

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE PROVISIONS OF THE ZONING ORDINANCE OF TINICUM TOWNSHIP, BUCKS COUNTY, PENNSYLVANIA TO AMEND THE PROVISIONS OF THE ORDINANCE DEFINING THE TERM “QUALIFYING IMPROVEMENT,” REVISING THE TERMS OF THE OVERLAY DISTRICTS, ESTABLISHING INCREASED SETBACKS FOR ACCESSORY STRUCTURES IN EXCESS OF 800 SQUARE FEET AND 20 FEET IN HEIGHT, ESTABLISHING THAT NONCONFORMING SETBACKS DO NOT APPLY TO NEW STRUCTURES, ADOPTING THE TOWNSHIP WATERCOURSE MAP AS THE RIPARIAN BUFFER OVERLAY MAP, AMENDING DEFINITION OF PRIME AGRICULTURAL SOILS, AND REPLACING ALL REFERENCE TO THE ENVIRONMENTAL ADVISORY COMMITTEE WITH THE PLANNING COMMISSION.

B A C K G R O U N D:

WHEREAS, Section 1516 (53 P.S. Section 66516) of the Pennsylvania Second Class Township Code provides that the corporate powers of the Board of Supervisors of Tinicum Township (the “Board of Supervisors”) include the ability to plan for the development of the Township through Zoning and Subdivision and Land Development Ordinance under the Act of July 13, 1968 (P.L. 805, No. 247), known as the “Pennsylvania Municipalities Planning Code”;

WHEREAS, the Board of Supervisors on or about September 1, 2005, duly adopted a revised and restated Tinicum Township Zoning Ordinance;

WHEREAS, Section 1601 of the Second Class Township Code provides that the Board of Supervisors may adopt Ordinances in which general or specific powers of the Township may be exercised, and, by the enactment of subsequent Ordinances, the Board of Supervisors may amend, repeal, or revise existing Ordinances (53 P.S. Section 66601);

WHEREAS, since its adoption, the Zoning Ordinance has from time to time been amended;

WHEREAS, the Board of Supervisors finds it is in the interest of the Township and its citizens to amend the Zoning Ordinance to amend the provisions of the Ordinance defining the term “Qualifying Improvement,” revising the terms of the overlay districts,

establishing increased setbacks for accessory structures in excess of 800 square feet and 15 feet in height, establishing that nonconforming setbacks do not apply to new structures, adopting the township watercourse map as the riparian buffer overlay map, amending definition of prime agricultural soils, and replacing all reference to the environmental advisory committee with the planning commission;

WHEREAS, the Board of Supervisors finds and determines that this Zoning Ordinance Amendment is consistent with the Township Comprehensive Plan and the Community Development Objective stated therein and in the Zoning Ordinance.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, and it is hereby **ENACTED AND ORDAINED** by the Board of Supervisors of Tinicum Township, Bucks County, Pennsylvania, after public hearing, duly advertised and held on the _____ day of _____, 2017, as follows:

Section 01: Section 806(l) Substantial property improvement is repealed in its entirety and Article II. Definitions. of the Zoning Ordinance shall be amended by adding the following:

Section 230E. “Qualifying Improvement” shall mean an improvement which includes one or more of the following:

- (a) A proposal requiring subdivision or land development approval.
- (b) An existing parcel if modified by a creating a new legal access easement.
- (c) A lot line change which creates a building lot.
- (d) Any nonresidential development, including expansion of existing nonresidential development.

Section 02: Section 802.03 (b) thru (d) Steep Slopes and Very Steep Slopes is repealed in its entirety and replaced with the following:

- (b) Steep Slopes- Areas of Steep Slope are characterized by a change in elevation from fifteen percent (15%) to twenty-five percent (25%).
- (c) Very Steep Slope- Areas of Very Steep Slope are characterized by a change in elevation greater than or equal to twenty-five (25).
- (d) There shall be no intrusion of any kind within fifty (50) feet measured horizontally from the top or bottom of areas of thirty percent (30%) or greater slope.

Section 03: Section 805 is repealed in its entirety and replaced with the following:

Section 805 Steep Slope Conservation Overlay District

(a) Purpose

The purpose of this Section is to expand upon the Purpose and Community Development Objectives associated with environmental protection and the preservation of natural resources expressed in Section 102. Further, the provisions of this Section are designed to encourage the sensitive treatment of hillsides and their related soil and vegetation resources in an effort to minimize adverse environmental impacts. The following objectives serve to complement these specific purposes and the overall purposes of this Ordinance:

- (1) To conserve and protect steep and very steep slopes from inappropriate development such as excessive grading, landform alteration and extensive vegetation removal.
- (2) To avoid potential hazards to property and the disruption of ecological balance which may be caused by increased runoff, flooding, soil erosion and sedimentation, blasting and ripping of rock, and landslide and soil failure.
- (3) To encourage the use of steep and very steep slopes for open space and other uses which are compatible with the preservation of natural resources and protection of areas of environmental concern.

(b) General Provisions

(1) Compliance

No area within the Steep Slope Conservation Overlay District shall hereafter be used without full compliance with the terms of this Section and other applicable regulations.

(2) Preservation of Other Restrictions

It is not intended by this Section to repeal, abrogate or impair any regulations set forth in any other Provisions of this Ordinance, any regulations of the Subdivision and Land Development Ordinance, or any easements, covenants or deed restrictions, except that where this Section imposes greater restrictions, its provisions shall prevail. Further, nothing contained in this Section shall diminish in any way the provisions of the Pennsylvania Clean Streams Law and/or Chapter 102 of the PA DEP Rules and Regulations, or any other applicable state, federal, county or township regulations, codes, ordinances, and the like.

(3) Boundary Definition and Mapping

- (i) The Steep Slope Conservation Overlay District is comprised of areas of steep and very steep slopes, as shown on the Steep Slope Conservation District Map which is included in Appendix A and made part of this Ordinance. The map constitutes only a general representation of steep and very steep slopes, based on the analysis of the contours displayed on the United States Geological Survey (USGS) Quadrangles. As such, refined mapping will be required to more accurately define the District, as specified in Section 805.(b)(3)(v) below.
- (ii) The Steep Slope Conservation Overlay District Map shall be considered as an overlay to the Tinicum Township Zoning Map subject to the following:
 - [a] In those areas of the Township where the District applies, the requirements of the District shall supersede the requirements of the underlying zoning district(s).
 - [c] Should the District boundaries be revised as a result of judicial decision, the zoning requirements applicable to the area in question shall revert to the requirements of the underlying zoning district(s) without consideration of this Section.
- (iii) Interpretation of District Boundaries- The Steep Slope Conservation Overlay District Map shall be used as a general guide for determining the boundaries of the District. The following provisions establish when an actual field topographic survey is required.
 - [a] In the case of zoning permit applications on properties where an actual field topographic survey has not been prepared, the Steep Slope Conservation Overlay District Map and USGS maps shall be consulted to determine if the subject property has regulated steep slopes. If steep slopes are identified as being present on the subject property, the applicant shall provide documentation acceptable to the Zoning Officer confirming the proposed development is outside the Steep Slope Conservation Overlay District and at least 50 feet from very steep slopes equal to and greater than thirty percent (30%). If the applicant is unable to confirm the proposed development does not encroach into areas regulated by the Steep Slope Conservation Overlay

District, an actual field topographic survey with two (2) foot contours shall be submitted with the zoning application showing the proposed development relative to areas regulated by the Steep Slope Conservation Overlay District. All steep and very steep slope areas shall be shown, but only those occurring over four (4) consecutive two (2) foot contour intervals will invoke the use restrictions herein.

[b] In any application for subdivision and/or land development, the applicant shall, perform an actual field topographical survey using two (2) foot contours, delineating slopes from fifteen percent (15%) to twenty-five percent (25%), slopes greater than or equal to twenty-five percent (25%), and slopes of thirty percent (30%) or greater. For areas of thirty percent (30%) slope or greater, the applicant shall identify on the plans a fifty (50) foot buffer from the top and the bottom of such area measured horizontally, as required in Section 802.03(d). All steep and very steep slope areas shall be shown, but only those occurring over two (2) consecutive two (2) foot contour intervals will invoke the use restrictions herein.

(c) Use Regulations

(1) Areas of Very Steep Slope (greater than twenty-five percent (25%))

(i) Permitted Principal Uses

[a] Agricultural uses that do not require structures;

[b] Conservation and recreation uses not requiring structures.

[c] Structures existing prior to the effective date of this Ordinance.

[d] Front, rear and side yards of any lot or tract.

(ii) Conditional Uses

[a] The following uses and their related accessory uses, provided that no more than ten percent (10%) of very steep slopes are disturbed and that a satisfactory Environmental Impact Assessment Report is prepared, as set forth in Section 807.

- [i] Conservation and recreation uses requiring structures.
- [ii] Agricultural structures and cultivation.
- [iii] Accessory uses customarily incidental to any of the foregoing.
- [iv] Accessory structures to any uses permitted in Section 805.(c)(1)(i) and (2).

(iii) Prohibited Uses and Activities

- [a] Cut and fill, other than in association with any uses related to Sections 805.(c)(1)(i) and (2).
- [b] Soil, rock or mineral extraction.
- [c] Removal of topsoil.
- [d] On-lot sewage disposal systems.

(2) Areas of Steep Slope (fifteen percent (15%) to twenty-five percent (25%))

(i) Permitted Principal Uses

- [a] Any principal use permitted in Section 805.(c)(1)(i)

(ii) Conditional Uses

- [a] The following uses and their related accessory uses, provided an Environmental Impact Assessment Report is prepared, as set forth in Section 807.
 - [i] Any conditional uses identified in Section 805.(c)(2), and the following:
 - [ii] Single-family detached dwellings.
 - [iii] Stormwater management facilities.
 - [iv] Accessory uses and structures customarily incidental to the foregoing.

[v] Notwithstanding the ten percent (10%) limitation of disturbance of steep slopes, woodland removal permitting removal of up to twenty percent (20%) of the canopy or one (1) acre, whichever is less, in accordance with the requirements of Section 806(g).

(iii) Prohibited Uses and Activities

[a] Cut and fill other than in association with any uses related to Sections 805.(c)(1)(i) and (2).

[b] Soil, rock or mineral extraction and/or removal other than in association with any uses related to Sections 805.(c)(1)(i) and (2).

[c] Removal of topsoil.

[d] On-lot sewage disposal systems.

(d) Application Procedure

(1) All applications involving encroachment in steep slopes, very steep slopes and corresponding buffers, and all Qualifying Improvements within the Steep Slope Conservation Overlay District shall include the submission of the following materials and information:

(i) Plans drawn to a scale of at least one inch equals fifty feet (1" = 50') sealed by a Registered Professional Engineer or Surveyor, depicting the following:

[a] The location, dimensions and elevation of the property.

[b] Existing and proposed uses and development.

[c] Existing and proposed contours at two (2) foot intervals.

[d] The location and boundaries of steep slopes and very steep slopes, and any required setback and/or buffer area.

[e] Typical cross-sections and elevations of the property and proposed structures at intervals prescribed by the Township Engineer.

[f] Existing land cover characteristics of that portion of the property within the Steep Slope Conservation Overlay

District indicating wooded areas, open areas and their ground cover type and any areas with impervious surfaces. The modifications proposed to the existing land cover shall also be indicated.

[g] Photographs showing existing uses, vegetation and topography of areas within the Steep Slope Conservation Overlay District.

[h] A report describing the slope, soil and vegetation characteristics of that portion of the property within the subject district being impacted by the proposed development. Such report shall also describe the proposed type and alternative design and methods of proposed building construction, the type of foundation system(s) to be employed, and proposals for landscaping, sewage disposal and water supply. Further, the report shall describe all sediment and erosion control measures to be used as required by Tincum Township and/or the PA DEP; and any and all additional engineering and conservation techniques designed to alleviate environmental impacts which may be created by proposed development activities, along with the extent of grading and intrusion as a percent of the net lot area.

(e) Standards For Approval Of Conditional Uses in the Steep Slope Conservation Overlay District

(1) In addition to the Conditional Use standards set forth in Article XII hereof, the Board of Supervisors shall consider the following:

(i) The degree of modification, proposed within the District, to the topographic, soil and vegetation resources, and the techniques proposed to mitigate potential environmental impacts.

(ii) The effect the development of the subject district on adjacent properties.

(iii) The relationship of the proposed uses to the objectives described in Section 805.

(2) Any use(s) or structure(s) which require a Conditional Use shall provide evidence that:

- (i) The Steep Slope Conservation Overlay District is being proposed for development since no other alternative location is feasible or practical.
- (ii) Earthmoving activities and vegetation removal will be conducted only to the extent necessary to accommodate proposed uses and structures and in a manner that will not cause excessive surface water runoff, erosion, sedimentation and unstable soil conditions. 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.
- (iii) Proposed buildings and structures are of sound engineering design and footings are designed in response to the site's slope, soil and bedrock characteristics; and, where applicable, shall extend to stable soil and/or bedrock.
- (iv) The use(s) or structures are in conformance with the applicable standards of the Tinicum Township Stormwater Management Ordinance No. 150 and Grading Ordinance No. 152.

Section 04: Section 806 is repealed in its entirety and replaced with the following:

Section 806 Other Overlay Districts

(a) Purpose

The Other Overlay Districts pertaining to the resources addressed in Section 806.(b) to (k) are based on Sections 604 and 605 of the Pennsylvania Municipalities Planning Code as follows:

- (1) Relative to Section 604.(1), Zoning Purposes, Zoning Ordinances shall be designed to promote, protect and facilitate (among other purposes) “the preservation of the natural, scenic and historic values in the environment”, and “the preservation of forests, wetlands, aquifers and floodplains”.
- (2) Relative to Section 604.(3), Zoning Purposes, Zoning Ordinances shall be designed (among other purposes) “to preserve prime agricultural and farmland considering topography, soil type and classification, and present use”.
- (3) Relative to Section 605.(2), Classifications, additional classifications may be made within any district for the regulation, restriction or prohibition of uses and structures at, along or near: “places of relatively steep slope”; “public

grounds”; “places having unique historical, architectural or patriotic interest or value”; “flood plain areas; agricultural areas”; and “other places having a special character or use affecting and affected by their surroundings”.

(b) Wetlands and Wetland Margin Overlay District

- (1) All areas of Wetland and Wetland Margin shall be protected and conserved in order to minimize the adverse impacts of human activity; to maintain the quality and hydrology of surface water bodies, the quality and level of the ground water table and water recharge areas for existing, or potential water supplies; to protect the public health and safety; to protect persons and property against the hazards of flood water inundation; to reduce surface stormwater run-off and sedimentation; to protect the hydrology of wetlands; to protect wildlife habitats; and to provide for the reasonable protection and conservation of certain irreplaceable natural features, resources and amenities for the benefit and welfare of the present and future inhabitants of Tincum Township.
 - (i) Because Tincum Township has Exceptional Value streams including Rapp, and Beaver Creek, the wetlands that are located in or adjacent to or along the floodplain of streams tributary thereto are considered Exceptional Value Wetlands in accordance with Pennsylvania Code, Title 25 Environmental Protection, Chapter 105 Dam Safety and Waterway Management § 105.17 (iii) and 105.18a.
 - (ii) Because Tincum Township has Federally designated Wild or Scenic Rivers including Rapp, and Beaver Creek and Tohickon Creek in accordance with the Wild and Scenic Rivers Act of 1968, wetlands that are located within the corridors of these watercourses are considered Exceptional Value Wetlands in accordance with Pennsylvania Code, Title 25 Environmental Protection, Chapter 105 Dam Safety and Waterway Management § 105.17 (iii) 105.18a.
- (2) The Wetland Delineation Overlay Map revised based on Wetlands Study for Tincum Creek Watershed dated January 24, 2003, shall be used as general reference indicating the location of wetlands in Tincum Township, subject to site specific study. Areas depicted as wetlands shall be studied, as well as areas not depicted but found on site.
- (3) For all applications involving encroachment into wetlands and wetland margins as identified on the Wetlands Overlay Map and for all Qualifying Improvements, a Wetland study, performed by a Wetland Specialist that is either a professional soil scientist, wetland scientist or ecologist that is

specially trained and recognized by the Pennsylvania Department of Environmental Protection and/or the U.S. Army Corps of Engineers in the delineation of wetlands, shall be made by the Applicant or Landowner, using the current standards and requirement of the U.S. Army Corps of Engineers and the Pennsylvania Department of Environmental Protection. The wetland study shall be submitted to the Township for review and approval. The wetland study shall include the information necessary to describe the presence or absence of wetlands on the site. In the event the standard for determination of a wetland accepted by the U.S. Army Corps of Engineers conflicts with that accepted by the Pennsylvania Department of Environmental Protection, or the Environmental Protection Agency, the more restrictive standard shall be used in delineating wetland areas. In addition, the delineation shall thoroughly describe the hydrology of the wetland, including a description of all seeps, springs and all poorly drained and very poorly drained soils for regulatory purposes by the Township. The delineation must include all areas of hydric soil that have been modified as a result of human induced drainage.

If, after examination of the site by a Wetland Specialist, wetlands are found to exist, a wetland delineation study shall be prepared by a Wetland Specialist, and copies of this study including reports, maps, and field logs shall be submitted by the property owner to the U.S. Army Corps of Engineers for certification and to the Township and Township's Environmental consultant for review. The Township and its agents shall have the right to inspect the site as part of its review of the wetland delineation report.

- (4) A Wetland Margin of fifty (50) feet from the boundary of a Wetland, or the boundary of adjacent hydric soils that may extend past the wetland boundary, whichever is greater, shall be maintained and restricted from activities as outlined in Section 806b(5).

A Wetland Margin of seventy five (75) feet from the boundary of an Exceptional Value Wetland or the boundary of adjacent hydric soils that may extend past the wetland boundary, whichever is greater, shall be maintained and restricted from activities as outlined in Section 806b(5).

- (5) Wetland and Wetland Margins shall be restricted from the following activities:
 - (i) Clearing of existing vegetation, except removal of invasive species, only by hand with no use of chemicals.

- (ii) Storage of any hazardous or noxious materials;
- (iii) Use of fertilizers, pesticides, herbicides and/or other chemicals;
- (iv) Roads or driveways, except where permitted as by conditional use, subject to the requirements of Section 806.(b)(6);
- (v) Motor or wheeled vehicle traffic in any area not designed to accommodate adequately the type and volume;
- (vi) Parking lots;
- (vii) Any type of permanent structure; including subsurface sewage disposal areas, stormwater basins and outlet structures;
- (viii) Sod farming;
- (ix) Grading or regrading of lands, including the deposition of any material, including topsoils, and the grading thereof, and the construction of retaining walls.

(6) Wetland and Wetland Margins may not be filled dredged or built upon, except that driveways, roads and utilities may cross Wetland and Wetland Margins when Conditional Use approval is granted based on satisfactory demonstration that there is no other feasible alternative available and there is no increase in density yield as a result of such crossing. Approval and permits are required from the Pennsylvania Department of Environmental Protection and/or the U.S. Army Corps of Engineers before Township approval is granted. Agricultural cultivation is excluded.

(7) Indirect Impacts to Wetlands and Watercourses. Neither wetlands nor watercourses shall be impacted by subsurface activities such as those related to infrastructure improvements, i.e., septic systems, storm sewers and utilities. Furthermore, to protect the integrity of wetlands and watercourses any proposed activity resulting in non-point discharge, other than a well and septic system for a single-family dwelling, within 150 feet of these resources that may impact shallow groundwater flow or deeper aquifers shall verify with aquifer testing and other supportable evidence that there will be no change in the hydrology of either the wetland or watercourse.

(c) Riparian Corridor Overlay District

All proposed development within the Riparian Corridor Overlay District shall comply with the requirements of the Riparian Corridor Overlay District.

- (1) All Riparian Corridors shall be protected and conserved to promote the ecological health of the Township.
- (2) Riparian corridors are comprised of a watercourse and the adjacent riparian buffer. Riparian Corridors shall be protected and conserved to

promote the ecological health of the Township, to maintain the quality and hydrology of surface water bodies, the quality and level of the ground water table and water recharge areas for existing, or potential water supplies; to protect the public health and safety; to protect persons and property against the hazards of flood water inundation; to reduce surface stormwater run-off and sedimentation; to protect the hydrology of wetlands; to protect wildlife habitats; to protect the moisture levels of the unsaturated zone of prime agricultural soils; and to provide for the reasonable protection and conservation of certain irreplaceable natural features, resources and amenities for the benefit and welfare of the present and future inhabitants of Tincum Township.

- (3) The Tincum Township Riparian Corridor Overlay Map shall be used as the basis for the Tincum Township Riparian Corridor Overlay District identifying the location of regulated watercourses in Tincum Township. In addition, any perennial, intermittent and ephemeral streams not shown on the Map shall be considered streams that are regulated by the Tincum Township Riparian Corridor Overlay District.
- 4) All applications for development shall identify on a site plan all regulated watercourses and associated riparian buffers as identified on the Tincum Township Riparian Corridor Overlay Map.
- (5) For Qualifying Improvements the identification and location of watercourses shall be performed by a qualified professional such as engineer or soil scientist. The watercourses to be identified include perennial, intermittent and ephemeral streams.
- (6) Exempt waterbodies. Manmade waterbodies created for use with agricultural activities are exempt.
- (7) The Riparian Corridor Overlay District is divided into zones as follows:
 - (i) Zone 1 riparian buffer; a buffer a minimum width of 25 feet from each defined edge of all watercourses shown on the Tincum Township Riparian Corridor Overlay Map at bank full flow, measured perpendicular to the edge of the watercourse.
 - (ii) Zone 1 very steep slopes. For Qualifying Improvements, where very steep slopes are located within 25 feet of the defined edge of bank, the Zone 1 riparian buffer shall be measured 25 feet from the outer edge of very steep slope. When the combination of very steep slopes and Zone 1 riparian buffer exceed 75 feet

from edge of bank at full flow, the boundary of Zone 1 riparian buffer shall not extend beyond 75 feet from edge of bank at full flow.

- (iii) Zone 2 riparian buffer; a buffer a minimum width of 50 feet from the outer edge of the Zone 1 riparian buffer, measured perpendicular to the edge of the Zone 1 riparian buffer.
- (iv) Zone 2 very steep slopes. Where very steep slopes are located within Zone 2, the Zone 2 riparian buffer shall extend a minimum of 25 feet from the outer edge of the very steep slopes. When the combination of Zone 2 very steep slopes and Zone 1 riparian buffer exceed 75 feet from edge of bank at full flow, the boundary of Zone 2 riparian buffer shall not extend beyond 150 feet from edge of bank at full flow.
- (v) Zone 3 riparian buffer; a buffer a minimum width of 25 feet from the outer edge of the Zone 2 riparian buffer, measured perpendicular to the edge of the Zone 2 riparian buffer. In no case will the outer edge of the Zone 3 riparian buffer extend beyond 100 feet from the edge of the bank at full flow.
- (vi) Zone 3 very steep slopes. Where very steep slopes are located within Zone 3, the Zone 3 riparian buffer shall extend a minimum of 25 feet from the outer edge of the very steep slopes. The combination of very steep slopes and Zone 1 and 2 riparian buffers shall not extend beyond 150 feet from edge of bank at full flow.
- (vii) One-hundred-year floodplain. In cases where the one-hundred-year floodplain extends beyond 25 feet from the outer edge of the Zone 2 riparian buffer, the Zone 3 riparian buffer shall extend to the outer edge of the one-hundred-year floodplain, not to exceed 150 feet from edge of bank at full flow or the edge of the one hundred year floodplain, whichever is greater.
- (viii) Boundary interpretation and appeals. An initial determination as to whether the Riparian Corridor Overlay District applies to a given parcel shall be made by the Zoning Officer.
 - (a) When an applicant disputes the Zone 1, 2 and/or 3 boundaries of the riparian corridor or the defined edge of a watercourse, surface water body or wetland, the applicant shall submit evidence to the Zoning Officer that shows the applicant's

proposed boundary and provides justification for the proposed boundary.

- (b) The Zoning Officer, with input from the Township Engineer and/or other advisors selected by the Board of Supervisors, shall evaluate all material submitted and provide a written determination within 45 days to the Board of Supervisors, Township Planning Commission and landowner or applicant.
- (c) Any party aggrieved by any such determination or other decision or determination under this section may appeal to the Zoning Hearing Board under the provisions of Section 1500, Appeals and Amendments of Article XV. The burden of proving the incorrectness of the Zoning Officer's decision shall be upon the appellant.

(8) Use regulations.

- (i) Permitted uses. The following uses are permitted in Zone 1, 2 and 3 of the Riparian Corridor Conservation District as noted below.

(a) Zone 1.

- [a] Wildlife sanctuaries, nature preserves, forest preserves, fishing areas, passive areas of public and private parklands and reforestation, and other similar passive uses.
- [b] Streambank stabilization in accordance with a plan approved by the Township.
- [c] Removal of invasive species, only by hand with no use of chemicals, in accordance with a plan approved by the Township.

(b) Zone 2.

- [a] Uses permitted in Zone 1.
- [b] Open space uses, including wildlife sanctuaries, nature preserves, forest preserves, passive areas of public and private parklands, recreational trails and reforestation.
- [c] Agricultural uses conducted in compliance with methods prescribed in the Department of Environmental Protection's Erosion and Sediment Pollution Control Manual, March 2000, as amended.
- [d] Forestry in accordance with recognized soil conservation practices.

- [e] Passive use without impervious surface areas, such as camps, campgrounds and picnic areas.

(c) Zone 3.

- [a] Uses permitted in Zones 1 and 2.
- [b] Residential accessory structures having a total area equal to or less than 225 square feet.
- [c] Fences.
- [d] Required yard area.

- (ii) Prohibited uses. Any use or activity not authorized within the Riparian Corridor Overlay District shall be prohibited within all Zones of the Riparian Corridor Overlay District. The following activities and facilities are specifically prohibited:

(a) Zone 1.

- [a] Clearing of existing vegetation; except as approved by the Township
- [b] Storage of any hazardous or noxious materials;
- [c] Use of fertilizers, pesticides, herbicides and/or other chemicals;
- [d] Roads or driveways, except where permitted by Conditional Use;
- [e] Motor or wheeled vehicle traffic in any area not designed to accommodate adequately the type and volume;
- [f] Parking lots;
- [g] Any type of permanent structure; including subsurface sewage disposal areas, stormwater basins and outlet structures;
- [h] Sod farming;
- [i] Grading or regrading of lands, including the deposition of topsoils and the grading thereof, and the construction of retaining walls.

(b) Zones 2 and 3.

- [a] Clearing of existing vegetation, except where such clearing is necessary to prepare land for a use permitted under permitted uses Section 806(c)(8);
- [b] Storage of any hazardous or noxious materials;
- [c] Use of fertilizers, pesticides, herbicides and/or other chemicals in excess of the manufacturer's instructions;
- [d] Roads or driveways, except where permitted by Conditional Use;

- [e] Motor or wheeled vehicle traffic in any area not designed to accommodate adequately the type and volume;
 - [f] Parking lots;
 - [g] Any type of permanent structure; including subsurface sewage disposal areas, stormwater basins and outlet structures, except as permitted in Section 806(c)(8);
 - [h] Sod farming;
 - [i] Grading or regrading of lands, including the deposition of topsoils and the grading thereof, and the construction of retaining walls.
- (9) Riparian Buffers may not be built upon, except that driveways, roads and utilities may cross Riparian Buffers when Conditional Use approval is obtained from the Township where no other feasible alternative is available, and there is no increase in the density yield as a result of such crossing.
- (10) The elimination or alteration of a watercourse through use of a PADEP waiver requires Conditional Use approval and the formal written approval of the PADEP.
- (11) Conditional Use Requirements are as follows:
- (i) The applicant shall demonstrate compliance with all standards required of conditional uses pursuant to Article XII.
 - (ii) In addition, the applicant shall establish that the intrusion into the riparian buffer is necessary by virtue of the nature of the project, i.e., to accomplish the project purposes.
- (12) During the Conditional Use review, the Landowner or Applicant shall demonstrate that:
- (i) Whenever any driveway, road or utility is proposed to cross a Riparian Buffer, for which no other feasible alternative is available, and with no increase in the density yield as a result, such crossing shall have the least impact on the disturbance of the natural topography and vegetation and be designed to cross the riparian corridor at direct right angles to the greatest

extent possible in order to minimize disturbance of the corridor.

- (ii) Whenever such intrusion is proposed, all disturbed areas shall be completely regraded and re-vegetated to their pre-existing condition.
- (iii) Corridor crossings should be separated by a minimum of 1,000 feet of buffer length.
- (iv) Box culverts should be used in place of culverts when crossings would require a thirty-six-inch or greater diameter pipe. When culverts are installed, they should consist of slab, arch or box culverts, and not of corrugated metal pipe. Culverts should also be designed to retain the natural channel bottom to ensure the passage of water during low flow or dry weather periods.

(d) Critical Recharge Areas Overlay District

- (1) Critical Recharge Areas are intended for the protection and conservation of the groundwater, which the public is dependent upon as their sole source of water supply. Such protection and conservation is critical, as the groundwater recharge areas in Tincum Township are limited and fragile, especially where the Exceptional Value and High Quality Headwater Areas are located.
- (2) Critical Recharge Areas shall be based in part on the Overlay District map with the same title that appears in Appendix A, which depicts Exceptional Value and High Quality Streams, and Exceptional Value and High Quality Headwater Areas. For a Qualifying Improvement, the Landowner or Applicant shall be required to identify and delineate the actual boundary of the Critical Recharge Area based on field surveys, and the data available from the U.S. Geological Survey for Northern Buck County, Pennsylvania, including “Hydrological Data” Open File Report 94-381, 1994; and “Hydrogeology and Groundwater Quality” Water Resources Investigations Report 94-4109, 1994.
- (3) All development on parcels of land within Critical Recharge Areas shall comply with the following requirements:
 - (i) Impervious surfaces within the Critical Recharge Area will be 50% less than what is otherwise required in the zoning district. For parcels of land greater than two (2) acres where 50% or more of the parcel is within the Critical Recharge Area, the impervious surface for the entire parcel shall be fifty percent (50%) less than what is otherwise

required in the zoning district. For parcels greater than two (2) acres where less than fifty percent (50%) is within the Critical Recharge Area, the impervious surface for that portion of the parcel located in the Critical Recharge Area shall be fifty percent (50%) less than what is otherwise required in the zoning district. For parcels two acres or less in area, the allowable impervious surface shall remain the amount allowed in the underlying zoning district, not to exceed 4,356 square feet.

(ii) The Landowner or Applicant shall submit all soil tests for sewage systems to the Township for verification in addition to submission to the Bucks County Department of Health.

(iii) All septic tank absorption areas shall be located at least 150 feet from the top of bank of all waterways to help minimize contamination of the groundwater.

(iv) Stream discharge sewage systems shall not be permitted in the Critical Recharge Overlay Areas.

(4) All Qualifying Improvement as defined in Section 230.E. in Critical Recharge Areas shall be subject to Conditional Use approval. The Applicant shall demonstrate to the Township's satisfaction that:

(i) Compliance with the requirement of Section 806(d)(3).

(ii) All permitted buildings and structures shall be designed and located in areas, if possible, which will have the least adverse impact to the critical groundwater recharge areas.

(iii) All stormwater management shall be governed by the Best Management Practices, and shall be focused on the maintenance of high levels of water quality and water quantity, given the dependence of the groundwater aquifer for water supply.

(e) Tincicum Creek Watershed Overlay District

(1) The Tincicum Creek Watershed is intended for protection, preservation and enhancement, due to its Exceptional Value Water Quality, and its Federal Wild & Scenic River Program status. Tincicum Township also wishes to protect the surface water and groundwater of the Tincicum Creek Watershed from adverse impacts to waterways, aquifers and recharge areas.

- (2) The Tincum Creek Watershed is shown on the Overlay District map with the same title in Appendix A.
- (3) All proposed development within the Tincum Creek Overlay District shall comply with the following requirements of the Tincum Creek Overlay District.
 - (i) The Landowner or Applicant shall submit all soil tests for sewage systems to the Township for verification in addition to submission to the Bucks County Department of Health.
 - (ii) All septic tank absorption areas shall be located at least 150 feet from the top of bank of all waterways within the Tincum Creek Watershed to help minimize contamination of the groundwater.
 - (iii) Stream discharge sewage systems shall not be permitted in the Tincum Watershed Overlay District.
 - (iv) Subsurface activities such as those related to infrastructure improvements, i.e., storm sewer and utilities, but not including well and septic system associated with a single-family residence, within 150 feet of the watercourse that may impact shallow groundwater flow or deeper aquifers shall verify with aquifer testing and other supportable evidence that there will be no change in the hydrology of the watercourse.
- (4) All proposed Qualifying Improvement as defined in Section 230.E. in the Tincum Creek Watershed shall be subject to Conditional Use approval. The Applicant shall demonstrate to the Township's satisfaction that:
 - (i) Compliance with the requirement of Section 806(e)(3) shall be demonstrated.
 - (ii) All permitted buildings and structures are located in areas which have the least adverse impact on surface water resources and groundwater resources.
 - (ii) All Stormwater Management shall be governed by the Best Management Practices, and shall be focused on the maintenance of high levels of surface water quality and groundwater quality.

- (f) Tohickon Creek Watershed Overlay District
- (1) The Tohickon Creek Watershed is intended for protection, preservation and enhancement due to its pending/recognized Exceptional Value Water Quality status and its Federal Wild & Scenic River Program status. Tincum Township also wishes to protect the surface water and groundwater of the Tohickon Creek Watershed from adverse impacts to waterways, aquifers and recharge areas.
 - (2) The Tohickon Creek Watershed is shown on the Overlay District map with the same title in Appendix A.
 - (3) All proposed development within the Tohickon Creek Overlay District shall comply with the following requirements of the Tohickon Creek Overlay District.
 - (i) In addition to submission to the Bucks County Department of Health, the Landowner or Applicant shall submit all soil tests for sewage systems to the Township for verification.
 - (ii) All septic tank absorption areas shall be located at least 150 feet from the top of bank of all waterways within the Tohickon Creek Watershed to help minimize contamination of the groundwater.
 - (iii) Stream discharge sewage systems shall not be permitted in the Tohickon Creek Watershed Overlay District.
 - (iv) Subsurface activities such as those related to infrastructure improvements, i.e., storm sewer and utilities, but not including a well and septic system associated with a single-family residence, within 150 feet of the watercourse that may impact shallow groundwater flow or deeper aquifers shall verify with aquifer testing and other supportable evidence that there will be no change in the hydrology of the watercourse.
 - (4) All Qualifying Improvement as defined in Section 230.AA. in the Tohickon Creek Watershed shall be subject to Conditional Use approval. The Applicant shall demonstrate to the Township's satisfaction that:
 - (i) Compliance with the requirement of Section 806(f)(3).
 - (ii) All permitted buildings and structures are located in areas which have the least adverse impact on surface water resources and groundwater resources.

- (iii) All Stormwater Management shall be governed by the Best Management Practices, and shall be focused on the maintenance of high levels of surface water quality and groundwater quality.

(g) Woodland & Hedgerow Overlay District

- (1) All woodlands and hedgerows shall be protected and conserved to promote the ecological health of the Township. “Woodlands and Hedgerows” are shown on the map in Appendix A with the same name, and shall be used as a general guide to identification.
- (2) For all woodland removal activities, not associated with the development of a property the following shall apply.
 - (i) Woodland removal involving the cutting down of 15 or more mature trees per calendar year shall comply with all requirements of Section 705(A)(A6) Forestry.
- (3) All woodland removal associated with development within the Woodland & Hedgerow Overlay District shall comply with the following requirements:
 - (i) Woodland removal associated with development shall not exceed twenty percent (20%) of the canopy cover or one (1) acre, whichever is less, except in accordance with Section 806(g)(3)(ii) or Section 806(g)(3)(iii), as applicable, unless waived by the Board of Supervisors.
 - (ii) Non-Qualifying Development proposing the removal of more than twenty percent (20%) of the woodland canopy cover, or one (1) acre, whichever is less, in the Woodland & Hedgerow Overlay District shall require Conditional Use approval and be subject to the Forestry requirements of Section 705(A)(A6), Ordinance 112, unless waived by the Board of Supervisors. For every tree 6 inch DBH or greater that is removed or destroyed in excess of twenty percent (20%) of the woodland canopy cover, or one (1) acre, whichever is less, a replacement tree of 2 to 3 inch caliper shall be planted. Such replacement tree species shall be subject to the approval of the Township and shall be in accordance with the species listed in Appendix A of the Subdivision & Land Development Ordinance.
 - (iii) All Qualifying Improvement as defined in Section 230.AA. in the Woodland & Hedgerow Overlay District shall be subject to Conditional Use approval and be subject to the Forestry

requirements of Section 705(A)(A6), Ordinance 112, unless waived by the Board of Supervisors. The applicant shall demonstrate to the Township's satisfaction that:

[a] The proposed woodland removal is the minimum necessary to reasonably utilize the property for the use proposed and will have the least adverse impact to the remaining woodland areas and other environmentally sensitive areas.

[b] A Management Plan shall be prepared in accordance with Section 705(A)(A6), Ordinance 112, including a field survey delineating the woodland and mature trees on the subject property identifying the trees to be removed in association with the development.

[c] Tree replacement shall be required for mature trees removed or destroyed in excess of the twenty percent (20%) of the woodland canopy, or one (1) acre, whichever is less. For every tree 6 inch DBH or greater that is removed or destroyed in excess of twenty percent (20%) of the woodland canopy cover, or one (1) acre, whichever is less, a replacement tree of 2 to 3 inch caliper shall be planted. Such replacement tree species shall be subject to the approval of the Township and shall be in accordance with the species listed in Appendix A of the Subdivision & Land Development Ordinance.

[d] The required replacement trees shall be shown on a plan and approved by the Township.

(iv) Where any woodland removal associated with development occurs on very steep slopes, the developer shall submit a stormwater management plan for approval by the Township before any woodland removal is undertaken.

(h) Critical Biodiversity Areas Overlay District

(1) Critical Biodiversity Areas are intended for preservation, protection and enhancement to ensure the survival, habitat, and setting of species of flora and fauna identified as being Threatened, Endangered or of Special Significance. Tincum Township wishes to protect such plants and wildlife from adverse impacts.

(2) All Qualifying Improvements as defined in Section 230.E. within the Critical Biodiversity Overlay District shall be subject to Conditional Use approval. The Applicant or Landowner shall demonstrate to the Township's satisfaction that:

(i) Mapping of Critical Biodiversity Areas shall be performed by an ecologist that is specially trained and submitted by the Applicant or Landowner to the Township for review and approval, and shall be based upon the "Natural Areas Inventory" of Bucks County, Pennsylvania, June 1999; the "Bucks County Natural Resources Plan" of March 1999, in particular "Appendix C: PA Species of Special Concern"; the Biodiversity Study for Tinicum Township by the Morris Arboretum; and the "Types of Terrestrial and Palustrine Vegetation Communities in Tinicum" by Morris Arboretum, February 4, 2000.

(ii) No Qualifying Improvement shall be permitted in portions of the Critical Biodiversity Overlay District where there are species of flora and fauna that are identified as being Threatened, Endangered, or of Special Significance.

(iii) Where there are species of flora and fauna that are identified as being Threatened, Endangered, or of Special Significance on a property, a copy of the mapping of Critical Biodiversity Areas together with a copy of the proposed development shall be submitted to the Pennsylvania Department of Environmental Protection.

(i) Prime Farmland and Agricultural Soils Overlay District

(1) Prime Farmland and Agricultural Land and Soils are intended to be conserved and protected to support the agricultural industry in Tinicum Township, and to discourage the unnecessary conversion of Prime Farmland and Prime Agricultural Soils to nonagricultural use.

(2) Prime Farmland and Prime Agricultural Land and Soils are generally shown in Appendix A on the map with the same title and in Figure 9, Prime Agricultural Soils in the Tinicum Township Comprehensive Plan.

(3) This Overlay District shall not apply to properties located within the following Zoning Districts: CC – Controlled Commercial, C - Commercial, LC – Limited Commercial and PI – Planned Industrial.

(4) All Qualifying Improvement as defined in Section 230.E. within the Prime Farmland and Prime Agricultural Soils Overlay District shall be approved as a Conditional Use. The Applicant or Landowner shall demonstrate to the Township's satisfaction that:

(i) Such areas shall be mapped for review by the Township based on a field survey of Prime Agricultural Soil.

(ii) No more than twenty-five percent (25%) of Prime Agricultural Soil shall be developed, and the use of the Flexible Development Option or the Village/Hamlet Option are encouraged so that open space areas can be designated to conserve Prime Agricultural Soil.

(j) Delaware River Wild and Scenic Overlay District

(1) The Delaware River Wild and Scenic River Corridor is intended for preservation and protection to enhance its Federal Wild & Scenic River Program status.

(2) The Lower Delaware River National Wild & Scenic Overlay District is shown in Appendix A on the Section 2 and Section 3 maps entitled "Lower Delaware River National Wild & Scenic Rivers Study Management Area". This Overlay District extends North to the Bridgeton Township line, South to the Plumstead Township line for a width of 1,100 feet from the western edge of SR 32, (River Road) inland. It also includes the Tohickon Creek, Tinicum Creek, Rapp Creek, Beaver Creeks and all tributaries for a width of 1,100 feet.

In particular, the areas within the "Proposed National Wild and Scenic River Designation Segment" shall be preserved and protected, as more fully described in the "Lower Delaware River Management Plan" of the National Park Service, August 1997.

(3) All Qualifying Improvements as defined in Section 230.E. within the Overlay District shall be subject to Conditional Use approval. The Applicant or Landowner shall demonstrate that:

(i) All permitted buildings and structures are sited to preclude adverse environmental impacts.

(ii) All construction within the Delaware River Wild & Scenic River Corridor shall use natural or natural appearing materials that blend with existing conditions.

- (iii) All development shall be ameliorated through regrading and re-vegetation to restore the setting of the Wild & Scenic River Corridor to its pre-existing condition.
 - (iv) All development shall be screened and buffered to minimize visibility of same.
 - (v) Communication towers are not permitted in the Overlay District DWS – Delaware Wild and Scenic River Overlay District and Overlay District SR – Scenic Resources Overlay District including maps.
- (k) Scenic Resources Overlay District
- (i) Scenic Roads and their associated Scenic Corridors are intended for protection to conserve scenic views of the Tincum countryside. Tincum Township wishes to discourage the unnecessary disturbance of Scenic Roads and Scenic Corridors.
 - (ii) Scenic Resources and Scenic Roads are depicted in Appendix A on the map with the same name.
 - (iii) All Qualifying Improvements as defined in Section 230.AA. proposed within a Scenic Resource Area and Scenic Road Corridor shall be approved as a Conditional Use. The Landowner or Applicant shall demonstrate that:
 - (1) No buildings or structures shall exceed two (2) stories in height within a Scenic Corridor.
 - (2) No Scenic Road shall be widened or realigned.
 - (3) No grading in excess of two (2) feet of cut or fill shall take place within 150 feet of the edge of a Scenic Road, except for approved access roads or drives, or for approved utilities, or for approved Village/Hamlet option development.
 - (4) All construction within the Scenic Corridor shall use natural or natural appearing materials that blend with existing conditions.
 - (5) All development shall be ameliorated through regrading and re-vegetation to restore the setting of the Scenic Corridor to its pre-existing condition.

- (6) All development shall be screened and buffered to minimize visibility of same.
- (7) Communication towers, other than those erected on Township property, are not permitted in the Overlay District DWS – Delaware Wild and Scenic River Overlay District and Overlay District SR – Scenic Resources Overlay District adopted by Tinicum Township on March 14, 2000, including maps. Overlay District DWS map should be revised to extend the area currently mapped north to the Bridgeton Township line for a width of 1,100 feet from the western edge of SR 32, (River Road) inland.

Section 05: Amend the definition of forests as follows:

Section 217 Forest/Woodland

Areas, groves, or stands of mature or largely mature trees (greater than six (6) inches caliper) covering an area greater than one-quarter (1/4) acre; or groves of mature trees (greater than twelve (12) inches caliper) consisting of more than ten (10) individuals.

Section 802.03(g) Forest/Woodland

Areas, groves, or stands of mature or largely mature trees (greater than six (6) inches caliper), covering an area greater than one-quarter (1/4) of an acre, or groves of mature trees (greater than twelve (12) inches caliper), consisting of ten (10) individuals.

Section 06: Section 400.3, Area Regulations, of the RC District, Section 401.3, Area Regulations, of the RA District, Section 402.3, Area Regulations, of the CR District and Section 403.3, Area Regulations, of the VR District shall be amended as follows:

Accessory structures in excess of 800 square feet and/or a height of 20 feet shall increase the minimum required yard area by two (2) feet for each additional foot of height and/or each additional 100 square feet of building area; provided, however, that the increase in the minimum required yard area shall not be greater than twenty percent (20%) of the minimum required yard area; provided, however, that the increase in the minimum required yard area shall not be greater than twenty percent (20%) of the minimum required yard area.

Section 07: Section 1103 Extension of Non-conforming Uses and Structures is amended as follows:

- (a) A structure that is a permitted use in the District in which it is located but does not conform with the setback, yard, building height, or other dimensional requirements of the District in which it is located, may be extended provided that the extension does not increase the existing non-conformity or create any new non-conformities. New structures and extensions to existing structures on the same lot shall meet all dimensional requirements of the underlying zoning district.

Section 08: Amend the definition of Prime Agricultural Land as follows:

Section 230A Prime Agricultural Land

Land that contains soils of the first, second or third class as defined by the United States Department of Agriculture Natural Resource and Conservation Service, Bucks and Philadelphia Counties Soil Survey.

Section 09: The Tinicum Township Riparian Corridor Overlay District Map shall be adopted as the Riparian Corridor Overlay Map identifying the location of regulated watercourses in Tinicum Township.

Section 10: Ordinance 112 shall be amended to replace all references to the Environmental Advisory Committee (EAC) with Planning Commission.

Section 11: Section 1300(m) is repealed in its entirety and replaced with the following:

Section 1300(m) The Zoning Officer may routinely issue zoning permits if they meet the applicable requirements of the Zoning Ordinance.

Section 12: Section 802.02(k) is repealed in its entirety.

Section 13: Section 1405(d) is repealed in its entirety and replaced with the following:

The Township Board of Supervisors may request an advisory opinion from the Planning Commission on any application for a Variance. The Planning Commission is to submit a report of such advisory opinion prior to the date of the Public Hearing held by the Zoning Hearing Board. The Planning Commission may request a report from the Township Engineer. Fees for engineering requested by the Township shall be paid for by the Township.

Section 14: Section 1406(d) is repealed in its entirety and replaced with the following:

