

§ 195-604. Improvements construction plan and profile(s) plan.

- A. All illustrations and notes required under § 195-505 of this chapter.
- B. A horizontal plan of storm drains and sanitary sewers, which may be shown on a separate drainage plan, including:
- (1) The location and size of the line with stations corresponding to the profile.
 - (2) Locations of manholes or inlets with the grade between and elevation of the flow line and the top of each manhole or inlet.
 - (3) Property lines and properties of abutting owners, with details of easements.
 - (4) The beginning and end of the proposed construction.
 - (5) Locations of laterals.
 - (6) Locations of all other drainage facilities and utilities in the vicinity of storm and/or sanitary sewer lines.
 - (7) Hydraulic design data for culverts and/or bridge structures and details of the proposed handling of surface and/or subsurface drainage problems.

- C. Profiles of storm drains and sanitary sewers, which may be shown on a separate drainage plan, including:
- (1) Profile of existing and proposed ground surface with elevations at the top of manholes or inlets.
 - (2) Profile of storm drains or sewers showing the type and size of pipe, grade, cradle (if any), manhole or inlet locations with the length and slope of the pipe between structures shown, and elevations at the flow line.
- D. Plans and details of bridges, street trees, retaining walls, stormwater management structures, erosion and sedimentation control structures, and all other proposed improvements containing sufficient information which would customarily be included in working drawings and specifications for the proposed construction and which would enable the municipality to perform an effective evaluation of the proposed improvements and with specific detail which would allow the contractor to build the same.

§ 195-605. Subdivision and land development agreement.

A subdivision and land development agreement (Appendix A^[1] of this chapter) shall be executed in accordance with § 195-305 of this chapter.

[1] *Editor's Note: Appendix A is included as an attachment to this chapter.*

§ 195-606. Recording the final plan.

- A. The recording of an approved final subdivision and/or land development plan shall be as described in § 195-306 of this chapter.
- B. No final subdivision and/or land development plan shall be signed and recorded until all required county, state, and federal permits and/or approvals are obtained. In no case shall building permits be approved until evidence of such approvals and/or permits are submitted to the municipality.

§ 195-607. Amendments to an approved plan.

Proposals for amendments to an approved final subdivision and/or land development plan shall be acted upon in the same manner as prescribed for the originally approved final subdivision and/or land development plan.

Article VII. Minor Subdivision and/or Land Development

§ 195-700. Purpose.

The purpose of this Article is to establish a streamlined set of requirements for minor subdivisions and/or land developments that meet the conditions of eligibility set forth in § 195-301 of this chapter.

§ 195-701. General requirements.

- A. The minor subdivision and/or land development plan and all plans forming a part thereof required by this chapter shall be submitted on clear and legible black-line or blue-line paper prints. If two or more sheets are required, a key map shall be shown on each sheet, and an overall index of sheets shall be submitted.

- B. The minor subdivision and/or land development plan checklist that appears in Appendix E^[1] of this chapter shall be completed and submitted as part of the minor subdivision and/or land development plan application packet.

[1] *Editor's Note: Appendix E is included as an attachment to this chapter.*

§ 195-702. Minor plan requirements.

- A. The procedures of § 195-304 of this chapter and the following shall apply to preliminary and final minor subdivision and/or land development plans:

- (1) Location map based on a USGS quadrangle map with the tract outlined.
- (2) The maximum sheet size is 30 inches by 42 inches; however, the Office of Recorder of Deeds of Delaware County prefers 24-inch-by-36-inch prints for recording purposes.
- (3) Legibly drawn at a scale of one inch equals 50 feet.
- (4) Metes and bounds in degrees, minutes, and seconds and in feet and decimal parts thereof.
- (5) The boundary line of the subdivision shown as a heavy line.
- (6) Name of the minor subdivision and/or land development.
- (7) Names and complete addresses of the owner of record and applicant.
- (8) Name, complete address, and seal of the surveyor who prepared the plan.
- (9) Applicable zoning district, including overlay districts, lot area and yard requirements, and the percentage of the lot(s) allowed to be covered by impervious surfaces and buildings.
- (10) The use(s) proposed in the municipal comprehensive plan that pertains to the tract.
- (11) North arrow and date of the plan or drawing, including revision dates.
- (12) Written and graphic scales.
- (13) Gross and net acreage of lots.
- (14) Contiguous boundaries of all adjoining properties and the names of owners and tax parcel numbers of such properties.
- (15) Existing streets on or adjacent to the tract with existing and future rights-of-way, names, and cartway widths.
- (16) Buildings (and their uses), driveways, wells, sewer lines, water mains, fire hydrants, utility poles, septic tanks, storm drains, culverts, bridges, utility easements, and other significant man-made features within the lot which is being subdivided.
- (17) Significant historic structures, buildings, ruins, sites, and objects within the tract, including those identified as a National Historic Landmark, a National Register of Historic Places (or eligible) property or district, and those found on a Delaware County historic and archaeological resources map/survey, or any other County or local inventory/survey or district.
- (18) Historic structures proposed to be adaptively reused, significantly altered, and/or demolished.
- (19) Existing contours at two-foot intervals, including the date and source of the contours. For tracts that are relatively flat with grades less than 2%, contours shall be shown at one-foot

intervals or through the use of spot elevations.

- (20) Existing natural features, including streams, ponds, springs, wetlands, soil types and description, and tree masses and notable trees, indicating which are to be removed and which are to remain.
- (21) Proposed lot boundaries, lot layout, and building setback lines.
- (22) Proposed driveway location(s).
- (23) Any areas within the floodway, flood-fringe, and the one-percent annual chance flood.
- (24) A grading plan indicating proposed contour and final grades at two-foot intervals and all proposed improvements. For tracts that are relatively flat with grades of less than 2%, contours shall be shown at one-foot intervals or through the use of spot elevations.
- (25) A stormwater management site plan as required by § **195-603** of this chapter and all other applicable municipal codes and ordinances.
- (26) Tract and lot boundaries with dimensions, metes, and bounds, closing with an error of not more than one foot in 10,000 feet.
- (27) Location of permanent reference monuments and corner markers.
- (28) Locations of percolation test pits and the proposed on-lot sewage disposal system.
- (29) An approved planning module for subdivision and/or land development as required by the Pennsylvania Sewage Facilities Act, Act 537 of 1967,^[1] if available.
[1] *Editor's Note: See 35 P.S. § 750.1 et seq.*
- (30) Locations of proposed wells for on-site water supply.
- (31) A graphic depiction and a list of all easements shall be shown and, if appearing on record, the book and page numbers.
- (32) Such private deed restrictions, including building setback lines, as may be imposed upon the property as a condition of sale, together with a statement of any restrictions previously imposed which may affect the title to the land being subdivided. The plans must clearly differentiate between existing and proposed deed restrictions. If there are no deed restrictions, a note to that effect must be placed on the plan.
- (33) A written subdivision and/or land development agreement, pursuant to § **195-305** of this chapter.
- (34) Copies of the proposed legal description for each lot, based on net acreage.
- (35) If the proposed tract(s) abuts on a street under the jurisdiction of the state, a note shall be added to the final minor subdivision and/or land development plan to indicate that a highway occupancy permit is required before a driveway or street can access a state highway.
- (36) A list of all permits, agreements, approvals, clearances, and the like required to be obtained in connection with the minor subdivision and/or land development and the federal state, county, or other agencies, authorities and companies from which the same are to be obtained.
- (37) Certification as to the accuracy of the minor subdivision and/or land development plan and details of such plans shall be prepared in accordance with Act 367 of 1945, known as the "Engineer, Land Surveyor, and Geologist Registration Law," P.L. 913, No. 367, 63 P.S. Section 148 et seq., as amended.

§ 195-703. Recording final plan.

The recording of an approved final minor subdivision and/or land development plan shall be as described in § **195-306** of this chapter.

Article VIII. General Design Standards

§ 195-800. Purpose.

The municipality and DCPC will utilize the design standards and requirements set forth in this Article in determining the adequacy of all proposed subdivision and/or land development plans.

§ 195-801. General standards.

- A. All subdivision and/or land development plans to be approved by the municipality must comply with the standards contained within this article. Such standards shall be considered minimum requirements for the promotion of the public health, safety, and general welfare.
- B. Whenever provisions of this article conflict with the provisions of other ordinances and regulations, the most restrictive provisions shall apply.
- C. These standards shall not be construed to be complete specifications for construction. Detailed and complete specifications shall be the responsibility of the applicant.
- D. Where literal compliance with the standards hereinafter specified is not possible, the municipality may modify the standards to permit reasonable utilization of property and/or encourage and promote flexibility, economy, and ingenuity in the layout and design of subdivisions and/or land developments while securing substantial conformance with the objectives of these regulations, in accordance with § **195-1105** of this chapter.
- E. All development should be consistent with the land use patterns promoted in Delaware County 2035, the Delaware County Comprehensive Plan, and any subsequently adopted County comprehensive plans. Delaware County 2035 encourages efficient development density close to existing infrastructure and community resources to minimize the need for the development of new infrastructure. New subdivisions and land developments shall be interconnected with existing developments to the greatest extent possible and include multimodal transportation options to reduce vehicle dependency. The purpose of requiring interconnectivity and street connections is to achieve a street network that provides multiple routes to and from destinations. Such a network is key to supporting walking and bicycling as convenient, safe, and healthy forms of transportation.
- F. Tracts shall be developed only with uses permitted in conformance with the municipal comprehensive plan, zoning ordinance, official sewage facilities plan, and other municipal ordinances, codes, plans, maps, and regulations.
- G. Tracts shall be developed in conformance with all pertinent statutes, regulations, rules, and codes of federal, state, and county agencies concerned with subdivision, land development, construction, and improvements or any activity arising out of or related thereto in any way whatsoever.
- H. All subdivisions and land developments shall be designed to minimize environmental damage to the maximum extent possible, by carefully fitting the subdivision or development to the existing conditions and natural features of the site. The design of subdivisions and/or land developments shall preserve, insofar as possible, the existing historic features, natural terrain, natural drainage, topsoil, and trees of the tract, while taking into account energy conservation and solar access.

- I. The design of subdivisions and/or land developments shall take into consideration relevant features of all adjacent development. Further development on adjacent land should also be considered, insofar as possible, based on plans, sketches, or indications of intent available to the municipality at the time of plan application.
- J. Tracts subject to hazards to life, health, or property, such as may arise from fire, floods, disease, or other causes, shall not be developed for building purposes unless such hazards have been eliminated or unless the subdivision and/or land development plan shall show adequate safeguards as recommended by the municipality, DCPC, and/or PADEP.
- K. All portions of a tract subject to flooding as shown on the Federal Emergency Management Agency's Flood Insurance Rate Maps may not be considered for residential occupancy unless the tract is developed in accordance with all applicable local, County, state, and federal laws. If a portion of the tract is deemed by the municipality to be uninhabitable for residential occupancy or for such other use as may increase danger to health, life, or property or aggravate the flood hazard, such land shall be set aside for such uses that will not be affected by periodic or occasional inundation or conditions that produce unsatisfactory living conditions.
- L. Landlocked areas shall not be created.
- M. Proposed subdivisions and/or land developments shall be coordinated with existing nearby neighborhoods, with particular reference to street layout and the provision of sanitary sewage and water facilities, so that the community as a whole may develop harmoniously.
- N. The name of any subdivision and/or land development shall not be similar to or conflict with the name of any existing project in or adjacent to the municipality and shall be subject to the approval of both municipality and the fire company serving the municipality.
- O. All planning, design, construction, and maintenance of lots and uses and structures thereon shall be in accordance with recognized architectural, engineering, and related standards.
- P. Where possible, buildings shall be placed as close as practical to streets and sidewalks to improve the walkability and attractiveness of the street. Parking lots shall be placed behind and next to, rather than in front of, buildings. The placement of buildings and parking lots in this manner makes it easier for individuals who travel to the development to walk from surrounding residential neighborhoods, nearby employment sites, and public transit stops or stations, by making the walking distance shorter and reducing dangers from motor vehicles. Where this may not be possible, SEPTA should be consulted for inclusion of design standards to accommodate bus access.

§ 195-802. Monuments and markers.

- A. Monument locations must be shown on the final subdivision and/or land development plan to define the exact location of all street rights-of-way and to enable the reestablishment of all street right-of-way lines. Monuments shall be placed at the following locations:
 - (1) At each intersection.
 - (2) At changes in direction of street lines.
 - (3) At each end of every street line.
 - (4) At locations where topographical conditions obstruct sighting between two otherwise required monuments.
 - (5) At all areas of land, improvements, or public easement to be offered for dedication prior to acceptance thereof by the municipality or other entity to which the same are offered.

- (6) At all areas of common open space and community on-lot sewage disposal owned and maintained by a homeowners' association or similar organization.
 - (7) At other locations along the lines of streets as may be determined to be necessary by the municipality.
- B. Monument locations defining the perimeter of the tract shall be determined by the municipality.
- C. Markers shall be set at locations shown on the final subdivision and/or land development plan as follows:
- (1) At all points where lot lines intersect curves, either front or rear.
 - (2) At all angles in property lines of lots.
 - (3) At all other lot corners.
- D. Monuments and markers shall be placed so that the scored and marked point shall coincide exactly with the intersection of lines to be marked and shall be set so that the top of the monument or marker is level with the surface of the surrounding ground. Monuments and markers shall consist of the following:
- (1) Monuments that mark the tract's external boundaries shall be of concrete or granite, with a minimum dimension of six inches by six inches and 24 inches in length. Concrete monuments shall be permanently marked on top with an indented cross or drill hole 1/4 inch in diameter, which shall coincide exactly with the point of intersection of the lines being monumented.
 - (2) Markers for lot boundaries within the tract shall consist of iron pipes or steel bars a minimum of 24 inches in length and 5/8 inch in diameter.
- E. A licensed surveyor shall place all monuments and markers. The surveyor shall certify, in writing, that the monuments and markers were placed in accordance with the as-built plan. Such monuments and markers shall be clearly visible and placed before the issuance of any occupancy permit. Prior to the release of escrow funds, lots and streets must have all monuments and markers in place, and the same shall be noted on the as-built plan as having been set.

§ 195-803. Streets.

- A. General principles and criteria.
- (1) Proposed streets shall conform to all municipal, county, and state street and highway plans as prescribed by law.
 - (2) Residential streets shall be laid out in a manner that discourages excessive traffic and speeds. Traffic calming techniques are encouraged. However, the arrangement of streets shall provide for extension and continuation of existing or platted streets into and out of adjoining tracts.
 - (3) The proposed street pattern and layout shall be properly and logically related to existing streets and their functional classifications.
 - (4) The proposed street pattern should allow for a variety of different street types, generally in a rectilinear or grid pattern. An interconnected street pattern with short block lengths provides multiple routes, diffuses automobile traffic and shortens walking distances. In exceptional circumstances, such as when steep slopes are present, the grid street pattern need not be adhered to, and curvilinear streets may be used.

- (5) The proposed street pattern and layout shall be properly and logically related to the topography of the land with regard to grades and conditions of drainage. Grades of streets shall conform as closely as possible to the existing grade so as to produce usable lots and minimize cuts and fills.
- (6) The proposed street pattern shall be designed to enhance views from the street.
- (7) The proposed street pattern and layout shall permit safe and convenient circulation of vehicular and pedestrian traffic.
- (8) The proposed street pattern and layout shall provide suitable access for emergency vehicles.
- (9) The proposed street pattern and layout shall provide suitable access for public transit vehicles where routes exist or are planned.
- (10) All streets shall be platted to the boundary lines of the tract when the subdivision and/or land development adjoins tracts that may be developed in the future, and the same shall be provided with easements and/or rights-of-way for turnarounds and, if required by the municipality, improved to the property boundary, including improved turnaround areas.
- (11) Whenever a street with a single point of ingress and egress is proposed, the municipality may require that a right-of-way be shown on subdivision and/or land development plans to allow for a future connection to streets on an adjoining tract.
- (12) Dead-end streets are prohibited unless designed as cul-de-sac streets or designed for future access to adjoining tracts.
- (13) All residential development with 30 or more units shall provide two points of access, when required by the municipality. The second point of access, when provided for emergency purposes only, shall be provided on an undeveloped lot. Exceptions to this standard may be permitted when main entrances to developments are designed with one-way ingress and egress points.
- (14) The right-of-way of a street shall be shown on subdivision and/or land development plans. The municipality may also prescribe additional right-of-way requirements in accordance with § **195-803B** of this chapter.
- (15) Every lot shall have access to a public street unless the municipality approves otherwise, pursuant to and in accordance with the requirements of § **195-1105** of this chapter.
- (16) If lots resulting from subdivision are large enough to permit further subdivision or if a portion of the tract is not subdivided, a notification requiring adequate street rights-of-way to permit further subdivision and whether such is available shall be placed on the subdivision and/or land development plan.
- (17) Where streets continue into adjoining municipalities, compatibility of design, particularly with regard to cartway widths, shall be employed to avoid abrupt changes in the cartway width or to other improvements within the right-of-way.
- (18) The municipality may require the use of double frontage lots whenever a subdivision and/or land development abuts an arterial or collector street. Access to such double frontage lots shall be from the local street.
- (19) Streets shall be designed so as to avoid edge deterioration through the use of curbs, as required in § **195-804** of this chapter.
- (20) In the event that any part of a tract abuts a street that is not fully improved to the design standards that correspond to the street classification, said street shall be improved to meet

the applicable design standard for the street in question, especially in terms of cartway and right-of-way widths, unless approved otherwise by the municipality.

- (21) Where a subdivision and/or land development abuts a railroad, streets crossing the railroad shall be kept to a minimum and placed to facilitate grade separation.
- (22) Streets shall be designed for maximum safety for fire trucks and other emergency vehicles and shall be approved by the municipality upon the recommendation of the fire marshal.
- (23) Any person who proposes access to a state highway is required to obtain a highway occupancy permit from PennDOT. Prior to the issuance of a permit, the municipality shall review the application and forward its comments to PennDOT.
- (24) No dwelling or other principal permitted building that depends upon the improvement of any street for ingress and egress shall be permitted to be occupied until all improvements are fully completed from an existing street to and across the front of the lot on which the building is located and/or to a sufficient depth along the side of the lot to service any driveways and parking spaces as required by this Article.
- (25) No street shall be paved between November 1 and March 15 without written permission of the municipality.
- (26) Adequate drainage shall be provided for low points along streets and where required to intercept runoff.
- (27) When required by the municipality, street lighting shall be in accordance with a plan approved by the municipality and shall be installed prior to final release of escrow. The applicant shall also coordinate lighting improvements with the electric company.
- (28) The determination of which proposed streets are to be considered collector streets and which are to be considered local streets shall be made by the municipality in accordance with the definitions of Article II of this chapter and the traffic capacities for such streets.
- (29) All streets shall be designed as complete streets, as defined in Article II, where feasible.

B. Street right-of-way and cartway widths.

- (1) Streets shall be designed as identified in Table 8-1 and laid out to preserve the integrity of their design. Streets shall be classified by function, as follows:

**Table 8-1
Minimum Right-of-Way and Cartway Widths by Street Classification**

Street Classification	Right-of-Way Minimum (feet)	Cartway Minimum (feet)	Recommended Minimums (feet)		
			Travel Lane	Parking Lane	Paved Shoulder [^]
Arterial	80	**	11-12	10-12	8-10
Collector	60	48	10-12	7-11	6-10
Local	50	36	9-11	7-8	—
Access Road	*	24	9-10	7-8	—

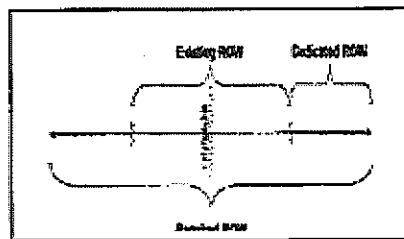
NOTES:

* Adequate width to provide utilities, drainage facilities, landscaping, grading, travel and

parking lanes, curb, and pedestrian spaces.

- ^ The paved shoulder for arterial and collector roads should have 5 to 6 feet of width reserved for a bicycle lane. Also, see § 195-807.
- ** As recommended by PennDOT.

- (2) Additional right-of-way and cartway widths may be required by the municipality due to densities of dwelling units, increased usage of existing streets, or topographical conditions. Before doing so, a special study may be required by the municipality to determine whether or not these additional requirements are necessary, and the municipality shall, upon conclusion of said study, have the discretion to change these standards accordingly in order to:
 - (a) Lessen traffic congestion.
 - (b) Secure safety from fire, panic, and other dangers.
 - (c) Facilitate the adequate provision for transportation and other public requirements.
 - (d) Promote the general welfare.
- (3) Right-of-way widths in excess of the aforementioned standards shall be required whenever, due to topography, additional width is necessary to provide adequate street embankments. Such slopes shall not be in excess of 3:1 in cut and fill.
- (4) When a subdivision and/or land development fronts on an existing street having a right-of-way less than the minimum width required in this article, a right-of-way line shall be established and dedicated with the following considerations:
 - (a) The distance of the right-of-way line from the centerline of the existing right-of-way shall be 1/2 the width of the required minimum right-of-way along the frontage of the subject tract.
 - (b) The right-of-way shall be delineated, depicted and otherwise noted on all subdivision and/or land development plans and shall be offered for dedication with the improvements associated therewith.



- (c) Any required setback shall be measured from the right-of-way line. However, only the lot area contained within the existing right-of-way width shall be subtracted when computing the minimum lot area requirements for compliance with the municipal zoning ordinance.

C. Cul-de-sac streets.

- (1) Cul-de-sac streets shall not be less than the length that excludes them from liquid fuels calculations nor exceed 600 feet. If a cul-de-sac street intersects another cul-de-sac street, then the maximum total length of the sum of the streets shall not exceed 1,200 feet.
- (2) Cul-de-sac streets shall not serve more than 30 residential dwelling units. In the case of industrial or business parks, a cul-de-sac shall not serve more than 1,000 employees.

- (3) Cul-de-sacs shall have a closed-end turnaround with a right-of-way having a minimum outside radius of 50 feet and shall be paved to a radius of not less than 40 feet.
- (4) When required for future extension, the turnaround right-of-way shall be placed adjacent to the tract boundary with sufficient width along the boundary line to permit extension of the street at full width.
- (5) When required by the municipality, a secondary point of access shall be provided on an undeveloped lot and held in fee simple or through a similar agreement as approved by the municipality.
- (6) Drainage of cul-de-sacs shall be directed to flow along the curb line. Drainage shall be toward the open end of the cul-de-sac whenever possible.
- (7) Superelevated cul-de-sacs shall be prohibited.
- (8) The centerline grade on a cul-de sac street shall not exceed 10%.
- (9) The minimum centerline grade for a cul-de-sac shall be 1%.
- (10) No cul-de-sac turnaround shall have a grade that exceeds 4%.
- (11) All design standards in § **195-803** of this chapter that are pertinent to culs-de-sac shall apply.

D. Alleys.

- (1) Alleys in residential developments shall have a minimum width of 20 feet and a minimum paved surface of 16 feet. Where alleys serve dwellings only on one side, the municipality may recommend a paved alley surface of no less than 14 feet.
- (2) Dead-end alleys, alley intersections, and sharp changes in alignment shall be avoided.

E. Street grades.

- (1) There shall be a minimum centerline grade of 1% and a maximum centerline grade of 10% on all local streets.
- (2) A minimum centerline grade of 1% and a maximum centerline grade of 7% are required on all collector and arterial streets.
- (3) Maximum grade within an intersection shall not exceed 4%. Approaches to an intersection shall also not exceed 4% within 50 feet of the nearest right-of-way line of the intersecting street and, where feasible, shall follow a straight course within 100 feet of the intersection.
- (4) The slope of the crown on proposed streets shall be between 1/4 and 1/2 inch per foot except on superelevated curves where the slope shall be not less than 1/4 inch per foot and shall extend from the inside to the outside edge of the paving.
- (5) The finished grades on all streets shall be carried the entire width of the right-of-way. However, grading behind the curbs or beyond the edge of the cartway may be modified, as determined by the municipality, provided that the minimum sight distances are maintained along the vertical and horizontal curvatures of the street, no obstructions exist at intersections within the clear sight triangle, and no pedestrian spaces are impacted.
- (6) Maximum slopes of banks measured perpendicular to the centerline of the street shall be three feet horizontal to one foot vertical in fill areas and shall be planted and vegetated to prevent erosion.

F. Horizontal curves.

- (1) Whenever street centerlines are deflected five degrees or more within 500 feet, connection shall be made by horizontal curves.
- (2) Horizontal curves shall be designed with the following minimum radii:
 - (a) Arterial streets: In accordance with PennDOTs standards for highway design in effect at the time of application.
 - (b) Collector streets: 300 feet.
 - (c) Local streets: 150 feet.
 - (d) Access roads: 100 feet.
- (3) Tangents of at least 100 feet shall be required between reverse curves and shall be measured at the centerline.
- (4) The municipality may approve variations in radii, in accordance with the requirements of § 195-1105 of this chapter, when topographic or other conditions so require.

G. Vertical curves.

- (1) Vertical curves are required for changes in grade greater than 1%. However, where a curve would be a sag curve, vertical curves shall be used in changes of grade exceeding 2%.
- (2) Vertical curves shall be designed as follows:
 - (a) Arterial and collector streets. In accordance with PennDOT's standards for highway design in effect at the time of application.
 - (b) Local streets and access roads. The rate of change of grade on vertical curves shall be no more than 4% per 125 feet of street and no more than 4% per 100 feet for sags, provided that clear sight distance for summits is maintained at all points along the centerline.
- (3) A combination of minimum radii and maximum grades will not be approved.

H. Street intersections.

- (1) Streets shall intersect at right angles.
- (2) Intersections involving the junction of more than two streets or driveways shall be avoided.
- (3) A maximum curb or paving radius of 35 feet and a maximum radius of 25 feet for right-of-way lines shall be provided at all local street or access road intersections, and maximum radii of 50 feet and 40 feet, respectively, shall be provided at all collector or arterial street intersections.
- (4) Proper sight distance shall be provided with respect to both horizontal and vertical alignment. A clear sight distance, as defined in Article II of this chapter, shall be provided along the centerline of streets as outlined in Table 8-2.

Table 8-2

Clear Sight Distances by Grade By Posted Speed Limit

Posted Speed (miles per hour)	Required Sight Distance in Feet by the Grade of the Street
---	---

-9% -6% -3% 3% 6% 9%

Table 8-2
Clear Sight Distances by Grade By Posted Speed Limit

Posted Speed (miles per hour)	Required Sight Distance in Feet by the Grade of the Street					
	-9%	-6%	-3%	3%	6%	9%
15 to 25	173	165	158	147	143	140
30	227	215	205	200	184	179
35	287	271	257	237	229	222
40	354	333	315	289	278	269
45	427	400	378	344	331	320
50	507	474	446	405	388	375
55	593	553	520	469	450	433

- (5) Proper sight lines shall be maintained at all street intersections where there shall be a clear sight triangle of 75 feet, measured along the centerlines from the point of intersection. The triangular shaped portion of land forming the clear sight triangle shall not have anything erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection, except for utility poles, light standards, street signs, and fire hydrants.
- (6) Proposed intersections along one side of an existing street shall coincide with any existing intersections on the opposite side of such street or be offset by at least 150 feet from centerline to centerline.
- (7) If possible, intersections along arterials and collector streets shall be a minimum of 800 feet apart.
- (8) Where a subdivision and/or land development borders an existing street or intersection which is determined to be in need of improvement based on the required traffic study, said street or intersection shall be improved to the full extent as required in § 195-803 of this chapter, with the following considerations:
 - (a) This requirement shall apply only to municipal streets and those sides of intersections that pertain to municipal streets, unless the State concurs with the improvements and imposes certain requirements along streets that it owns and maintains.
 - (b) Should the tract border an undersized street or intersection on only one side, then the improvements shall take place only on the side of the street or intersection that is adjacent to the tract.
 - (c) All improvements to be made to said streets and intersections shall be determined by the municipality.
 - (d) Land associated with the rights-of-way for undersized streets and intersections shall be delineated, depicted, and otherwise noted on all subdivision and/or land development plans for the subject tract and shall be offered for dedication with the improvements associated therewith.

I. Acceleration and deceleration lanes. Acceleration and deceleration lanes shall be provided to aid in ingress and egress relative to arterials and collector streets, with the following considerations:

- (1) Where a subdivision and/or land development borders a state highway, the applicant shall confer with PennDOT regarding specific design standards for such lanes.
- (2) Where a subdivision and/or land development borders a municipal street, the applicant shall confer with the municipality regarding specific design standards for such lanes.

J. Street signs and numbers.

- (1) Proposed streets that are in alignment with existing and named streets shall bear the names of the existing streets. In no case shall the name of a proposed street duplicate or be phonetically similar to an existing street name in the postal district. All street names shall be subject to the approval of the municipality and fire company serving the municipality and may be granted after consulting the local postmaster.
- (2) Street signs that are approved by the municipality shall be erected by the applicant prior to any issuance of a certificate of occupancy.
- (3) Stop signs on all streets will be required as directed by the municipality. Said stop signs shall be erected at the same time as the street base is applied.
- (4) House numbers (E911 numbers) will be assigned to each proposed lot in conjunction with the newly created street name, subject to review by the fire marshal, police chief and local postmaster.

K. Existing streets.

- (1) Along existing streets which adjoin proposed subdivisions and/or land developments, the municipality may require additional cartway, right-of-way, shoulder, or other paving to create stable and/or safe conditions, as determined by the municipality.

L. Private streets.

- (1) Private residential streets shall be designed in accordance with this section.
- (2) Private streets shall be indicated as such on the record plan and shall be subject to contract and guaranty requirements outlined in Article X of this chapter. The private street shall be owned and maintained by a homeowners' association comprised of the owners or pursuant to alternate arrangements approved by the municipality such as a recorded maintenance/easement agreement.

M. Construction of streets.

- (1) All materials used in the construction of streets and the methods of construction and drainage thereof shall be in accordance with the most current requirements of PennDOT Form 408, Specifications.
- (2) All streets shall be constructed in accordance with any other standards required by the municipality.
- (3) All streets maintained by the State shall conform to PennDOT design standards.
- (4) Underground utilities shall be installed before the streets are constructed.
- (5) All utility companies shall be notified of street openings in accordance with the Act of December 10, 1974, P.L. 852, No. 287, as amended, 73 P.S. § 176 et seq.

N. Construction of bridges and culverts.

- (1) Bridges and culverts shall be designed to meet current PennDOT standards, to support expected highway and street traffic loads, and to carry or bridge expected water flows.

§ 195-804. Curbs.

- A. The curb dimensions along collector, local, and access roads, unless specified otherwise by the municipality, shall be as follows:
 - (1) Vertical curbing shall be poured in place, shall be Class A Cement Concrete, 18 inches in depth with an eight-inch reveal and shall be in accordance with those requirements set forth in the latest edition of PennDOT Form 408, Specifications, Section 630. After completion of the bituminous paving, Class BM-1 or AC-20 asphalt shall be applied to paving, and Class BM-1 asphalt shall be applied to the joint between the curb and the bituminous paving for a distance of one foot from the curb towards the center of the street to effectively seal the joint. All dimensions, except those as noted above, shall be as shown on Drawing RC-64 of the PennDOT Standards for Roadway Construction, latest edition, and amendments thereto related to the detail entitled "Plain Cement Concrete Curb."
- B. Concrete curbs constructed along state or arterial roads shall be in accordance with PennDOT Form 408, Specifications, Section 630.
- C. At driveways, a depressed curb may be constructed of concrete, according to municipal specifications.
- D. Curb dimensions in all parking areas, unless specified otherwise by the municipality, shall be as follows:
 - (1) Vertical curbing shall be poured in place, shall be Class A Cement Concrete, 18 inches in depth with an six-inch reveal and shall be in accordance with those requirements set forth in the latest edition of PennDOT Form 408, Specifications, Section 630. After the parking area is paved, Class BM-1 or AC-20 asphalt shall be applied to paving and Class BM-1 asphalt shall be applied to the joint between the curb and the parking area for a distance of one foot from the curb towards the parking area to effectively seal the joint.
- E. Unless otherwise required by the municipality, curb maintenance shall be the responsibility of the property owner.

§ 195-805. Driveways.

- A. General.
 - (1) In order to preserve the function of arterial highways to carry through traffic at higher speeds than local and collector streets, driveway access shall be restricted by such means as combining driveways for several properties, parallel service roads, and marginal access roads. Developers, property owners, and municipalities shall provide these facilities.
 - (2) Driveways onto collector streets should be located a minimum of 200 feet from the closest intersecting street.
 - (3) A minimum grade of 1% shall be provided on all driveways. A maximum grade of any driveway within the right-of-way of any street shall be 4%. Within the property line, exclusive of the right-of-way, the maximum grade of a driveway shall be not greater than 15%. Grades adjacent to garages shall not exceed 7%.
 - (4) All driveways shall be paved with a hard surface material, approved by the municipality, from the edge of the street cartway to a point in the lot 30 feet from the edge of the cartway. The

remainder of the driveway may be surfaced with erosion-resistant materials approved by the municipality. Nonsurfaced dirt driveways are prohibited.

- (5) Shared driveways shall be designed to serve no more than two dwellings or other principal buildings. A shared driveway must be located on a single lot, and the right of passage by easement shall be provided to the other lot. Unless approved otherwise by the municipality, a shared driveway will be located on land belonging to the lot which has its dwelling unit located farthest from the street.
- (6) Access and maintenance easements and/or agreements must be provided for the shared portion of any shared driveway and recorded with the plan.
- (7) Driveways shall not intersect any street opposite a through street.
- (8) For driveway intersections, at a point 15 feet from the curb line there shall be a clear sight distance in both directions of 200 feet for local streets and 300 feet for collector streets measured from the point of intersection.

B. Residential.

- (1) Individual residential driveways shall be provided to furnish access on any lot, unless shared driveways are utilized in accordance with § 195-805A(5) of this chapter.
- (2) No individual residential driveway shall have access onto an arterial or collector street. Should no local streets be adjacent to the tract, an alley serving the residential dwellings is permitted to access the arterial or collector street.
- (3) Driveways serving more than two single-family dwellings shall be prohibited. A driveway shall lie in a strip of land as part of the lot it serves. For one lot, the driveway shall not be less than nine feet wide in cartway. For two lots, the driveway shall be not less than 16 feet wide in cartway.
- (4) The centerline of all residential driveways shall be located not less than 40 feet from the nearest curb line of the street parallel to said access drive.

C. Nonresidential.

- (1) The width of a driveway for a nonresidential use shall be 11 feet in cartway for individual driveways and 22 feet in cartway for shared driveways. Such driveways shall have a radius at the curb line so that the driveway width shall be a minimum of 14 feet in cartway for individual driveways and a minimum of 25 feet in cartway for shared driveways.
- (2) Nonresidential entrance and exit driveways crossing the right-of-way of a street shall be limited to two per lot along the frontage of any single street, and their centerlines shall be spaced at least 100 feet apart. On all corner properties, there shall be a minimum spacing of 100 feet, measured at the curb line, between the centerline of any entrance or exit drive and the nearest curb line of the street parallel to said access drive.
- (3) Nonresidential driveways entering opposite sides of any street should be laid out either directly opposite one another or with a minimum offset of 150 feet between their centerlines.
- (4) Nonresidential driveways intersecting arterial streets should be deep enough to allow for the stacking of a minimum of three cars. No parking spaces shall front on this section of the driveway.

§ 195-806. Parking areas and parking lots.

- A. All parking areas and parking lots shall be designed with careful regard to orderly arrangement, topography, amenity of view, ease of access, and as an integral part of the overall site design.
- B. Parking areas and parking lots shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
- C. All parking areas and parking lots shall be in accordance with the requirements of the municipal zoning ordinance, and the following:
 - (1) The minimum dimensions of stalls and aisles shall be as follows:
 - (a) Stall width shall be at least eight feet, six inches, except that all handicapped stalls shall meet the minimum requirements established by the Americans with Disabilities Act.
 - (b) Stall depth shall be at least 18 feet, with said dimensions measured on the angle for all angle parking and 22 feet for parallel parking.
 - (c) Minimum width of aisles providing access to stalls for one-way traffic only vary with the angle of the parking, as shown in Table 8-3.

Table 8-3

Aisle Widths by Parking Position

Parking Position	Minimum One-Way Aisle Width	Minimum Two-Way Aisle Width
Parallel	12	18
30°	12	18
45°	13	18
60°	15	20
90°	20	24

- (2) All parking areas shall be landscaped in accordance with the municipal zoning ordinance and § 195-817C of this chapter.
- (3) When angle parking is adjacent to pedestrian spaces, the parking shall have a setback of five feet or space limited by bumper stops shall be provided to prevent vehicle overhang from restricting pedestrian movement.
- (4) All on-street parking shall be paved in accordance with PennDOT's Form 408, Specifications. Conventional parking lots for cars shall be paved with a minimum of three inches of asphalt on a six-inch stone base course or equivalent pavement section approved by the municipality. For parking lots with truck traffic and industrial uses, a paving design shall be prepared and submitted by the applicant for review and approval by the municipality.
- (5) All parking areas shall be illuminated in accordance with the municipal zoning ordinance.
- (6) All dead-end parking areas shall be designed to provide sufficient back-up area for the end stalls of the parking area.
- (7) No less than a five-foot radius of curvature should be permitted for all curb lines in parking areas.
- (8) All parking spaces shall be marked so as to provide for orderly and safe parking.
- (9) The minimum standard for off-street parking spaces in multi-family developments shall be two spaces per unit and an additional 1/4 space per dwelling unit for visitor parking or as dictated by the municipal zoning ordinance.

- D. Parking areas with permeable spaces, are encouraged as best management practices as part of the stormwater management design in order to reduce stormwater runoff. Additional methods, such as vegetated swales, can also be provided.
- E. Bicycle parking shall be provided near doorways in the form of inverted "U" or ribbon rack facilities that secure bicycles by their frame, rather than their wheels.

§ 195-807. Sidewalks, pathways, crosswalks and bicycle lanes.

- A. A circulation system for pedestrians, bicyclists and other nonmotorized traffic shall be constructed along all streets, as shown in Table 8-4.

Table 8-4

Non-Motorized Circulation Improvements by Street Classification

Street Classification	Sidewalk or Pathway	Bicycle Lane/Paved Shoulder
Arterial	Required Both Sides	Required Both Sides
Collector	Required Both Sides	Required Both Sides
Local	Required Both Sides	Optional
Access Road	Required One Side	Optional

(1) Sidewalks and pathways.

- (a) Shall be located to avoid pedestrian-vehicular conflict and to promote safe pedestrian movement. The municipality shall approve the location of required sidewalks or pedestrian pathways.
- (b) Shall have walking surfaces improved to municipal specifications. Applicants must contact the municipality for the current design standards.
- (c) Shall have a minimum width of four feet, with five to seven feet recommended where space is available. Additional width may be required as directed by the municipality.
- (d) Shall be located within a public right-of-way, a public easement, or a common area. Unless otherwise required by the municipality, the maintenance of sidewalks and pathways within such areas shall be the responsibility of the property owner.
- (e) Shall have curb cuts, in accordance with the Americans with Disabilities Act, for handicapped access at street crossings, driveway crossings, and in other locations as required by the municipality.
- (f) Shall be pitched laterally, at a slope of not greater than 2%, to provide for adequate surface drainage.
- (g) Shall not exceed the allowable street grade.
- (h) Shall be set back a minimum of three feet to prevent vehicle overhang from restricting pedestrian movement within the sidewalk or pathway when adjacent to angle parking areas. Additional width may be required as directed by the municipality.
- (i) Shall have a tapered transition when the proposed sidewalk or pathway adjoins an existing sidewalk or pathway that is wider than five feet.
- (j) Where feasible, shall have a planting strip at least six feet in width to accommodate trees or two feet in width between the curb and the pedestrian space. The planting strip shall be adequately graded and landscaped to provide for proper stormwater runoff.

- (k) Sidewalks should be constructed to connect developments with surrounding destinations, such as shopping centers, schools, parks, public transit, and other destinations, so as to reduce the distance pedestrians have to walk to reach those destinations.

B. Crosswalks.

- (1) Crosswalks shall be provided, as directed by the municipality.
- (2) When required, a line-striped, continental crosswalk shall be painted across any street at intersections.
- (3) Crosswalks shall be a minimum of five feet in width.

C. Bicycle lanes.

- (1) Bicycle lanes shall be provided, if directed by the municipality.
- (2) When required, bicycle lanes shall be designed to the prevailing industry standards.
- (3) Paved shoulders shall be provided on arterials and collectors to serve as safe bicycling spaces; a minimum of four feet without curbs and a minimum of five feet with curbs.

§ 195-808. Lots.

- A. Insofar as practical, side lot lines shall be at right angles to straight street lines and radial to curved street lines and cul-de-sac turnarounds.
- B. Where feasible, lot lines shall follow municipal boundaries rather than cross them in order to avoid jurisdictional problems.
- C. No lots below the minimum lot area, as required in the municipal zoning ordinance, shall be permitted for any use including any community on-lot sewage disposal system.
- D. Every lot shall have access to a street.
- E. In general, the depth of lots should not be less than one or more than three times their width.
- F. Odd-shaped lots.
 - (1) Odd-shaped lots shall be avoided if possible. The preliminary determination of when a lot is odd-shaped shall be made by the municipality and shall be based in part on whether or not there is any other practical way to design the lot.
 - (2) When presented with a lot design that appears to be odd shaped, the municipality will communicate any recommended revisions to the applicant.
- G. Lot lines shall not cross any surface water body, such as a lake or pond. To the extent possible, lot lines shall run parallel to or in the center of watercourses.

§ 195-809. Blocks.

A. Residential.

- (1) The longer side of a residential block shall ordinarily be no less than 500 feet and no more than 800 feet in length.

- (2) Where practicable, blocks along arterial and collector streets should be no less than 1,000 feet in length.
- (3) In blocks with lengths greater than 1,000 feet, an easement through the middle of the block to accommodate utilities, drainage facilities, and/or pedestrian spaces is required.

B. Nonresidential.

- (1) The block layout shall conform to the best possible layout to permit good traffic circulation, to allow for the parking of vehicles, to make delivery and pickup efficient, and to reinforce the best design of the buildings in the area.
- (2) Typically the various uses will dictate the length and depth of each block. However, blocks should be no less than 500 feet long.
- (3) In blocks greater than 500 feet, the municipality may recommend an easement through the block to segregate truck from automobile traffic.

§ 195-810. Sanitary sewers.

A. General.

- (1) The applicant shall provide the most effective type of sanitary sewage disposal consistent with the municipal sewage facilities plan (Act 537 Plan), natural features location, and proposed development of the tract.
- (2) Sanitary sewage disposal systems should be designed to avoid, where possible, areas of high archaeological potential as determined by the Delaware County Archaeological Resource Inventory and Management Plan or other official federal, state, county, or local surveys.

B. Public sewage system.

- (1) In accordance with the municipal sewage facilities plan, and PA PADEP requirements, dwellings and/or lots within a subdivision and/or land development shall be connected to a public sanitary sewer system where accessible and available. Where such sewer system is not yet accessible and available but is planned for extension to the tract, the applicant shall install sewer lines and other facilities, including lateral connections, force mains, pumping stations, and all other appurtenances to provide adequate service to each lot when connection with said sewer system is made. Sewer lines shall be suitably capped at the limits of the subdivision and/or land development, and the laterals shall be capped at the street right-of-way. The design of the capped system shall be in accordance with the standards of PADEP and subject to the approval of the municipality and the local Sewage Enforcement Officer. If the proposed streets are private, then the municipality may alternately recommend that an easement be provided across this private property for later construction and maintenance of sewers. Any deed of conveyance given to a property in a case where an easement for future construction of sanitary sewers is provided on the record plan shall contain a legal description of the easement and a provision that the owner is liable for the cost of the sewer when constructed.
- (2) When capped sewers are required, on-lot sewage disposal facilities shall also be installed, provided that they are so located as to permit the easiest and least expensive connection to the public sanitary sewer system when such connection becomes available.
- (3) Prior to the approval of any subdivision and/or land development involving a public sanitary sewer (either live or capped), sewage pumping stations, sewage treatment plants, and community sewage disposal systems, a properly detailed construction plan shall be submitted

to the municipality and sewer authority for review and approval. The detail of the plan shall be determined by the municipality.

- (4) A public sewer shall be considered to be planned for extension to a given area any time after preliminary engineering and related studies have been initiated preparatory to the construction of facilities adequate to serve the area containing a subdivision and/or land development or when the area is shown to be in a proposed sewer service area in the municipal sewage facilities plan.
 - (5) All sanitary sewer lines, lateral connections, manholes, and other facilities shall be constructed and installed and shall provide service to each lot in conformity with standards of the sewer authority at the cost and expense of the applicant.
 - (6) When public sanitary sewage facilities are installed in accordance with this section, the municipality shall inspect the same during such construction at the cost and expense of the applicant, in accordance with the standards and procedures established for inspection in Article **XII** of this chapter.
 - (7) When public sanitary sewage facilities are not to be constructed or otherwise installed, individual on-lot or community on-lot sewage disposal systems shall be constructed in accordance with statutes and regulations of PADEP and the municipality, as approved by the Sewage Enforcement Officer. The ownership and maintenance of such system shall be subject to the approval of the municipality. When on-lot sewage disposal systems are to be utilized, the applicant shall furnish evidence of the feasibility and satisfactory operation of the system to be utilized in the subdivision and/or land development as required in Articles **V** and **VI** of this chapter.
- C. Individual on-lot sewage system.
- (1) Must be sited and constructed in accordance with Pennsylvania Department of Environmental Protection requirements.
 - (2) Where individual on-lot sanitary sewage facilities are to be utilized, each lot so served shall be of a size and shape to accommodate the necessary length of tile absorption fields at a safe distance from and at a lower elevation than the proposed well and building(s) to facilitate gravity flow in accordance with municipal and state regulations and shall be so plotted.
 - (3) Replacement areas suitable for individual on-lot sanitary sewage facilities shall also be plotted should the primary facility fail.
 - (4) If individual on-lot sanitary sewage disposal facilities are to be utilized, the municipality may require that the developer submit a feasibility report. Such report shall compare the cost of providing individual on-lot facilities with a sewage treatment plant. Based on the analysis of this report, the municipality may require the installation of a public sanitary sewer system or capped sewer.
 - (5) Whenever an applicant proposes that individual on-lot sanitary sewage disposal systems shall be utilized within the subdivision, the applicant shall either install such a facility approved by the Sewage Enforcement Officer or shall guarantee (by deed restriction or otherwise), as a condition of the sale of each lot or parcel within the subdivision, that such facilities can be installed by the purchaser of such lot or parcel. The on-lot system shall be located on the lot it is intended to serve.
- D. Community on-lot sewage system.
- (1) Must be sited and constructed in accordance with Pennsylvania Department of Environmental Protection requirements.

- (2) Where a public sanitary sewage system cannot be provided to the proposed subdivision and/or land development and is not planned for extension to this tract or where individual on-lot sewage is prohibited by the municipal zoning ordinance or clearly unfeasible in engineering or environmental terms, the applicant may provide a community on-lot sewage system.
- (3) The applicant shall consult the municipality regarding the type of community sewage system to be used.
- (4) A community sewage system shall meet all of the regulations and specifications of both PADEP and the municipality.
- (5) Where community on-lot sewage systems are proposed, feasibility reports are to be conducted. This report must be prepared by a licensed Pennsylvania engineer and submitted to the municipality, DCPD, and PADEP.
- (6) Community on-lot sewage disposal systems shall be no closer than 200 feet to any adjacent property lines.
- (7) A community on-lot sewage disposal system shall be located on the same property as that being subdivided and/or developed.
- (8) A community on-lot sewage disposal system shall be on its own lot, the area of which meets the minimum size requirements of the zoning district.
- (9) Where such a system requires a building or structure to be located above ground, the building or structure shall be completely screened from the view of any adjacent properties or as the municipal zoning ordinance dictates.
- (10) Ownership of the community on-lot sewage system shall be conveyed to the municipality, upon its completion. ✓

E. Soil percolation test requirement.

- (1) Prior to final subdivision and/or land development plan approval, soil percolation tests shall be performed for all lots within developments of fewer than 10 lots wherein buildings, at the time of construction, will not be connected to a public or community sanitary sewage disposal system in operation. In lieu of soil percolation tests for individual lots in subdivisions and/or land developments greater than 10 lots, soil percolation tests shall be performed on a cross-section of soil types to determine their suitability for on-lot sewage disposal. Deep-hole test pits are recommended as a further means of guaranteeing suitability of a tract.
- (2) Soil percolation tests shall be made in accordance with the procedure required by PADEP by either a registered professional engineer or a registered sanitarian and/or the Pennsylvania Sewage Facilities Act Sewage Enforcement Officer.
- (3) Soil percolation tests shall be performed on each lot within the tract of the proposed on-lot sanitary sewage disposal facilities.
- (4) The results of the soil percolation tests shall be analyzed in relation to the physical characteristics of the tract being subdivided and of the general area surrounding the tract being subdivided. The final subdivision and/or land development plan lot layout shall be based on this analysis.
- (5) Where applicable, the final subdivision and/or land development plan should note that "lot # has failed to obtain acceptable percolation." The lot shall not be developed without a sewage disposal system approved by the municipality and its Sewage Enforcement Officer and a

sewage disposal permit issued. A building permit shall not be applied for or acted upon until proof of the sewage disposal permit is provided to the Building Inspector.

F. Sewage facilities in flood-prone areas.

- (1) Any sewage facility located wholly or partly in a floodplain must meet all of the standards established within the municipal floodplain protection ordinance.

§ 195-811. Water supply.

A. General.

- (1) Adequate and potable water supply system(s) shall be installed consistent with the design principles and requirements contained in this section, all other applicable state municipal standards, and the Environmental Protection Agency Safe Drinking Water Act.^[1]

[1] *Editor's Note: See 42 U.S.C. § 300f et seq.*

- (2) No subdivision and/or land development application proposing a public water supply system shall be granted preliminary or final plan approval unless the applicant demonstrates, by a fair preponderance of the credible evidence, full compliance with the provisions of this section.

B. Public or community water system.

- (1) All subdivisions that create 10 or more lots shall be provided with a complete public or community water distribution system.
- (2) Land developments shall be subject to the same standard unless a water distribution system is not readily available.
- (3) The design and installation of a public or community water distribution system shall be subject to the approval of the municipality, the design and installation of such community distribution system shall be subject to the approval of PADEP, and such system shall be further subject to satisfactory provision for the maintenance thereof. Where a permit is required by PADEP, it shall be presented as evidence of such review and approval in the case of private or public systems before construction commences.
- (4) Wherever a public or community water system is provided, the applicant shall present evidence to the municipality that the subdivision and/or land development is to be supplied by a certificated public utility, a bona fide cooperative association of lot owners, or a municipal authority or utility. A copy of a certificate of public convenience from the Pennsylvania Public Utility Commission, an application for such a certificate, or a cooperative agreement or a commitment of agreement to serve the area in question, whichever is appropriate, shall be acceptable evidence.
- (5) In all subdivisions and/or land developments served by public water, the following water pressure and gallonage requirements shall apply:

(a) Residential use.

[1] A minimum domestic pressure of 30 pounds per square inch shall be provided at each house to be connected to the water main. The system to which the residential unit is connected shall have sufficient capacity to supply a minimum of 400 gallons of water per residential unit per day within the subdivision and/or land development.

[2] For purposes of fire protection in residential districts and in accordance with the municipal fire marshal requirements, the system shall be demonstrably capable of providing fire flow-water requirements for a minimum duration of two hours of not

less than 500 gallons per minute at a residual pressure of 20 pounds per square inch.

(b) Commercial or industrial use.

[1] A minimum pressure of 30 pounds per square inch shall be provided at each commercial or industrial building connected to the water supply main. When a builder wishes to connect to a public water system, a study will be made to determine if there is adequate water to supply the building and use.

[2] For purposes of fire protection in commercial and industrial districts, 1,000 gallons per minute at 20 pounds per square inch residual pressure is required.

(6) Wherever a public or community water system is provided, fire hydrants or acceptable alternatives shall be installed for fire protection, as approved by the local fire company and municipality.

(a) Fire hydrants shall be provided as an integral part of any public water system. They shall be located no farther than 600 feet apart, as measured along streets.

(b) Each hydrant shall be connected to the main with a minimum looped six-inch ductile iron branch controlled by a minimum independent six-inch gate valve.

(c) Where a dead-end line is required to contain a fire hydrant, the portion of the line between the main loop and the hydrant shall have an eight-inch minimum diameter.

(d) For additional fire protection, a dry hydrant may be required and incorporated into existing or proposed ponds or reservoirs and an access easement provided for emergency use.

(e) Hydrants shall be located in a manner to provide complete accessibility and so that the possibility of damage from vehicles or injury to pedestrians will be minimized. When placed behind the curb, the hydrant barrel shall be set so that no portion of the pumper or nozzle cap will be less than 24 inches from the gutter face of the curb. No portion of the hydrant or nozzle cap shall be within six inches of the pedestrian area.

(f) All hydrant connections shall be reviewed by the fire company or municipal fire marshal having jurisdiction with a favorable recommendation by the Chief of said fire company being required.

(7) Construction standards.

(a) Water mains shall be constructed of cement-lined, ductile iron, minimum Class 52 pipe, or as approved by the municipality or in accordance with water authority standards and specifications. No extension of water mains shall be permitted for a pipe having a diameter of less than six inches.

(b) All pipes shall have a minimum cover of three feet six inches from grade to the crown of pipe.

(c) Generally, water mains shall be so designed as to form a loop system to enhance the continual supply of fresh water. When dead ends occur on new mains, they shall all be closed with cast iron plugs and caps, a blowoff valve, a concrete anchor, or a fire hydrant.

(d) Mains shall be drained through drainage branches or blowoffs to dry wells from which the water can be pumped. Drainage branches, blowoffs, air vents, and appurtenances shall be provided with valves.

- (e) Blowoffs shall not be connected to any sewer or submerged in any manner that will permit back siphonage in the distribution system. All blowoffs should be located out of paved areas.
- (f) Valves in water mains shall, where possible, be located on the street property lines. A cast iron valve box or a masonry pit shall be provided for every valve which has no gearing or operating mechanism or for which the gearing or operating mechanism is fully protected with a cast iron grease case. A masonry valve pit shall be provided for every valve that has exposed gearing or operating mechanisms.
- (g) Manholes shall be constructed of brick or concrete, with cast iron frames and covers or as approved by the municipality.
- (h) It is recommended that two sources of groundwater be provided for each community water system due to the usual density and demand served by such systems. Each should be capable of supplying the average daily demand of the proposed dwelling units. Although a two-well system is ideal, there are alternatives, as follow, which would ensure an adequate water supply:
 - [1] A single well capable of providing twice the daily average demand, as demonstrated by a pumping test of at least 48 hours, producing a stabilized drawdown of unchanging water level for at least five hours.
 - [2] A single well capable of supplying the average daily demand with an additional reliable surface water source.
 - [3] A single well capable of supplying the average daily demand, plus a dependable connection to another satisfactory public water supply system.
 - [4] A second well is recommended for use as a monitor of the aquifer and as a standby in the event of an emergency.

C. On-lot water system.

- (1) Where the applicant proposes that individual on-lot water supply systems shall be utilized within the subdivision, the applicant shall either install such facilities or shall guarantee (by deed restriction or otherwise) as a condition of the sale of each lot or parcel within the subdivision that the facilities can be installed by the purchaser of such lot or parcel.

D. Water facilities in flood-prone areas.

- (1) Any water facility located wholly or partly in a floodplain must meet all of the standards established within the municipal floodplain protection ordinance.

§ 195-812. Relation of sewer to water systems.

- A. There shall be no physical connection between a public or private potable water supply system and a sewer that will permit the passage of any sewage or polluted water into the potable water supply.
- B. A minimum horizontal distance of 10 feet shall be maintained between parallel water and sewer lines unless shelving is used, per PADEP's standards. If shelving is used, the water lines shall be at the higher elevation of the trench. At points where sewers cross water mains at a vertical distance of less than two feet, a concrete encasement or special treatment of the sewer pipes in accordance with PADEP and the municipality's regulations shall be required to preclude contamination of potable water.

- C. On-lot sewage disposal systems shall be kept removed a minimum of 100 feet from water supply wells or other water supply sources. A lot to accommodate both on-lot sewage disposal and on-lot water supply shall be no smaller than one acre.

§ 195-813. Stormwater management.

All stormwater management practices shall be in accordance with the applicable sections of the municipality's stormwater management ordinance, any applicable Act 167 plan, the Pennsylvania Stormwater Best Management Practices Manual (latest revision), and any other applicable codes and ordinances.

§ 195-814. Soil erosion and sedimentation control.

All soil erosion and sedimentation control practices shall be in accordance with the applicable sections of the municipality's stormwater management ordinance and compliant with Chapter 102 of the Pennsylvania Code.

§ 195-815. Grading.

All grading shall be in accordance with the applicable sections of the municipality's stormwater management ordinance any applicable Act 167 plan, and any other applicable codes and ordinances.

§ 195-816. Natural features protection.

- A. Tract alterations, regrading, filling, or clearing of vegetation prior to the approval of a final subdivision and/or land development plan are prohibited. In addition to the standards set forth in §§ **195-817** and **195-1105B** of this chapter, the following shall apply:
- (1) Consideration shall be shown for all natural features, such as notable trees, watercourses, wetlands, rock outcroppings, and similar community assets which, if preserved, will add attractiveness and value to the remainder of the subdivision and/or land development.
 - (2) Tree masses and notable trees shall be preserved to the maximum extent possible. All structures should be located within the building area in such a manner as to minimize damage to vegetation. Existing open areas should be developed instead of wooded areas. Areas in which trees are retained should remain undisturbed out to the canopy drip line and at the original grade level to the maximum extent possible.
 - (3) Not more than 50% of the total area of mature woodlands and not more than 75% of the total area of woodlands on a development site shall be removed in conjunction with a subdivision or land development.
 - (4) Notable trees should not be removed unless they are located within the proposed cartway or pedestrian space of a street right-of-way, within 15 feet of the foundation area of a new building, within a utility easement, within a proposed parking area, or within an area where regrading necessary to achieve land development may endanger the trees.
 - (5) The municipality may require the applicant to adhere to the following tree replacement regulations. For each tree to be removed with a caliper greater than 12 inches when measured at a height of 36 inches from the ground, required replacement trees shall be calculated in accordance with the following schedule identified in Table 8-5:

Table 8-5**Tree Replacement Schedule**

For Each Tree to be Removed, at the Following Calipers	Minimum Number & Caliper of Replacement Trees
One, 12" to 18" caliper	One 3 1/2" caliper
One, greater than 18" to 24" caliper	Two 3 1/2" caliper
One, greater than 24" to 36" caliper	Three 3 1/2" caliper
One, greater than 36" caliper	Four 3 1/2" caliper

- (6) Where a proposed subdivision and/or land development necessitates the clearing of notable trees or portions of tree masses, the applicant shall be guided by the following criteria in selecting trees for clearing:
- The existence of disease, rot, dieback, or other damage to the tree.
 - Susceptibility of the tree to insect and disease attack.
 - Species longevity.
 - Wind-throw potential and characteristic of the soil to hold trees.
 - Protection of buildings.
- (7) Applicants shall exercise care to protect trees from damage during construction in accordance with § 195-817E of this chapter. Tree removal shall be limited to the actual construction tract necessary to build and move construction equipment.
- (8) Streams, watercourses, wetlands, and ponds.
- Such areas shall not be altered, regraded, developed, filled, piped, diverted, or built upon except:
 - Except in strict compliance with all federal and state requirements and after obtaining required permits.
 - Streets may cross streams, watercourses, and wetlands where design approval is obtained from the municipality, PADEP, and/or other applicable agency and where no other reasonable access is available.
 - Existing ponds may be utilized as stormwater management facilities and as fire ponds in accordance with this chapter and the municipal zoning ordinance, when approved by the municipality.
 - When constructing or improving streets, stormwater management facilities, and fire ponds, no more than 20% of the wetlands margin shall be altered, regraded, filled, or built upon.
 - Whenever constructing or improving streets, stormwater management facilities, and fire ponds would entail the regrading or placement of fill in wetlands, the applicant shall provide the municipality with proof that PADEP (Bureau of Dams and Waterway Management) and the United States Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations for areas identified as wetlands on the National Wetland Inventory Maps, United States Fish and Wildlife Service.
 - In the event that a wetlands delineation validated by the United States Army Corps of Engineers is shown to vary from the wetlands boundary derived from the definition in

Article II of this chapter, the Corps' delineation will govern. The wetlands margin will then be measured from the Corps' delineated boundary.

- (e) If a perennial or intermittent stream exists on the subject tract, the applicant shall create a riparian buffer along the stream extending a minimum of 50 feet to either side of the top-of-bank of the channel. If the rear or side yard setback is less than 50 feet, the buffer width may be reduced to 25% of the setback and/or to a minimum of 10 feet. If an existing buffer is legally prescribed (i.e., deed, covenant, easement, etc.), and it exceeds the requirements of this chapter, the existing buffer shall be maintained.
- (f) Land subject to flooding.
 - [1] Land subject to flooding hazards to life, health, or property and land deemed to be topographically unsuitable shall not be platted for use on the subdivision and/or land development plan until adequate safeguards against such hazards are provided by the subdivision and/or land development plans.
 - [2] Such land within the subdivision and/or land development shall be set aside on the subdivision and/or land development plan for uses as shall not be endangered by periodic or occasional inundation or shall not produce unsatisfactory living conditions.
 - [3] Where flooding is known to have occurred within an area shown on the plat, such area shall be clearly marked "subject to periodic flooding" and shall not be platted in streets and lots unless approved otherwise in accordance with the municipal zoning ordinance.
 - [4] Floodplain elevations shall be as established in accordance with the municipal zoning ordinance.
- (9) Steep and very steep slopes.
 - (a) In any application for subdivision and/or land development where the lot includes areas of steep and very steep slopes, the applicant shall, using two-foot contours, delineate steep and very steep slopes. Further, the applicant shall use an actual field topographic survey or aerial survey as the source of contour information and the basis for depicting such slope categories.
 - (b) This section shall apply only to those steep or very steep slopes that exist for three consecutive two-foot contour intervals (six cumulative vertical feet of slope). All steep and very steep slope areas shall be shown for the purpose of municipal review and verification, but only those occurring over three consecutive two-foot contour intervals will invoke the standards of this section.
 - (c) Once delineated, the mapping provided by the applicant will be reviewed by the municipality. The applicant will be required to follow all regulations of this section for those areas which reflect steep and very steep slope conditions as determined in accordance with this section through the municipality's review.
 - (d) Before a permit is issued for any construction or land disturbance activity on land within or affecting steep and very steep slope areas, the following material shall be submitted to the municipality for review:
 - [1] Plans drawn to a scale of at least one inch equals 50 feet, sealed by a registered professional engineer, depicting the following:
 - [a] The location, dimensions, and elevation of the property.
 - [b] Existing and proposed uses and development.

- [c] An earthmoving plan of the property that indicates existing grades with contour lines at two-foot intervals and proposed grades within the area of any proposed activity, disturbance, or construction. All areas of steep and/or very steep slope shall be graphically distinguished.
 - [d] A site plan indicating existing and proposed structures, other impervious surfaces, storm drainage facilities, and retaining walls. The site plan also shall locate and identify existing vegetation, including woodlands, open areas, and their ground cover type within areas of steep and very steep slopes, as well as proposed landscaping material to be installed.
 - [e] Typical cross-sections and elevations of the property and proposed structures at intervals prescribed by the municipality, as well as architectural plans, elevations, and sections.
 - [f] Photographs showing existing uses, vegetation, and topography within the steep and very steep slope areas.
 - [g] A statement, signed and sealed by a registered architect or professional engineer, explaining the building methods to be used in overcoming foundation and other structural problems created by steep slope conditions, preserving the natural drainage, preventing soil erosion and excessive surface water runoff to neighboring properties and/or streets, and the type of sewage disposal and water supply.
 - [h] Plan, profile, and typical cross-sections of any proposed street, emergency access, or driveway within areas of steep and very steep slopes, with the seal of a registered professional engineer thereon.
 - [i] A statement, signed by the owner or future occupant at the time of subdivision, land development, or building permit application, that there is a full understanding of any difficulties associated with access stemming from such steep slopes.
- (e) In evaluating any application for subdivision, land development, or a building permit within steep and very steep slope areas, the municipality shall determine consistency of the proposal with the municipal steep slope ordinance should one exist and the following:
- [1] Disturbance to particularly sensitive features of the tract shall be minimized with special emphasis in planning for the tract given to the protection of:
 - [a] The steepest areas of steep slopes (i.e., those in the 20% to 25% range).
 - [b] Soils on the edge of steep and very steep slopes with seasonal high water table.
 - [c] Underlying geology that comprises or contributes to a major groundwater resource, including the flow of existing springs.
 - [2] Disturbances shall be minimized where the length or area of steep and very steep slope is extensive both on the tract and on adjacent lands within 200 feet of the tract. The area that is regraded and/or stripped of vegetation shall not exceed 30% of each steep and very steep slope area on the lot.
 - [3] Rate of runoff and/or related environmental problems off the tract shall be minimized.
 - [4] Removal of or disturbance to existing vegetation in steep and very steep slope areas shall be minimized. The proposed impacts on existing vegetation shall be evaluated in terms of the potentially detrimental effects on slope stability, conveyance and

recharge of stormwater, aesthetic characteristics of the landscape, and existing drainage patterns. Further, it shall be demonstrated that any and all reasonable mitigation techniques and procedures will be utilized or have been considered in the preparation of the subdivision and/or land development plan, such as revegetation measures, control of soil erosion and sedimentation, stormwater management, and the like.

- [5] Street construction shall follow the natural topography, with cuts and grading minimized.
- [6] Innovative, imaginative building techniques that are well suited to slope conditions shall be encouraged, consistent with other applicable codes and regulations.
- [7] The stability of the slope, as characterized by the existing interrelationships among the soil, vegetation, and rock, shall be disturbed as little as possible.
- [8] Proposed buildings and structures are of sound engineering design, footings are designed in response to the tract's slope, soil, and bedrock characteristics, and footings shall extend to stable soil and/or bedrock.

§ 195-817. Landscape plan.

- A. Landscaping shall be in accordance with the standards set forth in the municipal zoning ordinance and this section. In addition, all required landscaping shall be installed and maintained in accordance with a landscape plan approved by the municipality. The landscape plan shall depict all proposed plantings required to complement, screen, or accentuate buildings, roads, parking areas, pedestrian spaces, sitting areas, service or maintenance structures, courtyards, and other tract features.
- B. Where possible, landscaping recommended in this section should be utilized to help satisfy federal, state, and local stormwater management requirements.
- C. Shade trees shall be provided along all streets where there are no existing street trees. When planted, these street trees shall be located at least five feet within the right-of-way line, unless they conflict with pedestrian spaces, in which case they shall be installed to minimize conflicts. No less than one three-inch caliper deciduous tree shall be planted for each 30 feet of street length. Such street trees shall be planted in alternating rows, whereby trees on one side of the street are placed at intervals of 60 feet, and shall be subject to the following:
 - (1) The approved street trees are listed in Table 8-6. Trees to be used that are not listed in Table 8-6 must be approved by the municipality. Compatible Tree Factsheets for Electric Lines and Restricted Spaces including Evergreens for Screens, Second Edition, Pennsylvania State University, 2001, identifies additional trees to be considered.
 - (2) If the municipality has a shade tree ordinance with an approved list of appropriate trees, that list supersedes the following when specifically listing trees for use along streets.

Table 8-6

Approved List of Street Trees

Botanical Name	Common Name	Acceptable Varieties
LARGE TREES >45 feet (Not for under overhead wires or tree lawns under 6 feet wide)		
Acer rubrum	Red Maple	Red Sunset/October Glory
Fraxinus pennsylvanica	Green Ash	
Celtis occidentalis	Hackberry	

Table 8-6**Approved List of Street Trees**

Botanical Name	Common Name	Acceptable Varieties
Ginkgo biloba	Ginkgo (males only)	Fastigiata/Princeton Sentry
Gleditsia triacanthos	Thornless Honeylocust	Inerms
Metasequoia glyptostroboides	Dawn Redwood*	
Nyssa sylvatica	Black Gum	
Platanus x acerifolia	London-Plane tree*	
Pyrus calleryana bradford	Bradford Callery Pear	Red Spire Callery Pear
Quercus bicolor	Swamp White Oak	
Quercus coccinea	Scarlet Oak	
Quercus macrocarpa	Bur Oak	
Quercus palustris	Pin Oak	
Quercus phellos	Willow Oak	
Quercus prinus	Chestnut Oak	
Quercus rubra	Red Oak	
Quercus velutina	Black Oak	
Sophora japonica	Scholar Tree*	
Tilia tomentosa	Silver Linden	
SMALL TREES: UP TO 30 feet (Appropriate near overhead wires)		
Acer buergerianum	Trident Maple*	
Acer ginnala	Amur Maple*	Beethoven Mozart, and others
Cercis Canadensis	Eastern Redbud	
Cornus kousa	Kousa Dogwood*	
Cornus mas	Cornelian Cherry Dogwood*	
Carpinus caroliniana	American Hornbeam	
Crataegus crusgalli	Thornless Cockspur Hawthorn	Inermis
Crataegus viridis	Green Hawthorn*	Winter King
Magnolia virginiana	Sweetbay Magholia*	
Malus spp	Crabapple species	
Prunus serrulata	Oriental Cherry*	

* Nonnative, but a popular ornamental noninvasive species

Sources: Morris Arboretum's Recommended Trees for Philadelphia Metropolitan Habitats (2000)

Compatible Tree Factsheets, 2nd Ed., Gerhold, Henry D., et.al., Ed. Penn State College of Agricultural Sciences (2001)

- (3) Naturalistic tree groupings may be proposed in lieu of regularly spaced street trees, subject to the approval of the municipality. Size and quantity requirements shall be at a minimum those illustrated in this section.
- (4) Where existing trees are retained along street rights-of-way, street trees do not need to be planted other than to replace diseased or undesirable varieties.

- (5) At intersections, such trees shall be located no closer than 50 feet to the intersection of the street rights-of-way.

D. Landscaping of parking and loading areas.

- (1) The landscape plan for parking lots shall be prepared as part of the landscape plan for the overall development.
- (2) Parking lots are to be landscaped to ensure a good appearance of vehicular parking areas and to protect and preserve the appearance, character, and value of surrounding neighborhoods, thereby promoting the general welfare by providing for the installation and maintenance of landscaping for screening and aesthetic qualities.
- (3) Parking lot landscaping requirements.
 - (a) Off-street parking areas and parking lots shall be landscaped to:
 - [1] Reduce wind and air turbulence, heat, noise, and the glare of automobile lights.
 - [2] Reduce the level of carbon dioxide.
 - [3] Provide shade.
 - [4] Ameliorate stormwater drainage problems.
 - [5] Replenish the groundwater table.
 - [6] Provide for a more attractive setting.
 - (b) The outer perimeter of all parking areas shall be screened through the use of plant materials, fencing or walls, and/or mounding through the use of earthen berms.
 - [1] A landscape screen at least five feet wide and six feet high must be planted to buffer all residential uses from parking areas with more than five spaces and all service areas. This landscape screen must be set back a minimum of 2 1/2 feet from the parking and/or service areas curbing or wheelstops. The landscape screen should consist of evergreen shrubs planted on four-foot centers or evergreen trees planted on ten-foot centers. Where proposed plantings are less than six feet in height, berms, walls, or fencing may be used to provide the required height.
 - [2] A landscape screen at least five feet wide and six feet high shall separate parking lots from any property that is in a different zoning district. Passageways for vehicles from one lot to the other may be kept free from planting. The landscape screen should consist of evergreen trees or shrubs planted on eight-foot centers or deciduous shrubs placed on five-foot centers.
 - (c) Each parking lot shall have one three-inch minimum caliper shade tree for every five parking spaces. The size and location of existing trees to be preserved within 15 feet or proposed shade trees within 10 feet of the edge of any proposed parking lot shall be considered in satisfying this requirement.
 - (d) Shrubs, ground covers, and other plant materials are encouraged to be used to complement the required shade trees but shall not be the sole contribution to the landscaping.
 - (e) The type of plant materials to be used shall be subject to review and approval by the municipality and shall be of a quality as specified in this section.

- (f) The landscaping and planting areas shall be reasonably dispersed throughout the parking lot, except where there are 20 or more parking spaces, in which case the following shall apply:
- [1] Landscaped islands shall be provided at the end of each parking bay of no more than 20 contiguous spaces accessed from a single aisle. Such islands shall be a minimum of nine feet in width and 18 feet in length. Such islands shall be provided to enhance the appearance of the parking area and to control access and movement within the parking area.
 - [2] All planting islands and planting beds within a parking lot shall be surfaced with ground covers and/or dwarf shrubs and shall not be grassed. Stone or mulch may be used in conjunction with ground covers and shrubs.
 - [3] Where appropriate, these landscaped islands shall be designed for the purpose of stormwater infiltration.
- (4) Loading areas shall be screened a minimum of eight feet in height and shall be a complete and effective visual barrier at the time of installation. Screening may be provided by plantings, fencing, walls, berms, or combinations thereof. Where loading areas abut residential uses, additional screening and buffering measures, including nighttime and weekend restrictions, may be imposed by the municipality to mitigate negative impacts to residential properties.
- E. All buildings for which landscaping is required shall be landscaped in accordance with the following criteria:
- (1) A combination of evergreen and deciduous trees and shrubs shall be used as foundation plantings, (i.e., plantings to be installed in reasonably close proximity to the facades).
 - (2) One three-inch to three- and one-half-inch caliper specimen deciduous tree shall be planted for every one-hundred-foot length of building perimeter, measured from end to end, without regard to indentations and the like in the buildings and excluding any enclosed walkway connectors and elevator cores. In addition, two eight- to ten-foot high flowering trees or evergreen trees must be provided for every one-hundred-foot length of building perimeter.
 - (3) Three evergreen and/or deciduous shrubs shall be planted for every 20 feet of length of building perimeter.
 - (4) In calculating building perimeter for planting requirements, the length of the building perimeter occupied by loading bays may be deducted from the total building perimeter.
 - (5) Trees and shrubs shall be grouped in accordance with specific needs and objectives.
- F. The landowner or developer shall protect trees to be retained from damage during construction. The following procedures as well as all other applicable municipal codes and ordinances shall be used to protect such trees:
- (1) Removal and replacement.
 - (a) Shade trees of twelve-inch caliper or more when measured at a height of 36 inches from the ground may not be removed unless authorization is granted by the municipality and in accordance with Tables 8-5 and 8-6 of this chapter.
 - (b) On large, densely wooded parcels, the municipality may allow a forest density survey to determine the extent of large tree loss in the course of proposed development. Tree replacement will be performed using the procedure set forth in § 195-817F(1)(c) below, in conjunction with the loss estimate as prepared by a qualified forester.
 - (c) Prior to construction, the following shall occur relative to tree replacement plantings:

- [1] The applicant shall stake in the field the limits of construction including the location of the building foundation, driveway, proposed grading, and any utility easements to be constructed and cleared in the course of the said construction and more than 10 feet from the edges of same.
 - [2] Following the placement of stakes, the applicant shall conduct an inventory of trees of 12 inches in caliper or greater, located within the limits of construction on the lot.
 - [3] The applicant shall depict the location of replacement plantings on the landscape plan.
 - [4] Prior to construction, the applicant shall attend a preconstruction meeting with the municipality to review all procedures for tree removal and tree replacement.
 - [5] Following construction, the applicant shall plant and warrant for a period of 18 months following installation, a tree of appropriate species as shown in the approved landscape plan. Any tree that dies within the eighteen-month period shall be replaced immediately by the applicant.
 - [6] Prior to the issuance of a use and occupancy permit, the municipality shall inspect the lot to determine if all required plantings have been installed.
 - [7] The required plantings shall be shown on an as-built/as-installed landscape plan.
- (2) No more than three inches of soil shall be placed around the trunks of trees that are to remain. For those trees which are to remain, where more than five inches of soil are to be placed, tree wells shall be constructed to preserve such trees.
 - (3) No boards or other material shall be nailed to trees during construction, and no trees shall be sprayed with paint.
 - (4) Heavy equipment operators shall avoid damaging existing tree trunks and roots. Feeder roots shall not be cut closer than 25 feet to tree trunks.
 - (5) Tree trunks and exposed roots damaged during construction shall be protected from further damage by being pruned flush, and if trunks are scarred, they shall be traced out for proper healing.
 - (6) Tree limbs damaged during construction shall be sawed flush to tree trunks and treated with tree paint as necessary.
 - (7) The operation of heavy equipment over root systems of such trees shall be minimized in order to prevent soil compaction.
 - (8) Deciduous trees shall be given a heavy application of rooting fertilizer to aid in their recovery from possible damage caused by construction operations.
 - (9) Construction debris shall not be disposed of near or around the base of such trees.
- G. All screening and buffering as required in the municipal zoning ordinance shall apply.
- H. The required landscape plan shall be submitted at the time when all other required applications and/or plans are submitted. The landscape plan shall be based on and reflect the following:
- (1) The functional and aesthetic factors that relate to the tract and to the principal and accessory buildings and other structures.
 - (2) Concealing views to the tract.

- (3) Enhancing views from and within the tract.
 - (4) Screening and complementing proposed buildings and other structures.
 - (5) Creating visual interest for the users and/or residents of the proposed project.
 - (6) Using plant materials that are hardy and acclimated to the conditions at the tract and within the municipality.
- I. A landscaping plan shall include notes, diagrams, sketches, or other depictions to present the consideration and analysis of the following:
- (1) An analysis of the tract in terms of the existing views to and from the areas that are proposed for development, existing topography and vegetation conditions, and other existing conditions that are relevant to the tract.
 - (2) An analysis of proposed planting and other landscaping needs as related to screening views of buildings, screening buildings and sections of buildings, screening parking areas and other areas where vehicles are parked, screening storage areas, screening tract utilities, and other appropriate types of screening.
 - (3) The consideration of locations where plantings and other landscaping are needed to provide visual interest, define outdoor spaces, complement the proposed architectural style, and achieve other functional and aesthetic requirements for buffer areas, buffer planting strips, and other landscaped areas.
- J. A preliminary or final landscape plan shall reflect the following detailed criteria:
- (1) Buffer planting strips shall be installed and maintained in the buffer areas at the width required by the municipal zoning ordinance to form a continuous visual buffer. In addition to ground covers and evergreen shrubs, the buffer planting strip shall be comprised of evergreen trees that are a minimum of eight feet in height at the time of planting and that shall be spaced at ten-foot centers. The combined evergreen shrub and tree plantings shall constitute a continuous visual screen at the time of occupancy of any buildings and/or at the time of initiation of any use.
 - (2) Street trees/shade trees as identified in Table 8-6.
 - (3) The outer perimeter of all parking areas shall be screened through the use of plant materials, fencing or walls, and/or mounding through the use of earthen berms.
 - (4) Other landscaping, including trees, shrubs, and ground covers, shall be provided along walkways, in courtyards, around sitting areas, at the entrance to the tract, and in other highly visible locations, especially on the outer side of any internal access road that is visible from a public street that may adjoin a tract, at the entrance to buildings, around structures used for service, storage, or maintenance purposes, and around dumpsters and trash storage areas.
 - (5) Requirements and standards for landscaping, in addition to those specified above, shall be as determined by the municipality. The municipality may require plantings to reduce glare, to abate other nuisances, to enhance the planting area in conjunction with streets, and to fulfill screening and other functional purposes.
 - (6) The location, type, size, height, and other characteristics of landscaping shall be subject to the review and approval of the municipality.
- K. The preliminary landscape plan shall be drawn at a scale of at least one inch equals 50 feet. It shall be totally coordinated with the overall subdivision and/or land development plan in terms of its relationship to proposed buildings, roads, parking areas, pedestrian spaces, fencing, benches, signs, lighting, and other like structures. It shall contain the following:

- (1) A delineation of existing and proposed plant materials, including scalloped tree lines to indicate existing woods or trees to remain.
 - (2) A plant list wherein the botanical and common name of proposed plants are tabulated, along with the quantity, caliper, height, spread, and other dimensions and characteristics.
 - (3) A delineation of other landscaping features, such as berms, planting beds to be used for herbaceous plants, areas to be devoted to lawns, and other elements of the proposed improvements such as fences, walls, berms, retaining walls, lighting, benches, signs, paving, stone, tree wells, and the like.
 - (4) One color rendering of the preliminary landscape plan shall be submitted for review by the municipality, in addition to the number of prints that are otherwise required. The color rendering shall reflect total coordination with the overall site plan in terms of its relationship to proposed buildings, roads, parking areas, walks, walls, fencing, benches, signs, lighting, and other like structures.
 - (5) A written narrative of the analysis and objectives for plantings, as required by § 195-817I of this chapter.
- L. A final landscape plan shall be submitted after the municipality has reviewed the preliminary landscape plan and submitted comments on the plan to the applicant. The final landscape plan shall be drawn at a scale of at least one inch equals 50 feet. It shall be totally coordinated with the overall subdivision and/or land development plan and shall contain the following:
- (1) A final version of all of the plan requirements stated in § 195-817I of this chapter.
 - (2) Details for the planting and staking of trees and the planting of shrubs and any other details which depict other related installation or protection, such as ground cover spacing, tree fencing, tree grates and guards, tree wells, and the like.
 - (3) Information regarding the continued maintenance of all plantings and notes indicating that all plantings will be installed, maintained, and replaced, if dead or diseased, in locations as shown on the approved landscape plan.
 - (4) Details, specifications, and maintenance instructions pertaining to specialized plantings, such as wildflower meadows, wetland plantings, stream bank stabilization plantings, or any other landscape plantings that may have unique and specific requirements.
 - (5) All final landscape plans shall be accompanied by a cost estimate prepared by the applicant. The cost estimate shall be evaluated by the municipality and revised if necessary. The cost estimate shall serve as a basis for establishing an escrow account related to landscaping.
- M. Additional plantings.
- (1) Additional plantings shall be provided in accordance with the standards set forth in the municipal zoning ordinance and other applicable municipal codes.

§ 195-818. Buffer areas.

- A. All buffer areas shall be in accordance with the requirements for same, as set forth in the municipal zoning ordinance.
- B. All required buffer areas shall be depicted on plans for subdivision and/or land development and shall be in accordance with this chapter.

§ 195-819. Recreational areas.

- A. If required by the municipality or desired by the applicant, community open space and recreational areas shall be located as close to all dwelling units as possible, with access leading to major recreational spaces and community facilities.
- B. All community open space and recreational areas shall be designated on the subdivision and/or land development plan using the following three categories:
 - (1) Lawn - A grass area with or without trees that may be used by the residents for a variety of passive recreational purposes.
 - (2) Natural Area - An area of natural vegetation, floodplain, or steep slopes undisturbed during construction. Such area may contain pathways for passive recreation that link to adjacent greenways or trails.
 - (3) Recreational Area - An area designated for active recreational use including, but not limited to, tennis, swimming, playfield, or tot lot.
- C. Compact residential developments designed with 50 or more dwelling units and where the gross residential density is five units per acre or more shall provide community open space and recreational areas. If the developer provides developable land for recreational areas instead of land normally considered not developable, the municipality may recommend a reduction of the setbacks and yard requirements as required by the municipal zoning ordinance. However, the total number of dwelling units shall not exceed that which would be provided if the provision for recreation were not imposed.
- D. The amount of land to be devoted to community open space and recreational areas in each development shall be determined by applying the following formula as depicted in Table 8-7 to the total acreage of the development.
- E. Steep slopes, wooded areas, and floodplains could make up as much as 50% of the required community open space and recreational area. A minimum of 50% of the community open space and recreational area must be relatively flat, dry ground not exceeding the average percent of slope of the development and suitable to the intended purposes.
- F. Community sewage tile absorption fields or spray irrigation systems when permitted and community water supply systems, public and private utility systems, including electric, oil, gas, telephone, and cable television lines (rights-of-way) may be installed in the community open space and recreational areas.
- G. In the event that the municipality does not assume ownership of the community open space and recreational area, the owner or owners shall be responsible for maintaining all community open space and recreational areas.

Table 8-7

Open Space and Recreational Acreage Requirements

Dwelling Unit Density Per Net Residential Acre*	Minimum Required Percent of the Net Residential Acreage Which Must Be Dedicated
5 units per acre	3.0%
6 units per acre	3.4%
7 units per acre	3.9%
8 units per acre	4.6%
10 to 19 units per acre	5.8%
20 to 29 units per acre	9.3%
30 or more units per acre	12.6%

- * Net residential acreage equals the total acreage minus areas for transportation easements, including parking areas.

§ 195-820. Utility easements and rights-of-way.

- A. Utility easements shall be required to facilitate the maintenance and repair of utility lines, sewers, community on-lot sewage disposal systems, wells, and drainage structures.
- B. All utilities shall be located underground and within a street right-of-way or in the center of an easement.
- C. Utility easements shall be a minimum of 20 feet wide, except for volatile and hazardous chemical transmission lines where the minimum easement shall be 25 feet and for multipurpose easements where the minimum width shall be at least 10 feet outside any such structure or subeasement.
- D. There shall be a minimum distance of 25 feet, measured at the shortest distance, between any proposed dwelling and any existing volatile and hazardous chemical transmission right-of-way.
- E. Where a subdivision and/or land development is traversed by a watercourse, drainageway, channel, or stream within a stabilized structure (such as concrete culverts, concrete gutters, gabions, pipes, and the like), there shall be a drainage easement conforming substantially with the line of the watercourse and of such width as will be adequate to preserve natural drainage, but not less than 20 feet or as may be required or requested by the municipality. The applicant shall properly grade and seed slopes and fence any open ditches when it is deemed necessary by the municipality.
- F. To the fullest extent possible, easements shall be centered on or adjacent to rear or side lot lines.
- G. Nothing shall be permitted to be placed or planted within the area of a utility easement. The area shall be maintained as lawn, meadow, or multiuse trail. Shrubbery may be planted when approved by the municipality. For trails located in utility easements, trail paving, benches, signage, and waste receptacles shall be permitted.
- H. Utility easements shall be described in a deed as shown on the approved subdivision and/or land development plan.

§ 195-821. Other utilities.

- A. All other utility lines including, but not limited to, electric, gas, streetlight supply, cable television, and telephone shall be placed underground. Installation of all utilities shall be in strict accordance with the engineering standards and specifications of the municipality and public utility concerned. Renewable energy systems such as geothermal heating and cooling, solar energy generation, and wind power generation are also encouraged, and should be implemented in accordance with any applicable state, federal and local regulations.
- B. These lines should also be oriented to avoid, where possible, areas of high archaeological potential as determined by the Delaware County Archaeological Resource Inventory and Management Plan or other official federal, state, county, or local survey.
- C. In accordance with the provisions of the Act of December 10, 1974, P.L. 852, No. 287, as amended (73 P.S. § 176 et seq.), all developers, contractors, etc., will contact all applicable utilities and accurately determine the locations and depth of all underground utilities within the boundaries of the tract proposed for development prior to excavation. A list of the applicable utilities and their phone numbers shall appear on the plans submitted for review, and proof of

contact shall be presented to the municipality prior to final subdivision and/or land development plan approval.

§ 195-822. Retaining walls.

- A. All retaining walls shall be designed by a structural engineer whose seal shall appear on the plans, when required by the municipal building code.
- B. Where retaining walls are required, the subdivision and/or land development plan shall include wall locations, type of materials, and top and bottom of wall elevations. Any required structural construction plans, details, and calculations shall be submitted at the time of application for a building permit.

§ 195-823. Considerations for solar access.

- A. When maximal provision is to be made for the use of solar energy by structures, in general streets toward which buildings are to be oriented should run in an east-west direction.
- B. Section **195-808A** indicates that side lot lines shall be at right angles to straight street lines and radial to curved street lines. The municipality may allow variation from this requirement where provision is to be made for maximal use of solar energy, in which case side lot lines generally may run from due north to due south or with slight variation east or west of this axis.
 - (1) When lot lines will not be provided, consideration should be given to orienting buildings to maximize solar access. Generally, buildings should be located with their long axes running east to west, though in some high-density or townhouse developments a north-south orientation for the long axes may be desirable.
 - (2) Consideration should be given to locating structures and open spaces such that buildings will not cast shadows on other buildings.
- C. Consideration should be given to reserving solar easements within lots for protection of solar access.

Article IX. Mobile Home Parks

§ 195-900. Applicability.

Mobile home parks shall conform to the following standards as well as to other applicable standards in this chapter.

§ 195-901. Ownership and control.

Mobile home parks shall be planned as a unit, and the tract shall be in single ownership or under unified control.

§ 195-902. Tract layout.

- A. Mobile home parks shall be laid out with due consideration to slopes and other natural features. Natural drainageways will in no way be impaired by development. Streets should run, where

possible, with the contours of the land. Efforts should be made to lay out the mobile home park in other than grid patterns so that long sight distances may be avoided.

- B. Mobile homes, as defined in Article II of this chapter, placed on individual lots are encouraged to be placed off-center on the lots so as to provide a large usable yard space and outdoor living area in one section of the lot.
- C. Groups or clusters of units, so placed as to create interior spaces and courtyards, shall be incorporated whenever feasible.
- D. Mobile homes are encouraged to be arranged in a variety of orientations and are strongly encouraged to have many units with their long axes east-west, offering a southern exposure to their longest wall and roof areas, and to provide variety and interest. Tract layout shall be designed to ensure that mobile homes are offset to block long uninterrupted vistas between the dwellings.
- E. When topographic conditions make street orientation for good solar orientation of dwellings difficult or undesirable, lots should be laid out so that dwellings can be oriented to the south to the greatest extent possible.

§ 195-903. Mobile home stand.

- A. The mobile home stand shall provide for practical placement on and removal from the lot of the mobile home, retention of the home on the lot in a stable condition, and in satisfactory relationship to its surroundings.
- B. The location of each mobile home stand shall be at such elevation, distance, and angle in relation to the access street and the mobile home accessway that placement and removal of the mobile home is practical.
- C. The mobile home stand shall react as a fixed support and shall as such remain intact without unsafe deformation and abnormal internal movement under the weight of the mobile home due to frost action, inadequate drainage, vibration, wind, or other forces acting on the structure.
- D. The mobile home stand shall include provisions for utility connections.

§ 195-904. Tiedowns.

Tiedowns must comply with the minimum standards of local, state, or federal regulations.

§ 195-905. Skirting.

- A. The frame, axles, wheels, and utility connections of all mobile homes shall be concealed from view by skirting.
- B. Skirting shall be of durable all-weather construction as manufactured specially for the purpose of covering the undercarriage area. Skirting shall be fastened in accordance with manufacturer's instructions and provide for adequate ventilation as necessary.

§ 195-906. Refuse collection stations.

- A. Outdoor collection stations shall be provided for removal of garbage, trash, and recyclable materials when individual collection is not made and indoor storage is not provided.

- B. Collection stations shall be located so as to be separated adequately from habitable buildings to avoid being offensive, but at the same time be convenient for both collectors and residents and shall be screened and landscaped.

§ 195-907. Monuments and markers.

- A. Monuments and markers shall be designed in accordance with § **195-802** of this chapter.

§ 195-908. Streets and curbs.

The street system shall be designed in accordance with §§ **195-803** and **195-804** of this chapter.

§ 195-909. Driveways.

Driveways shall be designed in accordance with § **195-805** of this chapter.

§ 195-910. Parking areas and parking lots.

Motor vehicle parking facilities shall be provided in accordance with § **195-806** of this chapter.

§ 195-911. Nonvehicular circulation system.

Pedestrian and bicycle facilities shall be provided in accordance with § **195-807** of this chapter.

§ 195-912. Lots and blocks.

Lots and blocks shall be designed in accordance with §§ **195-808** and **195-809** of this chapter, respectively.

§ 195-913. Sanitary sewers.

Sanitary sewers shall be designed in accordance with §§ **195-810** and **195-812** of this chapter.

§ 195-914. Water supply.

Water supply systems shall be designed in accordance with § **195-811** and § **195-812** of this chapter.

§ 195-915. Stormwater management.

Stormwater management facilities shall be designed in accordance with § **195-813** of this chapter.

§ 195-916. Soil erosion and sedimentation control.

Soil erosion and sedimentation control facilities shall be designed in accordance with § **195-814** of this chapter.

§ 195-917. Grading.

Grading shall be in accordance with § **195-815** of this chapter.

§ 195-918. Natural features protection.

Natural features shall be protected in accordance with § **195-816** of this chapter.

§ 195-919. Landscape plan.

The landscaping shall be designed in accordance with § **195-817** of this chapter.

§ 195-920. Buffer areas.

The buffer area shall be designed in accordance with § **195-818** of this chapter.

§ 195-921. Recreational areas.

The recreational areas shall be designed in accordance with § **195-819** of this chapter.

§ 195-922. Utility systems.

Utility systems shall be provided in accordance with §§ **195-820** and **195-821** of this chapter.

§ 195-923. Retaining walls.

Retaining walls shall be provided in accordance with § **195-822** of this chapter.

Article X. Improvements

§ 195-1000. Completion of improvements.

- A. No subdivision and/or land development plan application shall be finally approved unless the streets shown on such plan have been improved to a mud free or otherwise permanently passable condition or improved as required by this chapter and any walkways, curbs, gutters, streetlights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers, and other improvements as 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 final subdivision and/or land development plan approval, including improvements or fees, the applicant shall deposit financial security with the municipality in an amount sufficient to cover the costs of such improvements or common amenities including, but not limited to, roads, stormwater detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which are or may be required: (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(a)).
- B. When requested by the applicant in order to facilitate financing, the municipality shall furnish the applicant with a signed copy of a resolution indicating approval of the final subdivision and/or land

development plan, contingent upon the applicant obtaining satisfactory financial security. The final subdivision and/or land development plan 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 calendar days, unless the municipality grants a written extension. Such extension shall not be unreasonably withheld and shall be placed, in writing, at the request of the applicant. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(b)).

§ 195-1001. Completion guaranty.

- A. In lieu of the completion of the streets and other improvements required as a condition for the final approval of the subdivision and/or land development plan, as set forth in §§ 195-304 and 195-1000 this chapter, the applicant may deposit financial security acceptable to the municipality in an amount sufficient to cover the costs of such improvements, estimated, calculated, and determined as set forth below.
- B. Without limitation as to other types of financial security which the municipality 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. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(c)).
- C. 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 that said bonding company or lending institution is authorized to conduct such business within the commonwealth. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(d)).
- D. 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. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(e)).
- E. 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 calendar days following the date scheduled for completion by the applicant. The municipality may adjust the amount of the financial security annually by comparing the actual cost of the improvements that 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 municipality may require the applicant to post additional security in order to assure that the financial security equals said 110%. Any additional security shall be posted by the applicant in accordance with this section. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(f)).
- F. 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 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 municipality may refuse to accept such estimate for good cause shown. If the applicant and the municipality 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 municipality and the applicant. The estimate certified by the mutually chosen 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 municipality and the applicant. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(g)).

- G. 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. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(h)).
- H. In the case where development is projected over a period of years, the municipality may authorize submission of final subdivision and/or land development plans by section or stages of development, subject to such requirements or guaranties as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(i)).
- I. As the work of installing the required improvements proceeds, the party posting the financial security may request the municipality 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 municipality, who shall have 45 calendar days from receipt of such request within which to certify that such portion of the work upon the improvements has been completed in accordance with the approved plan. Upon such certification, the municipality shall authorize release by the bonding company or lending institution of an amount fairly representing the value of the improvements completed, or if the municipality fails to act within said forty-five-calendar day period, the municipality shall be deemed to have approved the release of funds as requested. The municipality may, prior to final release at the time of completion, require retention of the estimated cost of the aforesaid improvements. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(j)).
- J. Where the municipality accepts dedication of all or some of the required improvements following completion, the municipality 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 subdivision and/or land development plan 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. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(k)).
- K. 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 municipality, 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. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(l)).
- L. If financial security has been provided in lieu of the completion of improvements required as a condition for the final subdivision and/or land development plan approval, the municipality 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 upon actual completion of the improvements depicted upon the approved final subdivision and/or land development plan. 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 to a mud-free or otherwise permanently passable condition, as well as the completion of all other improvements as depicted upon the approved final subdivision and/or land development plan, 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. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(m)).

- M. The applicant shall not be required to provide financial security for the costs of any improvements for which financial security is required by and provided to PennDOT in connection with the issuance of a highway occupancy permit, pursuant to Section 420 of the Act of June 1, 1945 (P.L. 1242, No. 428) known as the "State Highway Law."^[1] (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 509(a)).
- [1] *Editor's Note: See 36 P.S. § 670-101 et seq.*

§ 195-1002. Release from improvement bond.

- A. When the applicant has completed all of the necessary and appropriate improvements, the applicant shall notify the municipality in writing by certified or registered mail of the completion of the aforesaid improvements. The municipality shall, within twenty-five calendar days after receipt of such notice, inspect all of the aforesaid improvements and inform the applicant in writing by certified or registered mail of its action with relation thereto. The municipality shall prepare a written report and promptly mail a copy of the same to the applicant by certified or registered mail. The 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, said report shall contain a statement of reasons for such nonapproval or rejection. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 510(a)).
- B. The municipality shall notify the applicant, within 15 calendar days of receipt of the engineer's report in writing by certified or registered mail of the action of said municipality with relation thereto. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 510(b)).
- C. If the municipality fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved, and the applicant shall be released from all liability, pursuant to its performance guaranty bond or other security agreement. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 510(c)).
- D. If any portion of the said improvements shall not be approved or shall be rejected by the municipality, then applicant shall proceed to complete the same and, upon completion, the same procedure of notification as outlined herein shall be followed. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 510(d)).

§ 195-1003. As-built plans.

- A. Within 30 calendar days after completion of improvements and approval of the same by the municipality and before acceptance of such improvements, the applicant shall submit to the municipality a corrected set of as-built plans and profiles in accordance with § **195-308** of this chapter. In the event that the as-built plan is not submitted in complete and accurate form, all funds being withheld by means of a completion guaranty shall not be released until such as-built plan has been satisfactorily completed.
- B. The as-built plan shall be reproducible and drawn to the same scale as the final subdivision and/or land development plan, conservation plan, and improvements construction plan and shall be certified by an engineer or surveyor and approved by the municipality.

§ 195-1004. Remedies to effect completion of improvements.

- A. In the event that any improvements that may be required have not been installed as provided in this chapter or in accord with the approved final subdivision or land development plan, the municipality is hereby granted the power to enforce any corporate bond or other security by appropriate legal and equitable remedies. If proceeds of such bond or other security are insufficient to pay the cost of installing or making repairs or corrections to all of the improvements

covered by said security, the municipality may, at its option, install part of such improvements in all or part of the subdivision and/or land development and may institute appropriate legal or equitable action to recover the monies 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 applicant, or both, shall be used solely for the installation of the improvements covered by such security and not for any other municipal purpose.

§ 195-1005. Dedication and acceptance of improvements.

- A. Upon completion of the construction of improvements in accordance with the approved subdivision and/or land development plan, the following conditions shall apply to the offer of dedication of the same and the acceptance thereof:
- (1) The municipality shall have no obligation to take over and make public any street or other improvement in or abutting a subdivision and/or land development. If the municipality elects to accept an offer of dedication, such acceptance shall not occur unless and until:
 - (a) The required improvements and monuments, as shown on the approved subdivision and/or land development plan, conservation plan, and improvements construction plan, shall have been certified by the municipality as having been constructed and installed in accordance with the provisions of this chapter and other municipal ordinances, codes, regulations, plans, and maps and accurately delineated on an as-built plan.
 - (b) A maintenance guaranty is provided through the posting of financial security, such as that deemed to be acceptable to the municipality as set forth in § 195-1001 of this chapter. Such guaranty shall assure the structural integrity of required improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the approved final subdivision and/or land development plans for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be in an amount equivalent to 15% of the actual cost of installation of the required improvements.
 - (c) A deed or deeds of dedication for all such improvements, prepared and executed by the applicant in accordance with forms prescribed by the municipality, shall have been presented to the municipality, together with a certificate from the contractor or contractors evidencing the payment of all labor and material costs and a policy of title insurance ensuring the fee title to said improvements as free and clear of all liens and encumbrances and other objections to the title.
 - (d) At least 50% of all lots having access to the street have been encompassed by completed dwellings, and the municipality shall determine that the public interest requires that such improvements be accepted.
 - (e) Any offer of a deed of dedication must be accompanied by a maintenance bond and the as-built plan(s) at least 90 calendar days prior to the anticipated date for the acceptance of the deed of dedication.
 - (f) The municipality shall have no responsibility with respect to any improvements, notwithstanding any public use thereof, unless and until such improvements are accepted for dedication by duly enacting or adopting an ordinance or resolution therefore.

Article XI. Additional Provisions

§ 195-1100. Coordination with contiguous areas.

- A. All proposed subdivisions and/or land developments shall be coordinated and planned so as to be compatible with adjoining neighborhoods or approved subdivisions and/or land developments.
- B. Such coordination shall also pertain to subdivisions and/or land developments located adjacent to neighboring municipalities.
- C. The municipality may appear and comment before the various municipal boards and commissions of the contiguous municipality considering a proposed subdivision, change of land use, or land development. (NOTE: Pennsylvania Municipalities Planning Code, Act 247, Section 502.1(b)).
- D. Should the need arise, DCPC shall offer a mediation option to any municipality that believes that its citizens will experience harm as the result of an applicant's proposed subdivision or land development in a contiguous municipality, if the municipalities agree. In exercising such an option, the municipalities shall comply with the procedures set forth in Article IX of the Pennsylvania Municipalities Planning Code. The municipalities shall share the cost of the mediation equally unless otherwise agreed. The applicant shall have the right to participate in the mediation. (NOTE: Pennsylvania Municipalities Planning Code, Act 247, Section 502.1(a)).

§ 195-1101. Inspection.

- A. All work and materials shall be subject to inspection for conformity with the terms of this chapter by the municipality.
 - (1) When any work or materials are determined by the municipality not to be in compliance with the terms of this chapter or any other municipal ordinance, code, regulation, plan, or map or to be at variance with any permit issued therefore, the municipality may, by notice in writing or verbal order followed by notice in writing, direct that all work upon improvements in the subdivision and/or land development forthwith stop until such noncompliance or variance is corrected, except as the municipality may deem necessary to prevent injury or damage to persons or property. No work shall thereafter be performed upon the same except in accordance with the order of the municipality.
 - (2) No underground pipes, works, lines, structures, subgrades, or base courses shall be covered until the same shall be inspected and approved by the municipality, and if the same have been covered contrary to the provisions hereof, upon the order of the municipality, the applicant shall cause the same to be forthwith uncovered, at his expense, so as to permit the inspection thereof.
 - (3) When an inspection of any improvements shall be required or desired by the applicant, the applicant shall give the municipality forty-eight-hour of notice in advance.

§ 195-1102. Lot Purchasers and mortgagees.

When a subdivision and/or land development plan has been approved and recorded in accordance with the provisions of this chapter and the improvements thereon completed and approved by the municipality or, in lieu thereof, an improvement bond or other security has been furnished to the municipality, the purchasers and mortgagees of lots in the subdivision and/or land development shall be relieved of any and all liability for any deficiency in, lack of, or failure to complete said improvements by the applicant, and any failure to complete or properly complete said improvements shall not encumber any lot or lots in said subdivision and/or land development.

§ 195-1103. Public hearing.

Before acting upon any subdivision and/or land development plan, the municipality may hold a public hearing thereon after and pursuant to public notice. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 508(5).

§ 195-1104. Notice to contractors.

The applicant shall notify, in writing, all builders and/or contractors that they shall perform all work in accordance with the regulations and requirements of this chapter and such other municipal ordinances, codes, regulations, plans, and maps as shall be applicable thereto. Such notification shall be submitted to the municipality prior to construction and placed on file.

§ 195-1105. Modification of Site Plan Requirements.

- A. DCPC and/or the municipality may recommend that the site plan requirements of this chapter for a subdivision and/or land development be modified or altered in order to encourage or promote economy and ingenuity in the layout and design of subdivisions and/or land developments, to more effectively protect unique and/or sensitive natural and historic areas, or to more effectively conform to the purposes of this chapter as follows:
- (1) With respect to encouraging or promoting economy and ingenuity in the layout and design of subdivisions and/or land developments, DCPC and/or the municipality may recommend modifications to site requirements for, but not limited to, the following types of proposals:
 - (a) Those that may involve earth-sheltered housing design.
 - (b) Those that may involve special forms of solar energy conservation.
 - (c) Those that may involve the conversion, reuse, and/or adaptation of an existing structure or building.
 - (d) Utilization and layout of open space.
- B. With respect to more effectively protecting various sensitive areas, DCPC and/or the municipality may recommend modifications to site requirements for, but not limited to, the following types of proposals:
- (1) Those that would more effectively protect existing tree growth, especially notable trees and tree masses with indigenous vegetation.
 - (2) Those that would minimize extensive grading and the displacement of soil.
 - (3) Those that would enhance groundwater recharge.
 - (4) Those that would minimize surface water runoff and improve the management of stormwater.
 - (5) Those that would preserve historic sites or structures.
 - (6) Those that would minimize visibility of development and protect the visual quality of ridges and other exposed areas.
- C. In granting modifications to the applicant, the municipality may impose such conditions that in its judgment are necessary to substantially secure the objectives of the standards or requirements so varied or modified.
- D. In addition to the foregoing, one or more provisions of this chapter may be modified by the municipality if the literal enforcement of the provisions 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. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 512.1(a).

- (1) All requests for a modification shall be in writing and shall accompany and be a part of the preliminary or final plan application packet for subdivision and/or land 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. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 512.1(b).
- (2) The municipality shall keep a written record of all action on all requests for modifications. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 512.1(d).
- (3) The municipality may authorize a waiver of these regulations. In granting any modification, the municipality shall prescribe any conditions that it deems necessary or desirable for the public interest. In making its findings, the municipality shall take into account the nature of the proposed use of land, the existing use of land in the vicinity, and the probable effect of the proposed subdivision and/or land development upon traffic conditions, fire, police protection, and other utilities and services in the vicinity. No modification shall be granted unless the municipality finds:
 - (a) That there are special circumstances or conditions affecting said property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of this land.
 - (b) That the modification is necessary for the preservation and enjoyment of a substantial property right of the applicant.
 - (c) That the granting of the modification will not be detrimental to the public welfare or injurious to other property in the area in which said property is situated.

Article XII. Administration

§ 195-1200. Records.

DCPD shall assign an application number to all application packets for sketch, preliminary, and final plan review. All matters pertaining to such application packets shall be filed in accordance with the subdivision and/or land development application number. In addition, the municipality shall keep a record of findings, decisions, and recommendations relative to all subdivision and/or land development plans filed with the application packet for review. All such records shall be public records.

§ 195-1201. Delaware County application fees.

- A. Upon the filing of an application packet for preliminary and final approval of a subdivision and/or land development plan, the applicant shall pay to the Treasurer of Delaware County to the use of Delaware County, such fees as established by DCPD. The county fee shall not be combined with any municipal fee.
- B. The applicant shall contact DCPD for the applicable County Act 247 review fee schedule.
- C. Whenever an application packet includes proposed developments with mixed uses, the uses will be separated for calculation purposes and the appropriate county fee applied to each use.

- D. For nonresidential land developments where a substantial percentage of the tract is not proposed for development or consists of existing development, the county fee for these developments shall be calculated in the regular fashion unless the developer delineates on the plan a project area where development is proposed to be located. The county fee would then apply to the project area only. The acreage of the project area shall be shown on the County Application for Act 247 Review Form. The project area shall be that portion of the tract where development or improvements of any kind are proposed, including areas devoted to parking, driveways, drainage facilities, grading, and landscaping.
- E. Once the subdivision and/or land development application packet is deemed an "officially submitted plan," the municipality will forward an application packet containing the appropriate county fee, a fully completed County Application for Act 247 Review Form signed by the appropriate municipal official, a completed checklist, and three sets of plans to DCPD.
- F. No application packet will be accepted by DCPD for DCPC's review and report unless accompanied by the required county fee.
- G. Each resubmission of a different project on the same tract of land will be charged an additional county fee. However, no additional county fee will be charged for refinements, provided that the revised subdivision and/or land development plan is submitted to DCPD within 180 calendar days from the date reviewed by DCPC and the subdivision and/or land development plan has not been substantially altered or modified as determined by DCPD.
- H. County fees will be waived only for an application packet filed under the name of a governmental subunit of the United States or the Commonwealth of Pennsylvania, including school districts and authorities. This exemption does not apply to any private, nonprofit organization.
- I. The county fee schedule shall not apply to sketch plans.

§ 195-1202. Municipal plan review fees.

- A. The applicant shall pay to the municipality, upon invoice rendered by the municipality, the actual cost of all fees incurred by the municipality in the review and evaluation of all subdivision and/or land development plans.
 - (1) In the event that the applicant disputes the amount of any such review fees, the applicant shall, within 14 calendar days of the applicant's receipt of the bill, notify the municipality that such fees are disputed, in which case the municipality shall not delay or disapprove a subdivision and/or land development application packet due to the applicant's request over disputed fees. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 503(1)(i).
 - (2) In the event that the municipality and the applicant cannot agree on the amount of review fees that are reasonable and necessary, then the applicant and municipality shall follow the procedure for dispute resolution set forth in Section 1203.A.1 of this chapter, provided that the professionals resolving such dispute shall be of the same profession or discipline as the fees that are being disputed. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 503(1)(ii).

§ 195-1203. Municipal inspection fees.

- A. The applicant shall pay to the municipality upon invoice rendered by the municipality such charges as shall be made by the municipality for the field inspection of improvements in the subdivision or land development; but in the event that, owing to special or unusual conditions, specialized or expert inspections, analyses, or tests of improvements shall be required, such inspections,

analyses, or tests shall be performed by persons or firms selected by the municipality, and the fees and costs of such inspections, analyses, or tests shall be paid by the applicant to the municipality.

- (1) Reimbursement by the applicant to the municipality shall be based upon a schedule established by ordinance or resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the municipal engineer for work performed 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 municipality when fees are not reimbursed or otherwise imposed on applicants. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 510(g).
 - (a) In the event that the applicant disputes the amount of any such expense in connection with the inspection of improvements, the applicant shall, within 10 calendar days of the billing date, notify the municipality that such expenses are disputed as unreasonable or unnecessary, in which case the municipality shall not delay or disapprove a subdivision and/or land development application packet or any approval or permit related to development due to the applicant's request over disputed engineer expenses. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 510(g)(1).
 - (b) If, within 20 calendar days from the billing date, the municipality and the applicant cannot agree on the amount of the expenses which are reasonable and necessary, then the applicant and municipality shall jointly, by mutual agreement, appoint another professional engineer, licensed as such in the Commonwealth of Pennsylvania, to review said expenses and make a determination as to the amount thereof which is reasonable and necessary. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 510(g)(2).
 - (c) 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 shall render a decision within 50 calendar days of the billing date. The applicant shall be required to immediately pay the entire amount determined in the decision. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 510(g)(3).
 - (d) In the event that the municipality and applicant cannot agree upon the professional engineer to be appointed within 20 calendar days of the billing date, then upon application of either party, the President Judge of the Court of Common Pleas (or if at the time there be no President Judge, then the senior active judge then sitting) shall appoint such engineer, who, in that case, shall be neither the municipal engineer nor any professional engineer who has been retained by or performed service for the municipality or the applicant within the preceding five years. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 510(g)(4).
 - (e) The applicant shall pay the fee of the appointed professional engineer for determining the reasonable and necessary expenses, 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 municipality shall pay the fee of the professional engineer, but otherwise the municipality and the applicant shall each pay half of the fee of the appointed professional engineer. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 510(g)(5).

B. All invoices shall be due upon presentation.

C. Any applicant who is delinquent in the payment of invoices shall be denied issuance of any further approvals or permits by the municipality, whether such approvals or permits pertain to the subdivision and/or land development for which said invoice was rendered or to any other subdivision and/or land development within the municipality.

- D. The municipality shall revoke all permits issued to applicants who are delinquent in the payment of any invoice.

§ 195-1204. Municipal material tests.

- A. The applicant shall pay to the municipality upon invoice rendered by the municipality the cost of performing all material tests determined by the municipality to be necessary or desirable in connection with the inspection or approval of all subdivision and/or land development plans or improvements.

§ 195-1205. Other municipal fees.

- A. The applicant shall pay to the municipality upon invoice rendered by the municipality all fees incurred by the municipality in the preparation of the subdivision and land development agreements, improvement and maintenance bonds, escrow agreements, and other instruments deemed necessary or desirable by the municipality in connection with subdivisions and/or land developments.

§ 195-1206. Preventive remedies.

- A. In addition to other remedies, the municipality 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. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 515.1(a).
- B. The municipality 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 any of this Chapter's provisions. This authority to deny such a permit or approval shall apply to any of the following applicants. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 515.1(b).
- (1) The owner of record at the time of such violation. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 515.1(b)(1).
 - (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. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 515.1(b)(2).
 - (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. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 515.1(b)(3).
 - (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. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 515.1(b)(4).
- 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 municipality 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. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 515.1(b)(4).

§ 195-1207. Jurisdiction.

District justices shall have initial jurisdiction in proceedings brought under § **195-1208** of this chapter. NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 515.2.

§ 195-1208. Enforcement remedies.

- A. Any person, partnership, or corporation who or which has violated the provisions of any subdivision or land development ordinance enacted under the Pennsylvania Municipalities Planning Code or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by the municipality 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 district justice. If the defendant neither pays nor timely appeals the judgment, the municipality 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 district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership, or corporation violating the ordinance 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 district justice, and thereafter each day that a violation continues shall constitute a separate violation. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 515.3(a)).
- 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. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 515.3(b)).
- C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 515.3(c)).

§ 195-1209. Collection of fines.

- A. All fines collected for violations of this chapter, as provided in § **195-1208** of this chapter, shall be paid over to the municipality.

§ 195-1210. Ordinance amendments.

- A. Amendments to this chapter shall be adopted by the municipality and shall become effective only after a public hearing held pursuant to public notice in the manner prescribed below. The public notice of proposed enactment shall include the time and place of the meeting at which passage will be considered and a reference to a place where copies of the proposed amendment may be examined without charge or obtained for a charge not greater than the cost thereof. The municipality shall publish the proposed amendment once in one newspaper of general circulation in the municipality not more than 60 calendar days nor less than seven calendar days prior to passage. Publication of the proposed amendment shall include either the full text thereof or the title and a brief summary prepared by the municipal Solicitor and setting forth all of the provisions in reasonable detail. If the full text is not included. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 506(a)).

- (1) A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 506(a)(1)).
 - (2) An attested copy of the proposed amendment shall be filed in the Delaware County Law Library or another County office designated by County Council, who may impose a fee no greater than that necessary to cover the actual costs of storing said amendments. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 506(a)(2)).
- B. In the event that substantial amendments are made in the proposed amendment, before voting upon enactment, the municipality shall, at least 10 calendar days prior to enactment, readvertise in one newspaper of general circulation in the municipality, a brief summary setting forth all of the provisions in reasonable detail together with a summary of the amendments. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 506(b)).
 - C. Subdivision and land development amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 506(c)).
 - D. In addition, in case of an amendment other than that prepared by the Municipal Planning Commission, the municipality shall submit each such amendment to the Municipal Planning Commission for recommendations at least 30 calendar days prior to the date fixed for the public hearing on the proposed amendment. (NOTE: See Pennsylvania Municipalities Planning Code, Act 247, Section 505(a)).

Chapter 202. Taxation

[HISTORY: Adopted by the County Council of the County of Delaware as indicated in article histories. Amendments noted where applicable.]

Article I. Collection by Treasurer

[Adopted 2-1-1977 by Ord. No. 77-2]

§ 202-1. Collection of County real estate and personal property taxes.

All real estate taxes and personal property taxes levied and assessed or imposed by the County of Delaware shall be collected and receipted for by the elected or duly appointed Treasurer of the County of Delaware.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 202-2. Duration.

The collection of said real estate and personal property taxes by the County Treasurer shall commence on the first day of January 1978, and said collection of taxes by the County Treasurer shall continue thereafter until determined otherwise by County Council.

§ 202-3. Legislative intent.

It is the intent of this article that all real estate and personal property taxes levied and assessed or imposed by the County of Delaware for the taxable year 1978, and every year thereafter, shall be

collected by the County Treasurer and not by any of the Tax Collectors elected or appointed in the local municipalities located in the County of Delaware.

[1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*

§ 202-4. Yearly bond.

For the faithful performance of his duties as collector of said taxes, the Treasurer of the County of Delaware shall give and acknowledge a yearly bond to the County in an amount as determined by County Council.

Article II. Hotel Tax

[Adopted 4-22-1986 by Ord. No. 86-2]

§ 202-5. Definitions.

The following definitions shall apply to this article:

CONSIDERATION

The receipts, fees, charges, rentals, leases, cash, credits, property of any kind or nature, or other payment received by operators in exchange for or in consideration of the use or occupancy by a transient of a room or rooms in a hotel for any temporary period.

HOTEL

A hotel, motel, inn, guesthouse, or other building located within the County of Delaware which holds itself out by any means, including advertising, license, registration with any innkeeper's group, convention listing association, travel publication or similar association or with any government agency as being available to provide overnight lodging or use of facility space for consideration to persons seeking temporary accommodation; any place which advertises to the public at large or any segment thereof that it will provide beds, sanitary facilities or other space for a temporary period to members of the public at large; any place recognized as a hostel, provided that portions of such facility which are devoted to persons who have established permanent residence shall not be included in this definition.

OCCUPANCY

The use or possession or the right to the use or possession by any person other than a permanent resident of any room in a hotel for any purpose or the right to the use or possession of the furnishings or to the services accompanying the use and possession of the room.

OPERATOR

Any individual, partnership, nonprofit or profit-making association or corporation or other person or group of persons who maintain, operate, manage, own, have custody of, or otherwise possess the right to rent or lease overnight accommodations in any hotel to the public for consideration.

PATRON

Any person who pays the consideration for the occupancy of a room or rooms in a hotel.

PERMANENT RESIDENT

Any individual person who has occupied or has the right to occupy any room or rooms in a hotel as a patron or otherwise for a period exceeding 30 consecutive days; the term "permanent resident" shall not include any patron or business entity which reserves a room or rooms, whether specified or unspecified, in any hotel unless said room or rooms are each used by the same individual person for a period exceeding 30 consecutive days.

RENT or RENTING

The act of paying consideration, whether received in cash money or otherwise, for occupancy.

ROOM

A space in a hotel set aside for use and occupancy by patrons, or otherwise, for consideration, having at least one bed or other sleeping accommodation provided therein.

TEMPORARY

A period of time not exceeding 30 consecutive days.

TOURIST PROMOTION AGENCY

The agency or department designated by County Council to carry out tourist promotion activities as provided for in this article and as authorized by law.

TRANSACTION

The activity involving the obtaining by a transient or patron of the use or occupancy of a hotel room from which consideration emanates to the operator under an express or an implied contract.

TRANSIENT

Any individual who obtains accommodation in any hotel for himself or herself by means of registering at the facility for the temporary occupancy of any room for the personal use of that individual, whether the fee paid to the operator of said facility in consideration thereof is paid by said individual or by some other person or entity on his or her behalf.

§ 202-6. Imposition; rate; purpose.

- A. There is hereby imposed an excise tax of 3% on the consideration received by each operator of a hotel within the County of Delaware from each transaction of renting a room or rooms to accommodate transients.
[Amended 7-2-1991 by Ord. No. 91-2; 7-20-2010 by Ord. No. 2010-2]
- B. The County Treasurer shall collect the tax from the operator and deposit the revenues received therefrom in a special account established solely for the purpose of travel and tourism promotion and advertising related to such promotion.
- C. The County Treasurer is authorized to establish rules and regulations concerning the collection of this tax.
- D. Expenditures from the account established pursuant to this article shall be annually appropriated by County Council for tourist promotion activities to be executed by the designated tourist promotion agency involved in County tourist promotion activities; there shall be deducted from the funds collected pursuant to this article any direct or indirect costs attributable to the collection of the tax.
- E. The tourist promotion activities to be executed by the designated tourist promotion agency shall include:
 - (1) Marketing the area served by the agency as a leisure travel destination;
 - (2) Marketing the area served by the agency as a convention and business travel destination;
 - (3) Marketing the area served by the agency to the public as a whole for use of its tourist and convention facilities;
 - (4) Using all appropriate marketing tools to accomplish these purposes, including advertising, publicity, publications, direct marketing, direct sales, participation in travel trade shows, etc.

- F. The designated tourist promotion agency shall submit to the Delaware County Council monthly written reports detailing the nature of the tourist promotion activities carried out by said agency and the expenditures made for such activities for the previous month.

§ 202-7. Reports; returns; payment; collection.

- A. The operator shall collect the tax imposed by this article from the patron of the room and pay it over to the County as provided hereinafter. The operator shall be liable to the County as agent thereof for the payment of the tax to the County Treasurer as provided in this article.
- B. Every report and return shall be made upon a form furnished by the County Treasurer.
- C. Every operator shall transmit to the County Treasurer, on or before the 10th day of each month, a return for the preceding month, which shall contain the amount of consideration received for the transactions during the month for which the return is made, the amount of tax collected by the operator during that month, and such other information as the County Treasurer may require.
- D. Every operator, at the time of filing every return required by this article, shall compute and pay to the County Treasurer the taxes collected by him and due to the County during the period for which the report is made; a ten-percent penalty shall be added to all such payments transmitted to the County after the 10th day of each such month.
- E. Every operator shall maintain records, which shall be made available to the County Treasurer upon request, which shall include, but not be limited to, the number of transactions in each hotel reflected on an hourly, daily, or weekly basis, the rate(s) charged for each occupancy, the consideration received from all transactions during the month for which each return is made, as well as such other information as the County Treasurer may require.
- F. First return.
- (1) The first return shall be due on June 10, 1986, for the month of May 1986, and the tax due shall be based upon transactions occurring during the month of May.
 - (2) If an operator enters the business of the renting of hotel rooms subsequent to May 3, 1986, the first return shall be filed on the 10th day of the first month subsequent thereto. The first return and tax payment due shall be for all transactions occurring during the preceding month based upon the actual taxable transactions during that month.

§ 202-8. Effective date; continuation by resolution.

This article shall become effective May 3, 1986, and the provisions of this article shall remain in force for three years from the effective date of the enabling legislation heretofore enacted by the General Assembly, and the provisions hereof may be continued thereafter by resolution of the Delaware County Council.

Chapter 216. Uniform Construction Code Appeal Board

[HISTORY: Adopted by the County Council of the County of Delaware 10-26-2004 by Ord. No. 04-3. Amendments noted where applicable.]

§ 216-1. Establishment; statutory authority; purpose.

- A. The Delaware County Uniform Construction Code Appeal Board (hereafter referred to as the "Board"), established by municipal resolutions approved by and among the City of Chester, townships of Delaware County, and boroughs of Delaware County (hereafter referred to as the "municipalities"), is authorized to establish rules and procedures, pursuant to Act 45 of 1999,^[1] for the conduct of business regarding appeals from determinations under the Uniform Construction Code (hereafter referred to as the "Code"), and adopts the following.

[1] *Editor's Note: See 35 P.S. § 7210.101 et seq.*

- B. The Board is established to provide a process for the resolution of code grievances derived from the decision of the participating municipal code official in order to insure the health, safety, and general welfare for the citizens of Delaware County. Resolution of code grievances by the Board may be accomplished by either a request for hearing or argument on the matter or upon submittal of evidence and/or documentation to the Board for a determination without a hearing.

§ 216-2. Eligibility; membership; meetings; quorum.

- A. Any resident of Delaware County having the qualifications according to Act 45 of 1999^[1] shall be eligible for appointment to the Board regardless of whether the resident's home municipality participates in the code administration program. A member of the Board shall be qualified by training and experience to pass on matters pertaining to building construction. Training and experience may consist of licensure as an architect or engineer, experience in the construction industry, and training or experience as an inspector or plan reviewer.

[1] *Editor's Note: See 35 P.S. § 7210.101 et seq.*

- B. The Board shall consist of five members and shall have an organizational meeting each year in February to elect a Chairman and Vice Chairman for the term beginning February 16 and ending the succeeding year on February 15. The Secretary to the Board shall be the Director of the Delaware County Code Administration.

- C. The stated monthly meeting of the Board shall be conducted according to the Pennsylvania State "Sunshine Act" of 1986, as amended.^[2]

[2] *Editor's Note: See now 65 Pa.C.S.A. § 701 et seq.*

- D. A quorum of the Board to conduct business shall consist of three members of the Board.

- E. The Board may appoint advisory ad hoc committee(s) for specific purposes.

§ 216-3. Appeal process.

- A. Filing of appeal.

(1) Any person may appeal a decision of the code official refusing to grant a modification to the provisions of the code of the municipalities served by the Board.

(2) The appeal shall be made by completing required information on the appeal form, and any relevant material shall be appended to the appeal form. The appellant shall state on the appeal form whether a hearing or oral argument is requested or whether the issue(s) to be resolved shall be decided upon submittal of evidence, written brief and/or documentation to the Board for a determination without a hearing.

(3) The appeals form may be secured at the office of the Delaware County Code Administration or at the offices of the participating municipalities.

(4) The appeals form and any relevant material shall be accompanied by a copy of the written decision of the code official upon which the appeal is based. If no written decision is provided

within 10 days of the code official's decision, the appellant may proceed to file the appeal on affidavit that the appellant served on the code official a request for a written decision which was not provided and that the lack of a written decision shall be deemed as a denial.

- (5) The completed appeals form shall be filed with the Board Secretary in the offices of the Delaware County Code Administration at least 15 business days prior to the stated monthly meeting of the Board. The appellant shall also serve a copy of the appeal upon the municipal code official by certified mail and shall file a proof of service with the Board prior to the hearing. The proof of service shall contain a copy of the postal return receipt. The Director of the Delaware County Code Administration is authorized by the Board to serve as the Secretary to the Board.
- (6) The filing fee for the appeal shall be established by resolution adopted by the County Council of the County of Delaware. All checks shall be made payable to the "County of Delaware" and must accompany the appeals form.
- (7) The Secretary shall assign an appeal number and open a file for the keeping of all materials relevant to the appeal. The Secretary shall note on the appeal form the date and time of the filing. The appeal number shall be affixed to each document and shall consist of the following:
 - (a) Part one consists of the last two digits of the year in which the appeal is filed.
 - (b) Part two is the municipal code of the municipality in which the appeal is brought.
 - (c) Part three represents the consecutive number of appeals filed in the year.
- (8) All appeals shall be heard or decided within 60 days after the appeal is filed and accepted by the Board.

B. Scope or review by the Board.

- (1) The appellant may seek a variance or extension of time or appeal a building code official's decision.
- (2) The date of personal service or the receipt of the appeal by the Board will establish the filing date of the appeal and request for variance or extension of time.
- (3) An appeal or request for variance or extension of time to the Board will automatically suspend an action to enforce an order to correct until the matter is resolved. An action under § 403.84 of the Pennsylvania Bulletin (relating to unsafe building, structure or equipment) may not be stayed.
- (4) The Board shall decide an appeal, variance request or request for extension of time by reviewing documents and written brief or argument unless the appellant requests a hearing.
- (5) The Board shall hold a hearing within 60 days from the date of an applicant's request unless the applicant agreed, in writing, to an extension of time.
- (6) The Board shall only consider the following factors when deciding an appeal under Section 501(c)(2) of the Act:^[1]
 - (a) The true intent of the Act or Uniform Construction Code was incorrectly interpreted.
 - (b) The provisions of the Act do not apply.
 - (c) An equivalent form of the construction is to be used.

[1] *Editor's Note: See 35 P.S. § 7210.501(c)(2).*

- (7) The Board may consider the following factors when ruling upon a request for extension of time or the request for variance:
 - (a) The reasonableness of the Uniform Construction Code's application in a particular case.
 - (b) The extent to which the granting of a variance or an extension of time will pose a violation of the Uniform Construction Code or an unsafe condition.
 - (c) The availability of professional or technical personnel needed to come into compliance.
 - (d) The availability of materials and equipment needed to come into compliance.
 - (e) The efforts being made to come into compliance as quickly as possible.
 - (f) Compensatory features that will provide an equivalent degree of protection to the Uniform Construction Code.
- (8) If the appellant requests a hearing, the Board shall schedule a hearing and notify the appellant and building code official of the date, time and place of the hearing.

C. Notice of hearing.

- (1) The Secretary shall forward by first-class mail, no later than 10 business days before the date of hearing, a notice of hearing, the appeals form, and the decision of the municipal code official to all Board members, to the municipal code enforcement official and to the municipal secretary.
- (2) If a quorum of the Board cannot be achieved, the Board Secretary shall notify, by first-class mail, all persons as stated in Subsection **C(1)** of the meeting cancellation.

D. Hearing procedures.

- (1) All hearings shall be open to the public.
- (2) The Chairman shall preside and is authorized to administer oaths and to rule upon the admissibility of presentation to the Board subject to challenge by a majority of the Board. Formal rules of evidence shall not apply but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
- (3) The Secretary shall take, date, certify, and maintain as part of the record a voice tape recording of the hearings as well as the record of the hearing, including all exhibits admitted.
- (4) Upon request by a party, and upon full and prior payment of the cost, the Secretary shall prepare and certify a written transcription of the recording.
- (5) A party may be represented by legal counsel.
- (6) The order of hearing shall be as follows:
 - (a) The appeals form and all required documents shall be accepted or rejected by the Board (forms in order, timely submission, fees paid, and other);
 - (b) The Chairman shall state the issue as presented;
 - (c) The appellant shall proceed initially in presenting the appeal to the board and the code official shall be offered the opportunity to comment on the presentation of the issue;
 - (d) The appellant shall present the basis for the appeal and the manner in which the code official erred in the decision rendered. The appellant may present relevant documents,

evidence or witnesses in support;

- (e) The Board may question the appellant and any witnesses presented;
 - (f) The code official may question the appellant and any witnesses presented;
 - (g) The Board may ask additional questions of the appellant;
 - (h) The code official shall present the law as written and the decision rendered. The code official may present relevant documents or witnesses in support of his/her decision;
 - (i) The Board may question the code official and any witnesses presented;
 - (j) The appellant may question the code official and any witnesses presented;
 - (k) The Board may ask additional questions of the code official;
 - (l) The appellant shall make a summation;
 - (m) The code official shall make a summation; and
 - (n) At the conclusion of the code official's summation, the Chairman shall entertain a motion on a decision followed by a roll-call vote of the members of the Board. A majority of the Board shall be required to sustain a decision. A tie vote on the appeal shall be deemed a denial of the appeal.
- (7) The Board, of its own volition or at the request of a party, may continue the hearing at any stage. A simple majority of voting Board members shall be required for this action.

E. Decision.

- (1) The decision of the Board shall be formulated by the Chairman or Vice Chairman, in writing, to the Secretary on a form which shall state the reasons for the Board's decision. If a hearing is held, the following format shall be employed:
 - (a) Finding of fact;
 - (b) Discussion on the findings;
 - (c) Opinion and order;
 - (d) Right of the aggrieved party in interest to appeal to the Court of Common Pleas of Delaware County;
 - (e) Attesting signatures of the Chairman or Vice Chairman and the Secretary.
- (2) The decision shall apply only to the parties, and shall not be presumed to apply to any other situation.
- (3) The decision shall be circulated by the Secretary among the members of the Board for review and/or comments. Written decision shall be issued within 15 working days after close of evidence.
- (4) The Secretary shall forward, by certified mail, a copy of the decision to the parties in interest and, by first-class mail, to all Board members, code enforcement officials and to the municipal managers.

Chapter 224. Vehicles and Traffic

[HISTORY: Adopted by the County Council of the County of Delaware as indicated in article histories. Amendments noted where applicable.]

Article I. Weight Limits on Bridges

[Adopted 12-29-1981 by Ord. No. 81-7]

§ 224-1. Gross weight limits.

Except as provided in § 224-2 of this article, it shall be unlawful for any person to operate any motor vehicle, commercial vehicle, or other tractor, trailer or tractor-trailer combination having a gross weight in excess of that herein respectively prescribed upon any of the bridges or portions thereof described below.

Bridge	Gross Weight (tons)	Location
Addingham	12	Rosemont Avenue over Darby Creek, Springfield and Upper Darby Townships
Bonemill	10	Station Road over East Branch of Chester Creek, Thornbury Township
Buttonwood	12	Ninth Street over Darby Creek, Darby and Collingdale Boroughs
Glenolden	12	Grant Avenue over Muckinipates Creek, Glenolden and Folcroft Boroughs
Hanser	12	Crum Creek Road over Crum Creek, Marple and Upper Providence Townships
Lindbergh	3	Bridge Street over Darby Creek, Clifton Heights Borough and Upper Darby Township
Michigan	12	Michigan Avenue over Little Crum Creek, Ridley Township
Mount Alverno	12	Mount Alverno Road over Chester Creek, Aston and Middletown Townships
Myers	10	Old Forge Road over Rocky Run, Middletown Township
Rocky Run	10	Valley Road over Rocky Run, Middletown Township
Twenty-Fifth Street	10	Twenty-Fifth Street over Ridley Creek, Nether Providence Township and City of Chester
West Fifth Street	12	West Fifth Street over Chester Creek, City of Chester
West Seventh Street	12	West Seventh Street over Chester Creek, City of Chester

§ 224-2. Emergency vehicle exception.

The prohibitions and penalties of this article shall not apply to emergency vehicles when such emergency vehicles are actually responding to an emergency but shall apply when such emergency vehicles are returning from an emergency call or are engaged in routine driving, maintenance, or parade exercises. An "emergency vehicle" shall consist of any vehicle as so defined in Section 102 of

the Pennsylvania Vehicle Code, 75 Pa.C.S.A. § 102, and shall also include any vehicle under the jurisdiction of the Civil Defense Director of the County of Delaware. An "emergency" shall consist of any threat or danger or reported threat or danger to the life, property, health, or safety of any person.

§ 224-3. Violations and penalties.

Penalties for violation of this article shall be as set forth in Section 4902(g)(1) of the Pennsylvania Vehicle Code, 75 Pa.C.S.A § 4902(g)(1), as amended, or as shall be set forth in any amendment thereto or successor legislation enacted by the General Assembly of the Commonwealth of Pennsylvania.

§ 224-4. Collection of fines, penalties and forfeitures.

All fines, penalties, and forfeitures imposed and collected under this article shall be disposed of by the collecting authority in the manner prescribed by the laws of the Commonwealth of Pennsylvania; provided, however, that in any case in which a prosecution under this article is the result of local police action, the collecting authority shall transmit to the municipality employing such police officer or officers 50% of any fine, penalty and/or forfeiture collected, and shall transmit to the Treasurer of the County of Delaware the balance of any such fine, penalty and/or forfeiture.

§ 224-5. Posting and maintenance of signs.

The Director of Public Works of the County of Delaware shall erect or cause or be erected and shall maintain or cause to be maintained such restriction signs, including, if necessary, any advance informational signs, as shall be required to effectuate the enforcement of this article under applicable provisions of the Pennsylvania Vehicle Code and any other laws of the Commonwealth of Pennsylvania.

§ 224-6. Authority to establish and modify gross weight limits.

- A. The Director of Public Works of the County of Delaware is hereby declared to be the "public official authorized to act," pursuant to the provisions of Section 6109(b)(2) of the Pennsylvania Vehicle Code, 75 Pa.C.S.A. § 6109(b)(2), on the following specified matters:
- (1) He shall have the authority to increase or to decrease the gross weight limits set forth in § 224-1 of this article, as to any bridge enumerated in § 224-1 of this article.
 - (2) He shall have the authority to establish and, once established, to increase or to decrease the gross weight limits for any bridge which may now or hereafter be owned by or be under the jurisdiction of the County of Delaware, notwithstanding that such bridge is not enumerated in § 224-1 of this article.
- B. In exercising his powers and duties under this section, the Director of Public Works of the County of Delaware shall rely upon his own professional expertise and shall obtain the advice and recommendations of such consulting engineers, if any, as he shall deem appropriate; he shall file a written statement with the County Clerk of the County of Delaware setting forth any new or modified gross weight limits; and he shall cause such new or modified gross weight limits to be posted as set forth in § 224-5 of this article.

§ 224-7. Severability; effect of invalidity.

- A. In the event that § **224-6** of this article shall be found by any court of competent jurisdiction to constitute a delegation of power and authority by the County Council of the County of Delaware which is in excess of that authorized by the Pennsylvania Vehicle Code or other applicable provisions of state law or of the Delaware County Home Rule Charter, the remainder of this article shall not be held to be invalid and the said § **224-6** shall be considered to be severable, it being expressly declared that the County Council of the County of Delaware would have adopted the remaining provisions of this article notwithstanding any possible invalidity of § **224-6** hereof.
- B. In the event that the Director of Public Works of the County of Delaware shall have exercised his authority under § **224-6A** of this article to decrease any gross weight limit set forth in § **224-1** of this article, and § **224-6** of this article shall be found by any court of competent jurisdiction to constitute a delegation of authority in excess of that authorized by the Pennsylvania Vehicle Code or other applicable provisions of state law or of the Delaware County Home Rule Charter, the gross weight limit for any such bridge enumerated in § **224-1** of this article, the gross weight limit of which the Director of Public Works of the County of Delaware shall have decreased, shall be the gross weight limit as so set forth in § **224-1** of this article; and, in such case, any defendant shall remain liable for prosecution to the extent that the gross weight of his vehicle shall have exceeded such gross weight limit as so set forth in § **224-1** of this article.

§ 224-8. Permits for vehicles in excess of weight restrictions; security.

Pursuant to the applicable provisions of the Pennsylvania Vehicle Code, as now set forth in 75 Pa.C.S.A. § 4902(c), the Director of Public Works of the County of Delaware shall have the authority to issue permits for the movement of vehicles of weight in excess of the restrictions provided for by this article for bridges now or hereafter owned by the County of Delaware. No such permit shall be issued unless and until the applicant for such permit provides such security as the Director deems necessary to cover the cost of repairs and restoration necessitated by the permitted movement of such vehicles over the said bridges; in addition to such security the applicant for such permit shall also agree to indemnify and save harmless the County against any and all claims which may be asserted against the County for any personal injury or property damage claims which may arise out of the movement of such vehicles over the said bridges.

Disposition List

Chapter DL. Disposition List

The following is a chronological listing of legislation of the County of Delaware 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. 2009-2, adopted 2-24-2009.

§ DL-1. Disposition of legislation.

Ord. No.	Adoption Date	Subject	Disposition
2010-2	7-20-2010	Hotel tax amendment	Ch. 202 , Art. II
2010-3	8-3-2010	Adoption of Code	Ch. 1 , Art. I
2013-4	12-11-2013	Fees	Ch. 57
2014-4	12-10-2014	Administrative Code amendment	Ch. 6

Ord. No.	Adoption Date	Subject	Disposition
2016-2	8-3-2016	Subdivision and land development	Ch. 195