

**Code of Ordinances
of
West Pottsgrove Township
Pennsylvania**

CONTAINING
THE GENERAL ORDINANCES AND RESOLUTIONS
OF THE TOWNSHIP

Adopted, April 5, 1972
Effective, May 5, 1972

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Board of Commissioners

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OFFICIALS
of the
TOWNSHIP OF WEST POTTS GROVE,
PENNSYLVANIA

AT THE TIME OF THIS REVISION

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ADOPTING ORDINANCE

The Code of Ordinance, consisting of Chapters 1 to 20, each inclusive, was adopted and enacted as the “Code of Ordinances of the Township of West Pottsgrove, Pennsylvania,” by ordinance of April 5, 1972, effective May 5, 1972.

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Chapter 1
GENERAL PROVISIONS

SEC. 1-1. HOW CODE DESIGNATED AND CITED.

The ordinances embraced in the following chapters and sections shall constitute and be designated the “Code of Ordinances of the Township of West Pottsgrove, Pennsylvania,” and may be so cited.

State law reference – Authority of Township to codify its ordinances, 53 P.S. § 56502.

SEC. 1-2. CATCHLINES OF SECTIONS.

The catch lines of the several sections of this code printed in boldface type are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catch lines, are amended or reenacted.

SEC. 1-3. RULES OF CONSTRUCTION AND DEFINITIONS.

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the Board of Commissioners:

Generally. The provisions of this Code shall be liberally construed to affect the purposes expressed there in or implied from the expression thereof. In case of doubt or ambiguity in the meaning of such provisions, the general shall yield to the particular. Reference for interpretation and construction shall tend to further the accomplishment of the elimination of the particular mischiefs for which the provisions were enacted. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

Board of Commissioners. Whenever the words “Board of Commissioners” are used, they shall be construed to mean the Board of Commissioners of the Township of West Pottsgrove.

Commissioner. The word “Commissioner” shall mean any person elected or appointed to that office.

Computation of time. Whenever a notice is required to be given or an act to be done, a certain length of time before any proceeding shall be had, the day on which such notice is given, or such act is done, shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

Corporate limits, corporation limits. Whenever the words “corporate limits,” “corporation limits” or “Township limits” are used, they shall mean the legal boundary of the Township of West Pottsgrove.

Corporation. Whenever the words “the corporation” or “this corporation” are used, they shall be construed as if the words “of the Township of West Pottsgrove, Pennsylvania” followed them.

County. The words “the county” or “this county” shall mean the County of Montgomery in the Commonwealth of Pennsylvania.

Delegation of authority. Whenever a provision appears requiring the head of a department of the Township to do some act or make certain inspections, it is to be construed to authorize the head of the department to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provisions or section designate otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

Interpretation. In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper and proprietor. The word “keeper” or “proprietor” shall mean and include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or through a servant, agent or employee.

Month. The word “month” shall mean a calendar month.

Name of officer. Whenever the name of an officer is given, it shall be construed as though the words “of the Township of West Pottsgrove” were added.

Nontechnical and technical words. Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

Oath. The word “oath” shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases, the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

Or, and. “Or” may be read “and,” and “and” may be read “or” if the sense requires it.

Owner. The word “owner,” applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land.

Person. The word “person” shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

Personal property. The words “personal property” includes every species of property except real property, as herein described.

Preceding, following. The words “preceding” and “following” mean next before and next after, respectively.

Premises. Whenever the word “premises” is used, it shall mean place or places.

Property. The word “property” shall include real and personal property.

Public place. The words “public place” shall include any park, cemetery, school yard or open space adjacent thereto, and all beaches, canals or other waterways.

Real property. The words “real property” shall include lands, tenements and hereditaments.

Residence. The word “residence” shall be construed to mean the place adopted by a person as his place of habitation, and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his residence.

Seal. Whenever the word “seal” is used, it shall mean the Township or corporate seal.

Sidewalk. The word “sidewalk” shall mean any portion of a street between the curblineline and the adjacent property line, intended for the use of pedestrians, excluding parkways.

Signature or subscription. The “signature” or “subscription” of a person shall include a mark when the person cannot write.

State. The words “the state” shall be construed to mean the State of Pennsylvania.

Street. The word “street” shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the Township.

Tenant, occupant. The words “tenant” or “occupant,” applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such buildings or lands, either alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Township. The words “the Township” or “this Township” shall mean the Township of West Pottsgrove, Montgomery County, Pennsylvania, a municipality of the commonwealth of Pennsylvania, acting by and through its Board of Commissioners or, in appropriate cases, acting by and through its authorized representatives.

Township commissioners. Whenever the words “Township commissioners” are used, they shall be construed to mean the Board of Commissioners of the Township of West Pottsgrove.

Week. The word “week” shall be construed to mean 7 days.

Written, in writing. The words “written” or “in writing” shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word “year” shall mean a calendar year.

State law reference – Definitions, 53 P.S. § 55102.

SEC. 1-4. SCOPE AND PURPOSE OF PROVISIONS.

The ordinances contained in this Code of Ordinances are intended to encompass and to promote the general health, welfare, peace, good order and morals of the community at large and the said ordinances have been codified herein for the purpose of facilitating the enforcement thereof.

SEC. 1-5. EFFECT OF CODE UPON ORDINANCES NOT INCLUDED.

Any existing ordinance, if any, of the Township, which has not been incorporated herein and made a part hereof, is not intended to be abolished or in any way changed by the enactment of this Code, except where said existing ordinances not incorporated herein and made a part hereof, conflict with the provisions of this Code, in which event the provisions of this Code shall supersede the provisions of said existing ordinances.

SEC. 1-6. AMENDMENTS OR ADDITIONS TO CODE.

- A. All ordinances passed subsequent to this Code of Ordinances, which amend, repeal or in any way affect this Code of Ordinances, may be numbered in accordance with the numbering system of this code and printed for inclusion therein, or in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the Board of Commissioners.
- B. Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of this Code in language substantially as follows: "That section _____ of the Code of Ordinances of the Township of West Pottsgrove, Pennsylvania, is hereby amended to read as follows:..." The new provisions may then be set out in full as desired.
- C. In the event a new section not heretofore existing in the code is to be added, the following language may be used: "That the Code of Ordinances of the Township of West Pottsgrove, Pennsylvania, is hereby amended by adding a section (or article, chapter or other designation, as the case may be), to be number _____, which reads as follows:..." The new provisions may then be set out in full as desired.
- D. In lieu of the foregoing subsection, when the Board of Commissioners desires to enact an ordinance of a general and permanent nature embracing a subject not previously existing in the Code, which the Board of Commissioners desires to incorporate in to the Code, a provision in substantially the following language may be made a part of the ordinance: "It is the intention of the Board of Commissioners, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of Ordinances of the Township of West Pottsgrove, Pennsylvania, and the sections of this ordinance may be renumbered to accomplish such intention."
- E. All sections, articles, chapters or other provisions of this Code desired to be repealed should be specifically repealed by section number, article number chapter or other number, as the case may be.

SEC. 1-7. EFFECT OF REPEAL OF ORDINANCES.

- A. The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

- B. The repeal of any ordinance or any portion thereof by this enactment or by any future enactments hereunder shall not affect or impair any act done or right vested or accrued for any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done or right vested or accrued, or proceeding, suit or prosecution had or commenced shall remain in full force and effect as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty, or forfeiture either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered shall be discharged or affected by such repeal or alteration, but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinances and part thereof had not been repealed or altered.

SEC. 1-8. ALTERING CODE.

It shall be unlawful for any person in the Township to change or amend by additions or deletions, any part or portion of this Code, or to insert or delete pages, or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Township of West Pottsgrove to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 1-9 hereof.

SEC. 1-9. GENERAL PENALTY FOR VIOLATION OF CODE AND ORDINANCES; CONTINUING VIOLATIONS.

Wherever in this Code or in any ordinance of the Township any act is prohibited or is made or declared to be unlawful or an offense or a summary offense, or wherever in such Code or ordinances the doing of any act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefore, the violation of any such provision of this Code or any such ordinance shall be punished as follows:

- A. Any violations of Chapter 7, all articles, divisions, and sections; Chapter 8, all articles, divisions, and sections; Chapter 10, Article I and Article II; and Chapter 11, all articles, divisions and sections shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or, in default of payment of such fine, by imprisonment for not more than 30 days.
- B. Any violations of other chapters, articles, division or sections of this Code or any other ordinance shall be punished by a fine of not more than six hundred dollars (\$600.00), or in default of payment of such fine, by imprisonment for not more than 30 days.

Each day that any violation of this Code or of any ordinance continues shall constitute a separate offense. (Ord. No. 78-3, 6-7-78; Ord. No. 88-5, §1, §2, §7-6-88)

State law reference – Incarceration of violators of Township ordinances; collection of fines and penalties 53 P.S. §58304.

SEC. 1-10. PROSECUTION WHERE DIFFERENT PENALTIES EXIST FOR SAME OFFENSE.

In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of the ordinances of the Township, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.

State law reference – Enforcement of Township ordinances, 53 P.S. §58301 et seq.

SEC. 1-11. COLLECTION OF FINES AND PENALTIES.

Fines and penalties shall be collected as fines and penalties are now collected in Townships of the first class in Pennsylvania.

State law reference – Collection of fines and penalties, 53 P.S. §58304.

SEC. 1-12. SEVERABILITY OF PARTS OF CODE.

The sections, subsections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph, subsection or section of this code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, subsections and sections of this Code.

Chapter 2
ADMINISTRATION*

- Art. I. In General, §§ 2-1—2-9**
- Art. II. Pennsylvania Intergovernmental Risk Management Association, §§ 1-10—2-24**
- Art. III. Township Manager, §§ 2-25—2-42**
- Art. IV. Boards and Commissions, §§ 2-43—2-70**
 - Div. 1. Generally, §§ 2-43—2-53
 - Div. 2. Planning Commission, §§ 2-54—2-59
 - Div. 3. Pottstown Area Regional Planning Commission, §§ 2-60—2-70
- Art. V. Schedule of Attorney’s Fees, § 2-71**

ARTICLE I. IN GENERAL

SEC. 2-1. REORGANIZATION AND REGULAR MEETINGS OF TOWNSHIP COMMISSIONERS.

- A. Reorganization meetings of the Township Commissioners shall be held on the first Monday of January of each even-numbered year, in the Township municipal building at 7:30 pm; provided, that if the first Monday is a legal holiday, the meeting shall be held the first day following at said time and place.
- B. All regular meetings of the Township Commissioners shall be held on the first Wednesday of each month, in the Township municipal building, beginning at 7:00 pm; provided, that if said Wednesday is a legal holiday, the meeting shall be held on the first Wednesday following at the said time and place; provided further, that the regular meeting in January of even-numbered years shall be held on the same day and the same time and place as the reorganization meeting.
 (Ord. of 1-7-70; Ord. No. 79-9, 12-26-79)

State law references – Township Commissioners generally, 59 P.S. §55702 et seq.; monthly meetings, 53 P.S. §55702.

SEC. 2-2. COMPENSATION OF THE TOWNSHIP TAX COLLECTOR.

- A. The compensation to be paid to the Township tax collector shall be the annual sum of Nine Thousand (\$9,000.00) Dollars, which shall be the total compensation received as tax collector for the Township.
- B. The tax collector of the Township shall be responsible for collecting all local taxes for the Township, including any and all real estate taxes, Act 511 taxes, but excluding the West Pottsgrove Township earned income tax.
- C. The tax collector shall be allowed such actual printing and postage expenses as shall be incurred in the performing of the duties prescribed in the local tax collection law of May 25, 2945, PL 1050, as amended, and such amounts shall be adjusted by the Township auditor or controller at the time of auditing of the tax collector’s accounts.

* *State law references – Township of the first class, 53 P.S. § 55101 et seq.; corporate powers, 53 P.S. § 56501 et seq.*

- D. Before performing any duties, the tax collector shall provide a fidelity bond in an amount equal to one hundred (100%) percent of the probable amount of the annual Township taxes to be collected. Said bond shall cover the full term of the tax collector's office and shall be for the use of the Township.
- E. If requested, the tax collector may provide tax certifications to persons requesting them and is entitled to charge a reasonable sum for research and the preparing of such tax certifications, said sum not to exceed Twenty Five (\$25.00) Dollars per certification per parcel.
- F. The Board of Commissioners may, in its discretion, make available Township facilities for use for tax collecting purposes. However, discretionary use of such Township facilities is not required by applicable law and is not to be considered a fringe benefit of or any portion of the compensation of the tax collector and may be discontinued at the Board's option.
(Ord. No. 5-5-65; Ord. No. 85-3, 2-14-85; Ord. No. 98-1, 4-1-98; Ord. No. 13-01, 2-6-13)

Cross reference – Earned income tax, § 17-80 et seq.

State law references – Township Treasurer generally, 53 P.S.; s; 55801 et seq.; powers as Tax Collector, 53 P.S. § 55805.

SEC. 2-2.1. COMPENSATION OF TOWNSHIP COMMISSIONERS.

Beginning on the 1st day of January, 2014, the compensation of all Township Commissioners of West Pottsgrove Township, beginning their term of elected office on, or appointed after the 6th day of January, 2014, shall be in the sum of one thousand five hundred dollars (\$1,500) per year, payable quarterly, or as determined by the Board of Commissioners. Such payment being subject to the following conditions, and shall be forfeited for the quarter for any Commissioner who willfully:

- A. Misses three meetings of the Board of Commissioners (including workshop and/or regular monthly) in any quarter, unless such absences are for medical or work-related matters;
- B. Acts in a manner which constitutes the neglect or violation of official duty as determined by a majority of the Board of Commissioners, after an appropriate due process closed hearing;
- C. Has a physical or mental disability which affects his/her ability to perform the elected duties, as determined by a majority of the Board of Commissioners, after an appropriate due process closed hearing;
- D. Violates the laws of the Commonwealth of Pennsylvania; provided that such violation constitutes a felony or a misdemeanor of the first degree; and
- E. Attends any meeting intoxicated or under the influence of illegal drugs which renders such Commissioner unable to conduct him/herself properly at said meeting (i.e., becomes combative, abusive to the other Commissioners or to the public), as determined by a majority of the Board of Commissioners, after an appropriate due process closed hearing.
(Ord. No. 74-6, 8-7-74; Ord. No. 92-1, 12-26-91; Ord. No. 2013-02)

SEC. 2-3. SOCIAL SECURITY FOR EMPLOYEES AND OFFICERS OF TOWNSHIP.

- A. The Township shall become a participant in the social security program and the benefits of social security shall be extended to its employees and officers.

- B. The proper officers shall be authorized to execute and deliver to the state agency the plan and agreement required under the provisions of the Social Security Act and the Act of 1951, P.L. 1833, as amended, to extend coverage to the employees and officers of the Township.
- C. The Treasurer of this Township shall be authorized, and he is hereby authorized to make all required payments into the contribution fund established by the Act of 1951, P.L. 1833, as amended, and to establish such system of payroll deductions from wages of employees and officers as may be necessary to their coverage under the social security program.
- D. The Board of Commissioners of this Township hereby appropriates from the proper fund or fund of the Township the amounts necessary to pay into the contribution fund as provided in the Act of 1951, P.L. 1833, as amended, and in accordance with the plan and agreement.
- E. The proper officers of this Township shall do all things necessary to the continued implementation of the social security program in accordance with the provisions contained in the plan an agreement and the Social Security Act and the Act of 1951, P.L. 1933, as amended.
(Ord. of 9-3-69)

Editor's note – Social security for municipal employees, 65 P.S. § 201 et seq.

SEC. 2-3.1. NON-UNIFORMED EMPLOYEES' AND OFFICERS' PENSION.

- A. West Pottsgrove Township hereby elects to enroll its municipal employees in the Pennsylvania Municipal Retirement System, as authorized by the Pennsylvania Retirement Law, Act 15 of 1974 as amended, with the express purpose of having the Pennsylvania Municipal Retirement System administer the retirement plan established by the Township for the municipal employees. The Township does hereby agree Pottsgrove Township is an official acceptance of said agreement and the financial obligations resulting from the administration of said benefit package. West Pottsgrove Township hereby assumes all liability for any unfundedness created or which may be created due to the acceptance of the benefit structure outlined in the above-referenced agreement.
- B. Membership in the Pennsylvania Municipal Retirement System for elected officials shall be optional and membership therein for employees hired on a temporary or seasonal basis shall be prohibited. The election by elected officials to join said system must be made within one year from the date of this section or within one year after the officials first enter the service of West Pottsgrove Township. Officers paid wholly on a fee basis shall not be eligible for member ship in this system.
- C. Credit for all prior service toward the municipal annuity of each original member shall be for all years of service to West Pottsgrove Township. West Pottsgrove Township does hereby assume the liability for payment of one hundred percent (100%) of the original member's contribution for all years of service towards the original member's annuity for the prior service of each original member.
- D. Payment for the prior service as set forth in paragraph (c) hereof shall be made by West Pottsgrove Township in accordance with said Pennsylvania Municipal Retirement Law and may be spread over a period of 30 years if West Pottsgrove Township so elects with the approval of the Pennsylvania Municipal Retirement Board.
- E. West Pottsgrove Township does hereby elect to extend provisions of Section 209 of the Pennsylvania Municipal Retirement Law Act 15 of 1974 so that contributors to the retirement system shall have the options and enjoy the protections set forth in paragraphs (b) and (c) of Section 209 of the Pennsylvania Municipal Retirement Law and Section 209 is hereby incorporated and made a part hereof by reference thereto.

- F. By adoption of Ordinance No. 2003-4, the Township agrees to terminate, upon the effective date of membership in the Pennsylvania Municipal Retirement System, any previously maintained municipal pension program applicable to those employees identified as members in Section 2-3.1(b) of this section and to transfer any assets from any existing plan to offset the established liability. West Pottsgrove Township also acknowledges that an affirmative vote representing at least seventy-five percent (75%) of the plan members indicated the members were in agreement with the establishment of the plan with the Pennsylvania Municipal Retirement System.
- G. West Pottsgrove Township intends Ordinance No. 2003-4 to be the complete authorization of the Township's pension plan and it shall become effective and specifically repeal any previous pension ordinance and/or resolution either immediately or on October 1, 2003, which is the effective date of the agreement dated November 5, 2003, between the Pennsylvania Municipal Retirement System and West Pottsgrove Township, whichever is later.
- H. A duly certified copy of Ordinance No. 2003-4 and the referenced agreement shall be filed with the Pennsylvania Municipal Retirement System of the Commonwealth of Pennsylvania. Membership for the municipal pension plan of West Pottsgrove Township in the Pennsylvania Municipal Retirement System shall be effective the first day of October 2003.
(Ord. No. 75-3, 11-5-75; ord. No. 85-4, 5-1-85, 10-4-90; Ord. No. 2003-4, § 1, 11-5-03)

SEC. 2-3.2. POLICE PENSION.

- A. West Pottsgrove Township ("the Township"), being a member municipality of the Pennsylvania Municipal Retirement System ("the System"), hereby elects to amend its Police Pension Plan administered by the System in accordance with Article IV of the Pennsylvania Municipal Retirement Law, 53 PS '881.101, et seq ("Retirement Law"), and does hereby agree to be bound by all the requirements and provisions of the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act, 53 PS '895.101, et seq, and to assume all obligations, financial and otherwise, placed upon member municipalities.
- B. As part of this ordinance, the Township agrees that the System shall administer and provide the benefits set forth in the amended Police Pension Plan Contract entered into between the Pennsylvania Municipal Retirement Board and the Township, effective October 1, 2013 ("Contract").
- C. The passage and adoption of this ordinance by the Township is an official acceptance of the Contract and the financial obligations resulting from the administration of the Contract.
- D. Payment for any obligation established by the adoption of this ordinance and the Contract shall be made by the Township in accordance with the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act. The Township hereby assumes all unfunded liability created due to the benefit structure set forth in the Contract.
- E. The Township intends this ordinance to be the complete authorization of the Contract and it shall become effected and specifically repeal Ordinance 2006-3, either immediately or on October 1, 2013, which is the effective date of the Contract, whichever is later.
- F. A duly certified copy of the ordinance and an executed Contract shall be filed with PMRS.
(Ord. No. 75-2, 11-5-75; Ord. No. 85-2, 2-5-85; Ord. No. 2003-1, § 1, 3-5-03; Ord. No. 2006-3, §§ 1, 2, 9-6-06; Ord. No. 2014-01)

SEC. 2-4. AUDIT OF TOWNSHIP ACCOUNTS.

The Township instead of electing three auditors as presently provided in the First Class Township Code will have an audit of its accounts by an independent auditor who may be a certified public accountant or a competent public accountant. The Township Commissioners shall by resolution before the close of each fiscal year appoint a certified public account or a competent public account as independent auditor and in the resolution making such appointments set forth the compensation of the appointed auditor. The auditor so appointed by resolution shall have and possess all of the powers and perform all of the duties provided in Act No. 166 and the First Class Township Code for elected auditors and the office of elected auditors is hereby abolished by this section.

(Ord. of 4-1-70)

SEC. 2-5. COOPERATIVE PURCHASING AUTHORIZED.

A. Whereas [the] Commissioners of West Pottsgrove Township have been advised of the contents and provisions of Act No. 31, Section 2403, Act of April 9, 1929 (P.L. 177), as amended, which provides any political subdivision to participate in or purchase from purchase contracts for materials, supplies and equipment entered into by the department of property and supplies of the Commonwealth of Pennsylvania.

B. It is hereby requested that West Pottsgrove Township be authorized to participate in purchase contracts of the department of property and supplies of the Commonwealth of Pennsylvania and hereby agrees that it will be bound by such terms and conditions as the department may, and as hereinafter specifically provided, shall, prescribe, and that it will be responsible for payment directly to the vendor under each purchase contract.

(Ord. of 2-2-72, §§ 1, 2)

SECS. 2-6—2-9. RESERVED.

**ARTICLE II. PENNSYLVANIA INTERGOVERNMENTAL
RISK MANAGEMENT ASSOCIATION**

SEC. 2-10. INTERGOVERNMENTAL CONTRACT ADOPTED BY REFERENCE.

West Pottsgrove Township shall join with other municipalities in accordance with the Pennsylvania Intergovernmental Cooperation Act by becoming a member of the Pennsylvania Intergovernmental Risk Management Association and entering into the intergovernmental contract which is adopted by reference with the same effect as if it had been set out verbatim in this section.

(Ord. No. 88-6, 7-6-88)

SEC. 2-11. CONTRACT AUTHORIZED.

West Pottsgrove Township is authorized to enter into the intergovernmental contract for the purposes contained therein. The Township Manager is hereby authorized to execute any and all applications, agreements, or other documents required to effect or administer the contract.

(Ord. No. 88-6, 7-6-88)

SEC. 2-12. FUNDS.

The Pennsylvania Intergovernmental Risk Management Association (Association) is designated as having official custody of the funds of West Pottsgrove Township which are invested by the association pursuant to the terms of the intergovernmental contract.

(Ord. No. 88-6, 7-6-88)

SEC. 2-13. OBJECTIVES, REGULATIONS, ETC.; SPECIFIED.

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

- A. The conditions of the agreement as set forth in the intergovernmental contract referred to in Section 2-10;
- B. Township's participation in the association shall be terminable at any time by ordinance;
- C. The purposes and objectives of the agreement are set forth hereinabove and the intergovernmental contract and actions contemplated thereby and purposes and objectives contained therein are other wise legal as part of a pooled arrangement with other governmental units, thereby achieving economic and other advantages of intergovernmental cooperation;
- D. It is not necessary to finance the agreement authorized herein from Township funds except through the contribution of Township's base rate (as this term is defined in the intergovernmental contract) to the association;
- E. The association shall be managed by a Board of Commissioners or executive committee as set forth in the by-laws of said association, a copy of which has been provided for review in connection with the adoption of this article;
- F. All property, real or personal, shall be acquired, managed or disposed of by the association in accordance with the terms of the intergovernmental contract.

(Ord. No. 88-6, 7-6-88)

SECS. 2-14—2-24. RESERVED.

ARTICLE III. TOWNSHIP MANAGER

SEC. 2-25. CREATION OF THE OFFICE.

The office of Township Manager for the Township of West Pottsgrove, Montgomery County, Pennsylvania, is hereby created.

(Ord. No. 76-5, 12-29-76)

SEC. 2-26. APPOINTMENT AND REMOVAL OF THE TOWNSHIP MANAGER; TERM OF OFFICE.

The Township Manager shall be appointed for an indefinite term by a majority of all members of the Board of Commissioners. The Township Manager shall serve at the pleasure of the Board of Commissioners and may be removed at any time by a majority vote of all its members.

(Ord. No. 76-5, 12-29-76)

SEC. 2-27. QUALIFICATIONS OF THE TOWNSHIP MANAGER.

The Township Manager shall be chosen solely on the basis of his executive and administrative abilities, with specific reference to his actual experience or his knowledge of accepted practices concerning the duties of the office of Township Manager as herein outlined. The Township Manager need not be a resident of the Township of West Pottsgrove or of the Commonwealth of Pennsylvania at the time of his appointment, but during the tenure of his office he may reside outside the Township only with the express approval of the Board of Commissioners.

(Ord. No. 76-5, 12-29-76)

SEC. 2-28. BOND TO BE GIVEN BY THE TOWNSHIP MANAGER.

Before entering upon his duties, the Township Manager shall give a bond to the Township of West Pottsgrove, with a surety company or other company authorized by law to act as surety, to be approved by the Board of Commissioners in the sum of twenty-five thousand dollars (\$25,000), conditioned for the faithful performance of his duties. The premium for said bond shall be paid by the Township.

(Ord. No. 76-5, 12-29-76)

SEC. 2-29. COMPENSATION PAYABLE TO THE TOWNSHIP MANAGER.

The Township Manager shall be compensated at an annual salary of twelve thousand dollars (\$12,000), provided that such amount of salary shall be reviewed by the Board of Commissioners at 6-month intervals, the first of such intervals being 6 months from the date the Township Manager first entered upon his duties, and may be adjusted and prefixed by the board as it, in its discretion, deems proper.

(Ord. No. 76-5, 12-29-76; Ord. No. 77-1, 2-9-77)

SEC. 2-30. POWERS AND DUTIES OF THE TOWNSHIP MANAGER.

- A. The Township Manager shall be the Chief Administrative Officer of the Township and shall be responsible to the Board of Commissioners as a whole for the proper and efficient administration of the Township. The powers and duties and the administration of all Township business shall be vested in the Township Manager, unless expressly imposed or conferred by statute upon other Township officers.
- B. Subject to recall by ordinance, the powers and duties of the Township Manager shall include the following:
 - 1. He shall supervise and be responsible for the activities of all Township departments, except the police department.
 - 2. He shall recommend to the Board of Commissioners the hire of persons to serve as employees under his supervisions, shall recommend to the Board the discharge or suspension of any employee under his supervision, and, when necessary for the good of Township services and when circumstances do not permit the action to be taken by the Board, shall suspend any employee under his supervisions, provided that persons covered by the civil service provisions of The First Class Township Code shall be hired, suspended or discharged in accordance with such provisions, and provided further that the Township Manager shall report, at the next meeting thereafter of the Board of Commissioners, any suspension actions taken by him under authority of this subsection.

3. He shall attend all meetings of the Board of Commissioners and its committees with the right to take part in discussion. The Township Manager shall receive notice of all special meetings of the Board of Commissioners and its committees.
4. He shall prepare the agenda for each meeting of the Board of Commissioners and shall supply facts pertinent thereto.
5. He shall investigate and dispose of, or designate an officer to investigate and dispose of, all complaints regarding Township services, and to report thereon to the Board of Commissioners. All complaints regarding Township services shall be referred to the office of the Township Manager.
6. He shall administer the enforcement of all laws and ordinances of the Township.
7. He shall prepare and submit to the Board of Commissioners, not later than October 31st of each year, a preliminary budget for the next fiscal year. In preparing the preliminary budget, the Township Manager shall obtain from the head of each department, agency, board or office, estimates of revenues and expenditures and such other supporting data as he may require. The Township Manager shall review such estimates and revise them before submitting the preliminary budget to the Board of Commissioners.
8. He shall administer the budget after its adoption by the Board of Commissioners.
9. He shall develop, in conjunction with the preparation of the yearly budget, long-range fiscal plans for the Township, such plans to be presented annually to the Board of Commissioners for review and adoption.
10. He shall keep the Board of Commissioners informed as to the conduct of Township affairs, shall submit periodic reports on the condition of Township finances and such other reports as the Board of Commissioners requests, and shall make such recommendations to the Board of Commissioners as he deems advisable.
11. He shall submit to the Board of Commissioners, as soon as possible after the close of the fiscal year, a complete report on the finances and administrative activities of the Township for the preceding year.
12. He shall see that the provisions of all franchises, leases, permits and privileges granted by the Township are observed.
13. He shall attend to the letting of contracts in due form of law. The Township Manager shall supervise the performance and faithful execution of such contracts except insofar as such duties are expressly imposed by statute upon some other Township officer.
14. He shall see that all monies owed the Township are promptly paid and that proper proceedings are taken for the security and collection of all Township claims.
15. He shall serve as purchasing officer of the Township and shall purchase, in accordance with provisions of The First Class Township Code, all supplies and equipment for the agencies, boards, departments and other offices of the Township. The Township Manager shall keep an account of all purchases and shall, from time to time or when directed by the Board of Commissioners, make a full written report thereof. He shall also issue rules and regulations,

subject to the approval of the Board of Commissioners, governing the procurement of all municipal supplies and equipment.

16. He shall hold such other Township offices and head such Township departments as the Board of Commissioners may from time to time direct.
(Ord. No. 76-5, 12-29-76)

SEC. 2-31. DESIGNATION OF A QUALIFIED PERSON TO ACT IN THE ABSENCE OF THE TOWNSHIP MANAGER.

In case the Township Manager becomes ill or needs to be absent from the Township, the Board of Commissioners shall designate a qualified member of the Township staff who shall perform the duties of the Township Manager during his illness or absence.
(Ord. No. 76-5, 12-29-76)

SEC. 2-32. REPEAL OF INCONSISTENT ORDINANCES AND RESOLUTIONS.

All ordinances or resolutions, or parts thereof, insofar as they are inconsistent herewith be and are hereby repealed.
(Ord. No. 76-5, 12-29-76)

SECS. 2-33—2-42. RESERVED.

ARTICLE IV. BOARDS AND COMMISSIONS

DIVISION 1. GENERALLY

SECS. 2-43—2-53. RESERVED.

DIVISION 2. PLANNING COMMISSION*

SEC. 2-54. TITLE.

There is hereby created a planning agency, to be known as the West Pottsgrove Township Planning Commission.
(Ord. No. 82-3, § 1, 5-5-82)

SEC. 2-55. MEMBERSHIP.

The West Pottsgrove Township Planning Commission shall consist of eight members, seven of whom shall be voting members and one a nonvoting member. The nonvoting member shall be an elected Commissioner of West Pottsgrove Township.

All members of the Planning Commission shall reside within the Township and shall serve without pay, although they shall be reimbursed for the necessary expenses incurred in the performance of their duties as Commission members. However, elected or appointed officers or employees of municipalities shall

* *Cross references – Buildings and building regulations, Ch. 7; housing, Ch. 12; streets and sidewalks, Ch. 16; zoning, subdivision and land development, Ch. 20.*

not, by reason of membership thereon, forfeit the right to exercise the powers, perform the duties or receive the compensation of the municipal offices held by them during such membership.
(Ord. No. 82-3, § 2, 5-5-82)

SEC. 2-56. APPOINTMENT, TERM AND VACANCY.

All members of the commission shall be appointed by the Board of Commissioners of West Pottsgrove Township. The term of each of the members of the Commission shall be for 4 years, or until his successor is appointed and qualified. An appointment to fill a vacancy shall be only for the unexpired portion of the term. All vacancies arising for any reason shall be filled by appointment of the Board of Commissioners. The appointments to the West Pottsgrove Township Planning Commission as designated in the resolution of the Board of Commissioners of March 3, 1982, is hereby ratified and affirmed as though fully set forth herein.
(Ord. No. 82-3, § 3, 5-5-82)

SEC. 2-57. RESPONSIBILITIES.

The Township Planning Commission may make reports and recommendations to the Board of Commissioners, agencies, and citizens, regarding public and private improvements in relation to its plans and general community development. It shall operate in cooperation with the Township Zoning Hearing Board. All public officials shall, upon request, furnish to the commission such available information as the Commission or its staff may require for its work. In general, the Planning Commission shall have such powers as will reasonably enable it to carry out its purpose and promote Township planning, including all the powers and duties enumerated in the Municipalities Planning Code, Act 247, 1968, as amended, which are incorporated herein by reference.
(Ord. No. 82-3, § 4, 5-5-82)

SECS. 2-58, 2-59. RESERVED.

DIVISION 3. REGIONAL PLANNING*

SEC. 2-60. INTERGOVERNMENTAL COOPERATIVE IMPLEMENTATION AGREEMENT.

West Pottsgrove Township hereby adopts the Pottstown Metropolitan Regional Intergovernmental Cooperative Implementation Agreement for Regional Planning ("Agreement"). The Township shall be guided by the standards set forth in the Agreement on matters pertaining to land use planning, zoning, and the operation of the Pottstown Metropolitan Regional Planning Committee.
(Ord. No. 2005-4, § 2, 12-7-05)

SEC. 2-61. POTTSTOWN METROPOLITAN REGIONAL PLANNING COMMITTEE

West Pottsgrove Township shall appoint two representatives to serve on the Pottstown Metropolitan Regional Planning Committee. One member shall be a member of the Board of Commissioners and the other shall be from the governing body, Planning Commission, or citizenry of the Township. These representatives shall be appointed by the Board of Commissioners to serve a term of 2 years and perform their duties in accordance with the requirements as set forth in the Agreement.
(Ord. No. 2005-4, § 2, 12-7-05)

* *Editor's Note* – Division 3 was repealed by Ord. No. 2005-4, § 1, enacted Dec. 7, 2005 and replaced by Ord. No. 2005-4, § 2, enacted Dec. 7, 2005)

SECS. 2-62 – 2.68. RESERVED.

ARTICLE V. SCHEDULE OF ATTORNEY'S FEES

SEC. 2-69. FEES ESTABLISHED.

The following schedule of attorney's fees is hereby adopted by the Board of Commissioners of West Pottsgrove Township which is to be added to the charges and costs for municipal claims filed against the owners of real property situated in the Township as follows:

- A. Setting up file and filing a municipal lien including notice to owners: \$250.
- B. Satisfaction of a municipal claim or lien: \$50.
- C. Proceedings to collect a municipal lien including, but not limited to, issuance of writs of scire facias, preparation of affidavits, trial of municipal claim, entry of judgment and execution to be charged at the hourly rate of the Township Solicitor for the year in which said work is performed.
(Ord. No. 98-2, § 1, 10-7-98)

Chapter 3
AMUSEMENTS

- Art. I. In General, §§ 3-1—3-16**
Art. II. Mechanical Amusement Devices, §§ 3-17—3-32
 Div. 1. Generally, §§ 3-17—3-25
 Div. 2. License, §§ 3-26—3-32

ARTICLE I. IN GENERAL

SEC. 3-1. CIRCUSES, MENAGERIES, ETC.; LICENSE REQUIRED; FEE.

It shall be unlawful for any person to show, exhibit or run a circus, menagerie, side show, flying horses, merry-go-round or similar amusement, without first obtaining a license so to do, and upon paying a license fee as established by resolution of the Board of Commissioners of West Pottsgrove Township.
 (Ord. No. 2009-4, § 1, 3-18-09)

SECS. 3-2—3-16. RESERVED.

ARTICLE II. MECHANICAL AMUSEMENT DEVICES

DIVISION 1. GENERALLY

SEC. 3-17. DEFINITION.

The term “mechanical amusement device,” as used in this article, shall mean and include any device which upon insertion of a coin, slug, token, plate or disc, may be operated for use as a game, entertainment or amusement, whether or not registering a score; provided, the term “mechanical amusement device” shall not include any “juke box” or similar instrument, operated solely for the emission of music; nor shall the term “mechanical amusement device” include any gambling device or any mechanism which has been judicially determined to be a gambling device.
 (Ord. of 3-7-56, § 1)

SEC. 3-18. INSPECTIONS.

The Township Police, under the direction of the Township Secretary, shall make periodical inspections of mechanical amusement devices licensed under this article.
 (Ord. of 3-7-56, § 7)

SEC. 3-19. GAMBLING DEVICES PROHIBITED.

Nothing in this article shall be in any way construed to authorize, license or permit any gambling device whatsoever, or any machine or mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future law of the Commonwealth of Pennsylvania.
 (Ord. of 3-7-56, § 4)

Cross reference – Miscellaneous offenses and provisions, Ch. 13.

SEC. 3-20. VIOLATION OF ARTICLE.

Any person who shall violate any of the provisions of this article shall, upon conviction thereof, be punished as prescribed in Section 1-9.

(Ord. of 3-7-56, § 9)

Cross reference – General penalty, § 1-9.

SEC. 3-21—3-25. RESERVED.

DIVISION 2. LICENSE

SEC. 3-26. REQUIRED.

No person may at any time have in his possession, at any place within the Township, any mechanical amusement device, without first having procured a license therefore from the Township Secretary.

(Ord. of 3-7-56, § 2)

SEC. 3-27. APPLICATION; CONTENTS.

Any person desiring to procure a license required by this division for a mechanical amusement device shall apply therefore in writing to the Township Secretary. Such application shall set forth the name of the applicant, the address at which such device is to be located, and the number and character of devices to be installed at such address, for use thereon. Such information shall be furnished over the signature of the applicant and shall be made under oath or affirmation.

(Ord. of 3-7-56, § 3)

SEC. 3-28. INVESTIGATION.

No license required by this division shall be granted until a period of 2 days shall have elapsed from the date of application, during which time the Township Secretary may, at his discretion, investigate the facts set forth in the application.

(Ord. of 3-7-56, § 3)

SEC. 3-29. ISSUANCE; FEE; TERM.

- A. Following the waiting period provided in Section 3-28, and upon payment by the applicant of the license fee established by resolution of the Board of Commissioners for every mechanical amusement device sought to be licensed, a license shall be issued by the Township Secretary to the applicant.
- B. Such license shall be valid for the entire calendar year for which it is issued and shall expire following the last day of such calendar year.
- C. Such license shall authorize the installation or location and use upon the premises specified therein, of the number of mechanical amusement devices for which the aforesaid license fee shall have been paid, but nothing herein shall prohibit the change of exchange of such mechanical amusement devices, so long as the total number of such mechanical amusement devices, so long as the total number of such devices installed or located in and about such premises shall not at any time exceed the number set forth in the original application. Whenever the total number of such devices installed

or located in or about any premises shall exceed the total number for which the license was granted, application shall be made of a license for such additional number and the fee shall be paid therefore. (Ord. of 3-7-56, § 5; Res. of 2-2-72; Ord. No. 2009-4, § 2, 3-18-09)

SEC. 3-30. EXHIBITION.

Any license issued under this division shall be exhibited at any time upon request of the Township Secretary or any Police Officer of the Township. (Ord. of 3-7-56, § 8)

SEC. 3-31. RENEWAL.

Prior to the expiration date of any license issued under this division, the holder of such license shall apply to the Township Secretary for a license for the following year. The same provisions shall govern the issuance of such license as are set forth in this division. (Ord. of 3-7-56, § 6)

SEC. 3-32. REVOCATION.

The Township Secretary may revoke any license granted under this division when he deems such revocation to be necessary for the benefit or protection of the public health, safety or morals. (Ord. of 3-6-56, § 8)

Chapter 4
ANIMALS AND FOWL*

Art. I. In General, §§ 4-1—4-13

Art. II. Dogs, §§ 4-14—4-20

ARTICLE I. IN GENERAL

SEC. 4-1. MANURE.

Manure shall not be allowed to accumulate in any place where it can prejudicially affect any source of drinking water.

(Ord. of 12-3-30, § 8)

SEC. 4-2. DEAD ANIMALS.

- A. The carcass of any dead animal shall be removed and disposed of by burial, incineration or other proper method within 24 hours after death. If the carcass is buried it shall be placed so that every part shall be covered by at least 2 feet of earth and at a location not less than one hundred feet from any well, spring, stream or other surface waters, and in a place not subject to overflow.
- B. In all cases of death from communicable diseases, the carcass, if disposed of by burial, shall first be thoroughly enveloped in unslaked lime.
- C. Proper disposal shall be made by the owner of the animal or by the owner of the property on which the dead animal is found. Where the owner of the animal is unknown and the carcass is found upon any street, alley or other public place, it shall be removed and disposed of by the Board of Commissioners at public expense.

Cross references – Garbage, refuse and other waste material, Ch. 10; general health, safety and welfare, Ch. 11.

SEC. 4-3. PIGSTIES OR PIGGERIES.

No pigsty or piggery shall be built or maintained on marshy ground or land subject to overflow, nor where it can prejudicially affect any water supply, nor where, as a source of fly breeding, it may become a menace to the public health. When garbage is fed to pigs, provision shall be made so that all unconsumed garbage shall be removed daily and disposed of by burial or incineration. All garbage shall be handled and fed upon platforms of concrete or other impervious material. Unslaked lime, hypochlorite of lime, borax or mineral oil shall be used daily in sufficient quantities to prevent offensive odors and the breeding of flies.

(Ord. of 12-3-30, § 11)

SECS. 4-4—4-13. RESERVED.

* *State law references – Domestic animals generally, 3 P.S. § 321 et seq.; power of board of Township commissioners relative to animals, 53 P.S. § 56530.*

ARTICLE II. DOGS***SEC. 4-14. DEFINITIONS.**

- A. The word “owner” when applied to the proprietorship of a dog, shall include every person having a right of property in such dog, and every person who keeps or harbors such dog or has it in his care, and every person who permits such a dog to remain on or about any premises occupied by him.
- B. The term “kennel” shall mean any establishment wherein dogs are kept for the purpose of breeding, boarding, sale or show purposes, and which is so constructed that dogs cannot stray therefrom.
- C. The term “dog control officer” shall mean any person designated as such whose duty it shall be to control dogs within the Township of West Pottsgrove, pursuant to the terms hereinafter set forth.
(Ord. No. 74-2, 1-7-74)

SEC. 4-15. RUNNING AT LARGE PROHIBITED; EXCEPTION.

It shall be unlawful for the owner, custodian or keeper of any dog, licensed or unlicensed, to allow such dog to run at large at any time, either upon any street, alley or public grounds in the Township, or upon the property of another other than the owner, custodian or keeper of such dog, unless accompanied by an under the immediate control of such owner, custodian or keeper.

(Ord. No. 74-2, 1-7-74)

SEC. 4-16. SEIZURE AND IMPOUNDING OF DOGS RUNNING AT LARGE; REDEMPTION.

- A. It shall be the duty of every Police Officer, or any person so designated as the dog control officer under this article, to seize and detain any dog which is found running at large, either upon the public streets or highways, or upon the property of another, other than the owner of such dog, and unaccompanied by the owner or keeper. It shall be the privilege of every Police Officer or dog control officer to kill any dog which is found running at large and is deemed, after due consideration, to constitute a threat to the public health and welfare.
- B. The Police Officer or dog control officer shall cause any dog bearing a proper license tag and so seized and detained to be properly kept and fed, and shall cause immediate notice, either personal or by certified mail, to be given to the person in whose name the license was procured, or his agent, to claim such dog in accordance with the provisions hereinafter set forth. In the event that an unlicensed dog is seized and detained, there shall be no obligation hereunder to notify or determine the owner of said dog unless the name and address of the owner of said dog is properly affixed to said animal.
- C. The seized and detained licensed dogs may be redeemed by the owner, or his agent, for a five dollar (\$5) penalty thereof at the designated pound within 10 days of mailing of notice upon payment of a two dollar (\$2) per day charge incurred by reason of such detention. Unlicensed dogs may be redeemed within 48 hours of mailing notice and upon payment of one dollar (\$1) per day charge in addition to the five dollar (\$5) penalty charge. Adjustments in the rates for the detention of a dog shall be determined from time to time by the Township.

(Ord. No. 74-2, 1-7-74)

* *Editor's note* – Ord. No. 74-2 repealed former §§ 4-14—4-17, derived from Ord. of Feb. 7, 1962, §§ 1—4, and added new §§ 4-14—4-20.

State law reference – Dog law of 1965, 3 P.S. § 460—101 et seq.

SEC. 4-17. CURBING OF ANIMALS.

Owners will be responsible for the proper curbing of their animal, cleanliness of dog pounds and kennels and yards to prevent any nuisance or health hazard to adjacent property owners.
(Ord. No. 74-2, 1-7-74)

SEC. 4-18. FEMALE DOGS IN HEAT.

It shall be unlawful for the owner or keeper of any female dog to permit such female dog to go beyond the premises of such owner or keeper at any time she is in heat, unless such female dog is properly confined.
(Ord. No. 74-2, 1-7-74)

SEC. 4-19. CONFINEMENT.

It shall be unlawful for the owner or keeper of any dog to fail to keep at all times such dog either:

- A. Confined within the premises of the owner;
 - B. Firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises on which it is secured;
 - C. Under reasonable control of some person or when engaged in lawful hunting or field training accompanied by the owner or handler.
- (Ord. No. 74-2, 1-7-74)

SEC. 4-20. FINE AND IMPRISONMENT.

Any owner, custodian or keeper of any dog who shall violate any of the provisions of this article may, upon conviction thereof, be punished as described in Section 1-9; provided, such penalty may be in addition to any payments required to be made under Section 4-16.
(Ord. No. 74-2, 1-7-74)

Chapter 5
AUCTIONS AND AUCTIONEERS*

- Art. I. In General, §§ 5-1—5-15**
Art. II. Auction Sales, §§ 5-16—5-17

ARTICLE I. IN GENERAL

SEC. 5-1—5-15. RESERVED.

ARTICLE II. AUCTION SALES

SEC. 5-16. PERMIT – REQUIRED.

It shall be unlawful for any person to conduct any general auction sale for the sale of merchandise, excepting only sales for the closing out of estates, or businesses, or a household, or any ordinary sales for the liquidation of assets, until a permit shall be issued by the Township Secretary.
(Ord. of 1-6-37, § 1)

SEC. 5-17. SAME – APPLICATION; FEE.

Before any person shall conduct any auction sale or sales, not within the exception granted in Section 5-16, he shall first make application for a permit required by Section 5-16 to the Township Secretary and pay to the Secretary, a fee in an amount established by resolution of the Board of Commissioners, for each day on which auction sale shall take place.
(Ord. of 1-6-37, § 1; Ord. No. 2009-4, § 3, 3-18-09)

* *State law reference – Authority of townships of the first class to regulate and license public auctions, 53 P.S. § 56543.*

Chapter 6
BICYCLES*

SEC. 6-1. DEFINITION.

A “bicycle,” as used in this chapter, is a device having two tandem wheels of a diameter not less than 10 inches and propelled by human power.

(Ord. of 9-6-67, § 1)

SEC. 6-2. REGISTRATION AND LICENSING.

- A. All persons operating or in possession of a bicycle as defined in Section 601 within the limits of the Township shall register the description and serial number of the bicycle owned or operated with the Township Secretary who shall keep a permanent registration book for the same and who shall, upon registration, issue a license which shall be permanently affixed to the bicycle.
- B. Such registration shall not be necessary in the event that the bicycle so owned or operated shall have been registered in any other municipality.
- C. In the event the owner or operator of such bicycle shall fail to register or obtain a license within 48 hours, the Township police are authorized to impound such bicycle until such time as the registration has been made and the license fee paid.
- D. In the even the impounded bicycle is not reclaimed within 30 days the Township Secretary is authorized to place an advertisement in the local newspaper and dispose of the bicycle by sale to the highest written bid submitted for the same.
- E. Section 6-13 shall not apply to this section, which shall be self-operating.
(Ord. of 6-3-70)

State law reference – Registration plates for bicycles with motors attached, 75 P.S. § 501(a).

SEC. 6-3. INSPECTION, ETC.

The chief of police, or his duly authorized representative, is hereby empowered to require, at his discretion, the owner of any bicycle to present the same for inspection as to its mechanical condition and equipment and it impose reasonable requirements before allowing the owner to operate the same.

(Ord. of 9-6-67, § 2)

Cross reference – Police, Ch. 15.

SEC. 6-4. BICYCLES SUBJECT TO OFFICIAL TRAFFIC SIGNALS, ETC.

Any person operating a bicycle shall obey all official traffic signals, signs and other control devices applicable to vehicles, unless otherwise directed by a police officer.

(Ord. of 9-6-67, § 3)

Cross references – Police, Ch. 15; traffic, Ch. 18.

State law reference – Rights of bicycles on highways, restrictions on bicycles, 75 P.S. § 2201.

* *Cross references – Police, Ch. 15; streets and sidewalks, Ch. 16; traffic, Ch. 18.*

State law reference – Vehicles generally, 75 P.S. § 101 et seq.

SEC. 6-5. OPERATION ON RIGHT-HAND SIDE OF ROADWAY REQUIRED.

A bicycle shall be operated only on the roadway as near to the right-hand side as possible.
(Ord. of 9-6-67, § 3)

Cross reference – Traffic, Ch. 18.

SEC. 6-6. OPERATION ON SIDEWALKS PROHIBITED.

Bicycles shall not be operated on the sidewalks.
(Ord. of 9-6-67, § 3)

Cross reference – Streets and sidewalks, Ch. 16.

SEC. 6-7. BICYCLE OPERATORS TO YIELD RIGHT-OF-WAY.

The operator of a bicycle emerging from an alley, driveway or building shall yield the right-of-way to all pedestrians on the sidewalk and to all vehicles on the roadway.
(Ord. of 9-6-67, § 3)

Cross reference – Traffic, Ch. 18.

SEC. 6-8. RIDING ON HANDLEBARS PROHIBITED, ETC.; EXCEPTION.

- A. The operator of a bicycle shall not carry any other person upon the handlebar, frame or any part of the bicycle.
- B. This section shall not be construed to prohibit the use of bicycles built to be operated by two (2) or more persons.
(Ord. of 9-6-67, § 3)

SEC. 6-9. TRICK RIDING PROHIBITED, ETC.

The operator of a bicycle shall not indulge in any abnormal or trick riding, and shall keep at least one (1) hand on the handlebars at all times while in use.
(Ord. of 9-6-67, § 3)

SEC. 6-10. RIDING IN SINGLE FILE REQUIRED; EXCEPTION.

Operators of bicycles shall not ride in any manner other than single file except on paths or parts of a roadway set aside for the exclusive use of bicycles.
(Ord. of 9-6-67, § 3)

SEC. 6-11. PARKING.

The operator of a bicycle shall park the same upon the roadway at the curb or, upon the sidewalk in a rack to support the bicycle, or, against a building, except windows or glass doors thereof, in such manner as to afford the least obstruction to pedestrian or vehicular traffic.
(Ord. of 9-6-67, § 3)

Cross reference – Traffic, Ch. 18.

SEC. 6-12. EQUIPMENT.

Every bicycle shall be equipped with brakes in good condition and with a bell, horn or other warning device.

In addition, every bicycle shall be equipped with a headlight and rear light or reflector whenever the bicycle is being operated after sunset.

(Ord. of 9-6-67, § 4, Ord. of 10-7-70)

State law reference – Required lighting equipment, 75 P.S. § 801.

SEC. 6-13. PENALTIES FOR VIOLATIONS.

Any person found guilty of violating any of the provisions of this chapter and/or article shall be guilty of a summary offense and upon conviction thereof shall be punished as prescribed in Section 1-9.

(Ord. of 9-6-67, § 5, Ord. No. 86-5, §§ 1A, 2, 10-1-86)

Cross reference – General penalty, § 1-9.

Chapter 7
BUILDINGS AND BUILDING REGULATIONS*

- Art. I. Pennsylvania Uniform Construction Code, §§ 7-1—7-42**
 Div. 1. International Property Maintenance Code, §§ 7-1—7-9
 Div. 2. Jurisdiction, §§ 7-10—7-15
 Div. 3. Residential Rental Registration and Licensing Ordinances, §§ 7-16—7-29
 Div. 4. Commercial and Industrial Rental Registration and Licensing Ordinance, §§ 7-30—7-42
- Art. II. Code Enforcement, §§ 7-43—7-44**

ARTICLE I. PENNSYLVANIA UNIFORM CONSTRUCTION CODE[†]

SEC. 7-1. PENNSYLVANIA CONSTRUCTION CODE.

West Potts grove Township hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§ 7210.101—7210.1103, as amended from time to time, and its regulations.

(Ord. No. 2004-2, 7-7-04)

SEC. 7-2. UNIFORM CONSTRUCTION CODE.

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

(Ord. No. 2004-2, 7-7-04)

SEC. 7-3. ADMINISTRATION AND ENFORCEMENT

Administration and enforcement of the Code within West Pottsgrove Township shall be undertaken in any of the following ways as determined by the Board of Commissioners of West Pottsgrove Township from time to time by resolution:

- A. By the designation of an employee of the Township to serve as the municipal code official to act on behalf of the Township;
- B. By the retention of one or more construction code officials or third-party agencies to act on behalf of the Township;

* *Editor's note* – Former provisions relating to the BOCA Building Code, Plumbing Code, Electrical Code, Existing Structures Code and Fire Prevention Code and repealed by Ord. 2010-1, enacted 3-3-10).

Cross references – Streets and sidewalks, Ch. 16; water, sewers and sewage disposal, Ch. 19; zoning, subdivision and land development, Ch. 20.

State law reference – Power of Townships of the first class to regulate generally, 53 P.S. §§ 56518-56521. Uniform Construction Code, Ch. 17

- C. By agreement with one or more other municipalities for the joint administration and enforcement of this Act through an intermunicipal agreement;
 - D. By entering into a contract with another municipality for the administration and enforcement of this Act on behalf of the Township;
 - E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.
- (Ord. No. 2004-2, 7-7-04)

SEC. 7-4. BOARD OF APPEALS.

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

(Ord. No. 2004-2, 7-7-04)

SEC. 7-5. CODES ADOPTED

- A. West Pottsgrove Township adopts the following codes as the Uniform Construction Code to be enforced in West Pottsgrove Township, as follows:
 - 1. *International Building Code* – Chapters 2-29 and 31-35 of the “International Building Code 2009” issued by the International Code Council (ICC). The term includes all errata issued by the ICC.
 - 2. *ICC Electrical Code* – The “ICC Electrical Code – Administrative Provisions 2009” issued by the ICC. The term includes all errata issued by the ICC.
 - 3. *International Energy Conservation Code* – The “International Energy Conservation Code 2009” issued by the ICC. The term includes all errata issued by the ICC.
 - 4. *International Existing Building Code* – The “International Existing Building Code for Buildings and Facilities 2009” issued by the ICC. The term includes all errata issued by the ICC.
 - 5. *International Fire Code* – The “International Fire Code 2009” issued by the ICC. The term includes all errata issued by the ICC, as well as Appendix A through and including Appendix J.
 - 6. *International Fuel Gas Code* – The “International Fuel Gas Code 2009” issued by the ICC. The term includes all errata issued by the ICC.
 - 7. *International Mechanical Code* – The “International Mechanical Code 2009” issued by the ICC. The term includes all errata issued by the ICC.
 - 8. *International Plumbing Code* – The “International Plumbing Code 2009” issued by the ICC. The term includes all errata issued by the ICC.

9. *International Residential Code* – The “International Residential Code for One- and Two-Family Dwellings 2009” issued by the ICC. The term includes all errata issued by the ICC.
 10. *International Wildland -Urban Interface Code* – The “International Wildland -Urban Interface Code 2009” issued by the ICC. The term includes all errata issued by the ICC.
 11. Appendix E of the International Building Code.
 12. Appendix H of the International Building Code.
 13. Appendix G of the International Building Code.
- B. Codes adopted in the preceding section are adopted in accordance with the specifications and modifications set forth by the Pennsylvania Department of Labor in Section 403.21 of Title 34 of the Pennsylvania Code entitled “Uniform Construction Code.”
- C. All relevant ordinances, regulations and policies of the Township not governed by the Uniform Construction Code shall remain in full force and effect. In addition, the codes referenced in Section 7-5(a) will include not only the 2009 edition of said codes, but also all future amendments, editions and errata as published by the International Code Council.
- D. The Pottstown Borough Authority Standard Technical Specifications and Requirements for the construction of water mains and appurtenances, adopted by the Pottstown Borough Authority on January 15, 2003, as amended, are adopted as part of the municipal building code of West Pottsgrove Township in accordance with the Pottstown Borough Authority Resolution dated May 18, 2005, attached hereto and made apart hereof.
(Ord. No. 2004-2, 7-7-04; Ord. No. 2009-2, §1, 1-7-09; Ord. No. 2010-1, § 1, 3-3-10)

SEC. 7-6. FEES.

Fees assessable by the Township for the administration and enforcement undertaken pursuant to this Ordinance and the Code shall be established by the Board of Commissioners by resolution from time to time.
(Ord. No. 2004-2, 7-7-04)

SEC. 7-7. RESERVED.

DIVISION 1. INTERNATIONAL PROPERTY MAINTENANCE CODE

SEC. 7-8. ADOPTION OF INTERNATIONAL PROPERTY MAINTENANCE CODE.

The International Property Maintenance Code, 2006 Edition, including future amendments, editions and errata, as published by the International Code Council, is adopted as the Property Maintenance Code of West Pottsgrove Township for the purpose of regulating and governing the conditions and maintenance of all properties, buildings and structures; by providing the standards for supplying utilities and facilities and other physical things and conditions essential to ensure that the structure is safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures, as herein provided; providing for the issuance of permits and collections of fees therefore; and each and all of the regulations, provisions, penalties, conditions and

terms of said Property Maintenance Code, with the additions, insertions, deletions and changes, if any, prescribed in Section 7-9 of this Ordinance.
(Ord. No. 2005-2, 6-1-05; 2007-7, §1, 12-19-07)

SEC. 7-9. REVISIONS.

The following sections of the International Property Maintenance code are hereby revised:

Section 101.1. The name of the jurisdiction shall be West Pottsgrove Township.

Section 103. Administration.

Section 103.1 Deleted. (Ord. 2005-2, 6-1-05)

Section 103.2. Appointment. The Code Officials designated by West Pottsgrove Township to administer the Pennsylvania Uniform Construction Code shall be designated as the Code Official to administer the International Property and Maintenance Code herein adopted, and such Code Official shall include his designees and deputies, including the Township Engineer.

Section 103.3. Fees. The fees for activities and services performed by the Code Official or his designees shall be as established by the Board of Commissioners of West Pottsgrove Township by Resolution from time to time.

Section. 106.3. Prosecution of Violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 of the Property Maintenance Code of West Pottsgrove shall be deemed guilty of a summary offense, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity or restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant thereto. Expenses and other costs incurred by any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located together with a penalty of ten percent (10%) of such expenses and costs, and with the maximum interest allowed by law, and the Code Official may institute suit to recover such expenses, costs, penalties and interest to be charged against the property as a lien.

Section 106.4. Violation Penalties. Any person who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by state or local laws. Any person who violates any of the provisions of this Code shall be guilty of a summary offense, and upon conviction thereof, shall be punished as prescribed in Section 1-9. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Section 111. Means of Appeal, including all subparts. Repealed and deleted (Ord. 2007-1, 11-7-07)

Section 304.14. Insect Screens. The required time frame for screens is beginning May 15th and ending September 15th.

Section 602.3. Heat Supply. Heat shall be supplied during the period from September 1st to June 1st.

Section 602.4. Occupiable Work Spaces. Heat shall be supplied during the period from October 1st to April 30th.

(2005-2, 6-1-05; 2007-1, §1, 11-7-07)

DIVISION 2. JURISDICTION.

SEC. 7-10. CODE ADMINISTRATOR.

The Code Administrator or his designee, which shall include the Township Engineer, shall be responsible for all inspections required under the Uniform Construction Code as well as the International Property Maintenance Code with concurrent jurisdiction with respect to enforcement of the International Fire Code with the West Pottsgrove Township Fire Marshal.

(Ord. No. 2005-2, 6-1-05)

SEC. 7-11. FIRE MARSHAL AUTHORITY AND ORDERS.

A. The West Pottsgrove Township Fire Marshal shall have the authority to prohibit any person, vehicle or object from approaching the scene of a fire or other emergency and may remove or cause to be removed from the scene any person, vehicle or object which may impede or interfere with the operations of the Fire Department. In addition, the Fire Marshal may remove or cause to be removed any person, vehicle or object from hazardous areas. All persons ordered to leave a fire scene or hazardous area shall do so immediately and shall not reenter the area until authorized to do so by the Fire Marshal.

B. A person shall not willfully fail or refuse to comply with any lawful order or direction of the Fire Marshal or to interfere with the compliance attempts of another individual.

(Ord. No. 2005-2, 6-1-05)

SEC. 7-12. PENALTY.

Any person who violates any provisions of Section 7-11 above, shall be guilty of a summary offense and, upon conviction thereof, shall be punished as prescribed in Section 1-9.

(Ord. No. 2005-2, 6-1-05)

SEC. 7-13 – 7-15. RESERVED.

DIVISION 3. RESIDENTIAL RENTAL REGISTRATION AND LICENSING ORDINANCE*

SEC. 7-16. DEFINITIONS.

Agent. Any person, corporation, co-partnership, association or fiduciary who or which, for monetary consideration, aids in the rental of property as defined herein. When used in this article in a clause prescribing any activity or imposing a penalty, the term, as applied to partnerships and associations shall mean each partner and, as applied to corporations, the officers thereof.

* *Editor's Note* – Ord. No. 2009-10, § 1, enacted Dec. 16, 2009 and Ord. No. 2010-1, 3-3-10, repealed former Division 3.

Code. Means any state or local code or ordinance adopted, enacted or in effect in and for the Township of West Pottsgrove including, but not limited to the Uniform Construction Code and codes incorporated therein, the International Property Maintenance code, the National Electrical Code, the International Fire Code and the West Pottsgrove Township Zoning Ordinance and/or other future national or international codes and/or zoning ordinance amendments that may be subsequently adopted.

Hotel Unit. Means any room or group of rooms located within a hotel or motel forming a single habitable unit used or intended to be used for living and sleeping only on a transient basis for a period of less than 30 days. In the event occupancy is offered for more than 30 days, such units shall be considered a boarding house and subject to registration and licensing, as set forth herein.

Occupant/Tenant. That person or persons who have the use of real estate of an owner and is responsible for the giving of any type of consideration therefore, but excluding those who are occupant/tenants for a period of less than 30 days.

Owner/Operator. Any person, agent, operator, firm, corporation, partnership, association, property management group, housing authority or fiduciary having legal, equitable or other interest in any real property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of such person's estate. When used in this section in a clause prescribing the activity or imposing a penalty, the term and associations shall mean each partner and, as applied to corporations, the officers thereof.

Reasonably Believe/Reasonable Belief. A belief in which the Code Enforcement Officer is not reckless or negligent in holding.

Residential Rental Property. Any parcel of real estate identified by a tax parcel number containing at least one residential rental unit.

Rental License. The document issued by the code enforcement department of West Pottsgrove Township to the owner of a parcel of land containing at least one residential rental property evidencing the existence of said residential rental unit(s). A license and fee is required for each specific residential rental unit. A rental license shall be required for lawful rental occupancy of all residential rental units under this section, unless the residential rental unit is exempt from the registration provisions to this section. The registration does not warrant the proper zoning, habitability, safety or conditions of the residential unit in any way.

Residential Rental Unit. A rooming unit or dwelling let for rent or other-than-owner-occupied residential unit, which qualifies as a dwelling unit under all applicable Township ordinances. A residential rental unit shall not include a hotel or hospital unit. A residential rental unit includes dwelling units under lease-purchase agreements or long-term (greater than 6 months) agreements of sale.

Residential Rental Unit License Number. The registration number assigned by the code enforcement officer to a residential rental unit.

Rental Registration Fee. A fee, as determined by Township resolution, to cover the administrative costs of registering a residential rental property prior to the issuance of a Rental License.

Township. West Pottsgrove Township and the Board of Commissioners of West Pottsgrove Township.
(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-17. OWNER AND OCCUPANT DUTIES.

A. Owner's Duties.

1. All owners, within 30 days after the effective date of this article or, in cases of real estate thereafter acquired or thereafter rented or becoming available for rental thereof, as the case may be, shall register with the Township, in writing, during regular business hours, the number of parcels or units of real estate presently or hereafter rented or available for rental, a description (by address, unit or apartment number and/or some other meaningful method) of said parcels or units, and the names of its tenant at the time of such report, together with a designation as to which unit or parcel is occupied by each.
2. Any change in occupancy of real estate of the rental property or in the identity of the tenants from that shown on the initial report of owner, as required in Section 7-02A.1, shall be reported by the owner to the Township within 10 days of such change. It is intended hereby that the owner shall report a new tenant or a tenant who rents or leases a different unit or parcel of real estate and when a unit or parcel of the real estate becomes vacant.
3. It shall be the duty of every owner, operator, responsible agent or Manager to keep and maintain all residential rental units in compliance with all applicable codes and provisions of all applicable state laws and regulations and local ordinances, and to keep such property in good and safe condition and to be aware of, and to take appropriate action to eliminate disruptive conduct in such residential rental units, including but not limited to initiation of eviction proceedings.
4. It shall be unlawful for any owner and/or agent to conduct or operate or cause to rent any residential rental unit within the Township without having a rental license for each residential unit.
5. Every owner and/or agent shall display the rental license in each residential rental unit. The rental license shall include the following information:
 - a) The name, mailing address and telephone number of the owner or agent;
 - b) The events and hours on which garbage and recycling are to be placed curbside for collection;
 - c) The telephone number to call to register complaints regarding the physical condition of the residential rental unit;
 - d) The telephone number for emergency police, fire and medical services; and
 - e) The date of expiration of rental license.
6. It shall be the responsibility of every owner and/or agent to employ policies to manage the residential rental units under his/her control in compliance with the provisions of this ordinance, Township codes and applicable State laws.

B. Occupant/Tenant Duties.

1. The occupant(s) shall comply with all regulations imposed by this section and all applicable codes and ordinances of West Pottsgrove Township, as well as all state laws and regulation.
2. The occupant(s) shall conduct themselves and require other persons including, but not limited to guests on the premises and within their residential rental unit with their consent to conduct themselves in a manner that will not disturb the peaceful enjoyment of the premises by others and that will not disturb the peaceful enjoyment of adjacent or nearby dwellings by people occupying the same.
3. The occupant(s) shall not engage in, nor tolerate, nor permit others on the premises to cause damage to the residential rental unit or engage in disruptive conduct or other violations of this section, Township codes or applicable state laws.

(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-18. EXEMPT UNITS.

- A. The registration provisions of this part shall not apply to hotel units, as previously defined, hospitals, nursing homes, group homes or other rental units used for human habitation which offer or provide licensed medical nursing services, and wherein all operations of such facilities are subject to county, state or federal licensing or regulations concerning the health and safety of the users, patients or tenants. However, if, in response to a complaint, an exempt unit is found to be in violation of the Township codes, the owner and/or agent shall correct the violations within the time-frame cited by the code enforcement officer. If the violation(s) is/are not corrected, the unit shall lose its exemption until the violation(s) is/are corrected.
- B. If three verified complaints are received in any 12 month period, the unit shall lose its exemption for a period of 5 years.

(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-19. RENTAL LICENSE REQUIRED.

- A. The owner of each residential rental property shall register and license the rental property with the office of code enforcement of Township on or before January 31, 2010.
- B. No owner or agent shall own or operate a residential rental unit unless and until a current rental license for each specific unit and use thereof, has been issued to the owner or agent by the code enforcement officer pursuant to this article. Following the initial registration required under Section 7-19.A., and during the initial inspection phase-in period, an owner or agent may operate a residential rental unit prior to the issuance of a rental license by the code enforcement officer.
- C. The rental license required shall be valid for the calendar year for which it is issued or, if issued during the calendar year, for the remainder of such calendar year. The license shall be renewable for successive calendar years when the registered premises complies with the codes and all applicable regulations. The license shall be transferable and may be revoked at any time for noncompliance with the codes or any other applicable regulations.
- D. Every owner or agent owning or operating any building requiring a license shall, on or before January 31 of each year, register each building and all such residential rental units with the Township on forms provided by the code enforcement officer in the Township.

- E. Any owner or agent who transfers legal title to any building and/or residential rental unit, requiring a registration under Section 7-19 shall give notice of such transfer, in writing, to Township within 5 business days of having transferred ownership of such building and/or residential rental unit, and register with the Township as set forth in Section 7-17.A.1 and pay the applicable registration fee.
- F. Every owner and/or agent of a licensed rental unit shall advise each occupant thereof, in writing, of the maximum number of occupants permitted in the leased premises.
- G. Each applicant for a rental license required by Section 7-19 shall, at the time of the application, pay an initial registration fee and license fee as may be determined by resolution of the Township (whether or not the residential rental unit is occupied at the time) and annually thereafter a renewal license fee as may be determined by further resolution (whether or not the residential rental unit is occupied at the time). The renewal license fee shall be due and payable on or before the 31st day of January of each year.
- H. No owner or agent may offer for rent or assist in offering for rent, by advertising or otherwise, any residential rental unit without first ascertaining that a valid license exists for such residential rental unit.
- I. Failure to register the residential rental unit with Township within 90 days of the effective date of this article or within 30 days following the purchase or conversion of a structure to a rental property shall constitute a violation of this article.

(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-20. OCCUPANCY PROHIBITED WITHOUT RENTAL LICENSE.

No residential rental unit shall be occupied by other than the owner until the rental license has been obtained and a certificate of compliance, as required by the provisions of this article, is displayed at the structure in which the residential rental unit is located.

(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-21. INSPECTIONS.

- A. The code enforcement officer shall fully inspect each residential rental unit upon any change of occupancy, upon a property transfer, upon a complaint that a violation has occurred or where the code enforcement officer reasonably believes that a violation is occurring. All other residential rental units that have not been inspected for the reasons set forth herein, shall be inspected at least one time in every 2-year period, and for such purpose and for an re-inspection required hereunder, the owner shall provide access to the Township.
- B. Prior to the initial occupancy of new construction or newly created or substantially rehabilitated residential rental units, the owner and/or agent of each residential rental unit shall register with and make written applications to the code enforcement office for a rental license as herein provided. Such units shall be exempt from further inspection for a period of 2 years unless a complaint or violation has occurred or a code enforcement officer reasonably believes that a violation has occurred or unless inspected prior thereto by a reason of change of occupancy or property transfer. Absent a change of occupancy, property transfer, complaint or violation, it is the intent of this section to inspect all residential rental units at least once every 2 years.
- C. Initial inspections by the code enforcement office will occur in accordance with a phased-in systematic inspection program which shall be prepared by the code enforcement office and will be

made available upon request. A minimum 30-day notice shall be given for all initial inspections. The penalty for not allowing an inspection shall be revocation of the rental license.

- D. This inspection shall be for the purposes of determining compliance with the provisions of the codes as in effect in the Township on the date of the inspection.
- E. Failure of the owner to permit access to conduct such inspection shall be deemed a violation of this article.
- F. For the purposes of enforcing this article, the code enforcement officer or his designee may seek to obtain a search warrant issued by a competent authority for the purpose of compelling an inspection of a residential rental unit.

(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-22. CERTIFICATE OF COMPLIANCE.

If the inspection of a residential rental unit discloses no code violations, the code enforcement officer or designee shall issue a certificate of compliance to the owner within 14 days of said inspection. Issuance of a certificate of compliance shall denote compliance with any applicable codes. The certificate of compliance shall be in such form as approved from time to time by the code enforcement officer. The certificate of compliance shall be displayed in plain view within the residential rental unit or structure.

(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-23. CERTIFICATE OF NONCOMPLIANCE.

If the inspection of a residential rental unit discloses code violations, the code enforcement officer or his designee shall issue a certificate of noncompliance within 14 days of said inspection. The certificate of noncompliance shall set for the following:

- A. The street address or appropriate description of the subject property;
- B. The date of inspection;
- C. The identity of the inspector;
- D. A statement of the zoning district applicable to the subject property, together with an extract of the applicable ordinance(s) showing the uses permitted within that district;
- E. A statement of any variances and use permits granted to the subject property, together with the conditions and restrictions of such permits;
- F. A statement as to whether there appears to be any nonconformity in the structures on the property or the uses of being made thereof. This statement shall also indicate whether the property has been approved or designated as a nonconforming use;
- G. A list of the code violations;
- H. The number of days in which the owner and/or agent is to accomplish repairs, including a provision allowing for a reasonable time extension upon the owner and/or agent showing of good faith compliance to the satisfaction of the code enforcement officer, however, no time extensions shall be granted for fire and/or life safety issues; and

- I. A notice that, if the conditions are not repaired within the time specified, the residential rental unit may be placarded as unfit for human occupancy. The owner and/or agent of the residential rental unit is responsible for the relocation of any occupants/tenants which are living on the premises if such placarding is due to the failure of the owner and/or agent to make required repairs.

(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-24. REINSPECTION.

- A. Upon the expiration of the time specified to accomplish repairs or upon notice from the owner that the repairs have been accomplished, whichever occurs first, the code enforcement officer or his designee shall re-inspect the subject residential rental unit.
- B. In the event that such re-inspection discloses that the owner and/or agent accomplished the repairs, the code enforcement officer or his designee shall issue a certificate of compliance to the owner in accordance with Section 7-22 of this ordinance.
- C. In the event that such re-inspection discloses that the owner and/or agent failed to accomplish the repairs, the code enforcement officer or his designee shall issue a new certificate of noncompliance, in accordance with Section 7-23 of this ordinance. Further the owner and/or agent shall pay a re-inspection fee in an amount equal to the initial inspection fee as set forth in Section 7-25 of this ordinance.

(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-25. INSPECTION AND APPLICATION.

Upon application for registration or inspection and/or upon change of occupancy, the owner of a rental property shall be required to make payment to Township of an inspection and registration fee per residential rental unit, said fee to be determined by resolution of Township, the code enforcement officer or his designee shall review the pertinent Township records and inspect the subject premises in accordance with Section 7-6 of this ordinance. All registration and inspection fees shall be paid prior to the inspection regardless of the number of units. Failure to pay such fees shall be deemed a failure and/or refusal to comply with the provisions contained herein and will be subject to the penalty contained in Section 1-9 of the West Pottsgrove Township Code of Ordinances.

(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-26. TOWNSHIP LIABILITY.

The issuance of a license is not a representation by the Township that a residential rental unit and/or the building in which it is located is in compliance with all codes referenced in this ordinance. However, neither the enactment of this section nor the issuance of a license shall impose any liability upon the Township for any errors or omissions which resulted in the issuance of such license, nor shall the Township bear any liability not otherwise imposed by law.

(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-27. CODE VIOLATIONS.

Nothing in this section shall preclude or prohibit the code enforcement officer or his designee from identifying any violations of the various codes which exist in the residential rental unit and noting the same in any inspection report.

(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-28. DELEGATION OF AUTHORITY.

The appropriate Township officials are authorized and directed to take such actions as necessary to effectuate the intent of this ordinance.

(Ord. No. 2009-10, § 1, 12-16-09)

SEC. 7-29. VIOLATIONS AND PENALTIES.

- A. Any owner, operator, responsible agent or Manager of each residential rental unit who has violated the provisions of this ordinance shall be subject to the general penalty provisions as set forth in Section 1-9 of the Code of Ordinances of West Pottsgrove Township. Fines for each violation are a maximum of one thousand dollars (\$1,000), as specified in Section 1-9(1) of the Code of Ordinances of West Pottsgrove Township.
 - B. Each violation of this ordinance and each day the same is continued shall be deemed a separate offense. A separate violation shall exist for each unlicensed or uncertified residential rental unit and shall be deemed a separate offense.
 - C. In addition to the placarding of the premises and other remedies available to the Township, the Township may seek the enforcement of any order for corrections through appropriate legal action.
- (Ord. No. 2009-10, § 1, 12-16-09)

DIVISION 4. COMMERCIAL AND INDUSTRIAL RENTAL REGISTRATION AND LICENSING
ORDINANCE.*

SEC. 7-30. DEFINITIONS.

Agent – Any person, corporation, co-partnership, association or fiduciary who or which, for monetary consideration, aids in the rental of property as defined herein. When used in this article in a clause prescribing and activity or imposing a penalty, the term, as applied to partnerships and associations shall mean each partner and, as applied to corporations, the officer thereof.

Code – Means any state or local code or ordinance adopted, enacted or in effect in and for the Township of West Pottsgrove including, but not limited to the Uniform Commercial Code and codes incorporated therein, the International Property Maintenance Code, the National Electrical Code, the International Fire Code and the West Pottsgrove Township Zoning Ordinance and/or other future national or international codes and/or zoning ordinance amendments that may be subsequently adopted.

Commercial/Industrial Rental Property – Any parcel of real estate identified by a tax parcel number containing at least one commercial or industrial rental unit.

Commercial/Industrial Rental Unit License Number – The registration number assigned by the code enforcement officer to the commercial or industrial rental unit.

* *Editor's Note* – Ord. No. 2009-10, § 1, enacted Dec. 16, 2009 and Ord. No. 2010-2, enacted 3-3-10, repealed former Division 4.

Occupant/Tenant – That person or persons who have the use of real estate of an owner and is responsible for the giving of any type of consideration therefore, but excluding those who are occupant/tenants for a period of less than 30 days.

Owner/Operator – Any person, agent, operator, firm, corporation, partnership, association, property management group or fiduciary having legal, equitable or other interest in any real property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person and the executor or administrator of such person’s estate. When used in this section in a clause prescribing the activity or imposing a penalty, the term and associations shall mean each partner and, as applied to corporations, the officers thereof.

Reasonably Believe/Reasonable Belief – A belief in which the Code Enforcement Officer is not reckless or negligent in holding.

Rental License - The document issued by the code enforcement department of West Pottsgrove Township to the owner of a parcel of land containing at least one commercial or industrial rental property evidencing the existence of said rental unit(s). A license and fee is required for each specific commercial or industrial rental unit. A rental license shall be required for lawful rental occupancy of all commercial or industrial rental units under this section. This registration does not warrant the proper zoning, habitability, safety or conditions of the rental unit in any way.

Rental Registration Fee – A fee as determined by Township resolution to cover the administrative costs of registering a commercial/industrial rental property prior to the issuance of a rental license.

Township – West Pottsgrove Township and the Board of Commissioners of West Pottsgrove Township.

(Ord. No. 2009-11, § 1, 12-16-09)

SEC. 7-31. OWNER AND OCCUPANT DUTIES.

A. Owner’s Duties

1. All owners, within 30 days after the effective date of this article or, in cases of real estate thereafter acquired or thereafter rented or becoming available for rental thereof, as the case may be, shall register with the Township, in writing, during regular business hours, the number of parcels or units of real estate presently or hereafter rented or available for rental, a description (by address, unit or suite number an/or some other meaningful method) of said parcels or units, and the names of its tenant at the time of such report, together with a designation as to which unit or parcel is occupied by each.
2. Any change in occupancy of real estate of the rental property or in the identity of the tenants from that shown on the initial report of owner, as required in Section 7-31.A.1., shall be reported by the owner to the Township within 10 days of such change. It is intended hereby that the owner shall report a new tenant or a tenant who rents or leases a different unit or parcel of real estate and when a unit or parcel of the real estate becomes vacant.
3. It shall be the duty of every owner, operator, responsible agent or Manager to keep and maintain all commercial or industrial rental units in compliance with all applicable codes and provisions of all applicable state laws and regulations and local ordinances, and to keep such property in good and safe condition and to be aware of, and to take appropriate action to eliminate disruptive conduct in such rental units, including but not limited to eviction proceedings.

4. It shall be unlawful for any owner and/or agent to conduct or operate or cause to rent any commercial or industrial rental unit within the Township without having a rental license for each commercial and industrial unit.
5. Every owner and/or agent shall display the rental license in each commercial or industrial rental unit. The rental license shall include the following information:
 - a) The name, mailing address and telephone number of the owner or agent;
 - b) The telephone number to call to register complaints regarding the physical condition of the commercial or industrial rental unit;
 - c) The telephone number for emergency police, fire and medical services; and
 - d) The date of the expiration of rental license.
6. It shall be the responsibility of every owner and/or agent to employ policies to manage the commercial or industrial rental units under his/her control in compliance with the provisions of this ordinance, Township codes and applicable State laws.

B. Occupant/Tenant Duties

1. The occupant(s) shall comply with all regulations imposed by this section and all applicable codes and ordinances of West Pottsgrove Township, as well as all state laws and regulations.
2. The occupant(s) shall conduct themselves and require other persons including, but not limited to patrons or employees on the premises and within their commercial or industrial rental unit with their consent to conduct themselves in a manner that will not disturb the peaceful enjoyment of the premises by others and that will not disturb the peaceful enjoyment of adjacent or nearby dwellings or commercial or industrial properties by people occupying the same.
3. The occupant(s) shall not engage in, nor tolerate, nor permit others on the premises to cause damage to the commercial or industrial rental unit or engage in disruptive conduct or other violations of this section, Township codes or applicable state laws.

(Ord. No. 2009-11, § 1, 12-16-09)

SEC. 7-32. RENTAL LICENSE REQUIRED.

- A. The owner of each commercial or industrial rental property shall register and license the rental property with the office of code enforcement of Township on or before January 31, 2010.
- B. No owner or agent shall own or operate a commercial or industrial rental unit unless and until a current rental license for each specific unit and use thereof, has been issued to the owner or agent by the code enforcement officer pursuant to this article. Following the initial registration required under Section 7-32.A., and during the initial inspection phase-in period, an owner or agent may operate a residential rental unit prior to the issuance of a rental license by the code enforcement officer.
- C. The rental license required shall be valid for the calendar year for which it is issued or, if issued during the calendar year, for the remainder of such calendar year. The license shall be renewable for successive calendar years when the registered premises complies with the codes and all applicable

regulations. The license shall be transferable and may be revoked at any time for noncompliance with the codes or any other applicable regulations.

- D. Every owner or agent owning or operating any building requiring a license shall, on or before January 31st of each year, register each building and all such commercial or industrial rental units with the Township on forms provided by the code enforcement officer of the Township.
- E. Any owner or agent who transfers legal title to any building and/or commercial or industrial rental unit, requiring a registration under Section 7-32 shall give notice of such transfer, in writing, to Township within 5 business days of having transferred ownership of such building and/or commercial or industrial rental unit, and register with the Township as set forth in Section 7-31.A.1 and pay the applicable registration fee.
- F. Every owner and/or agent of a licensed rental unit shall advise each occupant thereof, in writing, of the maximum number of patrons or employees permitted in the leased premises.
- G. Each applicant for a rental license required by Section 7-32 shall, at the time of the application, pay a registration fee and a license fee as may be determined by resolution of the Township (whether or not the commercial or industrial rental unit is occupied at the time) and annually thereafter a renewal license fee as may be determined by further resolution (whether or not the commercial or industrial rental unit is occupied at the time). The renewal license fee shall be due and payable on or before the 31st day of January of each year.
- H. No owner or agent may offer for rent or assist in offering for rent, by advertising or otherwise, any commercial or industrial rental unit without first ascertaining that a valid license exists for such commercial or industrial rental unit.
- I. Failure to register the commercial or industrial rental unit with Township within 90 days of the effective date of this article or within 30 days following the purchase or conversion of a structure to a rental property shall constitute a violation of this article.

(Ord. No. 2009-11, § 1, 12-16-09)

SEC. 7-33. OCCUPANCY PROHIBITED WITHOUT RENTAL LICENSE.

No commercial or industrial rental unit shall be occupied by other than the owner until the rental license has been obtained and a certificate of compliance, as required by the provisions of this article, is displayed at the structure in which the commercial and industrial rental unit is located.

(Ord. No. 2009-11, § 1, 12-16-09)

SEC. 7-34. INSPECTIONS.

- A. The code enforcement officer shall fully inspect each commercial or industrial rental unit upon any change of occupancy, upon a property transfer, upon a complaint that a violation has occurred or where the code enforcement officer reasonably believes that a violation is occurring. All other commercial or industrial rental units that have not been inspected for the reasons set forth herein, shall be inspected at least one time in every 2-year period, and for such purpose and for any reinspection required hereunder, the owner shall provide access to the Township.
- B. Prior to the initial occupancy of new construction or newly created or substantially rehabilitated commercial or industrial rental units, the owner and/or agent of each commercial or industrial rental unit shall register with and make written application to the code enforcement office for a rental

license as herein provided. Such units shall be exempt from further inspection for a period of 2 years unless a complaint or violation has occurred or a code enforcement officer reasonably believes that a violation has occurred or unless inspected prior thereto by a reason of change of occupancy or property transfer. Absent a change of occupancy, property transfer, complaint or violation, it is the intent of this section to inspect all commercial or industrial rental units at least once every 2 years.

- C. Initial inspections by the code enforcement office will occur in accordance with a phased-in systematic inspection program which shall be prepared by the code enforcement office and will be made available upon request. A minimum 30-day notice shall be given for all initial inspections. The penalty for not allowing an inspection shall be revocation of the rental license.
- D. This inspection shall be for the purposes of determining compliance with the provisions of the codes as in effect in the Township on the date of the inspection.
- E. Failure of the owner to permit access to conduct such inspection shall be deemed a violation of this article.
- F. For the purposes of enforcing this article, the code enforcement officer or his designee may seek to obtain a search warrant issued by a competent authority for the purpose of compelling an inspection of a commercial and industrial rental unit.

(Ord. No. 2009-11, § 1, 12-16-09)

SEC. 7-35. CERTIFICATE OF COMPLIANCE.

If the inspection of a commercial or industrial rental unit discloses no code violations, the code enforcement officer or designee shall issue a certificate of compliance to the owner within 14 days of said inspection. Issuance of a certificate of compliance shall denote compliance with any applicable codes. The certificate of compliance shall be in such form as approved from time to time by the code enforcement officer. The certificate of compliance shall be displayed in plain view within the commercial or industrial rental unit or structure.

(Ord. No. 2009-11, § 1, 12-16-09)

SEC. 7-36. CERTIFICATE OF NONCOMPLIANCE.

If the inspection of a commercial or industrial rental unit discloses code violations, the code enforcement officer or his designee shall issue a certificate of noncompliance within 14 days of said inspection. The certificate of noncompliance shall set forth the following:

- A. The street address or appropriate description of the subject property;
- B. The date of inspection;
- C. The identity of the inspector;
- D. A statement of the zoning district applicable to the subject property, together with an extract of the applicable ordinance(s) showing the uses permitted within that district;
- E. A statement of any variances and use permits granted to the subject property, together with the conditions and restriction of such permits;

- F. A statement as to whether there appears to be any nonconformity in the structures on the property or the uses being made thereof. This statement shall also indicate whether the property has been approved or designated as a nonconforming use;
- G. A list of the code violations;
- H. The number of days in which the owner and/or agent is to accomplish repairs, including a provision allowing for a reasonable time extension upon the owner and/or agent showing of good faith compliance to the satisfaction of the code enforcement officer, however, no time extensions shall be granted for fire and/or life safety issues; and
- I. A notice that, if the conditions are not repaired within the time specified, the commercial or industrial rental unit may be placarded as unfit for human occupancy. The owner and/or agent of the rental unit is responsible for the relocation of any tenants which are occupying the premises if such placarding is due to the failure of the owner and/or agent to make required repairs.

(Ord. No. 2009-11, § 1, 12-16-09)

SEC. 7-37. REINSPECTION.

- A. Upon the expiration of the time specified to accomplish repairs or upon notice from the owner that the repairs have been accomplished, whichever occurs first, the code enforcement officer or his designee shall re-inspect the subject commercial and industrial rental unit.
- B. In the event that such re-inspection discloses that the owner and/or agent accomplished the repairs, the code enforcement officer or his designee shall issue a certificate of compliance to the owner in accordance with Section 7-35 of this ordinance.
- C. In the event that such re-inspection discloses that the owner and/or agent failed to accomplish the repairs, the code enforcement officer or his designee shall issue a new certificate of noncompliance, in accordance with Section 7-36 of this ordinance. Further the owner and/or agent shall pay a re-inspection fee in an amount equal to the initial inspection fee as set forth in Section 7-38 of this ordinance.

(Ord. No. 2009-11, § 1, 12-16-09)

SEC. 7-38. INSPECTION AND APPLICATION.

Upon application for an inspection or inspection and/or upon change of occupancy, the owner of a rental property shall be required to make payment to the Township of an inspection and registration fee per commercial or industrial rental unit, said fee to be determined by resolution of Township, the code enforcement officer or his designee shall review the pertinent Township records and inspect the subject premises in accordance with Section 7-34 of this ordinance. All inspection fees shall be paid prior to the inspection regardless of the number of units. Failure to pay such fees shall be deemed a failure and/or refusal to comply with the provisions contained herein and will be subject to the penalty contained in Section 1-9 of the West Pottsgrove Township Code of Ordinances.

(Ord. No. 2009-11, § 1, 12-16-09)

SEC. 7-39. TOWNSHIP LIABILITY.

The issuance of a license is not a representation by the Township that a commercial or industrial rental unit and/or the building in which it is located is in compliance with all the codes referenced in this ordinance. However, neither the enactment of this section nor the issuance of a license shall impose any

liability upon the Township for any errors or omissions which resulted in the issuance of such license, nor shall the Township bear any liability not otherwise imposed by law.

(Ord. No. 2009-11, § 1, 12-16-09)

SEC. 7-40. CODE VIOLATIONS.

Nothing in this section shall preclude or prohibit the code enforcement officer or his designee from identifying any violations of the various codes which exist in the commercial or industrial rental unit and noting the same in any inspection report.

(Ord. No. 2009-11, § 1, 12-16-09)

SEC. 7-41. DELEGATION OF AUTHORITY.

The appropriate Township officials are authorized and directed to take such actions as necessary to effectuate the intent of this ordinance.

SEC. 7-42. VIOLATIONS AND PENALTIES.

A. Any owner, operator, responsible agent or Manager of each commercial and industrial rental unit who has violated the provisions of this ordinance shall be subject to the general penalty provisions as set forth in Section 1-9 of the Code of Ordinances of West Pottsgrove Township. Fines for each violation are a maximum of one thousand dollars (\$1,000), as specified in Section 1-9(1) of the Code of Ordinances of West Pottsgrove Township.

B. Each violation of this ordinance and each day the same is continued shall be deemed a separate offense. A separate violation shall exist for each unlicensed or uncertified commercial and industrial rental unit and shall be deemed a separate offense.

C. In addition to the placarding of the premises and other remedies available to the Township, the Township may seek the enforcement of any order for corrections through appropriate legal action.

(Ord. No. 2009-11, § 1, 12-16-09)

ARTICLE II. CODE ENFORCEMENT

SEC. 7-43. DANGEROUS AND UNSAFE CONDITIONS; STRUCTURES AND DWELLINGS UNFIT FOR HUMAN HABITATION.

Structures which contain dwellings which are unfit for human habitation, or structures which are dangerous or unsafe, and structures which contain dangerous conditions or materials, as defined by the applicable codes and ordinances of the municipality, are hereby declared to be a public nuisance, [and subject to the following procedure:]

A. General procedure. The code enforcement officer shall order the responsible owner, operator, occupant, or person in charge of the structure or premises which is dangerous, unsafe or unfit for human habitation to vacate, repair and/or demolish said structure and to remove the public nuisance as provided for in this article and in the applicable codes and ordinances of the municipality, in accordance with the laws of the Commonwealth of Pennsylvania.

- B. Failure to comply. Whenever an order to vacate, repair, and/or demolish a structure which is a public nuisance because it is unsafe, dangerous, or unfit for human habitation has not been complied with, the code enforcement officer may, in accordance with the laws of the Commonwealth of Pennsylvania, proceed to cause the structure to be vacated, repaired, and/or demolished, or take such other action as is necessary to abate the nuisance. Abatement under this section shall not commence until at least 10 days after the service of the order, except that the code enforcement officer may determine that more immediate action is required because of the special emergency or dangerous conditions which exist.
- C. Recovery of expenses. The expenses and other costs incurred pursuant to Subsection 7-57 (2) of this article and of the other applicable codes and ordinances, together with a penalty of ten percent (10%) of such expenses and costs, and with the maximum interest allowed by law, shall be paid by the responsible owner, operator, or occupant or by the persons who caused or maintained such a public nuisance.

(Ord. No. 82-9, § 5.3, 10-6-82; Ord. No. 98-3, § 1, 10-7-98)

SEC. 7-44. PENALTIES.

Any person found guilty of violating any of the provisions of this chapter and/or article shall be guilty of a summary offense and upon conviction thereof shall be punished as prescribed in Section 1-9.

(Ord. No. 82-9, § 5.2, 10-6-82; Ord. No. 88-5, §§ 1, 3, 7-6-88)

Chapter 8
FIRE PREVENTION AND PROTECTION*

Art. I. Self-Service Dispensing of Gasoline and Other Inflammable Liquids and Products, §§ 8-1—8-106
Reserved, §§ 8-1—8-8
Self-Service Dispensing of Gasoline and Other Inflammable Liquids and Products, §§ 8-9—8-15

ARTICLE I. SELF-SERVICE DISPENSING OF GASOLINE AND OTHER INFLAMMABLE LIQUIDS AND PRODUCTS

SEC. 8-1—8-8. RESERVED.

SEC. 8-9. DEFINITIONS.

For the purposes of this article, the following terms shall have the meanings indicated below:

Attendant. A person trained in the dispensing of gasoline or other inflammable liquids or products.

Customer. A person, firm or corporation who, or which, shall receive gasoline or other inflammable liquids or products, whether by retail sale or by any other method, from any retail filling station or service station.

Gasoline pump island. The area where one or more gasoline pumps are located.

Point of pumping or other dispensing. For the purpose of this division, the “point of pumping or other dispensing” shall mean the metering device or other apparatus to which hoses which dispense gasoline or other inflammable liquids and products are connected, and which are commonly known as “gasoline pumps.”

Pump or dispensing device. A device for transferring flammable or combustible liquids from tanks by means of a fixed pump substantially attached to a noncombustible base and so designed and equipped as to allow control of the flow and to prevent leakage or accidental discharge.

Cross references – Uniform construction code, Ch. 7; food and food establishments, Ch. 9; garbage, refuse and other waste material, Ch. 10; general health, safety and welfare, Ch. 11; police, Ch. 15; traffic, Ch. 18; water, § 19-16 et seq.; zoning, subdivision and land development, Ch. 20.

State law reference – Authority of Townships of the first class to adopt fire regulations, 53 P.S. §§ 56510, 56516, 56528, and 56552.

Editor’s Note: Ordinance 2010-1 of March 3, 2010, repealed the prior building code, plumbing code and National Existing Structures Code, electrical code and fire and fire prevention code, which were inconsistent with the Uniform Construction Code and the international codes adopted thereunder.

Remote emergency shut-off switch. A manual power shut-off switch which shuts off all electrical power at the point of pumping or other dispensing commonly referred to as pumps or dispensing devices.

Retail filling station or service station. Any place within West Pottsgrove Township where pumps or other dispensing devices are available for the dispensing of gasoline or other inflammable liquids or products for sale to the public, or for the dispensing of such materials to more than five persons, users or vehicles per day.

(Ord. No. 2003-2, § 2, 8-6-03)

SEC. 8-10. UNLAWFUL PRACTICE OF OWNERS, LESSEES, OPERATORS AND EMPLOYEES.

It shall be unlawful for any owner, lessee, operator or employee of any retail filling station or service station to permit any purchaser, customer, or other person not connected with the ownership, lease or operation of the said filling or service station to use or manipulate any pump, hose, pipe or other device for pumping or other dispensing of gasoline or other inflammable liquids or products for any purpose, unless such use or manipulation is conducted under the supervision of an attendant, which attendant at all times shall be located within 15 feet of a remote emergency shut-off switch which shuts off all electrical power to the gasoline pump island, or point of pumping or other dispensing.

(Ord. No. 2003-2, § 2, 8-6-03)

SEC. 8-11. UNLAWFUL PRACTICES OF PURCHASERS, CUSTOMERS, NON-OWNERS, NON-LESSEES AND NON-OPERATORS.

It will be unlawful for any purchaser, customer, or any other person not connected with the ownership, lease or operation of a gasoline filling station or service station to use and manipulate any pump, hose, pipe or other device for the pumping or other dispensing of gasoline or other inflammable liquids or products for any purpose, unless such use or manipulation will be under the supervision of an attendant, which attendant at all time will be located within 15 feet of a remote emergency shut-off switch which shuts off all electrical power to the gasoline pump island and/or point of pumping or other dispensing.

(Ord. no. 2003-2, § 2, 8-6-03)

SEC. 8-12. RETAIL FILLING STATION OR SERVICE STATION SYSTEM SAFETY AND CERTIFICATION REQUIREMENTS.

The design of the retail filling station or service station, including but not limited to the overall design of the facility, the gasoline pump islands and pump and dispensing devices shall comply with the Combustible and flammable Liquids Act, Act 15 of 1998, as set forth in 35 P.S. Section 1241, now or as hereafter amended, including the regulations adopted by the Pennsylvania Department of Labor and Industry relating to filling stations or service stations and must incorporate, at a minimum, the following fire safety features:

- A. Pump/dispenser sump pump automatic release chemical fire extinguishers containing chemicals suitable for the treatment of fires of gasoline or other flammable liquids that occur in the pump/dispenser sump.
- B. An approved double poppet shear valve to immediately shut off the flow of gasoline or other flammable material in the supply line under the pump/dispenser in the event it is damaged by impact or if a fire occurs in the immediate area of the pump/dispenser.

- C. A hose breakaway device which automatically closes to prevent the flow of gasoline or other flammable materials at the point of pumping or other dispensing in the event the motor vehicle leaves the pump island area with the hose nozzle still attached to the vehicle.
- D. An automatic shut-off dispensing nozzle which prevents gasoline or other flammable materials from spilling when the gasoline tank is full.
- E. Remote emergency shut-off switch to instantly disconnect electrical power to the pump/dispenser islands.
- F. Double wall underground storage tanks and piping to contain gasoline seepage, tank leaks and vapors.
- G. Electrical conduit seal-offs to prevent gasoline vapors from entering the building where the attendants are located.
- H. Piping, dispenser and submersible pump sump sensors which automatically trip audible alarms and disconnect the electric supply to submersible pumps if liquid gas or other flammable materials or other vapors are detected in the pump/dispenser sumps.

(Ord. No. 2003-2, § 2, 8-6-03)

SEC. 8-13. TOWNSHIP FIRE MARSHAL APPROVALS.

Prior to the construction and installation of the pump/dispensers, the design of the pump/dispenser sump fire extinguisher system and the type of chemical fire protection to be utilized shall be submitted to the Township Fire Marshal for approval. At a minimum, the pump/dispenser sump extinguisher shall be Underwriter's Laboratory approved for use in such automatic systems.

(Ord. No. 2003-2, § 2, 8-6-03)

SEC. 8-14. SYSTEM MAINTENANCE AND OPERATOR REQUIREMENTS.

- A. The trained attendant as hereinbefore defined shall nevertheless have unobstructed visual contact with all pumping and dispensing areas and shall be within 15 feet of a remote emergency shut-off switch to instantly shut off all electrical power at the point of pumping or other dispensing.
- B. Each year the operator, owner or lessee of said service station shall supply the Township with a copy of the annual maintenance inspection contract for said automatic pump/dispenser sump fire extinguishing system issued by an organization approved by the manufacturer of said fire protection system.
- C. The failure of the owner, operator, or lessee to have a maintenance and inspection contract for the pump/dispenser sump automatic fire extinguishing system shall be deemed to be a violation of this division and, in addition, shall result in the loss of the right to operate a retail filling station or service station until such maintenance and inspection contract is in force and a copy provided to the Township. In addition, the owner, operator or lessee shall be subject to the other penalty provisions of this division.

(Ord. No. 2003-2, § 2, 8-6-03)

SEC. 8-15. PENALTY FOR VIOLATION.

Any person found guilty of violating any provision of this chapter and/or article, shall be guilty of a summary offense, and conviction thereof shall be punished as prescribed in Section 1-9.
(Ord. No. 2003-2, § 2, 8-6-03)

Chapter 9
FOOD AND FOOD ESTABLISHMENTS*

- Art. I. In General, §§ 9-1—9-15**
Art. II. Drive-In Restaurants, §§ 9-16—9-26

ARTICLE I. IN GENERAL

SECS. 9-1—9-15. RESERVED.

ARTICLE II. DRIVE-IN RESTAURANTS[†]

SEC. 9-16. DEFINITION.

A “drive-in restaurant,” within the meaning of this article, shall be deemed to be any restaurant where meals, sandwiches, cold drinks, beverages, ice cream or other food is served directly to or is permitted to be consumed by patrons in automobiles, motorcycles or other vehicles parked on the premises.
(Ord. of 9-1-65, § 1)

SEC. 9-17. PREMISES DECLARED PUBLIC PLACE.

For the purpose of preserving public peace, health and safety, the entire premises occupied by a drive-in restaurant, together with means of ingress thereto and egress therefrom, is hereby declared to be a public place.
(Ord. of 9-1-65, § 1)

SEC. 9-18. DUTIES AND RESPONSIBILITIES OF OWNERS, LESSEES OR OPERATORS GENERALLY.

The owner, lessee or operator of any drive-in restaurant shall maintain quiet and good order upon the premises and shall not permit disorderly or immoral conduct or loitering thereon, nor shall he cause or permit any noise or nuisance on the parking area of the drive-in restaurant whereby the quiet and good order of the neighborhood are disturbed.
(Ord. of 9-1-65, § 2)

SEC. 9-19. DISTURBING THE PEACE.

No person on the premises of a drive-in restaurant shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop any motor vehicle, blow any horn of any motor vehicle or cause to be made

* *Cross references – Uniform construction code, Ch. 7; garbage, refuse and other waste material, Ch. 10; general health, safety and welfare, Ch. 11; peddlers, hawkers and solicitors, Ch. 14; water and sewers and sewage disposal, Ch. 19.*

[†] *Cross references – Police, Ch. 15; traffic, Ch. 18.*

any other loud or unseemly noise, nuisance, or disturbance whereby the quiet and good order of the premises or the neighborhood are disturbed.

(Ord. of 9-1-65, § 3)

Cross reference – Miscellaneous offenses and provisions, Ch. 13.

SEC. 9-20. CONSUMPTION OF ALCOHOLIC BEVERAGES BY MINORS PROHIBITED.

It shall be unlawful for any person under the age of 21 years to drink on the premises of any drive-in restaurant any alcoholic beverage and attempt to consume or consume with or without the purchase of any food on the premises of such drive-in restaurant any alcoholic beverage.

(Ord. of 9-1-65, § 4)

SEC. 9-21. UNLAWFUL ACTS.

The following acts or conduct of any person entering any drive-in restaurant premises are hereby declared to be unlawful and any person found guilty of any such act shall be guilty of a summary offense and upon conviction shall be punished as provided by this article:

- A. To enter the premises of any drive-in restaurant in a motor vehicle of any description and park such vehicle and leave the premises without getting the consent of the owner or operator of such restaurant;
- B. To enter such premises in a motor vehicle of any kind and use such premises for cruising, racing, as a short cut to another street or to annoy or endanger any person or other vehicle lawfully on such premises.

(Ord. of 9-1-65, § 5)

SEC. 9-22. RECEPTACLES FOR TRASH, ETC., TO BE PROVIDED AT EXITS.

It is hereby declared to be a duty of the owner or operator of a drive-in restaurant to provide not less than two (2) receptacles for the receipt of trash, litter, paper, napkins, cups and remnants of food at each exit, available to patrons as they leave the premises. Failure of the owner or operator of a drive-in restaurant to provide such receptacles shall constitute a summary offense, and any person upon conviction thereof shall be punished as provided in this article.

(Ord. of 9-1-65, § 6)

Cross reference – Garbage, refuse and other waste material, Ch. 10.

SEC. 9-23. UNLAWFUL DEPOSITS.

It shall be unlawful for any patron of a drive-in restaurant to throw or deposit any of the litter mentioned in Section 9-22 anywhere on the ground or on the streets of the Township, except in the receptacles provided therefore. Any person violating this provision shall be guilty of a summary offense, and upon conviction shall be punished as provided for in this article.

(Ord. of 9-1-65, § 7)

Cross reference – Garbage, refuse and other waste material, Ch. 10.

SEC. 9-24. USING ABUSIVE LANGUAGE, ETC.

- A. Any person while on the premises of any drive-in restaurant who shall in the presence or hearing of another curse or abuse such person or use any violently abusive language to such person concerning

him or any of his female relatives under circumstances reasonably calculated to provoke a breach of the peace, shall be guilty of a summary offense and punished as provided for in this article.

- B. Any person, who while on the premises of any drive-in restaurant shall use loud or vociferous language, or obscene, vulgar or indecent language or swear or curse, or yell or shriek in a manner calculated to disturb the person or persons present at such place, shall be guilty of a summary offense and upon conviction shall be punished by a penalty as provided for in this article.

(Ord. of 9-1-65, §§ 8, 9)

Cross reference – Miscellaneous offenses and provisions, Ch. 13.

SEC. 9-25. SIGNS TO BE POSTED.

It shall be the duty of a restaurant operator to post on the premises in a conspicuous location one or more signs bearing the following legend:

“CRUISING IN OR CONGREGATING AND LOITERING OUTSIDE OF A MOTOR VEHICLE IS UNLAWFUL. NO UNOCCUPIED VEHICLES MAY BE LEFT ON THESE PREMISES WITHOUT THE CONSENT OF THE RESTAURANT OPERATOR.”

(Ord. of 9-1-65, § 11)

SEC. 9-26. VIOLATION OF ARTICLE.

Any person found guilty of violating any of the provisions of this article shall be guilty of a summary offense and, upon conviction thereof, shall be punished as prescribed in Section 1-9.

(Ord. of 11-4-65)

Cross reference – General penalty, § 1-9.

Chapter 10
GARBAGE, REFUSE AND OTHER WASTE MATERIAL*

- Art. I. In General, §§ 10-1—10-7**
- Art. II. Anti-Litter Ordinance, §§ 10-8—10-10**
- Art. III. Derelict or Abandoned Motor Vehicles, §§ 10-11—10-25**
- Art. IV. Municipal Solid Waste, Recyclables and Other Refuse, §§ 10-26—10-61**
 - Div. 1. Generally, §§ 10-26—10-27
 - Div. 2. Collection and Disposition of Collectible Municipal Waste, §§ 10-28—10-33
 - Div. 3. Collection and Disposition of Collectible Recyclable Materials, §§ 10-34—10-39
 - Div. 4. Disposition of Unacceptable Waste, §§ 10-40—10-41
 - Div. 5. Administration of Township Program, §§ 10-42—10-45
 - Div. 6. Fees, §§ 10-46—10-49
 - Div. 7. Prohibited Acts, §§ 10-50—10-61

ARTICLE I. IN GENERAL

SEC. 10-1. UNLAWFUL DEPOSITS GENERALLY, ETC.

It shall be unlawful for any person, as owner or lessee of private property within the limits of the Township:

- A. To keep or allow to remain on his premises any ashes, other than the ashes temporarily on such premises awaiting permanent removal therefrom; or
- B. To deposit any garbage, ashes, offal, carcasses, junk, or other refuse on any highway, street or alley within the Township; or
- C. To ignite or to permit fire or fires to become ignited on or upon any of the premises heretofore used as public dumps.

(Ord. of 7-3-45, § 1)

SEC. 10-2. UNLAWFUL TO KEEP GARBAGE, ETC., ON PREMISES FOR MORE THAN SEVEN DAYS.

It shall be unlawful for any person as owner or lessee of private property within the limits of the Township to keep or allow to remain on his premises any garbage, offal, carcasses, junk, or other refuse, excepting ashes, as provided for in Section 10-1, for a term and space of more than 7 days.

(Ord. of 7-3-45, § 2)

* **Cross references** – Uniform construction code, Ch. 7; food and food establishments, Ch. 9; general health, safety and welfare, Ch. 11; streets and sidewalks, Ch. 16; water and sewers and sewage disposal, Ch. 19.

State law reference – Power of board of Township Commissioners relative to ashes, garbage, rubbish and refuse materials, 53 P.S. § 56527.

SEC. 10-3. RECEPTACLES REQUIRED.

Garbage, offal, carcasses, junk, or other refuse temporarily on the premises as mentioned in Section 10-2, shall be kept in covered receptacles so as to prevent flies and insects from accumulating in it, in so far as that is possible.

(Ord. of 7-3-46, § 2)

SEC. 10-4. UNLAWFUL DEPOSIT ON VACANT LOTS, ETC.

No garbage, ashes, offal, carcasses, or other refuse shall be deposited upon any vacant lot, or upon any ground belonging to the Township, or upon the shore or margins of any of the streams within the Township, except under proper supervision, and then subject to the approval of the board of health.

(Ord. of 7-3-45, § 3)

SEC. 10-5. PUBLIC DUMPS AND JUNKYARDS PROHIBITED.

No public dump or junkyard shall be opened in the future either on private property or upon any ground belonging to the Township, or upon any highway, road, street or alley, or upon the shore or margin of any of the streams within the Township.

(Ord. of 7-3-46, § 4)

SEC. 10-6. FENCING OF JUNKYARDS.

The owner, lessee, occupant, or proprietor of any junkyard upon any premises within the limits of the Township, where any junk, refuse or scrap, including junked or scrapped automobiles and parts thereof, is collected, accumulated, stored, or kept, shall erect and maintain around the entire perimeter of such premises a chain link fence, at least 6 feet high and having at least two strands of barbed wire suspended on an angle from the top of the fence.

(Ord. of 7-6-66)

SEC. 10-7. VIOLATION OF CHAPTER.

- A. Each and every violation of this chapter or of any of the sections of this chapter is hereby declared to be a public nuisance and any person violating the same shall, upon each conviction thereof before a justice of the peace, be punished as prescribed in Section 1-9.
- B. In addition thereto, such person shall pay all costs and expenses incurred by the proper Township officials in removing any garbage, ashes, refuse, junk or scrap, or in extinguishing any fire or fires.
- C. The Board of Commissioners, in addition to all other remedies, may abate, eliminate or remove any such nuisance, either by direct action or by appropriate proceedings at law or in equity to obtain an injunction or restraining order. Any such action by the Township Commissioners shall be at the expense of the violation and shall be assessed as costs in addition to any fine that may be imposed. In addition, the Board of Commissioners may collect such costs thereof, with a penalty of ten percent (10%), together with the maximum interest allowed by law by a municipal claim or in any other manner provided by law.

(Ord. of 7-3-46, § 5; Ord. of 7-6-66; Ord. No. 98-3, § 2, 10-7-98)

Cross reference – General penalty, § 1-9.

ARTICLE II. ANTI-LITTER ORDINANCE

SEC. 10-8. DEFINITION; LITTERING IN PUBLIC PLACES, GUTTERS.

Littering as used in this article shall mean to include garbage, refuse, rubbish, animal and vegetable waste and all other waste materials, which if thrown or deposited as herein prohibited, tend to create a danger to public health, safety and welfare.

No person shall sweep, throw or deposit litter in or upon any streets, sidewalk, park or public place; nor shall such person use a public litter receptacle or private litter receptacle of another, to dispose of their domestic or business generated litter or litter of a type or quantity normally associated with business or domestic origin.

(Ord. of 6-7-72)

SECS. 10-9, 10-10. RESERVED.

ARTICLE III. DERELICT OR ABANDONED MOTOR VEHICLES*

SEC. 10-11. DEFINITIONS.

[As used in this article, the following terms shall have the meanings respectively ascribed to them, unless the context clearly indicates otherwise:]

Abandoned motor vehicles:

- A. A motor vehicle, a part thereof, which has been voluntarily relinquished by its owner, with the intention of terminating his ownership, possession, and control, without vesting ownership in any other person;
- B. A motor vehicle which does not bear all of the following:
 - 1. A valid registration plate: and
 - 2. A valid certificate of inspection and/or emissions;
 - 3. An ascertainable vehicle identification number.

Alley, alleyway. The entire width adjacent to or between property lines or other boundary lines of every way or place of which any part is open to the public for the purpose of vehicular traffic as a matter of right or custom. The alley or alleyways may be established by deed, easement or prescriptive use and ordinarily intended to provide access to the rear or side of lots or buildings.

Automotive repairs. Repairs done to motor vehicles.

* *Editor's note* – Ord. No. 90-2, adopted March 7, 1990, amended Art. III to read as herein set out in §§ 10-11—10-14. Prior to inclusion of said ordinance, Art. III, §§ 10-11—10-15 pertained to similar subject matter and derived from Ord. No. 77-11, §§ 1—6, adopted Dec. 28, 1977.

Garage. Any structure with four (4) walls and a roof constructed for, or capable of the storage or parking of a motor vehicle.

Junked motor vehicle. A motor vehicle, or part thereof, in such a wrecked, damaged, dilapidated, or dismantled condition as to be incapable of being operated on a public street or highway.

Motor vehicle. For the purpose of this article, the term motor vehicle shall have the same meaning as the term as defined in Section 102 of the Motor Vehicle Code of Pennsylvania.

Refuse material. A junked motor vehicle shall be considered refuse material within the meaning of the First Class Township Code, specifically Section 53 P.S. 56527 as amended.

Vehicle. Every device in, upon or which any person or property may be transported or drawn upon a highway, street, alley or alleyway, except devices used exclusively upon rails or tracks.

(Ord. No. 90-2, 3-7-90)

SEC. 10-12. STORAGE OR PARKING ON PUBLIC PROPERTY OR ON STREETS, HIGHWAYS, ALLEYS AND ALLEYWAYS.

- A. Except as otherwise provided in this section, no person shall store or park, cause to be stored or parked, or permit to be stored or parked, any abandoned or junked motor vehicle, or part thereof, on public property or in the streets, highways, alleys or alleyways within the Township.
- B. An abandoned or junked motor vehicle may be stored or parked on public property or in streets, highways, alleys or alleyways, of the Township only in the event of a compelling emergency. The owner, operator or custodian of such vehicle shall promptly, but no later than 24 hours of such storage or parking, notify the Township Police Department of such storage or parking, giving:
 - 1. The name of the owner, operator or custodian of such vehicle;
 - 2. The license number, if any;
 - 3. The reason for such storage or parking;
 - 4. The location of the vehicle;
 - 5. The time when such vehicle was stored or parked; and
 - 6. The provisions made, or to be made, for its removal.

Such vehicle shall be removed from the public place, street, highway, alley or alleyways within 48 hours from the time it was so stored or parked.

- C. Any vehicle stored or parked in violation of this section may be towed by the Township at the owner's expense. Prior to the removal of the vehicle by Township, notice to remove such vehicle shall be given to the owner of the vehicle. Such notice to remove shall be given in accordance with the provisions of Section 3353(d) of the Pennsylvania Motor Vehicles Code which are incorporated herein by reference. Township assumes no responsibility for any property damage or damage to the vehicle which is either a result of, or incurred during its removal.

(Ord. No. 90-2, 3-7-90)

SEC. 10-13. STORAGE OR PARKING ON PRIVATE PROPERTY.

- A. The definitions as set forth in Section 10-11 above are incorporated for use in this Section 10-13, with the exception that for the purposes of Section 10-13 only, the term “valid” as used in the definition of “abandoned motor vehicle” shall mean a registration plate and certificate of inspection and/or emissions which are expired for a period of not longer than 6 months.
- B. Except as hereinafter provided, no person shall store or park, cause to be stored or parked, or permit to be stored or parked, any abandoned or junked motor vehicle, or part thereof, on private property, except in a garage which shall completely enclose such vehicles.
- C. Except in the case of the bona fide repair of one junked motor vehicle, when an abandoned or junked motor vehicle is stored or parked on private property in other than a garage, the owner or occupant thereof, (unless such storage or parking constitutes a trespass of which such owner or occupant has no knowledge), or the owner, operator or custodian of such vehicle, shall promptly, but no later than 72 hours after such parking or storage is discovered or occurs, notify the Township Police Department of such storage or parking, giving:
 - 1. The name and address of the owner, operator or custodian of the vehicle;
 - 2. If known, the name of the owner, operator or custodian of the vehicle;
 - 3. The license number of such vehicle;
 - 4. The reason for such storage or parking;
 - 5. The location of the motor vehicle;
 - 6. The time when such vehicle was stored or parked; and
 - 7. The provisions made, or to be made, for its removal.

Such vehicles shall not remain stored or parked on such property after the expiration of 15 days from the time it was so stored or parked.

- D. Any vehicle stored or parked in violation of this section may be towed by the Township at the owner’s expense. Prior to removal of the vehicle by Township, notice to remove such vehicle shall be given to the owner of the vehicle as follows:

Prior to the removal of an abandoned or junked motor vehicle bearing a registration plate, certificate of inspection, or vehicle identification number plate by which the last registered owner of the vehicle can be determined, the Police Department shall send a notice by certified mail to the last registered owner of the vehicle informing the owner that, unless the vehicle is moved to a suitable location within 7 days of the date the notice is mailed, the vehicle will be removed under this section and held at a suitable facility where it may be reclaimed by the owner upon payment of costs for towing and storage. If the abandoned or junked vehicle does not bear an identifiable registration plate, certificate of inspection or vehicle identification number plate, the notice may be secured to the vehicle. The Township assumes no responsibility for any property damage or damage to the vehicle which is either the result of or incurred during its removal.

(Ord. No. 90-2, 3-7-90; Ord. No. 2003-6, § 1, 12-17-03)

SEC. 10-14. BONA FIDE REPAIR.

Where storage or parking of one junked motor vehicle on private property in other than a garage is for the purpose of bona fide repair of such motor vehicle, and the owner or occupant of such property, or the owner, operator or custodian of such motor vehicle, is not engaged in the business of automotive repair, but intends to make such repair, such owner or occupant of the property, or such owner, operator or custodian of such vehicle, as the case may be, shall apply to the Township Police Department for a permit for the storage or parking of one such vehicle in other than garage during the course of its repair. The permit shall be valid for a period of 30 days from the date of such storage or parking. At the discretion of the Township Police Department, a repair permit may be renewed one time, for an additional 30-day period, upon the furnishing proof that the repairs to the vehicle were actually begun during the initial permit period, and that the delay in repairing the vehicle in the initial permit period was not caused by the inaction of the owner, operator or custodian of such vehicle.

(Ord. No. 90-2, 3-7-90)

SECS. 10-15—10-25. RESERVED.

ARTICLE IV. REFUSE OR SOLID WASTE COLLECTION AND DISPOSAL^{*†}

DIVISION 1. GENERALLY

SEC. 10-26. SHORT TITLE.

This Article shall be known, and may be cited, as the “West Pottsgrove Township Municipal Solid Waste, Recyclables and other Refuse Ordinance.”

(Ord. No. 82-20, § 1, 12-29-82; Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-27. DEFINITIONS.

Unless the context specifically indicates otherwise, the following terms and phrases defined in this Article shall have the meanings hereinafter designated:

Bulk Items – The term “bulk items” shall mean all collectible municipal waste which is too large for collection in a 35 gallon container, including, without limitation, Christmas trees, furniture, bedding, tanks, large appliances (such as televisions, stoves, refrigerators, washers, and dryers), large dead animals, tree trimmings, etc.

Collectible Municipal Waste – The term “collectible municipal waste” shall mean all municipal waste except:

- A. Unacceptable waste; and

^{*} *Editor’s note* – Nonamendatory Ord. No. 82-20, §§ 1—7, enacted Dec. 29, 1982, has been codified as Art. IV, §§ 10-26—10-32, at the discretion of the editor.

[†] *Editor’s note* - Art IV & V repealed by Ord. No. 2006-1, § 1, enacted July 5, 2006; Art IV reinstated with title change by Ord. No. 2006-1, § 2, July 5, 2006.

GARBAGE, REFUSE AND OTHER WASTE MATERIAL

- B. Source-separated recyclable materials whether separated for recycling under a program operated or contracted by the Township or under any other recycling program.

Collectible Recycling Materials – The term “collectible recycling materials” shall mean any recyclable materials included in a voluntary or mandatory recycling program established by the Township and operated by the Township and its Contractor.

Construction and Demolition Debris – The term “construction and demolition debris” shall mean wastes generated by construction or demolition operations, which may include, without limitation, concrete, dirt, stones, bricks, plaster, wood, shingles, and pipe.

Contractor – The term “Contractor” shall mean the person serving, at any given time, as the Contractor of the Township for the collection, transportation, and disposition of collectible municipal waste and/or other refuse under the provisions of this Article.

Hazardous Waste – The term “hazardous waste” shall mean any material or substance which, by reason of its quantity, concentration, composition, or characteristics, is:

- A. “Hazardous waste” within the meaning of the Solid Waste Management Act, 35 PA. STAT. ANN. § 6018.101, et seq.;
- B. Toxic or hazardous waste as defined in the Solid Waste Disposal Act, 42 U.S.C. § 6011, et seq., and the regulations thereunder;
- C. Material regulated by the Toxic Substance Control Act, 15 U.S.C. § 2601, et seq., and the regulations thereunder; or
- D. Special nuclear by-products material within the meaning of the Atomic Energy Act of 1954, 42 U.S.C. § 2011, et seq., and the regulations thereunder.

Household Hazardous Waste – The term “household hazardous waste” shall mean any waste that would be considered hazardous under the Solid Waste Management Act, 35 PA. STAT. ANN. § 6018.101, et seq., but for the fact that it is produced in quantities smaller than those regulated under that Act (e.g., household paints, antifreeze, bleach, cleaners, polishes, insecticides, pesticides, disinfectants, chemical and batteries).

Infectious or Chemotherapeutic Waste – The term “infectious or chemotherapeutic waste” shall mean any waste considered as “infectious” or “chemotherapeutic” waste under the Act of July 13, 1988, No. 93, 1988 Pa. Laws 525, as amended, 35 PA. STAT. ANN. § 6019.1, et seq.

Leaf Waste – The term “leaf waste” shall mean leaves, garden residues, shrubbery, and tree trimmings, and similar material, but not including grass clippings.

Municipal Waste – The term “municipal waste” shall mean any garbage, refuse, and other material and solid, liquid, semisolid, or contained gaseous material resulting from operation of residential, municipal, commercial, or institutional establishments, or from community activities, including grass clippings which are not being composted or used for mulch; any industrial lunchroom or office waste, and any sludge (other than sludge considered residual waste) from a municipal, commercial, or institutional water supply treatment plant, wastewater treatment plant, or air pollution control facility.

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Person – The term “person” shall mean a natural person, firm, co-partnership, association, church, school, institution, or corporation.

Recyclable Materials – The term “recyclable materials” shall mean any materials whose original use has been completed, and which would otherwise be discarded and disposed of or processed as municipal waste, but which can be processed or treated to create or recover reusable materials that can be sold to or reused by a manufacturer or other person as a substitute for a supplement to virgin raw materials. Recyclable materials include, without limitation, newsprint, corrugated paper, high grade office paper, plastics, leaf wastes, clear glass, colored glass, steel and bimetal cans, aluminum, and grass clippings.

Refuse – The term “refuse” shall mean municipal waste, residual waste, hazardous waste, and source-separated recyclable materials. However, leaf waste and/or grass clippings which are being composted or used for mulch shall not be considered “refuse.”

Residual Waste – The term “residual waste” shall mean any garbage, refuse, other discarded material, or other waste, including solid, liquid, semisolid, or contained gaseous materials, resulting from industrial, mining, or agricultural water supply treatment facility, wastewater treatment facility, or air pollution control facility, provided that it is not hazardous. The term “residual waste” shall not include coal refuse as defined in the Coal Refuse Disposal Control Act, 52 PA. STAT. ANN. § 30.52, et seq. “Residual waste” shall not include treatment sludges from coal mine drainage treatment plants, disposal of which is being carried on pursuant to and in compliance with a valid permit issued pursuant to the Clean Streams Law, 35 PA. STAT. ANN. § 691.1, et seq.

Source-separated Recyclable Materials – The term “source-separated recyclable materials” shall mean recyclable materials that are separated from municipal waste at the point of origin for the purpose of recycling.

Special Handling Waste – The term “special handling waste” shall mean any municipal waste for which any governmental agency or unit having appropriate jurisdiction requires special approval (other than that generally required for municipal waste) prior to disposal in a permitted municipal waste disposal facility, including, without limitation, asbestos, sludge, and infectious or chemotherapeutic waste.

Township – The term “Township” shall mean West Pottsgrove Township, Montgomery County, Pennsylvania. Depending on the context, the term shall either refer to a geographic area included within the boundaries of the Township, or the municipal corporation.

Unacceptable Waste – The term “unacceptable waste” shall mean any of the following materials, except for trace amounts normally found in household or commercial waste:

- A. Hazardous waste;
- B. Residual waste;
- C. Special handling waste;
- D. Infectious or chemotherapeutic waste, or any wearing apparel, bedding or refuse from premises where highly infectious or contagious diseases have prevailed;

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- E. Used motor oil;
- F. Used lead acid batteries;
- G. Used tires;
- H. Construction and demolition debris in excess of one C/D Unit from a given property on any single collection day. For purposes of this subsection, each of the following items shall constitute one "C/D Unit":
 - I. One Plastic Sack (plastic garbage bag) which is designed to store solid waste, has sufficient wall strength to maintain physical integrity when lifted by the top, does not weight more than 35 pounds, including the contents, and contains only construction and demolition debris or such debris mixed with other collectible municipal waste;
 - J. One Receptacle (garbage can) with a capacity less than 35 gallons, constructed of plastic, metal, or fiberglass, having handles of adequate strength for lifting, having a tight fitting lid which is securely in place, having a mouth whose diameter is equal to or great than that of the base, which does not weight more than 60 pounds including the contents, and which contains only construction and demolition debris or such debris mixed with other collectible municipal waste. Only the contents of the receptacle shall constitute a "C/D Unit"; the receptacle itself shall not be collected from the property;
 - K. A Single Bundle of construction and demolition debris securely tied together and forming an easily handled package not exceeding 4 feet in length, 2 feet in width, and 2 feet in height, and not exceeding 60 pounds in weight; and
 - L. One Single Item of construction or demolition debris which is not placed in any container and which constitutes a bulk item.
 - M. Free liquids, or liquids which are likely to be released from their containers during ordinary handling;
 - N. Leaf waste;
 - O. Grass clippings in excess of two GC Units from a given property on any single collection day. For purposes of this subsection, each of the following items shall constitute one "GC Unit":
 - P. A Plastic Sack (plastic garbage bag) which is designed to store solid waste, has sufficient wall strength to maintain physical integrity when lifted by the top, does not weight more than 35 pounds, including the contents, and contains only grass clippings or grass clippings mixed with other collectible municipal waste;
 - Q. A Receptacle (garbage can) with a capacity less than 35 gallons, constructed of plastic, metal, or fiberglass, having handles of adequate strength for lifting, having a tight fitting lid which is securely in place, having a mouth whose diameter is equal to or great than that of the base, which does not weight more than 60 pounds including the contents, and which contains only grass clippings or grass clippings mixed with other collectible municipal waste. Only the

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contents of the receptacle shall constitute a "C/D Unit"; the receptacle itself shall not be collected from the property;

- R. Newsprint;
 - S. Collectible recyclable materials which the Township, by Ordinance or Resolution, requires to be recycled (as opposed to those materials included in a purely voluntary recycling program operated by the Township or its Contractor.
 - T. Household hazardous waste;
 - U. Any highly flammable or explosive materials;
 - V. Any items which must be specifically prepared for disposition in accordance with applicable statutes, regulations, determinations, order, rulings, ordinances, resolutions, plans, and/or permits unless all required preparation is completed at the expense of the person desiring to dispose of the item (example: Freon must be removed from refrigerators, air conditions and other similar appliances, appropriate sticker must be applied to indicate that the Freon has been drained and disposed of properly); and
 - W. Any material that, by reason of its composition, characteristics, quantity, or concentration, is ineligible for disposal at the disposal facility(ies) selected by the Township and/or its Contractor, pursuant to:
 - X. The Resource Conservation and Recovery Act of 1976, 42 U.S.C. § 6901, et seq., and the regulations thereunder;
 - Y. The Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136, et seq., and the regulations thereunder;
 - Z. The Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq., and the regulations thereunder;
 - AA. The Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9601, et seq., and the regulations thereunder;
 - BB. The Hazardous Sites Cleanup Act, 35 P.A. STAT. ANN. § 6020.101, et seq., and the regulations thereunder; or
 - CC. Any other applicable statute, regulations, determination, order, ruling, ordinance, resolution, plan or permit.
 - DD. Any other material that presents an endangerment to the disposal facility described in subsection (q), the employees of the Township or the Contractor, or to the public health or safety.
- (Ord. No. 82-20, § 2, 12-29-82; Ord. No. 2006-1, § 2, 7-5-06)

DIVISION 2. COLLECTION AND DISPOSAL OF COLLECTIBLE MUNICIPAL WASTE

SEC. 10-28. MUNICIPAL COLLECTION PROGRAM.

All collectible municipal waste generated or present within the Township shall be collected, transported, and disposed of by the Township or its Contractor with the exception of industrial, commercial properties and apartment buildings containing five or more units. This shall include but not be limited to restaurants, hotels, cafes, garden type apartments or condominium complexes, apartment buildings, clubs, wholesale and retail fruit and produce dealers, warehouses, wholesale houses, stores, business places and industrial complexes which shall be responsible and arrange for the collection and disposal of their solid waste at their expense.

(Ord. No. 82-20, § 3, 12-29-82; Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-29. RECEPTACLES.

A. In General – All collectible municipal waste placed for collection by the Township or its Contractor, other than bulk items, shall be placed in bags, garbage cans, or other receptacles, which comply with all applicable regulations promulgated hereunder. Without limitation, such regulations may include requirements relating to size, weight, materials, and closure. In addition the Board of Commissioners may require, by Resolution, that any or all collectible municipal waste, other than bulk items, be placed for collection in special bags or other receptacles sold or supplied by the Township or its agents, and/or that any or all receptacles and/or bulk items placed for the collection of municipal waste bear a special tag, sticker, or similar devices may be required to assist in implementing a “per bag” fee program, to accommodate any handling, collection, transportation, or disposition concerns, to reduce the costs of collections, transportation, or disposition, or to accomplish any other proper purpose related to the Municipal Waste Collection Program.

B. Initial Rules – Until changed by regulations authorized under this Chapter, the following rules apply to collectible municipal waste placed for collection by the Township or its Contractor:

1. Except for bulk items and bundles of construction and demolition debris described in Section 10-27 (H)(3), all collectible municipal waste must be placed for collection in one or more of the following containers:

a) A Plastic Sack (plastic garbage bag) which is designed to store solid waste, has sufficient wall strength to maintain physical integrity when lifted by the top, and does not weight more than 35 pounds, including the contents;

b) A Receptacle (garbage can) with a capacity less than 35 gallons, constructed of plastic, metal, or fiberglass, having handles of adequate strength for lifting, having a tight fitting lid capable of preventing entrance into the container by vectors which is securely in place, having a mouth whose diameter is equal to or greater than that of the base, and which does not weight more than 60 pounds including the contents. The receptacle itself shall not be collected from the property.

2. Collectible municipal waste for a given property must be placed for collection on the property or an abutting public right-of-way (but not within a street cartway or in any fashion which blocks the use of a sidewalk), and at a point which is no more than 10 feet from a public street or alley curb line and is accessible to the Township or its Contractor at ground level.

(Ord. No. 82-20, § 4, 12-29-82; Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-30. AMOUNT OF WASTE TO BE COLLECTED.

The Board of Commissioners may establish, by Resolution or by the terms of a Contract with a Contractor, the maximum amount and/or types of collectible municipal waste which will be collected by the Township or its Contractor from any given property, over the course of a year and/or a at a particular collection, in consideration for the payment of any specific fee established under Division 6. The Township or its Contractor will collect all of the collectible municipal waste generated or present on that property upon the payment of proper fees, but may refuse, at any time, to collect any collectible municipal waste which is in excess of the maximum amount for which a fee has been paid an/or of a different type than that for which a fee has been paid.

(Ord. No. 82-20, § 5, 12-29-82; Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-31. REFUSAL TO COLLECT WASTE.

The Township or its Contractor may refuse, at any time, to collect any collectible municipal waste if that waste is presented in such a way as to violate any of the provisions of this Chapter and/or the regulations promulgated hereunder. The refusal of the Township or its Contractor to collect any collectible municipal waste from any particular property at any particular time, whether under this section or under Section 10-30, shall in no manner relieve the property owner or the person generating the waste from his/her/its obligations under this Article, including without limitation, his/her/its obligations to dispose of all collectible municipal waste through the municipal collection system, to not allow any accumulations of refuse other than for the purpose of collection in a timely manner, and to not permit or engage in any actions or inactions prohibited under Division 7.

(Ord. No. 82-20, § 6, 12-29-82; Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-32. PERMITS FOR DUMPSTERS.

A. Requirements – Any person performing any work on a premises within the Township which requires the use of a dumpster for disposal of debris or waste shall secure a dumpster permit from the Township Manager before the dumpster is placed on site if the site where the dumpster is to be located meets any one of the following conditions;

1. The dumpster is being placed in any street, sidewalk, or public right –of-way;
2. The dumpster will cause a blockage (whether partial or fully) of a public or private alley; or
3. Presents an obstacle to adjoining property owners to access their premises.

B. At the time of the application for the permit, information shall be supplied to the Township Manager concerning the period of time the dumpster is to be in place.

C. Any such dumpster shall be kept in good repair, appearance, and a sanitary condition at all times, and such that neither objectionable odors, noxious gases nor putrescent liquids shall escape therefrom.

D. Fee – A permit fee, as set forth in Division 6, shall be paid at the time of applying for the permit.

(Ord. No. 82-20, § 7, 12-29-82; Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-33. DISPOSAL FACILITIES.

All collectible municipal waste generated, collected, and transported from within the jurisdictional limits of the Township shall be disposed of in accordance with all applicable provisions of law, including the then-applicable Solid Waste Management Plan of Montgomery County. (If any person believes that any provision of law, regulation, or the Solid Waste Management Plan is unenforceable, he shall nonetheless comply with such provision until a final order is entered declaring the provision unenforceable, except during any period for which temporary relief from the enforcement of the provision is granted by a court of appropriate jurisdiction.) No such collectible municipal waste may be transported to or disposed of in any disposal facility without the prior written approval of that disposal facility by the Township (which approval will not be unreasonably withheld).

(Ord. No. 85-9, § 1, 9-4-85; Ord. No. 2006-1, § 2, 7-5-06)

DIVISION 3. COLLECTION AND DISPOSITION OF COLLECTIBLE RECYCLABLE MATERIALS

SEC. 10-34. UNAUTHORIZED COLLECTION PROHIBITED.

- A. *Newsprint* – Newsprint is hereby declared to be a mandatory collectible recyclable material.
- B. *Leaf Waste* – Leaf waste is hereby declared to be a mandatory collectible recyclable material. The Township encourages composting of leaf waste by property owners to remove leaf waste from both the waste stream and recycling collection.
- C. *Grass Clippings* – Grass clippings are not required to be recycled. The Township encourages composting and/or mulching of grass clippings by property owners to remove grass clippings from the waste stream.
- D. *Other Mandatory Collectible Recyclable Materials* – The Board of Commissioners may, from time to time, by Ordinance or Resolution, designate other recyclable materials as mandatory collectible recyclable materials.
- E. *Voluntary Collectible Recyclable Materials* – The Board of Commissioners may, from time to time, by Ordinance or Resolution, designate other recyclable materials as voluntary collectible recyclable materials. Until changed by Ordinance or Resolution, the following materials are voluntary collectible recyclable materials which will be collected by the Township or its Contractor: aluminum, steel, tin, or bimetallic food or beverage containers (not including aerosol cans, pots or pans, or aluminum foil); clear or colored glass food or beverage containers (not including ceramics, drinking glasses, window glass, or mirror glass) and #1 (PET or PETE) or #2 (HDPE) plastic containers for food, beverages, laundry, or cleaning items (not including Styrofoam, clay pots, or plastic bags).

(Ord. NO. 85-9, § 1, 9-4-85; Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-35. COLLECTION TIME AND LOCATION.

The Township will collect mandatory and voluntary collectible recyclable materials at such times and in such locations as may be established by regulations promulgated under this Article. Until changed by such regulations, newsprint shall be collected at curbside once every other week; leaf waste shall be collected curbside once every other week during the months of October and November and the voluntary collectible recyclable materials under Section 10-34(e) shall be collected at curbside once every other week.

(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-36. SEPARATION OR COMMINGLING.

Mandatory collectible recyclable materials shall be separated from collectible municipal waste and stored until collection or other disposition. Voluntary collectible recyclable materials which are to be recycled shall also be separated from collectible municipal waster and stored until collection or other disposition. Regulations promulgated under this Article may require the separation of certain collectible recyclable materials from other collectible recyclable materials, or permit the commingling of certain collectible recyclable materials. Until changed by such regulations, newsprint shall be separated from al other materials; leaf waste shall be separated from all other materials; and the voluntary collectible recyclable materials under Section 10-34(e) may be commingled, but otherwise separated from all other materials. (Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-37. RECEPTACLES.

- A. *In General* – All collectible recyclable materials placed for collection by the Township or its Contractor shall be placed in bags, garbage cans, or other receptacles, which comply with all applicable regulations promulgated under this Article. Without limitation, such regulations may include requirements relating to size, weight, materials, and closure. In addition, the Board of Commissioners may require, by Resolution, that any or all collectible recyclable materials placed for collection by the Township or its Contractor be placed for collection in special bags or other receptacles or bundles placed for the collection of collectible recyclable materials by the Township or its Contractor bear a special tag, sticker, or similar device, sold or supplied by the Township or its agents. These special receptacles or devices may be required to assist in implementing a “per bag” fee program, to accommodate any handling, collection, transportation, or disposition concerns, to reduce the costs of collection, transportation, or disposition, or to accomplish any other proper purpose related to the municipal recyclable material collection program.
- B. *Initial Rules* – Until changed by regulations authorized under this Article, the following rules apply to collectible recyclable materials to be placed for collection by the Township of its Contractor.
1. Newsprint shall be bundled into bundles and not otherwise place din bags or other receptacles. Each bundle shall be securely tied together to form an easily handled package not exceeding 3 feet in length, 2 feet in height, or 60 pounds in weight.
 2. Leaf waste shall be placed in biodegradable bags and placed at curbside for collection.
 3. The voluntary collectible recyclable materials under Section 10-34(e) shall be placed in authorized recycling containers supplied or sold by the Township.
 4. Collectible recyclable materials that are to be collected “at curbside must be placed for collection at a point which is no more than 10 feet from a public street or alley curb line, and which is accessible to the Township or its Contractor at ground level.

(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-38. RIGHT TO RECYCLE OUTSIDE OF THE TOWNSHIP PROGRAM.

No person shall be required to place any mandatory or voluntary collectible recyclable materials for collection by the Township or its Contractor. Any person may arrange to have collectible recyclable materials collected and recycled by others, and may retain any profit realized through such recycling, provided that if any person operating a commercial, municipal, institutional, or industrial use or a

community activity desires to recycle any mandatory or voluntary collectible recyclable materials outside of the Municipal Collection System, the person must provide the Township with quarterly statements of the tonnage of materials so recycled, with accompanying documentation.

(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-39. MULTIFAMILY RENTAL UNIT OWNERS.

With respect to any particular item of collectible municipal waste or mandatory collectible recyclable material generated or present on any property in the Township, the owner(s) of the property, the occupant(s) of the property, and any other persons generating such item, shall be jointly and severally responsible for complying with the provisions of this Article and the regulations promulgated hereunder.

(Ord. No. 2006-1, § 2, 7-5-06)

DIVISION 4. DISPOSITION OF UNACCEPTABLE WASTE

SEC. 10-40. NO COLLECTION BY TOWNSHIP PROGRAM.

No unacceptable waste shall be deposited for collection by the Township or its Contractor, except that mandatory collectible recyclable materials may be deposited for collection in accordance with the regulations concerning the municipal recycling program.

(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-41. RESPONSIBILITY FOR DISPOSITION.

With respect to any particular item of unacceptable waste generated or present on any property in the Township, the owner(s) of the property, the occupant(s) of the property, and any other persons generating such item, shall be jointly and severally responsible for transporting and disposing, or arranging for the transportation and disposal, of such item in accordance with all applicable federal, state, count, or local statutes, laws, regulations, rulings, plans, determinations, ordinances, resolutions, order, licenses, and permits.

(Ord. No. 2006-1, § 2, 7-5-06)

DIVISION 5. ADMINISTRATION OF TOWNSHIP PROGRAM

SEC. 10-42. CONTRACTORS.

The Board of Commissioners is hereby authorized to contract for the performance of any or all of the services to be provided by the Township under this Article, and to award a contract therefore from time to time for such period of time as shall be determined by the Board of Commissioners. Separate contracts may, but need not, be made for collectible municipal waste and for any or all collectible recyclable materials. Any such contract shall require the Contractor to assume all responsibility for the collection of the collectible municipal waste and/or one or more collectible recyclable materials in the Township in accordance with the provisions of this Article and regulations, orders, and specifications provided under the authority of this Article, and to transport and dispose of all such refuse beyond and outside the boundaries of the Township. The contract may fix and regulate, in a manner not inconsistent with the terms of this Article, the manner, method, and time of collecting and transporting refuse, the type of equipment required for the purpose, the price to be paid for the performance of a said contract, the time or

times for the payment time of, and any other matters germane to refuse collection, transportation, or disposition.

(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-43. REGULATIONS.

To the extent not already governed by a current contract with a Contractor, the Board of Commissioners shall have authority to make regulations concerning the days of collection, type and location of waste receptacles, and such other matters described in or relevant to this Article or which otherwise pertain to refuse collection, transportation, and disposition, as the Board of Commissioners may deem advisable, provided that such regulations are not contrary to the provisions of this Article or any other Ordinance or Resolution. The Board of Commissioners may modify any of such regulations from time to time, subject to the terms of any current contract with a Contractor. The Township Manager is hereby authorized to issue any temporary regulations under this Article which may be necessary, to be effective until the next regular meeting of the Board of Commissioners following the issuance of the temporary regulations, unless sooner rescinded by motion adopted by the Board of Commissioners.

(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-44. SUPERVISION.

The collection, transportation, and disposal of collectible municipal waste in the Township, and collectible recyclable materials presented for disposition by the Township or its Contractor, shall be under the supervision of the Township Manager. The Township Manager shall periodically provide notice of the requirements of this Article and any regulations promulgated hereunder to the property owners, residents, and occupants of property in the Township, in any manner deemed effective by the Township Manager.

(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-45. OWNERSHIP OF REFUSE SET OUT OR DEPOSITED FOR COLLECTION UNDER THE TOWNSHIP PROGRAM.

The ownership of all collectible municipal waste and collectible recyclable materials set out or deposited for collection by the Township or its Contractor shall be vested in the Township. All profits realized with respect to such materials shall be the property of the Township or its Contractor (if agreed by the Township).

(Ord. No. 2006-1, § 2, 7-5-06)

DIVISION 6. FEES

SEC. 10-46. SCHEDULE OF FEES.

A. *In General* – The Board of Commissioners is hereby authorized to establish, from time to time, by Resolution, a schedule of fees for the services provided under this Article to be imposed with respect to each developed property in the Township on which solid municipal waste is generated or present (including industrial properties generating lunchroom or office waste), and/or with respect to each bag, receptacle, or other unit of collectible municipal waste or collectible recyclable materials placed for collection by the Township or its Contractor.

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- B. *Methods of imposing fees* – Different methods of imposing fees may be charged with regard to different materials (e.g., a “per bag” fee may be charged for leaf waste while a “per property” fee is charged for collectible municipal waste or other collectible recyclable materials), different methods of collection (e.g., drop-off or curbside), or different volume levels (e.g., a base fee for basic service, plus an additional fee [whether “per bag” or an annual fee] for additional volume).
- C. *Differentiation among properties* – Different fees may be charged with respect to properties with different types of use (e.g., residential and residential apartments), properties which generate different volumes of refuse, and/or properties which may be differentiated by any other reasonable criteria.
- D. *All properties charged for “per property” fees* – Any “per property” fee shall be collected with respect to a property regardless of whether the property owner elects to utilize the services provided under this Article.
- E. *Sales of required receptacles* – A “per bag” fee may be imposed by charging a premium for authorized bags or other authorized receptacles sold for use in the Township program for collecting collectible municipal waste and/or collectible recyclable materials, in addition to the cost of such bags or receptacles.
- F. *Incentives* – Any fee schedule may include incentives to encourage the recycling of collectible recyclable materials.
- G. *Limitations of amount of fees* – The aggregate fees charged under this Article shall not exceed the reasonably anticipated costs to be incurred by the Township for collecting, transporting, and disposing collectible municipal waste and collectible recyclable materials (either directly or under contract with the Contractor), and administering and enforcing the provisions of this Article and any contract with a Contractor, plus a reasonable contingency.
- H. *Current fee schedule* – Unless and until changed or supplemented by action under the preceding subsections of this Section 10-46, the schedule of fees for the services provide under this Article shall be as follows:
 - 1. *Residential* – The owner of a residential dwelling unit in the Township shall pay a fee for waste hauling services each calendar quarter in an amount as set by Resolution of the Board of Commissioners for each residential dwelling unit owned. Each residential rental property shall be assigned a number of equivalent dwelling units based on the number of apartments or residences contained therein. (For example, if a dwelling unit contains 4 apartments, the owner of such residential apartment building shall be bill for 4 dwelling units per quarter at the rate of established for each dwelling unit as set forth above.)
 - 2. *Excess volume* – In addition to the fees payable under paragraph (1), if any owner or occupant of a property in the Township requires the collection and disposal of collectible municipal waste generated on that property in excess of the maximum amount which the Contractor is required to collect form that property under the terms of its contract with the Township without the payment of an additional fee to the Contractor, then the owner or occupant shall make advance arrangements with the Township Manager for the collection of such excess, and shall pay the Township, in advance, an amount equal of the amount which the Township must pay the Contractor for the collection of such excess.

3. *Dumpster permit* – The fee for a permit for the placement of a dumpster under Section 10-32, shall be in the amount established by a resolution of the Board of Commissioners.
(Ord. No. 2009-4, 3-18-09)

SEC. 10-47. RESPONSIBILITY FOR FEES.

The fees imposed under this Article with respect to any given property shall be the joint and several responsibilities of all record owners of the property, all persons in possession of the property, and all other persons producing or responsible for the existence or disposal of refuse present on such property or from whom such refuse is removed.

(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-48. BILLING AND COLLECTION OF FEES; PENALTIES.

- A. *Rendering of bills* – All bills for the fees imposed under this Article with respect to any given property shall be rendered at least 25 calendar days before the due date, and are payable to the Township and the Township Building. Bills shall be mailed to the address appearing on the tax records of the Township or to the property itself, unless the owner of the property designates a different address from time to time. Each owner shall provide the Township with, and thereafter keep the Township advised of, the owner's current and correct address. The failure of any person to receive a bill shall not be considered an excuse for nonpayment, nor shall such failure result in an extension of the period of time during which the net bill shall be payable.
- B. *Due date* – Bills shall be due each January 31st, April 30th, July 31st, and October 31st, for services rendered during the most recently ended calendar quarter, and shall also include the outstanding balance of unpaid amounts from previous bills and unpaid late payment penalties. Payments are credited on the date they are received at the Township Building.
- C. *Late payment penalties* – A late payment penalty shall be imposed if there remains an outstanding balance on any bill rendered under subsection (a) as of 12:00 noon on the sixth calendar day after the due date of that bill. The amount of the late payment penalty is fifteen percent (15%) of the outstanding balance on the bill (including amounts originally billed for previous quarters that remains unpaid and unpaid late payment penalties) as of the time the penalty is imposed.
- D. *Collection* – If there is an unpaid balance on any bill 60 days after the due date of the bill, the Township Manager may file a civil action before the local District Justice to collect the unpaid balance or may refer the account to the Township Solicitor to proceed with a civil action or utilize any available procedures for the perfection of a municipal lien and collection of a municipal claim.
- E. *Suspension of services:*
 1. If there exists an unpaid balance on any bill 60 days after the due date of the bill, the Township may discontinue service to the premises. Service will resume only upon full payment of the outstanding balance due.
 2. During the time that collection of refuse service is discontinued, the record property owner of the premises, all persons in possession of the property, and all other persons producing or responsible for the existence or disposal of refuse present on such property or for whom such refuse is removed, shall be billed a service availability charge as determined by resolution of the Board of Commissioners.

3. During any time of suspended service, the record owner of the property or any other persons as defined in Section 10-47 above, shall be prohibited from placing any refuse, recyclables or leaf waste in any street, alley or other public place in the Township or upon or outside their premises, for residential trash collection, and such property owner, as above defined, shall be responsible for the collection and disposal of their refuse at such property owner's sole expense.

(Ord. No. 2006-1, § 2, 7-5-06; Ord. No. 2009-8, § 1, 7-1-09)

SEC. 10-49. RECEIPT OF FEES.

It shall be the duty of the Township Manager, ex officio, to receive all fees provided under this Article and remit them to the Township Treasurer for deposit in the Township accounts.

(Ord. No. 2006-1, § 2, 7-5-06)

DIVISION 7. PROHIBITED ACTS

SEC. 10-50. UNAUTHORIZED COLLECTION, ETC.

It shall be unlawful for any person to collect, transport, or dispose of any refuse generated or present in the Township in violation of this Article or any regulations promulgated hereunder.

(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-51. OUTDOOR PLACEMENT OF REFUSE.

It shall be unlawful for any person to place any refuse in any street, alley, or other public place in the Township, or upon any private property in the Township outside of a completely enclosed building, whether the property is owned by such person or not, unless:

- A. The refuse is placed in proper receptacles for collection (other than bulk items and bound newspaper print placed outside at the proper location for collection by the Township or its Contactor) no earlier than 5:00 pm on the day before the scheduled collection thereof; and
- B. The refuse is placed on the property with the permission of the owner of such property or is placed in a public right-of-way at a location directed or approved by the Township Manager or Board of Commissioners for collection by the Township or its Contractor, no earlier than 5:00 pm on the day before the scheduled collection thereof.
- C. Refuse containers (including recycling containers) shall be removed from the streets, alleys or other public right-of-ways or other approved collection locations by 5:00 pm of the day following the scheduled collection.

(Ord. No. 2006-1, § 2, 7-5-06; Ord. No. 2009-8, § 2, 7-1-09)

SEC. 10-52. DUMPING.

A. *Refuse generated off-site* – It shall be unlawful for any person to place any refuse on any property in the Township (or in the location designated by the Township for the collection of refuse generated on the property) unless the refuse was generated on that property, except for:

1. Minor and incidental quantities of refuse generated by an owner or resident of the property elsewhere; and

2. Minor and incidental quantities of refuse generated by a guest or customer of the owner, resident, or operator of the property. Accordingly, without limitation, it shall be unlawful to dump refuse in the Township, and it shall be unlawful to transport refuse to a property in the Township or for the owner of property in the Township to accept refuse generated off-site, in order to reduce or eliminate any person's costs for disposing of refuse.

B. *Recyclable materials generated off-site*

1. *Individual properties* – It shall be unlawful for any person to place any recyclable materials on any property in the Township (or in any location designated by the Township for the collection of refuse or recyclable materials generated on the property) unless the recyclable materials were generated on that property, except for:
 - a) Recyclable materials authorized by the owner or possessor of the property which are being collected for recycling outside of a recycling program operated by the Township or its Contractor;
 - b) Minor and incidental quantities of recyclable materials generated by an owner or resident of the property elsewhere; and
 - c) Minor and incidental quantities of refuse or recyclable materials generated by a guest or customer of the owner, resident, or operator of the property.
2. *Township recycling program* – It shall be unlawful for any person to place any recyclable materials generated outside of the Township in any receptacle or at any location designated by the Township for the collection of recyclable materials under a recycling program operated by the Township or its Contractor.

C. *Public waste receptacles* – It shall be unlawful for any person to place any refuse in any public waste receptacle in the Township other than a minor and incidental quantity of refuse.

D. *Exceptions* – This section shall not apply to:

1. The placement of any recyclable materials in locations designated or authorized by the Township for the collection of such recyclable materials, provided that such placement is in accordance with the regulations of the Township and the person operating the recycling center; or
2. Any transfer licensed under the Solid Waste Management Act, 35 PA. STAT. ANN. § 6018.101, et seq., and operating in conformity with all applicable requirements of the Township Zoning Ordinance.

(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-53. ACCUMULATION OF REFUSE.

It shall be unlawful for any person to allow any accumulation of refuse on any premises in the Township other than for the purpose of collection in a timely manner provided or permitted by this Article or by any regulations promulgated hereunder. Any unauthorized accumulation of refuse on any premises is hereby declared to be a nuisance and is prohibited. Any accumulation of refuse for more than 15 days shall be presumed to be for a purpose other than collection in a timely manner.

(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-54. REMOVAL OF RECEPTACLE COVERS; REMOVAL OF REFUSE.

It shall be unlawful for any person other than the occupants of the premises on which refuse receptacles are stored or the authorized collector of such refuse to remove the covers of any of the refuse receptacles or to remove the refuse stored in such containers.
(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-55. REMOVAL OF RECYCLABLE MATERIALS.

It shall be unlawful for any person to remove any recyclable materials from any drop-off recycling receptacle or from any curbside recycling receptacle after the receptacle has been placed in the designated or approved location for the collection of the recyclable materials, other than the authorized collector of the recyclable materials or the person operating the drop-off recycling center.
(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-56. POLLUTION OF WATER.

It shall be unlawful for any person to throw or deposit any refuse in any stream or other body of water.
(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-57. ATTEMPTED DISPOSAL OF UNACCEPTABLE WASTE WITH COLLECTIBLE MUNICIPAL WASTE.

It shall be unlawful for any person to place any unacceptable waste, or any receptacle containing any unacceptable waste, in any location designated for the collection of collectible municipal waste by the Township or its Contractor in any manner which would suggest, to a reasonable person, that the person so placing the material intends to have the Township or its Contractor collect the material as collectible municipal waste.
(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-58. ADULTERATION OF DROP-OFF RECYCLABLES.

It shall be unlawful for any person to place any materials in any drop-off receptacle designated by the Township for the collection of one or more collectible recyclable materials by the Township or its Contractor, unless the materials so placed consist solely of those collectible recyclable materials designated for collection in that receptacle.
(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-59. ADULTERATION OF CURBSIDE RECYCLABLES.

It shall be unlawful for any person to place any receptacle identified for participation in a curbside voluntary or mandatory recycling program of the Township in any location designated for the collection of collectible recyclable materials by the Township or its Contractor, unless the materials inside such receptacle consist solely of those collectible recyclable materials designated for collection in that receptacle.
(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-60. DIVERSION OF COLLECTIBLE MUNICIPAL WASTE FROM THE TOWNSHIP COLLECTION PROGRAM

Except as provided in Section 10-28 (relating to private disposal of collectible municipal waste by industrial, commercial, and rental properties with 5 or more units):

- A. It shall be unlawful for any person other than the Township or its Contractor to collect, transport, or dispose of any collectible municipal waste generated or present in the Township; and
- B. It shall also be unlawful for any person to arrange for the collection, transportation, or disposition, of any collectible municipal waste generated or present in the Township by any means other than the municipal waste system operated by the Township or its Contractor.

This section shall not apply to any refuse generated outside of the Township and which is present in the Township only during transportation to another location outside of the Township.

(Ord. No. 2006-1, § 2, 7-5-06)

SEC. 10-61. VIOLATIONS AND PENALTIES.

Any person who violates any provision of this Article shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, shall be subject to the penalty provisions as set forth in Section 1-9 of the Code of Ordinances of West Pottsgrove Township.

(Ord. No. 2006-1, § 2, 7-5-06)

Chapter 11
GENERAL HEALTH, SAFETY AND WELFARE*

- Art. I. In General, §§ 11-1—11-9**
- Art. II. Emergency Response Cost Recovery, §§ 11-10—11-16**
- Art. III. Burglar Alarm and Fire Alarm Monitoring Systems, §§ 11-17—11-29**
- Art. IV. False Alarms to Agencies of Public Safety §§ 11-30—11-44**
- Art. V. Fire Insurance Escrow, §§ 11-35—11-38**
- Art. VI. Hazardous Materials Identification and Placarding Requirements, §§ 11-39—11-43**

ARTICLE I. IN GENERAL

SEC. 11-1. DEFINITION.

For the purpose of this chapter, the term “public nuisance” shall be defined as the doing of or the failure to do something which injuriously affects the health, safety or welfare of the public, or which works some substantial annoyance, inconvenience or injury to the public generally, or to such part of the public as necessarily comes in contact with it. The term “public nuisance” shall include, but shall not be limited to, the following:

- A. Any obstruction in the streets or highways of the Township.
- B. Any noxious or offensive manufacture, art or business, or dangerous structure or object, prejudicial to the public safety or health.
- C. Any grass, weeds, or other vegetation whatsoever, not edible or planted for some useful or ornamental purpose, which:
 - 1. Exceeds a height of 6 inches, or
 - 2. Throws off any unpleasant or noxious odor, or
 - 3. Conceals any filthy deposit, or
 - 4. Creates or produces pollen.
- D. Any motor vehicle, which is not operable upon streets or highways under motor vehicle laws, and:
 - 1. Of which the possibility for theft exists, or
 - 2. Which poses a danger of injury to trespassing children, or
 - 3. Which constitutes a breeding place for rats or other vermin.

* *Cross references* – *Animals and fowl, Ch. 4; uniform construction code, Ch. 7; food and food establishments, Ch. 9; garbage, refuse and other waste material, Ch. 10; water and sewers and sewage disposal, Ch. 19.*

State law reference – *Power of Townships of the first class to make health and cleanliness regulations, 53 P.S. § 56544.*

E. Failing to remove:

1. A tree or part thereof, which has a contagious disease, dangerous blight or insect infestation; and/or
2. A tree or part thereof, which is dead or dying and which may constitute a public hazard or nuisance.

F. The use of a hydronic heater which burns wood or other biomass fuels and which creates smoke which contains high particulate emissions in the process of heating a building or of providing a hot water supply to a building or other premises.

(Ord. No. 77-10, § 3(A), 12-28-77; Ord. No. 2010-3, § 1, 7-7-10)

SEC. 11-2. PUBLIC NUISANCES ON PUBLIC OR PRIVATE PROPERTY PROHIBITED.

- A. No person shall establish or maintain or cause to be established or maintained, a public nuisance on public property within the Township.
- B. No person, owning or occupying any property within the Township, shall establish or maintain, cause to be established or maintained, or permit to be established or maintained, a public nuisance upon such property.

(Ord. No. 77-10, § 3(B), 12-28-77)

SEC. 11-3. NOTICE.

- A. Except as hereinafter provided, the Board of Commissioners, or any officer or employee of the Township designated thereby, upon being informed or otherwise discovering the existence of a violation of the provisions of Section 11-2, shall, within a reasonable time thereafter, give, or cause to be given, notice, by either personal service or by United States mail, to every person committing such violation, advising such person of the nature of the violation and directing such person to remove or otherwise remedy the violation within 5 days from the date such notice is issued.
- B. In the even that the person violating the provisions of Section 11-2, or an agent thereof, does not reside or is not otherwise located in the Township, and the address or other location of such person, or his or its agent, cannot be determined, the notice described in subsection (a) herein, shall, in lieu of service on such person, be posted upon the property on which the condition in violation of section 11-2 is located.
- C. In the even that any violation of the provisions of Section 11-2 poses an immediate substantial threat to the public health, safety or welfare, the notice described in subsection (a) herein need not be given and the Board of Commissioners, or any officer or employee of the Township designated thereby, may immediately remove or otherwise remedy, or cause to be immediately removed or otherwise remedied, such violation and collect the cost thereof from the person committing such violation in the same manner and with like effect as if said person had been given such notice and failed to comply therewith.
- D. The notice provisions as set forth above shall apply only to the first violation of Section 11-2, and Township shall not be required to send notices to persons committing second or subsequent violations of this chapter at the same premises. Township shall not be required to give notices of violations

unless or until 6 months has passed since any violations of Section 11-2 have occurred at the premises.

(Ord. No. 77-10, § 3(C), 12-28-77; Ord. No. 88-1, § 1, 4-13-88)

SEC. 11-4. DUTIES.

It shall be the duty of every person committing a violation of the provisions of Section 11-2, upon receiving notice of such violation as described in Section 11-3, to remove or otherwise remedy the violation within 5 days from the date said notice is issued.

(Ord. No. 77-10, § 3(D), 12-28-77)

SEC. 11-5. NONCOMPLIANCE WITH NOTICE.

In the event that any person committing a violation of the provisions of Section 11-2, to whom or to which the notice described in Section 11-3 has been issued, shall neglect, fail or refuse to comply with the said notice within 5 days from the date of issuance thereof, the Board of Commissioners, or any officer or employee of the Township designated thereby, may remove or otherwise remedy or cause to be removed or otherwise remedied, such violation and collect the costs thereof with a penalty of ten percent (10%), together with the maximum interest allowed by law, in the manner provided by law for the collection of municipal claims or by any action in assumpsit without the filing of a claim, or in any other manner provided by law.

(Ord. No. 77-10, § 3(E), 12-28-77; Ord. No. 98-3, § 3, 10-7-98)

SEC. 11-6. CONTINUOUS VIOLATIONS.

In the event any person commits a violation of Section 11-2 for a second or subsequent time within the six-month period referred to in Section 11-3(d), Township may remove or otherwise remedy or cause to be removed or otherwise remedied, such violation and collect the costs thereof, with a penalty of ten percent (10%) of such costs, together with the maximum interest allowed by law, in the manner provided by law for the collection of municipal claims or by an action in assumpsit without the filing of a claim, or in any other manner provided by law.

In addition, such persons shall be subject to prosecution for violating this chapter and shall be subject to the penalties as prescribed in Section 1-9.

(Ord. No. 88-1, § 2, 4-13-88; Ord. No. 98-3, § 3, 10-7-98)

SEC. 11-7. FINE AND PENALTY.

Any person found guilty of violating any of the provisions of this chapter and/or article shall be guilty of a summary offense and upon conviction thereof shall be punished as prescribed in Section 1-9.

(Ord. No. 77-10, § 3(F), 12-28-77; Ord. No. 86-5, §§ 1B, 2, 10-1-86; Ord. No. 88-1, § 3, 4-13-88)

SECS. 11-8, 11-9. RESERVED.

ARTICLE II. EMERGENCY RESPONSE COST RECOVERY*

SEC. 11-10. DEFINITIONS.

Definitions of terms used. The terms used in the article which are defined in the Pennsylvania Hazardous Materials Emergency Planning and Response Act, 35 P.S. § 6022.101, et seq, or any subsequent amendments thereto, shall have the same meaning as in the said Act unless defined differently herein.

Emergency Response Agencies. West Pottsgrove Township Police Department, West Pottsgrove Township Emergency Management Agency and West End Fire Company and similar Emergency Response Agencies from other municipalities responding to a request for assistance/aid under a mutual aid agreement and Township employees responding to an emergency incident at the request of Emergency Response Agencies.

Responsible party/parties. The following person(s) or business entities shall, for the purpose of this article, be deemed responsible parties:

- A. The owner of any known or unknown substance, liquid, mixture, compound, material or product, petroleum, petroleum distillate or by-product, hazardous substance, hazardous material or chemical and the common carrier, including pipeline owner, of any such material;
- B. The owner of the real property in or on which any known or unknown substances, liquid, mixture, compound, material or product, petroleum, petroleum distillate or by-product, hazardous substance, hazardous material or chemical is spilled, released, potentially released, transported, dumped, deposited or stored;
- C. The owner of real property on or in which there occurs an unfriendly fire and/or a building, well, trench or sinkhole collapse requiring rescue efforts or otherwise threatening life, property or the environment and to which there is a response by an Emergency Response Agency; and/or
- D. Any person(s) and/or legal entity or entities found to be legally responsible in any court of competent jurisdiction for the causation of any emergency incident.

Emergency incident. An occurrence which shall include, but is not limited to a release or threatened release of a known or unknown substance, liquid, mixture, compound, material or product or the release or threatened release of any hazardous substance, hazardous material or chemical and which involved a risk of harm and/or imminent threat to private or public property, life or has the potential to endanger or threaten the environment or public health or safety.

Emergency service costs. All direct and indirect costs and expenses incurred and/or expended by Township and/or Township Emergency Service Agencies or employees in connection with an emergency incident including, but not limited to the following:

* **Editor's note** – Ord. No. 97-1, adopted March 5, 1997, amended the Code by adding provisions designated as Art. II, §§ 11-10—11-17. Section 11-16, which pertained to severability, and Section 11-17, which pertained to effective date, have not been included at the discretion of the editor.

- A. The cost of labor calculated by determining the actual hourly wage plus the hourly cost of fringe benefits (and including overtime rates, if applicable) normally paid by Township to Township personnel involved in responding to any emergency incident times the number of hours worked in response to any emergency incident or, in the case of a Township Emergency Response Agency volunteer personnel, the reasonable hourly value of the volunteer personnel as determined by the Township Manager, taking into account the funds expended to train and properly equip each such volunteer, times the number of hours worked by each such volunteer, less one hour, in response to any emergency incident; and
- B. The cost of all non-reusable materials and all contaminated or consumed materials utilized in connection with any emergency incident; and
- C. The cost of all equipment, calculated by estimating the number of hours of the useful life of such equipment and dividing the same into the replacement cost plus the maintenance cost of said equipment and then multiplying the result by the number of hours such equipment was “in service” in response to any emergency incident; and
- D. The administrative cost of record keeping, information processing and assembly/compilation of a bill of costs; and
- E. The reasonable attorney’s fees and costs (including witness fees) of pursuing enforcement/collection action for emergency service costs against responsible parties.

Township. West Pottsgrove Township, Montgomery County, Pennsylvania.

Board. Board of Commissioners of West Pottsgrove Township, Montgomery County, Pennsylvania.

(Ord. No. 97-2, 3-5-97)

SEC. 11-11. OCCURRENCE OF EMERGENCY INCIDENT.

The occurrence of unfriendly fires, hazardous material, petroleum and chemical type spills, releases, fires and the unexpected collapse of wells, trenches, buildings and sink holes requiring rescues of otherwise threatening life, property or the environment including, but not limited to the release or threatened release of a known or unknown substance, liquid, mixture, compound, material or product or the release or threatened release of any hazardous material requiring rescues or otherwise threatening life, property or the environment are all declared to be an emergency incident.

(Ord. No. 97-1, 3-5-97)

SEC. 11-12. LIABILITY OF RESPONSIBLE PARTIES.

The responsible party/parties shall be liable for and shall reimburse the Township for all of the direct and indirect emergency service costs incurred and/or expended by any West Pottsgrove Township emergency management agency for labor, materials and/or equipment used in connection with any emergency incident.

(Ord. No. 97-1, 3-5-97)

SEC. 11-13. ENFORCEMENT.

The Township may enforce this article by having its Solicitor file civil action(s) against any responsible parties in any court of competent jurisdiction for the recovery of emergency service costs.
(Ord. No. 97-1, 3-5-97)

SEC. 11-14. COST BILLING AND COLLECTION PROCEDURES.

- A. The Township Manager shall assemble/compile a bill of costs for such emergency incident as follows:
1. Within 30 days after rendering services in connection with an emergency incident or as soon thereafter as possible, the chief officer of each involved Emergency Response Agency shall submit to the Township Manager an itemized bill of costs calculated in accordance with the provisions of this article.
 2. The Township Manager shall review all such bills of costs, correct any errors or duplications and compile a final documented total bill of costs.
- B. Upon compilation of a complete bill of costs, the Township Manager shall, within 30 days of the emergency incident or as soon thereafter as possible, render an itemized billing statement to the responsible party/parties for the total amount of all submitted bills of costs plus fifteen percent (15%) administrative expense.
- C. If the responsible party/parties have not paid the Township bill of costs within 45 days from the date same was billed, the Township Manager shall take appropriate enforcement/collection action against the responsible party/parties.
- D. As an alternative to the foregoing procedure, the West Pottsgrove Township emergency management agency which responded to an emergency incident may prepare to cause to be prepared an itemized bill of costs compiled in accordance with the provisions of this article for his/her Emergency Response Agency only and submit the same directly to any responsible party/parties for payment or submission for third party payment. However, any Emergency Response Agency which elects to submit a direct cost billing to a responsible party shall not, without the consent of the Township Manager, thereafter be entitled to submit such bill of costs to the Township for collection efforts in the event of nonpayment, partial payment or dispute concerning responsibility for payment of the amount of the bill of costs.

(Ord. No. 97-1, 3-5-97)

SEC. 11-15. DISBURSEMENT OF RECOVERED COSTS.

All monies received/recovered by the Township under the provisions of this article in connection with an emergency incident shall be deposited in a special Township Emergency Services cost recovery account and, upon completion of the cost recovery efforts, the Township Manager shall disperse the funds recovered as follows:

- A. Fifteen percent (15%) of the total funds recovered shall be allocate and disbursed to the Township general fund to reimburse the Township for the administrative costs incurred in effectuating and administering the cost recovery, except that if the Township refers a bill of costs to its Solicitor for collection litigation, the Township shall be reimbursed, in addition to the aforesaid fifteen percent (15%) of the total funds recovered, the full amount of all legal services, costs and fees incurred in connection with the legal services performed by its Solicitor; and

- B. The balance of the funds recovered shall be disbursed, with explanation, to the West Pottsgrove Township Emergency Response Agencies which submitted bills of costs in proportion to the amounts of each such bill of costs which was recoverable and recovered and if the total amount recovered was less than the full amount of the total of the bills of costs, the disbursement to each Emergency Response Agency shall be as determined appropriate by the Township Manager with explanation to each Emergency Response Agency.

(Ord. No. 97-1, 3-5-97)

SEC. 11-16. RESERVED.

ARTICLE III. BURGLAR ALARM AND FIRE ALARM MONITORING SYSTEMS*

SEC. 11-17. PURPOSE.

The purpose of this article is to provide regulations and standards applicable to alarm devices and alarm users as defined in this ordinance.

(Ord. No. 2009-5, § 1, 3-18-09)

SEC. 11-18. DEFINITIONS.

For the purpose of this section, the following definitions shall apply:

Alarm Device. Any device which, when activated by a criminal act or by smoke, fire or other emergency requiring police or fire department response, transmits a signal to a private central alarm station and/or produces an audible or visible signal to which the police or fire departments are expected to respond. Excluded from this definition and from the coverage of this section are alarm devices which are designed to alert or signal persons within the premises in which the alarm device is installed of an attempted unauthorized intrusion, holdup, fire or other emergency and is not intended to alert persons outside the premises.

Alarm Installation. Any police, fire or emergency alarm device or aggregation of police or fire alarm devices installed on or within a single building or on or within more than one building or area adjacently located on a common site, at a specific location.

Alarm User. Any person on whose premises an alarm device is owned, operated, used or maintained.

Central Alarm Station. Any facility operated by a private firm that owns or leases a system of alarm devices, which facility is manned by operators who receive, record or validate alarm signals and relay information about such validated signals to police and/or fire headquarters when appropriate.

Dial Alarm. A telephone device or telephone attachment that automatically or electronically selects a telephone line connected to police and/or fire headquarters and reproduces a prerecorded message to report a criminal act or other emergency requiring police or fire department response.

Digital Communicator Alarm. A telephone device that electronically selects a predetermined telephone number and transmits a digitally coded signal to the central alarm station.

* *Editor's note* – Article III added by Ord. No. 2009-5, § 1, enacted March 18, 2009.

Direct Alarm. Any alarm device which transmits a signal over a leased telephone line to the central alarm monitoring facility.

False Alarm. The activation of an alarm system through mechanical failure, malicious intent, malfunction, improper installation or the negligence of the owner or lessee of an alarm system or of his or her employer or agents. Such terminology does not include, for example, alarms caused by hurricanes, tornadoes, earthquakes or other violent conditions which are clearly beyond the control of the alarm user.

Fire Company. The West End Fire Company, located in West Pottsgrove Township.

Local Alarm Device. Any alarm device not connected to a private control alarm station which, when activated, causes an audible and/or visual signaling device to be activated on the exterior of the premises within which the device is installed.

Malfunction. A mechanical deficiency or other fault or failure in an alarm device which results in a false alarm.

Manual Alarm Device. Any alarm device in which activation of the alarm signal is initiated by the direct action of the alarm user.

(Ord. No. 2009-5, § 1, 3-18-09)

SEC. 11-19. PERMITS.

Any property owner or lessee of property having on such premises an alarm device or system of alarm devices shall apply to the West Pottsgrove Township Police Department, on a form to be supplied by the Township, for a permit to own or otherwise have such a device. No such device may be installed on the premises of the owner or lessee prior to the issuance of a permit to such owner or lessee and no presently existing alarm device shall be modified prior to the issuance of a permit to such owner or lessee. Such permit need not be obtained on an annual basis, but shall be obtained each time a device or system is to be installed or modified. Permit applications shall contain specific information relating to the type of alarm, contact information etc., as may be determined by the Chief of Police. Fees for alarm permits shall be in an amount to be determined by resolution of the Board of Commissioners.

(Ord. No. 2009-5, § 1, 3-18-09)

SEC. 11-20. UNLAWFUL TO OPERATE OR MAINTAIN AN ALARM DEVICE WITHOUT A PERMIT.

It shall be unlawful for any person, business, firm or corporation to operate or maintain an alarm devices or devices or system of alarm devices as defined by the terms of the article without first obtaining a permit, as herein provided.

(Ord. No. 2009-5, § 1, 3-18-09)

SEC. 11-21. DENIAL, SUSPENSION OR REVOCATION OF PERMIT AND DISCONNECTION OF ALARM SYSTEM.

A. The Chief of Police may require the denial, suspension or revocation of any permit or the disconnection of any alarm system connected to a central alarm station at any time the Chief of Police of the Township deems necessary or because of more than four false alarms in any one calendar year, or because of any violations of the provisions of this article, or the violation of any standard or

regulations promulgated by the Township pursuant to this article. Any permit issued hereunder shall be surrendered to the Chief of Police following such adverse determination.

- B. No part of a permit fee shall be refunded when a permit is suspended or revoked or upon termination of a business.

(Ord. No. 2009-5, § 1, 3-18-09)

SEC. 11-22. GENERAL PROVISIONS.

A. *No Responsibility.*

1. Notwithstanding the payment of any fee and/or the issuance of any permit as required herein, the police department, fire department and West Pottsgrove Township shall be under no obligation whatsoever concerning the adequacy, operation or maintenance of the alarm device so installed, or the operation of the central alarm station and West Pottsgrove Township and its authorized agents hereby assume no liability whatsoever for any failure of such alarm device or the central alarm station or the failure to respond to any such alarm, device or system.
2. The alarm user or permittee, upon acceptance of such permit, hereby agrees to hold and save harmless the Township of West Pottsgrove, its agents or employees from any liability whatsoever in connection with any such alarm device or the operation of the same.

- B. *Dial Alarm Devices; Using Telephone Switchboard for Prerecorded Voice Messages Prohibited.* No person shall use or cause or permit to be used any dial alarm device that automatically selects a telephone trunk line of the West Pottsgrove Township Police Department or the West End Fire Company and then reproduces any prerecorded voice message to report any robbery, burglary, fire or other emergency. The use of any dial alarm device which relays a digitally coded signal to the central alarm station is permitted under this article.

- C. *Intentional False Alarm.* It shall be a violation of this article to intentionally cause a false alarm and any person who does intentionally cause a false alarm shall be subject to the penalty provision of this article.

D. *False Alarm Charges.*

1. Any owner or lessee of property having a privately monitored or local alarm device on such premises shall pay to the Township a charge for each and every false alarm to which the West Pottsgrove Township Police Department or the West End Fire Company responds.
2. Beginning the 30th day following the date of completion of the initial installation of a system and continuing thereafter, a service fee in an amount established by resolution of the Board of Commissioners, shall be charged for each false alarm to which police response is made and another fee, in an amount established by resolution of the Board of Commissioners, shall be charged for each false alarm to which fire response is made at installations within the limits of the Township. A service fee in an amount established by resolution of the Board of Commissioners shall be charged for each false alarm at installations without the limits of West Pottsgrove Township.
3. The above charges will be collected by the Township. Failure to pay a false alarm charge shall subject such alarm owner, lessee or user to the penalty provisions of this article. Any alarm

owner, lessee or user charged with a false alarm may, within 10 days of receipt of the notice, contest such charge to the chief of the West Pottsgrove Township Police Department. The determination made by the Chief of Police as to the efficacy of the charge will be final.

- E. *Removal of Unlawful Equipment.* In addition to any other remedy provided by law, the Chief of Police, whenever he shall have knowledge of the use of any alarm device or attachment which is not operated or maintained in accordance with the provisions of this article, or which is contrary to regulations promulgated pursuant to this ordinance, may order the disconnection of such device.
- F. *Rules, Regulations, Standards and Enforcement.* The Chief of Police shall promulgate rules, regulations and standards applicable to alarm devices and alarm users which are necessary for the purpose of assuring the quality, efficiency and effectiveness of alarm devices and alarms installed and operated with the Township. The aforesaid rules, regulations and standards shall be set forth in writing and copies are available for all applicants for permits.

(Ord. No. 2009-5, § 1, 3-18-09)

SEC. 11-23. SPECIAL PROVISIONS.

- A. *Local Alarm Devices.* All alarm devices, including local alarm devices, will be equipped with an automatic shut off device which will shut off the alarm after 15 minutes of activation.
- B. *Exceptions.* None of the provisions of this article shall apply to an alarm device or devices installed in a motor vehicle or trailer, nor to employees of a public service company engaged in the business of providing communication, services or facilities.
- C. *Automatic alarm Devices; Authority to Inspect.* For the purpose of enforcing this article and as a condition of installing and maintaining an automatic alarm device, the owner or lessee thereof shall execute a consent in such form as may be prescribed by the Township, which will authorize the building official, the Chief of Police and the fire marshal to enter upon a lessee or owner's premises within the Township, at such reasonable times and upon reasonable notice, to inspect the operation of an automatic alarm device.

(Ord. No. 2009-5, § 1, 3-18-09)

SEC. 11-24. PENALTY FOR VIOLATION.

Any owner or lessee which violates the provisions of this article, upon summary conviction, shall be punished as prescribed in Section 1-9 of the code of ordinances.

(Ord. No. 2009-5, § 1, 3-18-09)

SEC. 11-25 – 11-29. RESERVED.

ARTICLE IV. FALSE ALARMS TO AGENCIES OF PUBLIC SAFETY

SEC. 11-30. PURPOSE.

The purpose of this Article is to regulate false alarms created by 911 hang ups and provide for the collection of costs and provide penalties for the violation thereof.

SEC. 11-31. DEFINITIONS.

For the purpose of this section, the following definitions shall apply:

911 Emergency Communication System or 911 System. A system, including an enhanced 911 service which permits a user to dial 9-1-1 by telephone to be connected to a public safety answering point, via normal telephone facilities, for the reporting of police, fire, medical or other emergency situations.

911 Hang Up. The calling of the 911 emergency number for purposes other than for an emergency, either intentionally or inadvertently.

Public Safety Answering Point (“PSAP”). The agency-approved first point at which calls for emergency assistance from individuals are answered and which is operated 24 hours per day.

Telephone Subscriber. A person who contracts with a local exchange carrier within the Commonwealth of Pennsylvania for local exchange telephone service, either residential or commercial.

Wireless Service Customer. A person who contracts with a wireless service provider or receives prepaid wireless telephone service from a wireless provider for wireless service with the Commonwealth of Pennsylvania.

Interconnected Voice Over Internet Protocol (“VOIP”) Service Customer. A person who is billed by an interconnected VOIP provider, is the end user of a VOIP service and who has designated a primary place of use within the Commonwealth of Pennsylvania

SEC. 11-32. UNLAWFUL TO MAKE 911 HANG UP CALLS.

It shall be unlawful for any telephone subscriber, wireless service customer or VOIP service customer to call the 911 Emergency Communication System or 911 number for other than emergency purposes.

SEC. 11-33. PENALTY.

- A. *Intentional 911 Hang Ups.* Any person who intentionally calls the 911 emergency number of purposes other than for an emergency commits a misdemeanor of the third degree, as set forth in 35 P.S. §7020.
- B. *Unintentional 911 Hang Ups.* Any person who inadvertently calls the 911 emergency number as a result of or due to a dialing error shall have committed a summary offense and shall be punished in accordance with the provisions of §1-9 of the Code of Ordinances.

SEC. 11-34. 911 HANG UP SERVICE FEE.

- A. In addition to prosecution as outlined in §11-27, above, any telephone subscriber, wireless service customer or VOIP service customer shall, for each and every 911 hand up, pay a service fee to West Pottsgrove Township for the Township Police Department or West End Fire Company response.
- B. The amount of this service fee shall reflect the cost of the emergency response, whether by the police or fire department, in an amount as determined by resolution of the Board of Commissioners.

- C. The above charges will be collected by the Township by its issuance of a notice. Failure to make payment of the charges for 911 hang ups shall subject such person or user to the penalty provisions of this ordinance. Any person or subscriber charged with a 911 hang up must, within 10 days of the receipt of the notice, make payment to the Chief of the West Pottsgrove Township Police Department. The determination made by the Chief of Police as to the efficacy of the charge will be final.

ARTICLE V. FIRE INSURANCE ESCROW

SEC. 11-35. USE OF FIRE INSURANCE PROCEEDS.

- A. No insurance company, association or exchange doing business in this Commonwealth shall pay a claim of a named insured for fire damage to a structure located within West Pottsgrove Township (“Township”) where the amount recoverable for the fire loss to the structure under all policies exceeds \$7,500 unless the insurance company, association or exchange is furnished with a certificate pursuant to B of this section and unless there is compliance with the procedures set forth in C and D of this section.
- B. Certification of expenses, payment by insurer.
 - 1. Upon the written request of the named insured specifying the tax description of the property, name and address of the insurance company, association or exchange and the date agreed upon by the insurance company, association or exchange and the named insured as the date of the receipt of a loss report of the claim, the Township Treasurer, for taxes and the Township Manager or his designated agent, for all other municipal charges or claims, shall furnish the insurance company, association or exchange either of the following within 14 working days of the request:
 - a. A certificate or, at the discretion of the Township, a verbal notification which shall be confirmed in writing by the insurer to the effect that, as of the date specified in the request, there are no delinquent taxes, assessments, penalties or user charges against the property and that, as of the date of the certificate or verbal notification, the Township has not certified any amount as total costs incurred by the Township for the removal, repair or securing of a building or other structure on the property; or
 - b. A certificate and bill showing the amount of delinquent taxes, assessments, penalties and user charges against the property as of the date specified in the request that have not been paid as of the date of the certificate and also showing, as of the date of the date of the certificate, the amount of the total costs, if any, certified by the Township that have been incurred by the Township for the removal, repair or securing of a building or other structure on the property. For the purposes of this subsection, the Township shall certify the total amount, if any, of such costs. A tax, assessment, penalty or user charge becomes delinquent at the time and on the date a lien could otherwise have been filed against the property by the Township under applicable law.
 - 2. Payments.
 - a. Upon the receipt of a certificate pursuant to B.1.a., the insurance company, association or exchange shall pay the claim of the named insured in accordance with the policy terms, unless the loss agreed to between the named insured and the company, association or exchange equals or exceeds 60% of the aggregate limits of liability on all fire policies

covering the building or other structure. In the case of such a loss, the insurance company, association or exchange, the insured property owner and the Township shall follow the procedures set forth in C and D of this section.

- b. Upon the receipt of a certificate and bill pursuant to B.1.b., the insurance company, association or exchange shall return the bill to the Township and transfer to the Township an amount from the insurance proceeds necessary to pay the taxes, assessments, penalties, charges and costs as shown on the bill. The Township shall receive the amount and apply or credit it to payment of the items shown in the bill.
- C. When the loss agreed to between the named insured and the company, association or exchange equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or other structures, the insurance company, association or exchange shall transfer from the insurance proceeds to the Township Manager in the aggregate \$2,000 for each \$15,000 and each fraction of that amount of a claim or, if at the time of a loss report the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurance company, association or exchange shall transfer from the insurance proceeds the amount specified in the estimate. The transfer of proceeds shall be on a pro rata basis by all companies, associations or exchanges insuring the building or other structure. Policy proceeds remaining after the transfer to the Township shall be disbursed in accordance with the policy terms. The named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the Township Manager shall return the amount of the fund in excess of the estimate to the named insured if the Township has not commenced to remove, repair or secure the building or other structure.
- D. Upon receipt of proceeds by the Township as authorized by this section, the Township, the Township Manager shall place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing or securing incurred by the Township. When transferring the funds as required by C of this section, an insurance company, association or exchange shall provide the Township with the name and address of the named insured, whereupon the Township shall contact the named insured, certify that the proceeds have been received by the Township and notify the named insured that the procedures under this subsection shall be followed. The fund shall be returned to the named insured when repairs, removal or securing of the building or other structure have been completed and the required proof received by the Township Manager if the Township has not incurred any costs for repairs, removal or securing. If the Township has incurred costs for repairs, removal or securing of the building or other structure, the costs shall be paid from the fund and, if excess funds remain, the Township shall transfer the remaining funds to the named insured. Nothing in this section shall be construed to limit the ability of the Township to recover any deficiency. Further, nothing in this subsection shall be construed to prohibit the Township and the named insured from entering into an agreement that permits the transfer of funds to the named insured if some other reasonable disposition of the damaged property has been negotiated.
- E. Proof of payment by the insurance company, association or exchange of proceeds under a policy in accordance with C of this section is conclusive evidence of the discharge of its obligation to the insured under the policy to the extent of the payment and of compliance by the company, association or exchange with C of this section.
- F. Nothing in this section shall be construed to make an insurance company, association or exchange liable for any amount in excess of proceeds payable under its insurance policy or for any other act

performed pursuant to this section or to make the Township or public official an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than provided in this section.

- G. An insurance company, association or exchange making payments of policy proceeds under this section for delinquent taxes or structure removal liens or removal expenses incurred by the Township shall have a full benefit of such payment, including all rights of subrogation and of assignment.

SEC. 11-36. NOTIFICATION TO PENNSYLVANIA DEPARTMENT OF COMMUNITY AFFAIRS.

The Township Secretary shall file an exact copy of this ordinance with the Department of Community Affairs, together with the name, position and phone number of the Township Manager.

SEC. 11-37. CONSTRUAL OF PROVISIONS.

This article shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration.

SEC. 11-38. VIOLATIONS AND PENALTIES.

- A. The failure of any insurance company, association or exchange to comply with the provisions of this article shall render said insurance company, association or exchange liable to the Township for all delinquent taxes, assessments, penalties and user charges against the property and, in addition, reasonable attorney's fees relating to the collection thereof.
- B. Any person who violates any provision of this Article shall, upon conviction thereof, be sentenced to a fine and imprisonment, as provided for under Sec. 1-9 of the Code of Ordinances of West Pottsgrove Township.

(Ord. No. 2014-02)

ARTICLE VI. HAZARDOUS MATERIALS IDENTIFICATION AND PLACARDING REQUIREMENTS.

SEC. 11-39. DEFINITIONS.

The following words and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the content clearly indicates differently:

Business: Any employer, person, self-employed individual, trust, firm, joint stock company, limited liability company, corporation, partnership or association using, researching, producing or handling hazardous materials and/or infectious agents.

CFR: The Code of Federal Regulations. The letters "CFR shall refer to the volume, divisions and sections used to identify parts of the Code of Federal Regulations.

Compressed Gas: Any substance regulated as a compressed gas by the United States Department of Transportation by regulations found in 49 CFR 173.300.

Flammable Liquid: Any substance regulated as a flammable liquid by the United States Department of Transportation by regulations found in 49 CFR 173.115.

Flammable Solid: Any substance regulated as a flammable solid by the United States Department of Transportation by regulations found in 49 CFR 173.150.

Handle: To use, generate, process, produce, package, re-package, treat, store, emit, discharge or dispose of a hazardous material in any fashion.

Hazardous Material: Any substance defined in this section as compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison, radioactive material or any material, liquid, solid, gas or other matter included by the United States Department of Transportation within the provisions of TITLE 49 of the Code of Federal Regulations now in effect or hereinafter amended or enacted and 35 PS 7301 et seq., now in effect or hereinafter amended or enacted.

It is to be expressly understood by virtue of this ordinance that all such substances currently listed or subsequently added to the provisions of the United States Code of Federal Regulations (CFR) TITLE 49 and the Worker and Community Right of Know Act, 35 PS 7301, et seq., are expressly made and to be considered hazardous materials under this ordinance without further amendment.

In general, "hazardous materials" are those materials that can cause death or disabling injury from brief exposure; those materials that can cause a lost-time injury from exposure; and those materials that could cause temporary disability or injury without permanent effects which are used, researched, produced or stored within or on premises, except those household consumer products used at the point of consumption and not used for commercial or experimental purposes. This definition of "hazardous materials" shall include radioactive materials.

Infectious Agent: A bacterial, mycoplasmal, fungal, parasitic or viral agent known to cause illness in humans which is used, researched, produced or stored within or on premises.

Poison: Any liquid or gas that is life-threatening when mixed with air in small amounts, and shall also include all of those substances regulated as a Class A poison by the United States Department of Transportation by regulations found in 49 CFR 173.326.

Radioactive Materials: Any substance required by the United States Department of Transportation to have Type A packaging or Type B packaging under regulations found in 49 CFR 173.426.

Storage Facility: Any building, structure, enclosure or area that is or has been established to serve the purpose for the consignment, placement and/or safekeeping of any item, good and/or article.

SEC. 11-40. USE, STORAGE AND HANDLING OF HAZARDOUS MATERIALS.

A. Information Required.

1. Any person, firm or organization using, researching, producing and/or storing any hazardous materials shall provide in writing to the West Pottsgrove Fire Department the following information:
 - a. Address, location of where hazardous materials are used, researched, stored or produced;
 - b. The trade name of the hazardous material;

- c. The chemical name and any commonly used synonym for the hazardous material and the chemical name and any commonly used synonym for its major components;
 - d. The exact location on the premises where materials are used, researched, stored and/or produced;
 - e. Amounts of hazardous materials on premises per exact location;
 - f. The boiling point, vapor pressure, vapor density, solubility in water, specific gravity, percentage volatile by volume, evaporation rate for liquids and appearance and odor of the hazardous material;
 - g. The flashpoint and flammable limits of the hazardous substance;
 - h. Any permissible exposure level, threshold limit value or other established limit value for exposure to a hazardous material;
 - i. The stability of the hazardous substance;
 - j. Recommended fire extinguishing media, special firefighting procedures and fire and explosion hazard information for the hazardous material;
 - k. Any effect of over-exposure to the hazardous material, emergency and first aid procedures and telephone numbers to call in an emergency;
 - l. Any condition or material which is incompatible with the hazardous material and must be avoided;
 - m. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming into contact with the hazardous materials; and
 - n. Procedures for handling or coming into contact with the hazardous materials.
2. Any person, firm or organization using, researching, producing and/or storing infectious agent and/or carrier of an infectious agent shall provide in writing to the West Pottsgrove Fire Department the following:
- a. The name and any commonly used synonym of the infectious agent;
 - b. Address/location where infectious agents are used, researched, stored and/or produced;
 - c. The exact locations where infectious agents are used, researched, stored and/or produced;
 - d. Amount of infectious agent on premises per exact location;
 - e. Any methods of route of transmission of the infectious agents;
 - f. Any symptoms of effect of infections, emergency and first aid procedure and a telephone number to be called in an emergency;
 - g. Any personal protective equipment to be worn or used and special precautions to be taken when handling or coming in contact with the infectious agent; and
 - h. Procedure for handling, clean-up and disposal of infectious agents leaked or spilled.

B. Storage Guidelines.

1. The separation and protection of a hazardous material from any other material or factor that may cause or contribute to a fire, explosion, production of a flammable, toxic or poisonous gas, or the deterioration of any primary or secondary containment is required.

2. All storage containers used to contain hazardous materials anywhere in the Township shall comply with all Federal and State statutes, laws and administrative rules and regulations governing the physical make-up and construction of such storage containers now in effect or subsequently enacted and ordained.
3. All storage facilities used to house hazardous materials anywhere in the Township shall comply with all Federal and State statutes, laws and administrative rules and regulations governing the construction of such facilities, the location of such facilities, the identification of such facilities, route of egress and ingress to, from and within such facilities, fire and safety protection in such facilities, alarms for such facilities and the method and manner of movement and storage of hazardous material within such facilities now in effect or subsequently enacted or amended.

SEC. 11-41. PLACARDING/WARNING SIGNS.

Hazard Identification signs specified and in conformity with National Fire Protection Association (NFPA) Standard 704 shall be placed in locations where hazardous materials are stored or handled and at entrances to the business. Above ground storage tanks containing a hazardous material shall be posted with the appropriate NFPA 704 sign on a visible side or sides, and be readable.

- A. *Control Area Placards (Interior)* – Recommended size varies. Use NFPA 704, Figure 6-2 to determine size. May be 2” for medical offices and other office spaces.
 1. Shall be placed next to any personnel doors that may be used for entry to rooms containing hazardous materials;
 2. Shall be placed on the wall on the latch/handle side of the door(s) whenever possible;
 3. Shall be placed to be clearly visible. Avoid placing the placard on the door itself or on the wall too close to the hinged side of the door where the placard will be behind the door when it is open;
 4. Shall be 30”-44” above the floor; and
 5. Shall indicate only the hazards located inside the particular control area that they serve.
- B. *Building Placards (Exterior)*. Recommended placard size is 10” on each side (minimum 7” on each side).
 1. Placards for hazardous materials shall require the posting of the 10” NFPA 704 sign;
 2. Shall indicate all the hazards located within that particular building;
 3. When required, buildings should be placarded on each side where entrance into a building may be necessary;
 4. Shall be placed next to any personnel doors that may be used for entry to buildings containing hazardous materials;
 5. Shall be placed on the wall on the latch/handle side of the door(s) whenever possible;
 6. Shall be placed to be clearly visible. Avoid placing the placard on the door itself or on the wall too close to the hinged side of the door where the placard will be behind the door when it is open;

7. Shall be 30"-44" above the floor;
8. Shall indicate on the hazards located inside the particular building that they serve; and
9. Shall be weather resistant and durable (as approved by the Township authority).

C. *Facility Placard (Exterior)*. Recommended placard size is 10" on each side (minimum 7" on each side).

1. Placards for designated hazardous material category shall require the posting of the 10" NFPA 704 sign;
2. Shall indicate the highest overall hazard that will be found at the entire facility or complex site;
3. May be placed at main entrance(s) of a facility or complex;
4. Shall be placed to be clearly visible;
5. Shall be weather-resistant and durable (as approved by authority having jurisdiction);
6. When a placard is placed on a metal or wooden backboard on fencing, placement of placards shall be located in such a manner that they will not be obstructed by fencing, gates, doors or other obstacles which would obscure placards; and
7. In cases where entry is not restricted into a COMPLEX (2 or more buildings) or a facility with the same address, under common control by one individual, the FACILITY placard(s) may be mounted on a light pole next to the driveway(s) or on a pole designated for the placard.

D. *Numbers on Placards*.

1. If no hazards exist in the health, flammability or reactivity categories for any placard, then a "0" (zer0) must be placed in the appropriate category diamond. This should be done so the first responders know that a number has not fallen off or been removed from the placard.
2. The 10" 704 diamond shall have 4" reflective numerals for the Health (blue) and Fire (red) backgrounds.
3. Black numbers in the Health and Fire portions of the placards cannot be distinguished at night at certain distances, as they blend into the background. Thus, reflective numerals are to be used in the health (blue) and fire (red) portions of the placards;

E. *Placarding Cabinets*. Cabinets, piping and containers shall be labeled to provide more specific information about products.

SEC. 11-42. SCOPE.

- A. This chapter applies to all new and existing facilities where regulated materials subject to this chapter are present.
- B. It is intended that this chapter supplement and be used in conjunction with the currently adopted revisions of the Fire Code and the Uniform Construction Code.

- C. In the event of conflicting or overlapping regulatory provisions within the Township's Code of Ordinances, the Fire Code and this chapter, the most stringent requirement will apply.
- D. In the event of conflicting or overlapping regulatory provisions with a federal law or state law or regulation, unless the application of this chapter is expressly preempted by an act of congress or enactment of the legislature, the more stringent requirement will apply.

SEC. 11-43. VIOLATIONS OF ORDINANCE.

Failure or refusal of the owner or operator of any business to comply with the requirements for handling hazardous material, in this section, shall constitute a violation of this ordinance, and subject to the penalty and powers set form in Sec. 1-9 of the West Pottsgrove Township Code of Ordinances.

Chapter 12
RESERVED*

* **Editor's note** – Ord. No. 82-15, § 3, enacted Oct. 6, 1982, repealed Ch. 12 in its entirety; said chapter had consisted of § 12-1, which incorporated by reference, the ordinance enacted on March 3, 1971, entitled "Housing, Maintenance and Occupancy Code of West Pottsgrove Township." Successor codes are now set out in Ch. 7 of this Code of Ordinances.

Chapter 13
MISCELLANEOUS OFFENSES AND PROVISIONS*

- Art. I. In General, §§ 13-1—13-18**
Art. II. Curfew for Minors, §§ 13-19—13-29
Art. III. Right-of-Way Encroachment, §§ 13-30—13-32

ARTICLE I. IN GENERAL

SEC. 13-1. DISORDERLY CONDUCT - DEFINED.

- A. *Disorderly conduct* is hereby defined as any act, word or conduct causing or tending to cause any disturbance of the peace and good order of the Township, or causing or tending to cause, any danger, discomfort or annoyance to the inhabitants of the Township, and/or users of the Township thoroughfares, and shall include loafing, fighting, drunkenness, vagrancy, begging, profanity or indecent language or act, the making or causing to be made any noise disturbances, clamor, or other sounds tending to disturbances across residential real property boundaries, and the carrying on of any business, trade, transportation, recreation or amusement at a time, in a place, or in a manner which causes any unnecessary noise or disturbance, or danger, and shall include reckless or careless driving, or any other use of vehicles or animals by owners, occupants or users thereof, as shall endanger the safety or interfere with the comfort and convenience of persons using or residing on the thoroughfares of the Township.
- B. All noise disturbances or other sounds shall be considered to be unnecessary and to constitute disorderly conduct, even though they are no louder than is customary and are the unavoidable sounds or noises attendant upon the ordinary use and occupation of the premises, or attendant upon the ordinary operation or performance of business, transportation, trade, recreation or amusement, if they are made on Sunday or on weekdays between the hours of 10:00 pm and 7:00 am.
- C. *Noise disturbances* mean any sound which (1) endangers or injures the safety or health of humans or animals; (2) annoys or disturbs a reasonable person of normal sensitivity; or (3) endangers or injures personal or real property.
- D. *Real property boundary* means the property line along the ground surface, at its vertical extension which separates the real property owner by one person from that owner by another person, but not including intra-building real property divisions.
- E. *Residential area* means single-family, two-family and multifamily zoning district classifications. (Ord. of 2-12-61, § 1; Ord. No. 93-4, 12-1-93)

State law reference – Authority of Townships of the first class to define and prohibit disorderly practices, 53 P.S. § 56509.

* *Cross references* – Gambling devices relative to mechanical amusement devices prohibited, § 3-19; disturbing the peace relative to drive-in restaurants, § 9-19; using abusive language, etc., relative to drive-in restaurants, § 9-24.

SEC. 13-2. PROHIBITED.

- A. All noises, disturbances and acts mentioned in Section 13-1 are hereby prohibited.
- B. Except in the case of residential fuel deliveries, trash and garbage pickup or an emergency situation which is defined as an event which involves an anticipated, reasonably foreseeable risk of life or property loss, no person shall carry on any activity at any time or in any manner which causes unnecessary annoyance or disturbs the peace and quiet of the immediate neighborhood or creates a noise disturbance across a residential real property boundary.

(Ord. of 2-12-61, § 1; Ord. No. 93-4, 12-1-93)

SEC. 13-3. PARTICULAR CONDUCT PROHIBITED.

Without in any manner intending to limit or restrict the generality of the definition of, and prohibition against, “disorderly conduct,” in Sections 13-1 and 13-2, the following are hereby declared to constitute disorderly conduct:

- A. *Unnecessary sounding of automobile horns, etc.* The unnecessary sounding of automobile horns, sirens, bells, whistles, or other warning devices, the operation of any motor vehicle which makes any unnecessary or unusual noise caused by improper muffler or the backfire or racing of such motor in or about the operation of such motor vehicle. The operators of motor vehicles and the handlers of animals shall at all times exercise due care and foresight in the operation and handling and shall not substitute the sounding of warnings for careful driving and the maintenance of proper control over their respective vehicles or animals. It is not intended hereby to prohibit the use of such warning devices in emergencies or at times when in the exercise of good judgment a prudent operator would use such devices;
- B. *Keeping or handling of dogs, etc.* The keeping or handling of dogs or other animals, chickens or other fowl or birds under such conditions, or lack of control, or in such a manner that by barking, crowing or otherwise, they disturb the peace, safety and quiet of the immediate neighborhood;
- C. *Operation of radios, etc.* The operation of radios, stereos, televisions, VCRs or other mechanical or electrical instruments or devices, or singing, shouting or playing of musical instruments in a manner and at a time which is generally considered to be inappropriate, and which unnecessarily disturbs the peace and quiet of the immediate neighborhood or creates a noise disturbance across a residential real property boundary.
- D. *Loading, unloading and delivery of coal, oil, etc.* The loading, unloading and delivery of coal or oil or other materials, merchandise or commercial products at a time of the day or night which unnecessarily disturbs the peace and quiet of the immediate neighborhood or creates a noise disturbance across a residential real property boundary, except for emergency situations as defined in Section 13-2(b).
- E. *Discharging air guns, firearms, etc.* Discharging in the Township of air guns, spring guns, rifles or firearms of any kind of character whatsoever or any other device that discharges projectiles of any kind; except the discharging of a shot gun at such places and such times as authorized by state law in connection with game regulations, or the discharge of shot guns at a shooting skeet or target competition authorized and licensed through the police department 2 weeks prior to the scheduled match.

- F. *Loitering, etc.* Loafing, loitering, lounging, or congregating on the street corners, or in front of, or about any place of business, or other public place in the Township;
- G. *Acting in loud, boisterous manner, etc.* Acting in, and about the streets or other public places of the Township in a noisy, loud, boisterous and unseemly manner or in such manner as to disturb the peace and quiet of the community.
- H. *Standing motor vehicles.* The operation or permitting the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period longer than 10 minutes in any hour while the vehicle is stationary for reasons other than traffic congestion, on a public right-of-way or public space within 150 feet of a residential area between the hours of 10:00 pm and 8:00 am the following day and creates a noise disturbance across a residential real property boundary. In addition, no person shall operate or permit the operation of any motor vehicle or any auxiliary equipment attached to such a vehicle, for a period in excess of 10 minutes in any hour while the vehicle is stationary in a residential area on a private right-of-way or private property within any residential area within West Pottsgrove Township at any time and which creates a noise disturbance across a residential real property boundary. This prohibition shall not apply to the loading and unloading of commercial vehicles in a residential zone, providing that such loading and unloading shall not occur at any time on Sundays or the holidays of Christmas Day, New Year's Day, Thanksgiving, July Fourth or Labor Day, or between the hours of 10:00 pm and 7:00 am on all other days, except where an emergency situation exist as defined in Section 13-2(b).
- I. *Construction.* The operation or permitting the operation of any tool or equipment used in construction, drilling or demolition work between the hours of 7:00 pm and 7:00 am, such that the sound therefrom creates a noise disturbance across a residential real property boundary, except for emergency work or public utilities or by special variance. This paragraph shall not apply to the use of domestic power tools, such as mechanically powered saws, drills, sanders, grinders, lawn and garden tools, lawn mowers or other similar devices used outdoors in the normal course of residential maintenance or repair.

(Ord. of 2-12-61, § 2; Ord. No. 93-4, 12-1-93)

SEC. 13-4. PENALTY.

Any person found guilty of violating any of the provisions of this chapter and/or article shall be guilty of a summary offense and upon conviction thereof shall be punished as prescribed in Section 1-9.

(Ord. of 2-12-61, § 3; Ord. of 9-6-67; Ord. of 8-6-69; Ord. No. 86-5, §§ 1C, 2, 10-1-86)

Cross reference – General penalty, § 1-9.

State law reference – Greater restrictions of ordinances not invalidated by Act of July 10, 1957, P.L. 679, § 2-8, 18 P.S. § 3848.

SEC. 13-5. AIR GUNS, ETC. – DISCHARGE PROHIBITED.

It shall be unlawful for any person to discharge on streets, alleys or any public or private property within the limits of the Township, a flobert rifle, air guns, spring gun, or any implement which impels with force a metal pellet of any kind.

(Ord. of 7-3-68, § 1)

State law references – Carrying or discharging air rifles, 18 P.S. § 3843; ordinances regulating air rifles, 18 P.S. § 3848.

SEC. 13-6. SALE TO MINORS UNDER SIXTEEN PROHIBITED.

It is prohibited for any person to knowingly and willfully sell or cause to be sold to any person under the age of 16 years any flobert rifle, air gun, spring gun, or any implement which impels with force a metal pellet of any kind.

(Ord. of 7-3-68, § 2)

SEC. 13-7. SALE OF DEADLY WEAPONS, ETC., TO MINORS UNDER SIXTEEN PROHIBITED.

It shall be unlawful for any person to knowingly and willfully sell or cause to be sold, to any person under 16 years of age, any deadly weapon, or knowingly or willfully to sell or cause to be sold to any such minor any cartridge, gun powder or other dangerous and explosive substance.

(Ord. of 7-3-68, § 2)

SEC. 13-8. VIOLATION OF SECTIONS 13-5, 13-6 AND 13-7.

Any person who shall violate any of the provisions of Sections 13-5, 13-6 and 13-7, shall, upon conviction thereof before a justice of the peace, be punished as prescribed in Section 1-9.

(Ord. of 7-3-68, § 3)

SEC. 13-9. SMOKING PROHIBITED IN SPECIFIED PLACES.

No person shall smoke or carry alighted cigar, cigarette, pipe, or match, or use any spark, flame, or fire-producing device in the following places:

Township buildings: All Township municipal office buildings, or other buildings, auditoria, or public meeting place.

(Ord. No. 74-3, 2-6-74)

Editor's note – Although this section was designated as § 13-24 by Ord. No. 74-3, it was redesignated § 13-9 by the editor in order to maintain the format of the Code.

SECS. 13-10—13-18. RESERVED.

ARTICLE II. CURFEW FOR MINORS

SEC. 13-19. ESTABLISHED.

It shall be unlawful for any person 16 years of age and under to be, or remain in, or upon any of the streets, highways, alleys, parks, or other public places in the Township at any time between the hours of 9:30 pm and 5:00 am during the period from September 30, to March 1, inclusive, and from 10:00 pm to 5:00 am during all remaining months, unless accompanied by a parent, guardian or other person having legal custody of such minor.

(Ord. of 7-6-66, § 1; Ord. No. 76-1, 3-3-76)

SEC. 13-20. UNLAWFUL FOR PARENT, GUARDIAN OR CUSTODIAN TO PERMIT OR ALLOW VIOLATION OF SECTION 13-19.

It is hereby unlawful for any parent, guardian or other person having legal care or custody of any person 16 years of age or under to permit or allow any such child, while in such legal custody, to go, or be in or upon, any of the streets, alleys or public places in the Township between the hours named and prohibited in Section 13-19.

(Ord. of 7-6-66, § 2)

SEC. 13-21. ARREST WITHOUT WARRANT.

Each and every Police Officer in the Township is hereby authorized and directed to arrest without warrant any person violating the provisions of Section 13-19, but no person 16 years of age and under shall be placed in jail until the parent, guardian or other proper legal custodian of the child has been notified of the arrest and shall have refused to secure or compel the obedience of such person so arrested under the provisions of this article.

(Ord. of 7-6-66, § 3)

Cross reference – Police, Ch. 15.

SEC. 13-22. PROSECUTION OF PARENT, GUARDIAN, OR CUSTODIAN.

Any parent, guardian or other legal custodian violating the provisions of Section 13-20 shall be proceeded against by the board of commissioners or any Police Officer of the Township and shall, upon conviction thereof before any justice of the peace of the Township, be punished as prescribed in Section 1-9.

(Ord. of 7-6-66, § 4)

SEC. 13-23. CERTIFICATION OF CASE TO JUVENILE COURT.

It shall be the duty of the justice of the peace of the Township, upon the arrest of any persons 16 years of age or under, brought before him for the violation of the provisions of Section 13-19, to inquire into the facts of the arrest, and the condition and circumstances under which he was arrested; and, if it shall appear that such person so arrested, for want of parental care or other control by a guardian or other legal custodian, is growing up in vagrancy, or is found to be a delinquent or neglected child, or is becoming incorrigible, to certify the case to the juvenile court to be proceeded in accordance to law in such cases.

(Ord. of 7-6-66, § 5)

SECS. 13-24—13-29. RESERVED.

ARTICLE III. RIGHT-OF-WAY ENCROACHMENT

SEC. 13-30. DEFINITION.

Right-of-way: A strip of land granted or reserved for public or private use which shall include for the purpose of this article any street, avenue, boulevard, highway, sidewalk, alley or similar place which is owned or controlled by a government entity or land set aside for use as a street, alley or other means of travel, including that deemed necessary to provide adequate width for future improvements.

(Ord. No. 2003-3, 8-6-03)

SEC. 13-31. RESTRICTIONS REGARDING RIGHTS-OF-WAY.

- A. It shall be unlawful for any person or persons, as this term is defined in Section 1-3 of the Code of Ordinances, to establish gardens, place plantings or trees, or to place erect or build or cause to be placed, erected or built any fixed or portable sports equipment including, but not limited to baseball equipment, basketball and/or hockey nets, play equipment, other structures, objects or materials of any kind on or upon rights-of-way, side-walks or other public areas.
- B. The Township shall, upon 7 days written notice to the owner(s) of property adjacent or abutting a right-of-way, require said owner(s) to cause all branches from any trees or shrubbery on their property overhanging or encumbering any right-of-way as defined in Section 13-30 above, including streets, sidewalks or highways, to be trimmed:
1. To permit the full use of a sidewalk,
 2. So as to not obstruct the light from the street lights, and
 3. So there shall be a clear height of at least 10 feet above the sidewalk and 16 feet above the street, wherever practical.
- C. The failure of the owner(s) to comply with such notice shall cause the Township to arrange for the trimming as above described, to be done and the cost thereof levied against and collected from the owner(s) of the property. The cost of such work shall be liened upon the premises from the time of the commencement of the work. Any such costs may be collected by appropriate legal action or by a lien filed in a manner provided by law for the filing and collection of the municipal claims.
- D. The 7-day notice to the owner(s) shall be given by personal service or by a mailing to the last known address of the owner(s) of the property and by the posting of the notice at the entrance to the main habitable structure on the property. The property owner shall correct the right-of-way encroachment within 7 days of the date of the notice.

(Ord. No. 2003-3, 8-6-03; Ord. No. 2010-4, § 1, 7-7-10)

SEC. 13-32. PENALTIES.

- A. Any person or persons, as this term is defined in Section 1-3 of the Code of Ordinances, who violates any of the provisions of this article shall, for each and every such violation, be guilty of a summary offense and upon conviction thereof, shall be punished as prescribed in Section 1-9.
- B. The imposition of one fine or penalty for any violation of this article shall not excuse the violation or permit it to continue; and all such person or persons shall be required to remedy such violation forthwith after notice to do so; each day that the prohibited condition is maintained shall constitute a separate offense.

(Ord. No. 2003-3, 8-6-03)

Chapter 13.5
PARKS AND RECREATION

Art. I. In General, §§ 13.5-1—13.5-15

Art. II. Public Parks, Recreation Areas and Facilities, §§ 13.5-16—13.5-18

ARTICLE I. IN GENERAL

SEC. 13.5-1—13.5-15. RESERVED.

ARTICLE II. PUBLIC PARKS, RECREATION AREAS AND FACILITIES*

SEC. 13.5-16. HOURS OF USE.

A. *Unlighted parks, playgrounds, recreation areas and facilities:* Unless otherwise authorized in writing by the Board of Commissioners of the Township or their designated representative, it shall be unlawful for any person to be in, upon or use such unlighted public parks, playgrounds, recreation areas and facilities within the Township, except during the hours between sunrise and sunset.

B. *Lighted public parks, playgrounds, recreation areas and facilities:* Unless otherwise authorized in writing by the Board of Commissioners of the Township or their designated representative, it shall be unlawful for any person to be in, upon or use such lighted public parks, playgrounds, recreation areas and facilities within the Township, except during the hours between sunrise and 7:30 pm.

(Ord. No. 79-3 § 1, 8-1-79; Ord. No. 95-4, § 1, 7-5-95)

C. *West Pottsgrove Township Community Pool.* Unless otherwise authorized, in writing, by the Board of Commissioners of the Township or their designated representative, it shall be unlawful for any person to be in, upon or use the pool, adjoining grove, basketball courts or parking area, except during the hours of 12:00 pm and 7:30 pm. The use of the pool and the adjoining facilities shall only occur during the months of May through September of each year.

(Ord. No. 2012-1, 7-11-12)

SEC. 13.5-17. CONDUCT, ACTIONS AND ACTIVITIES REGULATED.

A. It shall be unlawful for any person to engage in the following conduct, actions or activities, at any time, in or upon public parks and recreation areas and facilities within the Township:

1. The possession or consumption of alcoholic beverages;
2. Except in areas designated by the Board of Commissioners and for the sole purpose of parking, the standing, stopping, parking, operation or other use of any and all types and nature of motorized vehicles;

* *Editor's note* – Ord. No. 79-3, §§ 1—3, enacted Aug. 1, 1979, amended the Code by addition of provisions designated by the editor as Art. II, §§ 13.5-16—13.5-18, in accordance with § 5 of said ordinance.

Cross references – Powers and duties of Township Manager, § 2-30; bicycles, Ch. 6; traffic, Ch. 18.

3. Except in receptacles approved and designated by the Board of Commissioners, the discarding of any and all waste materials or scrap;
 4. Camping;
 5. Except in receptacles or areas approved and designated by the Board of Commissioners, the starting or maintenance of any type or nature of fire, including but not limited to charcoal fires in cooking grills;
 6. The destruction, damage or removal of any and all types and nature of park and recreation area and facility equipment and property, including but not limited to trees, flowers, shrubs and other vegetation;
 7. The use of profane or indecent language, or profane or indecent acts;
 8. The making, or causing to be made, of unnecessary or unreasonable noise or disturbance.
 9. Except in areas designated by the board of Commissioners or their designated representative, it shall be unlawful for any person to use tobacco products or to smoke or carry a lighted cigar, cigarette, pipe or match or use any spark, flame or fire producing device.
(Ord. No. 2012-1, 7-11-12)
 10. The use, possession or carrying, either openly or concealed, of any firearm or offensive weapon as these terms are defined in the Pennsylvania Crimes Code, specifically 18 PaCSA §908, is prohibited. This prohibition applies regardless of whether the person carrying said weapon or firearm has a license or permit to carry such a device or weapon.
(Ord. No. 2012-1, 7-11-12)
- B. It shall be unlawful for any person to bring a pet animal in or upon public parks and recreation areas and facilities within the Township or to allow a pet animal, over which the person has control or the right of control, to remain in or upon public parks and recreation areas and facilities within the Township, unless the said animal, at all times, is kept on a leash and under the immediate control of the person.
- C. Any person bringing a pet animal in or upon public parks and recreation areas and facilities within the Township, or allowing a pet animal, over which the person has control or the right to control, to remain in or upon public parks or recreation area and facilities in the Township, shall immediately remove and sanitarily dispose of any droppings or deposits of said animal.
(Ord. No. 79-3, § 2, 8-1-79)
- D. No pets or animals of any kind are permitted at the West Pottsgrove Township Community Pool, at the grove or the basketball courts.
(Ord. No. 2012-1, 7-11-12)

Cross reference – Animals and fowl, Ch. 4.

SEC. 13.5-18. POSTING OF REGULATIONS.

The Township Manager shall prepare, or cause to be prepared, a summary of the provisions contained in Sections 13.5-16 and 13.5-17 of this article, and shall post, or cause to be posted, said summary at each public park and recreation area and facility within the Township.
(Ord. No. 79-3, § 3, 8-1-79)

Chapter 14
PEDDLERS, HAWKERS AND SOLICITORS*

Art. I. In General, §§ 14-1—14-16

Art. II. License, §§ 14-17—14-29

ARTICLE I. IN GENERAL

SEC. 14-1. VIOLATION OF CHAPTER.

Any person violating any of the provisions of this chapter shall be punished as prescribed in Section 1-9. (Ord. of 3-1-24, § 7; Ord. of 1-6-37, § 2)

Cross reference – General penalty, § 1-9.

SECS. 14-2—14-16. RESERVED.

ARTICLE II. LICENSE[†]

SEC. 14-17. LICENSES REQUIRED FOR CERTAIN BUSINESSES AND ACTIVITIES.

Each and every person who or which engages in or conducts, or proposes to engage in or conduct, any of the following described businesses or activities within the Township, shall not engage in or conduct such businesses or activities unless and until such person obtains a license as hereinafter provided by this article for each such business or activity to be engaged in or conducted:

- A. Junk dealers, pawnbrokers, hucksters, peddlers, vendors or merchants of any provisions, goods, wares, services, or merchandise of any kind or nature, including but not limited to periodicals, books, pictures, medicines and drugs, whether by vehicle or otherwise, who engage in or conduct their business or activity along streets, alleyways or sidewalks, or from door-to-door or person-to-person, or upon the property of another, or from a given temporary location.
- B. Transient sample merchants, salesmen, and agents soliciting orders for future delivery of goods, wares, services, or merchandise of any kind or nature, including but not limited to periodicals, books, pictures, medicines and drugs, from other than merchants, dealers, professional persons or organizations, or manufacturing corporations.

* *Cross references – Auctions and auctioneers, Ch. 5; streets and sidewalks, Ch. 16.*

State law references – Power of Board of Township Commissioners relative to peddling, 53 P.S. § 56524; hucksters, peddlers, and vendors, 53 P.S. § 56543.

[†] *Editor's note – Ord. No. 77-5, enacted Dec. 28, 1977, amended Art. II to read as set out in §§ 14-17—14-24. Formerly Art. II, §§ 14-17—14-20, was derived from Ord. of March 1, 1924, §§ 1, 3—6, and Ord. of Dec. 4, 1929, § 1.*

- C. Solicitation of contributions of money, goods, or services of any kind or nature from door-to-door or from person-to-person or upon property of another.
- D. Distribution of circulars, literature, advertising matter or other written material of any kind or nature, or sample goods, from door-to-door, or from person-to-person, or upon the property of another, except:
 - 1 The distribution of written materials or sample goods by the Unites States Postal Service;
 - 2 The distribution of newspapers of general circulation by employees, agents or general contractors of said newspapers; and
 - 3 The distribution of written materials or sample goods by transient sample merchants, salesmen, and agents to merchants, dealers, professional person or organization, or manufacturing corporations.
- E. The sale or offering for sale to the consuming public as a huckster, peddler, hawker, traveling merchant or agent any food stuffs, produce, fruit, vegetables, ice cream, peanuts, lemonade, pretzels, or any food or food products, or any of them, on the public highway, sidewalks, from house to house or from private property within West Pottsgrove Township.

(Ord. No. 77-5, 12-28-77; Ord. No. 86-7, § 1, 12-3-86)

SEC. 14-18. LICENSE APPLICATION; DUTIES OF TOWNSHIP MANAGER.

Application for a license required by this article shall be made to the Township Manager who shall issue such licenses, collect the license fees prescribed by this article which fees shall be paid at least once a month to the treasurer, and register the names and addresses required by this article.

(Ord. No. 77-5, 12-28-77)

SEC. 14-19. LICENSE FEES; EXCEPTIONS.

- A. Except as hereinafter provided by this section, the fee for a license required by this article shall be as established by resolution of the Board of Commissioners. Said license fee shall cover only one individual to be involved in the business or activity for which the license application is made. In the event that more than one individual is to be involved in the business or activity, there shall be an additional license required for each such person, the license fee being computed at one-half (½) the rate as established by resolution of the Board of Commissioners.
- B. When an application is made for an organization, the fee shall be the same as in paragraph (a) above for such organization, together with one-half (½) of such fee added for each person constituting a part of such organization engaged in such peddling, merchandising or soliciting within the Township.
- C. No fee whatsoever shall be required to obtain a license for the following businesses or activities:
 - 1. Farmers selling their own produce.
 - 2. The sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds of which are to be applied to any charitable or philanthropic purpose.

3. Manufacturers or producers in the sale of bread and bakery products, meat and meat products, and milk and milk products.
4. Insurance companies, or their agents or insurance brokers, authorized to transact business under the insurance laws of the Commonwealth of Pennsylvania.
5. The hawking, peddling and vending of any goods, wares or merchandise, or the solicitation of trade by honorably discharged soldiers, sailors and marines of the military or naval service of the United States who comply with the acts of the general assembly regulating the licensing of such hawking, peddling, vending and solicitation by ex-servicemen.
6. Any business or activity carried on for a religious, charitable or political purpose.
7. Persons 16 years of age or under who are residents of the Township. (Ord. No. 77-5, 12-28-77; Ord. No. 86-7, § 2, 12-3-86; Ord. No. 09-4, § 5, 3-18-09)

SEC. 14-20. REGISTRATION OF NAMES AND ADDRESSES.

Each and every applicant for a license required by this article, whether such applicant is or is not required to pay a fee for such license, shall register with the Township Manager:

- A. His or its name and address.
- B. The name and address of each of the individuals to be involved in the business or activity for which the license application is made and their previous criminal record, if any.
- C. The name and address of the person for whom or for which he or it is working or representing and the length of time for which the license is to be issued.
- D. The name and address of the person who or which is producing, supplying, manufacturing, or selling the provisions, goods, wares, services, merchandise, literature or other written materials in which he or it is dealing or which he or it is distributing.
- E. The type of vehicle he or it uses, if any, and its registration number.
(Ord. No. 77-5, 12-28-77; Ord. No. 86-7, § 3, 12-3-87)

SEC. 14-21. TERM AND HOURS OF LICENSE.

- A. Any license issued pursuant to this article shall be valid only during the calendar year in which it is issued and only during the hours between 9:00 am to 5:00 pm, prevailing local time. Provided, however, that on the last Monday in May (Memorial Day), thru and including the first Monday in September (Labor Day), such licenses shall be valid during the hours between 9:00 am to 8:00 pm, prevailing local time.
- B. No license shall be valid and no person shall engage in soliciting or peddling at any time on Sunday or upon any other day of the week before 9:00 am or after 5:00 pm (or 8:00 pm as set forth above) except upon invitation from or an appointment with the Township resident.
(Ord. No. 77-5, 12-28-77; Ord. No. 86-7, § 4, 12-3-86)

SEC. 14-22. SALES DISTRIBUTIONS FROM DOOR-TO-DOOR, FROM PERSON-TO-PERSON OR UPON THE PROPERTY OF ANOTHER.

In any business or activity for which a license is required by this article, and during the course of which goods or written materials are to be sold or distributed from door-to-door, or from person-to-person, or upon the property of another, all such goods or written materials either shall be handed to the occupant of the premises or shall be enclosed in envelopes or wrappers and placed upon the premises in a reasonably secure manner. No such goods or written material shall be placed, and no attempt shall be made to place such goods or written materials, on or about the person of another without the consent of the other, or on or about a vehicle.

(Ord. No. 77-5, 12-28-77)

SEC. 14-23. NOISE RESTRICTION.

No person engaged in soliciting or peddling shall hawk or cry his goods, wares, merchandise, offer his contracts or services upon any of the streets or sidewalks of the Township, nor shall he use any loudspeaker, horn, or other device for announcing his presence, by which members of the public are annoyed.

(Ord. No. 86-7, § 5, 12-3-86)

SEC. 14-24. PARKING RESTRICTION.

No person engaged in soliciting or peddling shall park any vehicle upon any of the streets or alleys of the Township in order to sort, rearrange or clean any of his food stuffs, produce, vegetables, other food stuffs, goods, wares, or merchandise or samples, order books, contracts, circulars, literature, or advertising matter pertaining thereto; nor may any such person place or deposit any refuse upon any such streets or alleys; nor may any such person maintain or keep a street or curbstone market or soliciting or peddling office by parking any vehicle upon any street or alley in the Township for longer than necessary in order to solicit from or peddle to person residing in the immediate vicinity.

(Ord. No. 86-7, § 5, 12-3-86)

SEC. 14-25. FIXED LOCATIONS PROHIBITED.

No person engaged in soliciting or peddling shall occupy any fixed location upon any of the streets or alleys or sidewalks of the Township for the purpose of soliciting or peddling with or without any stand or corner. Upon application, the Board of Commissioners of West Pottsgrove Township may permit for charitable, Township, or philanthropic functions, the temporary use of the streets, alleys, and sidewalks of the Township for fund raising activities.

(Ord. No. 86-7, § 5, 12-3-86)

SEC. 14-26. INSPECTION OF FOOD SERVICE EQUIPMENT.

The Township Health Officer or a designated Township representative may at any time inspect the vehicle or container or type of equipment from which food is to be sold to the consuming public, in order to determine that it meets Township health and sanitation requirements.

(Ord. No. 86-7, § 5, 12-3-86)

SEC. 14-27. DISPLAY OF LICENSE RESTRICTIONS.

Every solicitor or peddler shall at all times while engaged in soliciting or peddling in the Township, carry evidence of such registration upon his person, and shall exhibit such evidence upon request to all Police Officers, Township officials and citizens. No solicitor or peddler shall engage in selling or offering for sale or in seeking or taking of orders or contracts for any goods, wares, merchandise, articles, devices, subscriptions, contributions, service or contract not mentioned upon said license, nor shall any person use any vehicle for soliciting or peddling other than the vehicle registered upon his license.

(Ord. No. 86-7, § 5, 12-3-86)

SEC. 14-28. VIOLATIONS OF THE LAW AND LIABILITY FOR DAMAGES COMMITTED OR CAUSED UNDER COLOR OF LICENSES.

No license issued pursuant to this article shall authorize or excuse any breach of law, or any trespass upon the rights of others, or render the Township liable for any damages whatsoever that may be committed or caused under color of said license.

(Ord. No. 77-5, 12-28-77)

SEC. 14-29. REVOCATION OF LICENSES.

- A. The Township Manager may at any time revoke any license issued pursuant to this article, if there shall have been committed any breach of the terms or conditions under which the license was issued, including the standards of conduct established under this chapter, or upon the ascertainment that the licensee has made any false statements in the application for license hereunder, or upon such licensee being arrested and convicted for any crime involving moral turpitude. Notice of the revocation of the license shall be effective when issued and shall be given by ordinary mail addressed to the address given in the license application. The Township Manager shall make and maintain a record of all license revocations in his office. From the time of such notice of revocation, any act done under color of such license shall subject the person doing or suffering to be done to the same penalty as if he or it had done such act without such license.

- B. Any person whose license has been revoked shall be entitled to appear, with counsel if desired, before the Board of Commissioners of West Pottsgrove Township at a regular or special meeting and be heard on behalf of a request for reinstatement of said license.

(Ord. No. 77-5, 12-28-77; Ord. No. 86-7, § 7, 12-3-86)

Chapter 15
POLICE*

SEC. 15-1. POLICE DEPARTMENT ESTABLISHED; OFFICE OF CHIEF OF POLICE.

A Police Department is hereby established in and for the Township of West Pottsgrove. The Chief of Police shall be the Chief Executive of the Police Department. Under and subject to the orders and direction of the Board of Township Commissioners, or such other person or committee as may be designated by ordinance or resolution of the Board for such purposes, the Chief of Police shall be in charge of the Police force, shall have supervision over its members, and shall have the power to prescribe rules and regulations for the exercise of their duties, powers and authority.

(Ord. No. 77-2, § 2, 4-6-77)

SEC. 15-2. GRADES IN POLICE DEPARTMENT ESTABLISHED.

The number and compensation of members of Police force shall be determined by the Board of Township Commissioners.

For subordinates to the Chief of Police, the following grade is hereby established in the Police Department: Patrolman. The number of person to serve in said grade on a full-time or part-time basis, and the compensation of the Chief of Police and of each of the other members of the Police Department shall be as the Board of Township Commissioners shall determine from time to time.

(Ord. No. 77-2, § 2, 4-6-77)

SEC. 15-3. POLICE TO OBEY ORDERS OF BOARD OF TOWNSHIP COMMISSIONERS.

The Chief of Police and all other members of the Police force shall obey the orders of the Board of Township Commissioners or such other person or committee as may be designated by ordinance or resolution of the board for such purposes.

(Ord. of 7-9-67, § 3; Ord. No. 77-2, § 3, 4-6-77)

SEC. 15-4. CIVIL SERVICE FOR POLICE ESTABLISHED.

Hereafter, each and every appointment to and promotion directly by the Township to the Police force, shall be made only in accordance to qualifications and fitness to be ascertained by examination which shall be competitive, and no person shall hereafter be suspended, removed or reduced in rank as a paid employee in the Police force, except in accordance with the provision of the Act of June 24, 1931, PL 1206 as amended and as known as The First Class Township Code – Civil Service for Police.

(Ord. No. 73-9, 12-5-73; Ord. No. 77-2, § 4, 4-6-77)

SEC. 15-5. CREATION OF CIVIL SERVICE COMMISSION – COMPOSITION.

The civil service commission of West Pottsgrove Township shall consist of 3 Commissioners who shall be qualified electors of the Township and shall be appointed by the Township Commissioners initially to

* *Cross reference* – Police pension, § 2-3.2.

State law references – Police generally, 53 P.S. § 56401 et seq.; civil service for Police, 53 P.S. § 55625 et seq.

serve for the term of 2, 4 and 6 years, and as terms thereafter expire, shall be appointed for terms of 6 years. The appointments shall be in accordance with the Act of June 24, 1931 as amended and in accordance therewith.

(Ord. No. 73-9, 12-5-73; Ord. No. 77-2, § 4, 4-6-77)

SEC. 15-6. SAME – ORGANIZATION, RULES AND REGULATIONS, MINUTES AND EXAMINATIONS.

The Civil Service Commission hereinafter appointed shall organize in accordance with the Act of June 24, 1931 as amended, shall promulgate rules and regulations, keep minutes and records, conduct investigations, issue subpoenas and provide for general rules and regulations for the examination of applicant, provide for physical examination, promotions, removals, hearings on dismissals and reduction in rank, in accordance with the Act of June 24, 1931 as amended.

(Ord. No. 73-9, 12-5-73; Ord. No. 77-2, § 4, 4-6-77)

SEC. 15-7. MUNICIPAL POLICE COOPERATIVE AGREEMENT ADOPTED.

West Pottsgrove Township shall become a participating municipality of the ChesMont Response Team and that the attached municipal Police cooperative agreement shall be executed by the proper Township officials and the Chief of Police, or his designee.

(Ord. No. 96-4, 12-18-96)

Editor's Note – The Municipal Police Cooperative Agreement has not been set out at length herein but is available in the office of the Township secretary.

SEC. 15-8. MUTUAL POLICE TRAFFIC ENFORCEMENT.

West Pottsgrove Township will enter into an Intergovernmental Agreement with the Borough of Pottstown for Pennsylvania Motor Vehicle Code enforcement and the proper Township officials and the Chief of Police, or his designee, are authorized to execute the attached Mutual Police Traffic Enforcement Agreement.

(Ord. No. 2006-2, 7-5-06)

Chapter 16
STREETS AND SIDEWALKS*

- Art. I. In General, §§ 16-1—16-17**
Art. II. Construction and Repair of Sidewalks, Curbs and Gutters, §§ 16-18—16-39
Art. III. Poles and Wires, §§ 16-40—16-70
 Div. 1. Generally, §§ 16-40—16-53
 Div. 2. Permits, §§ 16-54—16-70
Art. IV. Excavations, §§ 16-71—16-85
 Div. 1. Generally, §§ 16-71—16-82
 Div. 2. Permits, §§ 16-83—16-85

ARTICLE I. IN GENERAL

SEC. 16-1. REMOVAL OF SNOW AND ICE FROM SIDEWALKS – TIME LIMITS.

The owner, occupant or tenant of every property fronting upon or alongside of any streets in the Township, is hereby required to cause a path with a minimum width of 2½ feet along the paved sidewalk for their respective premises to be cleared of snow, ice and other obstructions when, and so often as, the same shall fall or appear on said sidewalks, within 24 hours after the same shall have ceased to fall or to form. The snow and ice shall not be placed upon the traveled cartway of the adjoining road or street. The property owner has a continuing responsibility to keep the required minimum path of 2½ feet free of snow and ice.

(Ord. of 8-5-64, § 4; Ord. No. 78-1, 6-7-78; Ord. No. 82-17, 11-3-82)

SEC. 16-2. PERSONS RESPONSIBLE.

The owner of any property shall be responsible for conforming to the requirements of Section 16-1 where such property is occupied by such owner or is unoccupied; the tenant or occupier thereof shall be responsible for such conformance where such property is occupied by such tenant or occupier only; and the owner thereof shall be responsible for such conformance where the property is a multiple-business or multiple-dwelling property, occupied by more than one tenant or occupier.

(Ord. of 8-5-64, § 4)

SEC. 16-3. NONCOMPLIANCE; REMOVAL BY TOWNSHIP AUTHORIZED.

In any case where the owner, occupant or tenant, as provided for in Section 16-2, shall fail, neglect or refuse to comply with any of the provisions of Section 16-1 within the time limit prescribed therein, the township authorities may proceed immediately to clear all snow and/or ice from the sidewalks of such

* *Cross references* – Uniform construction code, Ch. 7; garbage, refuse and other waste material, Ch. 10; traffic, Ch. 18; water, sewers and sewage disposal, Ch. 19.

State law references – Streets and highways generally, 53 P.S. § 57101 et seq.; bridges and viaducts, 53 P.S. § 57201 et seq.; sidewalks, 53 P.S. § 57301 et seq.

delinquents, and to collect the expenses thereof from such owner, occupant or tenant, as the case may be with a penalty of 10 (10) percent, together with the maximum interest allowed by law, for the collection of municipal claims, either by filing a lien or by action of assumpsit or in any other authorized manner. (Ord. of 8-5-64, § 6; Ord. No. 898-3, § 4, 10-7-98)

SEC. 16-4. PENALTIES.

Any person, form, association, corporation or the officers thereof, violating any of the provisions of Section 16-1, shall be subject to the general penalty provisions set forth in Section 1-9 of the Code of Ordinances of West Pottsgrove Township. Provided, that each refusal or neglect to comply with the terms of Section 16-1 shall constitute a separate offense.

(Ord. of 8-5-64, § 6; Ord. of 11-3-71; Ord. No. 78-1, 6-7-78; Ord. No. 82-17, 11-3-82)

SEC. 16-5. RIDING OR DRIVING ON OR ACROSS PAVEMENTS OR SIDEWALKS; PENALTY.

A. It shall be unlawful for any person to ride or drive on or across any of the pavement or sidewalks in this Township.

B. Any person found guilty of violating any of the provisions of this chapter and/or article shall be guilty of a summary offense and upon conviction thereof shall be punished as prescribed in Section 1-9.

(Ord. of 12-8-25; Ord. No. 86-5, §§ 1D, 2, 10-1-86)

Cross reference – Traffic, Ch. 18.

SEC. 16-6. ACCESS TO STREETS, ROADWAYS, SIDEWALKS, BY PUBLIC EQUIPMENT AND EMERGENCY EQUIPMENT.

A. *Definitions:*

1. “Street” or “highways” shall mean the entire width between the boundary lines of every publicly maintained street or highway when any part thereof is opened to the use of the public for purposes of vehicular travel.
2. “Roadway” means the portion of a street or highway improved, designed or ordinarily used for vehicular travel exclusive of the berms or shoulder.
3. “Alley” means the portion of any alley or cartway established by deed, easement or prescriptive use and adjacent to two or more parcels of land an ordinarily used for vehicular travel.

B. Every partnership, corporation, company or association in charge of or in control of any building or lot of land within the Township fronting or abutting on any street alley or roadway whether its owner, tenant, occupant, lessee or otherwise shall at all times refrain from obstructing or preventing the entry of any public vehicle or emergency vehicle from using said street, roadway or alleyway.

C. The Township of West Pottsgrove, through its Roadmaster, its Police or its Commissioners, may at all times, demand access to any street, roadway or alley for the purpose of removing weeds, for the purpose of patrolling, for Police access, for fire lane access, spraying equipment access, snow removal equipment access and such owner, tenant, occupant, lessee shall remove any obstruction as may exist upon verbal notice of the Roadmaster of the Police; or upon written notice of any Commissioner an for failure to remove said obstruction within 15 minutes after notice has been given shall upon conviction, pay the fine and penalty provided for herein.

All such owners, tenants, occupants and lessees shall upon 24 hours written notice of the Roadmaster or Police, refrain from obstructing any such street, roadway or alleyway which would prevent the parking of vehicles used in connection with repairs and installation of services to adjacent buildings so as to permit their being parked in alleyways and lanes would cause the least interference with the flow of traffic throughout the Township. Failure to do so shall be deemed to be a violation of this ordinance [section] and upon conviction, [such] owner, tenant, occupant or lessee shall pay the fine and penalty provided for herein.

D. *Penalty.* Any person found guilty of violating any of the provisions of this chapter and/or article shall be guilty of a summary offense and upon conviction thereof shall be punished as prescribed in Section 1-9.

(Ord. of 7-7-71, §§ 1-4; Ord. No. 78-4, 6-7-78; Ord. No. 86-5, §§ 1E, 2, 10-1-86)

SEC. 16-7. CONSTRUCTION OF AREAWAYS, STEPS, RAILINGS, ETC.

No open areaways, railings, steps or any portion of a building or structure shall be constructed to project beyond the building line. This section, however, shall not apply to reconstruction of steps of buildings already erected which it would be impossible to reconstruct in accordance with above specified regulations. In such case they may be reconstructed to extend over the pavement or sidewalk not more than one-third ($\frac{1}{3}$) of such pavement or sidewalk, but in no case over a greater space than 5 feet. No steps of any building shall project more than 18 inches on either side of the door jam. Areaways or openings covered with iron doors not more than 3 feet in width with rough surface, set flush with the pavement, may project not more than one-fourth ($\frac{1}{4}$) of the pavement, but in no case more than 3 feet measuring from inside face of areaway to building line.

(Ord. of 12-8-25, § 8)

SEC. 16-8. NEW STREETS ESTABLISHED.

The following streets are laid out, opened, accepted and ordained as public highways; said streets as more fully set forth in detail in the plans attached on file and made a part hereof; and the streets shall hereafter be public streets of West Pottsgrove Township:

- *Howard Street* from Berks Street to Elm Street, having a right-of-way width of 40 feet, a cartway width of 24 feet, and being 559.3 feet in length;
- *Linden Street* from Race Street to Lemon Street, having a right-of-way width of 50 feet, a cartway width of 30 feet, and being 350.0 feet in length;
- *Pulaski Street* from Glasgow Street to Von Stuben Drive, having a right-of-way width of 50 feet, a cartway width of 30 feet, and being 609.85 feet in length;
- *Von Stuben Drive* from Glasgow Street to Anthony Wayne Drive, having a right-of-way width of 50 feet, a cartway width of 30 feet, and being 1205.43 feet in length;
- *Nagle Road* from Levengood Road to Oakview Drive, having a right-of-way width of 50 feet, a cartway width of 30 feet, and being 988, 43 feet in length.

(Ord. No. 73-7, 9-5-73)

- *Upland Square Drive* from a point 700 feet from the intersection of PA State Route 100 to Sell Road, having a variable right-of-way width ranging from 50 to 90 feet, and being 3,835.61 feet in

length. As of May 3, 2012, the Commonwealth of Pennsylvania, Department of Transportation adopted Upland Square Drive as part of the state highway system.
(Ord. No. 11-05, 11-2-11)

SEC. 16-9. STREET IMPROVEMENTS – STREET DESIGNATION GENERALLY.

By reference to Ordinance No. 83-4, the Commissioners may designate those streets within the Township which they desire to improve through grading, curbing, guttering, widening, paving, or otherwise improving, including the installation of necessary drainage, during the fiscal year and shall provide necessary allocations for such work.
(Ord. No. 83-4, 12-7-83)

SEC. 16-10. SPECIFICATIONS.

The improvements to the streets shall be constructed in accordance with plans and specifications prepared by the Township Engineer. Street improvements as designated in Ordinance No. 83-4 shall include grading, curbing, guttering, paving, widening, or otherwise improving said streets or highways including the installation of necessary drainage therein.
(Ord. No. 83-4, 12-7-83)

SEC. 16-11. METHOD OF ASSESSMENT.

- A. The total assessable cost of street improvements, or any part thereof, as herein above described and the total assessable cost of the drainage facilities, or any part thereof, shall be assessed and collected from the owners of the real estate abutting on a street or streets in which the improvement is located by assessment according to the front foot rule and each assessable property along the aforementioned street or streets shall be assessed on a front foot basis for the total length of such side or sides or portion thereof abutting upon, adjacent to or fronting on the street in which the assessable improvements are located.
- B. Upon completion of said improvement, the total cost and expenses, or any part thereof, including engineering services thereof, shall be determined and two-thirds ($\frac{2}{3}$) or less of said cost and expenses shall be assessed by Township ordinance against the owners of said real estate abutting thereon by an assessment based on the front foot rule and collected in accordance with the assessing ordinance. West Pottsgrove Township shall assume one-third ($\frac{1}{3}$) or more of the total cost for such street improvements.
- C. Any assessment authorized under Ordinance No. 83-4 shall be payable within one month from the date thereof, and after the expiration of said period of one month, interest thereon at the maximum rate allowed by law will be added thereto.
- D. If any assessment authorized under Ordinance No. 83-4 shall not have been paid in full, said assessment shall become due and it shall be the duty of the Township Solicitor to collect the same with interest 30 days after the said notice, by an action in assumpsit, or by a lien to be filed and collected in the same manner as municipal claims.

All such charges assessed hereunder shall be in a lien against such properties and said charges shall be assessed and collected and the liens enforced in the same manner provided by law. The Solicitor shall file a municipal lien against any property owner or owners not paying their assessment in full

within 30 days of the date the notice of assessment is received by said owner, the cost of the filing of said lien and the satisfaction thereof to be paid by the owners of the assessed property.
(Ord. No. 83-4, 12-7-83; Ord. No. 94-2, 6-20-94; Ord. No. 98-3, § 4, 10-7-98)

SEC. 16-12. METHOD OF COLLECTION.

Upon receipt of the Township Engineer's certification of completion of street improvements as aforesaid, the Commissioners shall direct the Township Manager to collect from the owner or owners of the aforementioned real property the amount of the costs as assessed pursuant to the aforementioned front foot rule in the manner hereinabove provided and to provide that payment of the said assessment shall be made payable to the Township Treasurer for the use of the Township, and the Commissioners shall direct the Solicitor of the Township to secure the payment of the assessment together with filing and satisfaction expenses by the filing of the lien in the manner hereinabove set forth.
(Ord. No. 83-4, 12-7-83)

SEC. 16-13. SPECIFIC STREETS DESIGNATED.

South Grosstown Road.

- A. The Commissioners of West Pottsgrove Township hereby authorize the grading, paving, curbing and drainage of South Grosstown Road from its intersection with Old Reading Pike to West High Street (with the exception of that portion of South Grosstown Road containing the existing railroad bridge). Upon completion of said improvement, the total cost and expenses as aforesaid shall be determined, and two-thirds ($\frac{2}{3}$) of said cost and expense shall be assessed by Township ordinance against the owners of real estate abutting thereon by assessment based on the front foot rule in accordance with the provisions of Ordinance No. 83-4.
- B. The Board of Commissioners of West Pottsgrove Township having ascertained that the total costs of Engineering services and construction allocable to the new construction work on South Grosstown Road for the grading, paving, drainage and other road installation work on said roadway, from its intersection with Old Reading Pike Road to the south end of the bridge approach (Station 17 + 00 to 24 + 35 as set forth in the construction plans) is forty-five thousand, four hundred and forty dollars and thirty-five cents (\$45,440.35). the board further finds that the assessable amount of said construction costs to be thirty thousand, two hundred and ninety-three dollars and fifty-seven cents (\$30,293.57), and that the assessable frontage along said road is 1,291.77 feet, and hereby establish the front foot assessment of twenty-three dollars and forty-five cents (\$23.45) per front foot, which assessment shall be assessed on a front foot basis and collected from abutting property owners in accordance with the provisions of the assessment ordinances of West Pottsgrove Township.

Fairview Street.

- A. The Commissioners of West Pottsgrove Township hereby authorize the grading, paving, curbing and drainage of Fairview Street, from its intersection with School lane to Elm Street. Upon the completion of said improvement, the total cost and expenses as aforesaid shall be determined and two-thirds ($\frac{2}{3}$) or less of said cost and expenses shall be assessed by Township ordinance against the owners of real estate abutting thereon by assessment based on the front foot rule in accordance with the provisions of Ordinance No. 83-4, as amended.
- B. The Board of Commissioners of West Pottsgrove Township has ascertained that the total cost of Engineering services and construction allocable to the new construction on Fairview Street for the

grading, paving, curbing and drainage of Fairview Street, from its intersection with School Lane to Elm Street is one hundred and seventy-six thousand, seven hundred and eighty-five dollars and sixty-five cents (\$176,785.65). The board further finds that the assessable cost of said construction costs to be thirteen thousand, nine hundred and seventy-one dollars and seventy-four cents (\$13,971.74) and the assessable frontage along said road is 2,180.38 feet and hereby establishes the front foot assessment of six dollars and forty-one cents (\$6.41) per front foot, which assessment shall be assessed on a front foot basis and collected from abutting property owners in accordance with the provision of the assessment ordinance of West Pottsgrove Township.

Linden Street.

- A. The Commissioners of West Pottsgrove Township hereby authorize the grading, paving, curbing and drainage of Linden Street, from its intersection with Howard Street to Grosstown Road. Upon the completion of said improvement, the total cost and expenses as aforesaid shall be determined and two-thirds ($\frac{2}{3}$) or less of said cost and expenses shall be assessed by Township ordinance against the owners of real estate abutting thereon by assessment based on the front foot rule in accordance with the provisions of Ordinance No. 83-4, as amended.
- B. The Board of Commissioners of West Pottsgrove Township has ascertained that the total cost of Engineering services and construction allocable to the new construction work on Linden Street for the grading, paving, curbing and drainage on said roadway from its intersection with Howard Street to Grosstown Road is one hundred and thirty-two thousand, six hundred and fifty-eight dollars and eighty-five cents (\$132,658.85). The board further finds that the assessable amount of said construction costs to be ten thousand, four hundred and eighty-four dollars and thirty-one cents (\$10,484.31) and that the assessable frontage along said road is 1,636.11 feet and hereby establishes the front foot assessment is six dollars and forty-one cents (\$6.41) per front foot, which assessment shall be assessed on a front foot basis and collected from abutting property owners in accordance with the provisions of the assessment ordinances of West Pottsgrove.

School Lane.

- A. The Commissioners of West Pottsgrove Township hereby authorize the grading, paving, curbing and drainage of School Lane from its intersection with Grosstown Road to Howard Street. Upon the completion of said improvement, the total cost and expenses as aforesaid shall be determined and two-thirds ($\frac{2}{3}$) or less of said const and expenses shall be assessed by Township ordinance against the owners of real estate abutting thereon by assessment based on the front foot rule in accordance with the provisions of Ordinance No. 83-4, as amended.
- B. The Board of Commissioners of West Pottsgrove Township has ascertained that the total cost of Engineering services and construction allocable to the new construction on School Lane for the grading, paving, curbing and drainage of School Lane, from its intersection with Grosstown Road to Howard Street is fifty-six thousand, eight hundred and fifty-six dollars and thirty-five cents (\$56,856.35). The Board further finds the assessable cost of said construction costs to be six thousand, three hundred and forty-three dollars and thirty-three cents (\$6,343.33) and the assessable frontage along said road is 909 feet, and hereby establishes the front foot assessment of six dollars and ninety-eight cents (\$6.98) per front foot, which assessment shall be assessed on a front foot basis and collected from abutting property owners in accordance with the provisions of the assessment ordinances of West Pottsgrove Township.

(Ord. No. 83-4, 12-7-83; Ord. No. 85-6, 7-3-85; Ord. No. 94-2, 6-20-94; Ord. No. 95-5, 11-29-95; Ord. No. 2002-1, 3-6-02; Ord. No. 2002-2, 6-5-02)

SECS. 16-14—16-17. RESERVED.

ARTICLE II. CONSTRUCTION AND REPAIR OF SIDEWALKS, CURBS AND GUTTERS*

SEC. 16-18. OWNERS MAY BE REQUIRED TO CONSTRUCT, ETC., SIDEWALKS.

The owners of property abutting on any public road, street, or highway, including state and state aid highways and county roads, may be required to construct, pave, curb, repave and recurb the sidewalks along such property, as such grades as shall be ordained by the Township, and under such regulations as have been heretofore in effect in the Township or as are provided in this article.

(Ord. of 1-6-37, § 1)

SEC. 16-19. SERVICE OF NOTICE ON OWNER REQUIRED.

- A. In any instance where the Township shall require the construction, paving, curbing, repaving and recurbing of the sidewalks along any property with the Township, printed notice in a form to be prescribed by the Township Commissioners shall be served upon the owner of the property.
- B. If the owner thereof is not known or cannot be ascertained, then the notice shall be posted.
- C. The notice shall be a 30-day notice requiring the property owner to construct, pave, curb, repave or recurb the sidewalks along such property within 30 days from the date of its service.

(Ord. of 1-6-37, § 1)

SEC. 16-20. MANNER OF SERVICE OF NOTICE.

- A. The notice provided for in Section 16-19 may be served on the property owner by mailing a copy of same by certified mail, return receipt requested to his address or his last-known address.
- B. If the owner of the property is unknown or if his residence or last known address is unknown then the notice shall be affected by posting the notice on the premises for the period of 30 days as provided in section 16-19.

(Ord. of 1-6-37, § 2; Ord. No. 75-1, 10-1-75)

SEC. 16-21. NONCOMPLIANCE WITH NOTICE; TOWNSHIP AUTHORIZED TO DO AND PERFORM WORK.

Should the property owner fail to comply with the notice required by Section 16-19 within the 30-day period, it shall then be lawful for the Township to do and perform the work and to levy the cost thereof upon the owner of such property abutting the sidewalk, together with a penalty of ten percent (10%) and the maximum interest allowed by law, and the same may be collected by an action of assumpsit or the Township Commissioners may file a municipal lien against the property therefore.

(Ord. of 1-6-37, § 1; Ord. No. 98-3, § 4, 10-7-98)

* *Cross reference* – Buildings and building regulations, Ch. 7.

State law reference – Power of Townships of the first class to require owners to construct, curb and pave sidewalks, etc., 53 P.S. § 57303.

SEC. 16-22. PERMIT REQUIRED.

- A. Before any curb or sidewalk shall be constructed or reconstructed, the owner shall apply to the Township Secretary or in his absence to the Chairman of the Highway Committee of the Township for a permit therefore in accordance with the regulations of the Township Commissioners.
- B. Permits shall not be required for repairs only.
- C. The fee required for a permit shall be in an amount as established by resolution of the Board of Commissioners, which shall be paid to the Township with the application.
(Ord. of 12-8-25, §§ 2, 9; Ord. of 1-6-37, § 1; Ord. of 6-7-67, § 1; Ord. No. 2009-4, § 6, 3-18-09)

SEC. 16-23. OBTAINING PROPER GRADE PREREQUISITE TO LAYING PAVEMENTS OR SIDEWALKS.

No person shall lay any pavement or sidewalk within the Township without first obtaining from the Township Commissioners the proper grade for such pavement or sidewalk.
(Ord. of 12-8-25, § 2)

SEC. 16-24. RESERVED.

Editor's note – Ord. No. 74-8, adopted 12-30-74, amended this code by repealing § 16-24, pertaining to laying of cement or concrete curbing, in its entirety, Former § 16-24 was derived from Ord. of 12-8-25, § 10.

SEC. 16-25. GENERAL REGULATIONS FOR CONSTRUCTION OR REPAIR OF SIDEWALKS AND CURBS.

The following general regulations shall apply to the construction or repair of sidewalks and curbs within the Township:

A. Forms.

1. The forms for curbs shall be of an approved metal type, except wood forms consisting of 1½-inch surface planks may be used with the approval of the Township Engineer on sharp curved and short tangent section.
2. Forms for sidewalks shall be of metal, or of wood consisting of 2-inch planks surfaced on the inside and top.
3. All forms shall be cleaned thoroughly and treated with approved material to prevent the concrete from adhering thereto. Material which will adhere to or discolor exposed face of concrete shall not be used.
4. All forms shall extend for the entire depth of the concrete and shall be set accurately to grade in such a manner as to prevent settlement, displacement, or springing due to pressure of the concrete.
5. Forms that have become worn, bent, or otherwise damaged shall not be used.
6. Any written determination by the Township Engineer that any such forms are unsuitable shall be final, and any use of forms subsequent to such designation for construction of curbing or

sidewalks within the Township shall be considered a separate offense and punishable after summary conviction as provided in Section 16-29.

7. Forms shall remain in place for a minimum of 6 hours after the concrete has been placed. Brush finishing or plastering will not be permitted and all such concrete sections shall be removed and replaced. Minor defects upon approval of the Township Engineer may be filled with mortar composed of 1 part cement and 2 parts sand.

B. *Structures.* Where existing structures, such as utility poles, light or sign standards, and fire hydrants are within the sidewalk area, the concrete shall be scored in a block 8 inches wider than the maximum dimension at sidewalk elevation around such structures. Expansion joint material shall be placed around all structures within or adjacent to the sidewalk area prior to placing of the concrete. Where expansion joint material is required by this and other section of this article, it is understood to be a pre-molded expansion joint one-quarter ($\frac{1}{4}$) inch in thickness and is to extend the entire depth of the concrete.

C. *Curb returns and inlets.* Where curved curb joins tangent curb, and where an inlet joins other curb, two reinforcing bars $\frac{1}{2}$ -inch in diameter and 24 inches in length shall be placed in the center of the concrete curb and 3 inches and 9 inches below the top respectively in such a manner as to extend equal distances on each side of the joint. The portions of the boards extending into the tangent curb shall be rendered bondless and enclosed in part in approved tubes or caps which will provide a positive clearance pocket of one-half ($\frac{1}{2}$) inch.

D. *Fixing elevations and locations by Township Engineer.* The initial fixing of elevation and location of curbing shall be by the Township Engineer without expense to the owner, but upon repair or reconstruction whenever fixing of elevation or location may be required, the same shall be fixed by the Township Engineer at the property owner's expense.

(Ord. of 6-7-67, § 1)

SEC. 16-26. REGULATIONS FOR CURBS.

The following regulations shall apply to curbs:

A. *Foundation.* The foundation for the base of the concrete curb shall be on firm sub-soil. All soft and yielding materials shall be removed and replaced with materials to give a firm bearing or the curb shall be extended to such depth as will give firm bearing.

B. *Materials.* The curb shall be constructed of concrete and shall be placed in accordance with the prescribed standards of the Pennsylvania Department of Transportation (Form 408 specifications) and the latest revisions thereto, under and subject to any modifications of said specifications as set forth in this article.

C. *Dimensions.*

1. The width of the curb at the top shall be a minimum of 7 inches and the base 8 inches, and shall have depth of 18 inches or to a firm bearing, whichever is greater.
2. The curb shall be constructed in uniform lengths or section of 10 feet, except where shorter sections are necessary for closures or curves, but no section shall be less than 4 feet, with expansion joints at least every 30 feet. Intermediate joints between expansion joints shall be

formed of two thicknesses of one ply bituminous paper, cut neatly to the cross-section of the curb and one paper placed on each side of the template. If the method of handling the work is such that the templates are not removed satisfactorily, the curb shall be constructed in alternate sections.

3. The paper shall be on the street side of the curb, except where existing adjacent curbs are in excellent condition and have a vertical face on the street side, and then the paper may be in the pavement side of the curb.

D. *Curb returns.* The minimum curb radius at street intersections shall be 25 feet; provided, however, where buildings and other existing conditions shall make it impractical, the radius may be reduced at the discretion of the Board of Commissioners or its authorized representative, to a radius of not less than 10 feet. The minimum curb radius at alley intersections shall be 5 feet.

E. *Depressed curbs for driveways.*

1. Where the curbs are to be depressed for driveways or other types of private cartways, there shall be a maximum depression on the street face of the curb of 5½ inches based on the overall height of 7 inches from gutter to top of curb, and when being depressed along a state highway where the standard height from gutter to top of curb is 8 inches, the maximum depression shall not be more than 6½ inches. The depression on the rear face of the curb shall be 1½ inches less than the street or face of the curb.

2. The width of the depressed portion of curbing shall be governed by the approval of the Board of Commissioners or its authorized representative in conformity with building and zoning regulations. However, no curb may be depressed at a curb return, at street or alley intersections, nor may the length of the depressed curb exceed 35 feet.

(Ord. of 6-7-67, § 1; Ord. No. 74-8, 12-30-74; Ord. No. 75-1, 10-1-75)

SEC. 16-27. REGULATIONS FOR SIDEWALKS.

The following regulations shall apply to sidewalks:

- A. *Construction.* Sidewalks shall be constructed of concrete and shall be placed in accordance with prescribed standards of the Pennsylvania Department of Transportation (Form 408 specifications) and the latest revisions thereto.
- B. *Drainage.* Satisfactory outlets for the drainage of subsoil conditions of abutting structures shall be provided but under no circumstances shall depressed gutters be constructed transversely to the concrete walk.
- C. *Width.* The width of the concrete slab shall be 4 feet in residential zoned districts where there pre-dominates single-family detached or semidetached dwellings, and 6 feet in high density use areas, such as group apartment developments, educational, religious or other institutions, and business selling districts or areas of variances with similar use.
- D. *Location.* The concrete slab shall be situated in the sidewalk areas within the public street right-of-way beginning one foot from the dividing line between the public property and private property, commonly referred to as the street line or right-of-way line, and the width of said sidewalk slab extending towards the curb line. Where sidewalks exist, all extension and

reconstruction projects on the same side of the street within the same block shall be of uniform location with respect to the existing curb line, but in no case shall the width be less than 4 feet. Other special exceptions to the specifications as to width and location of the sidewalk concrete slab may be granted by the Board of Commissioners for a definite specified project under the provisions of Section 16-28.

E. *Elevations.* All curbs and sidewalks to be constructed or reconstructed shall be constructed in accordance with the lines, grades and elevations approved by the Board of Commissioners and as laid out and set by the Township Engineer and not otherwise.

F. The surface of the sidewalk shall be pitched towards the curb on a gradient of one-quarter ($\frac{1}{4}$) inch to the foot from the front line of the house or lot to the curb.

G. *Finish.* The concrete surface shall be given a granular finish by rubbing with a wood float without the addition of cement to the surface. An edger having a one-quarter ($\frac{1}{4}$) inch radius shall be used for edging all joints.

(Ord. of 6-7-67, § 1; Ord. of 8-5-70; Ord. No. 74-8, 12-30-74; Ord. No. 75-1, 10-1-75)

SEC. 16-28. VARIANCES.

A variance from the provisions of this article may be granted in the discretion of the Township Commissioners in those cases where because of the grade, elevation or location of streets, adjoining land or other improvements, unnecessary and substantial expense or inconvenience to the public or to owners or tenants will result from a strict and literal application of the terms of this article.

(Ord. of 6-7-67, § 2)

SEC. 16-29. VIOLATION OF ARTICLE.

Any person violating any of the provisions of this article, upon summary conviction before the justice of the peace or court having jurisdiction, shall be punished as prescribed in Section 1-9. The failure to obtain a permit before commencing construction or reconstruction and the violation of each regulation set forth above shall be construed as a separate offense subjecting the person responsible to the penalty herein provided.

(Ord. of 6-7-67 § 3)

Cross reference – General penalty, § 1-9.

SECS. 16-30—16-39. RESERVED.

ARTICLE III. POLES AND WIRES

DIVISION 1. GENERALLY

SEC. 16-40. INSULATION AND HEIGHT OF WIRES.

All wires shall be securely fastened to insulators and maintained at a height as not to interfere with the use of the public highways or exits to private property, and the insulation on electric light and power wires shall be kept a sufficient distance apart to prevent contact or interference with wires carrying low-tension current.

(Ord. of 5-6-22, § 8)

SEC. 16-41. RESTORATION OF SIDEWALKS OR STREET PAVEMENTS IN CONSTRUCTION OR MAINTENANCE OF POLES.

Every person shall replace and properly relay that portion of any sidewalk or street pavement which may have been displaced or damaged in the construction or maintenance of any pole of which such person is owner.

(Ord. of 5-6-22, § 9)

SEC. 16-42. POLES TO BE MARKED.

The owners of all poles located on the public highways of the Township shall mark or stencil thereon by the use of oil paint their names or initials and, also in like manner, number each pole belonging to such owners.

(Ord. of 5-6-22, § 3)

SEC. 16-43. INSPECTION OF POLES, CABLES AND WIRES.

It shall be the duty of the Board of Township Commissioners to make or cause to be made from time to time a thorough and careful inspections of all poles, cables and wires maintained on, over, across and along the public highways of the Township.

(Ord. of 5-6-22, § 5)

SEC. 16-44. DEFECTIVE OR DANGEROUS POLES, CABLES OR WIRES; NOTICE TO OWNER.

If any pole, cable or wire shall be found defective or dangerous from any cause, it shall be the duty of the Board of Township Commissioners to notify the owner thereof, who shall forthwith replace, repair or rearrange such defective pole, cable or wire.

(Ord. of 5-6-22, § 5)

SEC. 16-45. NONCOMPLIANCE WITH NOTICE.

Any person found guilty of violating any of the provisions of this chapter and/or article shall be guilty of a summary offense and upon conviction thereof shall be punished as prescribed in Section 1-9.

(Ord. of 5-6-22, § 5; Ord. of 3-6-63; Ord. No. 86-5, §§ 1F, 2, 10-1-86)

SEC. 16-46. INSPECTION FEE FOR POLES.

On or within a reasonable time after the first day of January of each and every year, the Township Secretary shall prepare and forward a bill to each and every owner of poles that are located on the public highways of the Township, at the rate of one dollar (\$1.00) per pole. The money received under this section shall be applied to the expense of making the inspection provided for in Section 16-43.

(Ord. of 5-6-22, § 6; Ord. of 3-6-63)

SEC. 16-47. OWNERS OF POLES TO SAVE TOWNSHIP HARMLESS, ETC.

Every owner of any pole located on the public highways of the Township shall at all times fully indemnify, protect and save harmless the Township from and against all actions, claims, suits, damages and charges and against all loss and necessary expenditures arising from the erection and maintenance of such pole; or from the neglect or failure to maintain such pole in good and safe order and condition.

(Ord. of 5-6-22, § 10)

SEC. 16-48. FINES AND PENALTIES TO BE PAID TO TOWNSHIP TREASURER.

Fines and penalties imposed and collected under the provisions of this article shall be paid to the Township Treasurer for the use of the Township.
(Ord. of 5-6-22, § 11)

SECS. 16-49—16-53. RESERVED.

DIVISION 2. PERMITS

SEC. 16-54. PERMIT TO ERECT POLES – REQUIRED.

No pole shall be erected in any public highway of the Township until a permit therefore has been issued by the Township Secretary as provided for in this division.
(Ord. of 5-6-22, § 2)

SEC. 16-55. SUBMISSION OF PLANS PREREQUISITE TO ISSUANCE.

Whenever any person, having authority to use the public highways of the Township, shall desire a permit to erect any pole, a plan or plans shall first be presented showing the location, number and size thereof to the Board of Commissioners of the Township for approval or disapproval, and in case the Commissioners disapprove any plan or plans as to the location of any poles, they shall designate in writing or by appropriate marks on such plan or plans some other location suitable for the purposes of the applicant.
(Ord. of 5-6-22, § 1)

SEC. 16-56. FEE.

For the permit required by Section 16-54, the applicant shall pay to the Township Secretary in advance the sum of one dollar (\$1) for each and every pole to be erected, and the amount so paid shall be in lieu of a license fee until the first of January following.
(Ord. of 5-6-22, § 1; Ord. of 3-6-63)

SEC. 16-57. ISSUANCE.

When any plan or plans have been approved in accordance with Section 16-55, the Township Secretary shall issue a permit to the applicant for the number of poles to be erected.
(Ord. of 5-6-22, § 1)

SEC. 16-58. PERMIT TO MAINTAIN POLES – REQUIRED; PENALTY.

No pole shall be maintained within the limits of the Township unless an annual permit for the maintenance of such pole shall have been previously granted for the same in accordance with the provisions of Sections 16-59 and 16-60.

Any person found guilty of violating any of the provisions of this chapter and/or article shall be guilty of a summary offense and upon conviction thereof shall be punished as prescribed in Section 1-9.
(Ord. of 5-6-22, § 7; Ord. No. 86-5, §§ 1G, 2, 10-1-86)

SEC. 16-59. FILING OF LIST OF POLES PREREQUISITE TO ISSUANCE.

Every owner of poles located in the public highways of the Township shall, on or before the first day of January of each and every year, file with the Township Secretary a list giving the location and number of each pole belonging to such owner.

(Ord. of 5-6-22, § 4)

SEC. 16-60. ISSUANCE; TERM.

The Township Secretary shall without charge issue a permit to authorize the maintenance of poles for the period of one year form the first day of January.

(Ord. of 5-6-22, § 4)

SECS. 16-61—16-70. RESERVED.**ARTICLE IV. EXCAVATIONS***

DIVISION 1. GENERALLY

SEC. 16-71. APPLICATION OF ARTICLE.

The provisions of this article and any additional special provisions attached to the permit issued under this article shall apply to all excavations and repavements in the Township.

(Ord. of 9-6-67)

SEC. 16-72. RESTORATION – GENERALLY.

The Township requires that a permittee under this article, as well as utility owners or operators performing emergency evacuations within the street rights-of-way of West Pottsgrove Township restore the road surface following the completion of the work, as follows:

- A. *Restoration of Flexible Base Pavements.* Base and surface restoration of flexible base pavements shall be performed under this subsection and as specified in the permit. Prior to replacement of the base course, one foot outside of each edge of the opening shall be sawed, in a neat straight line, to the top elevation of the existing aggregate sub-base or stone base course, and the detached material shall be removed. Other surface opening methods such as cutting may be authorized if the methods result in the opened pavement having a neat, straight vertical line.
1. Exposed vertical and horizontal surfaces shall be prepared under Sec. 401.3(f) of Publication 408.
 2. The base course shall consist of bituminous concrete meeting the requirements of Sec. 305 of Publication 408 or other base course material authorized by the Township Engineer. The base course material shall have a minimum depth of 5 inches or a depth equal to the existing base course, whichever is greater.
 3. If required, the binder course shall consist of material meeting the requirements of Sec. 421 of Publication 408, or such other binder course as authorized by the Township Engineer. The binder course shall have a minimum depth of 2 inches or a depth equal to the existing binder course, whichever is greater.

* *Cross reference – Trenches relative to sewers and drains, § 19-35.*

4. The wearing course shall consist of material meeting the requirements of Sec. 420 of Publication 408, or such other wearing course as authorized by the Township Engineer. The wearing course shall have a minimum depth of 1½ inch or a depth equal to the existing wearing course, whichever is greater.
- B. *Restoration of Plain or Reinforced Cement Concrete Pavements.* Base and surface restoration of plain or reinforced cement concrete pavements shall be performed under this subsection and as specified in the permit. Drilling is not permitted where sawing or cutting is required.
1. Prior to replacement of the pavement, one foot outside of each edge of the opening shall be sawed the full depth of pavement in a neat, straight line. The detached material shall be removed without damaging the adjacent pavement. The use of a pavement breaker is prohibited. The permittee may partially saw-cut the pavement to the depth of at least 3 inches and cut the remaining pavement with a jackhammer weighing no more than 90 pounds, if:
 - a. The restored opening does not exceed 6 feet in either length or width.
 - b. The restored opening is at least 2 feet from a pavement edge or joint.
 - c. The highway average daily traffic (ADT) does not exceed 5,000.
 2. The replacement pavement shall consist of high early strength concrete equal in depth to the original concrete pavement or to a depth of 8 inches, whichever is greater.
 3. On existing reinforced cement concrete pavements that are opened for more than 6 feet in either length or width, reinforcing steel, expansion tie bolts and load transfer devices shall be placed in accordance with Roadway Construction Standard RC-26 (relating to concrete pavement maintenance).
 4. The permittee may be required to restore the structural integrity of a damaged cement concrete pavement by:
 - a. Replacing the opened pavement transversely the full lane width.
 - b. Replacing the opened pavement longitudinally to a transverse joint or opening within 6 linear feet of the opening.
 5. The surface shall be restored, as follows:
 - a. After surface corrections have been completed and before the concrete becomes non-plastic, the surface shall be given a textured finish that matches the existing adjacent surface. The surface shall be cured under Sec. 501.3(k) of Publication 408.
 - b. Restoration of a binder and wearing courses of a cement concrete pavement which has a bituminous surface shall be done under subsection C.
- C. *Temporary Pavement Restoration.* Temporary restoration of a pavement or paved shoulder may be required by the Township prior to permanent restoration, under the following conditions:

1. The base shall consist of compacted select granular material with a surface of 2-inch bituminous material. If the existing pavement structure includes a course of sub-base material, it shall be replaced to a depth equal to the existing course depth with material meeting the requirements of Section 350.2 of Publication 408.
2. Temporary pavement restoration shall be completed before traffic is allowed to travel on the disturbed area. The temporary pavement may be kept in place for up to 6 months or as specified in the permit, if it is properly maintained.
3. The temporary pavement shall be removed and permanent restoration performed under subsection A and B, above, within 6 months of the date of the temporary pavement restoration.

D. *Additional Restoration.* Additional restoration shall be required, as follows:

1. Disturbed portions of the highway, including but not limited to, slopes and appurtenances and structures such as guide rails, curbs, signs, markings, drain pipes, driveways and vegetation, shall be restored by the permittee to a condition at least equal to that which existed before the start of work authorized by the permit, if the restoration is consistent with the "Roadway Construction Standards." Additional restoration may also be required, upon written notification, to restore the structural integrity of the pavement or shoulder.
2. If the permittee opens pavement having a bituminous concrete surface, the permittee shall, in addition to the restoration conditions outlined in the permit and in this section, overlay the pavement in accordance with the following conditions:
 - a. When a longitudinal opening longer than 100 linear feet has been made in the pavement, the permittee shall overlay (mill and pave) the entire street in which the opening was made, for the entire length of the highway that was opened, in conformance with applicable portions of PaDOT specifications, Publication 408, 1990, or most current section.
 - b. When two or more transverse openings have been made by the same permittee within 100 linear feet of pavement, the permittee shall overlay (mill and pave) the entire street in which the openings were made, for the entire length of highway between the openings, in conformance with applicable portions of PaDOT specifications, Publication 408, 1990, or most current section.
 - c. When four or more emergency openings have been made by the same permittee within 100 linear feet of pavement and within one year, the permittee shall overlay (mill and pave) the entire street in which the openings were made, for the entire length of highway between the openings, in conformance with applicable portions of PaDOT specifications, Publication 408, 1990, or most current section.
 - d. Aggregate used in a bituminous overlay wearing course shall comply with skid resistance level (SRL) criteria specified in Design Manual, Part 2, Chapter 11.
 - e. If an opening is made in a bituminous concrete pavement within 2 feet from the edge of pavement or curb line, the surface restoration shall be extended to the edge of pavement or curb line.

f. At the end of each overlay, the permittee shall install a paving notch, under Roadway Construction Standard RC-28, by milling, planning or other authorized method and provide a minimum 10-foot transition.

g. The transition areas at each end of any overlay shall follow the contour of the surrounding surface.

E. *Sealing.* Restored openings in the pavement or paved shoulder shall be sealed under Sec. 401.3(j)(3) of Publication 408 in the case of bituminous concrete or Sec. 501.3(n) of Publication 408 in the case of cement concrete.

(Ord. of 9-6-67; Ord. No. 11-03, 11-2-11)

SEC. 16-73. SURFACE TREATED MACADAM.

Pavement restoration for surface treated macadam shall consist of 8-inch crushed stone base with 2 inches of ID-2 bituminous surface.

(Ord. of 9-6-67)

SEC. 16-74. STREETS, ETC., WITH NO IMPROVED SURFACE.

Pavement restoration for streets, alleys and berms with no improved surface shall consist of 6 inches of selected material surfacing or 2-A modified stone.

(Ord. of 9-6-67)

SEC. 16-75. MATERIAL AND WORKMANSHIP.

All material and workmanship shall be constructed as to materials and methods generally in conformance with applicable portions of PaDOT specifications, Publication 608 – 1990, or more current edition.

(Ord. of 9-6-67; Ord. No. 11-03, 8-3-11, § 3)

SEC. 16-76. VIOLATION OF ARTICLE.

Any person violating the provisions of this article shall subject himself to a penalty as prescribed in Section 1-9 upon conviction thereof before a justice of the peace, and no permit shall be issued to any person until all fines are paid.

(Ord. of 9-6-67)

Cross reference – General penalty, § 1-9.

SECS. 16-77—16-82. RESERVED.

DIVISION 2. PERMITS

SEC. 16-83. PERMIT REQUIRED.

No work may be performed within the street rights-of-way within West Pottsgrove Township which involve the placing of utility facilities or other structures or the opening of the surface of the road without first obtaining a permit from the Township Secretary. The permit application shall be submitted to the Township Secretary at least 15 days prior to the anticipated start of the work.

(Ord. of 7-14-48, § 1; Ord. No. 11-03, 8-3-11, § 6)

SEC. 16-84. SCOPE.

The permit required by Section 16-83 is for the opening of a street or alley covers the opening of said street or alley, but does not cover any other permits or fees which may be required, nor does it give the permittee permission to enter into adjoining private property without the consent of the owner(s).

(Ord. of 9-6-67; Ord. No.11-03, 8-3-11, § 6)

SEC. 16-85. PERMIT FEES.

A. Before issuance of the permit required by Section 16-83, there shall first be paid to the Township Secretary for the use of the Township by the person applying for the permit, such fee or fees, in amounts as established by resolution of the Board of Commissioners, for street openings, inspections and repavings. In addition, a security deposit in the form of a bond guarantee, letter of credit, escrow account or cash deposit in an amount computed on a per square yard basis and based on pavement structure will be required to ensure proper road restoration as required by Chapter 19, Sec. 19-40.

B. Permit application fees and general permit inspection fees are not required for the following:

1. Utility facility owners for the replacement or renewal of their facilities prior to Township maintenance projects, after notice from the Township.
2. Facilities moved at the request of the Township.
3. Governmental authorities and political subdivisions organized under the laws of this Commonwealth, except when placing a facility longitudinally within more than 100 total linear feet of pavement. In this case, the application and inspection fees for pavement openings will be charged.

(Ord. of 7-14-48, § 1; Ord. of 9-6-67; Ord. No. 2009-4, § 7, 3-18-09; Ord. No.11-03, 8-3-11, § 6)

SEC. 16-86. EMERGENCY.

Emergency repairs involving the placing of facilities or the opening up of the surface within the right-of-way may be performed prior to obtaining a permit providing the following procedures are adhered to:

A. The utility owner or operator shall promptly notify the Township office by telephone when the necessity of an emergency repair occurs during the hours from 9:00 am through 4:00 pm, Monday through Friday. Emergency work occurring at other times should be reported to the Township on the following business day.

B. Prior to opening the surface or the placing of a utility facility in the right-of-way, the utility workers shall provide the following information in the telephone notice:

1. Date emergency work is started;
2. Time the emergency work is started;
3. Location of the emergency work site; and
4. Description of emergency work.

C. The permit required under Sec. 16-83 shall be applied for within 15 days to confirm and set forth and detail any emergency work performed.

Chapter 17
TAXATION

- Art. I. In General, §§ 17-1—17-15**
Art. II. Per Capita Tax, §§ 17-16—17-27
Art. III. Real Estate Transfer Tax, §§ 17-28—17-49
Art. IV. Local Services Tax, §§ 17-50—17-69
Art. V. Reserved, §§ 17-70—17-89
Art. VI. Earned Income Tax, §§ 17-90—17-105

ARTICLE I. IN GENERAL

SECS. 17-1, 17-2. RESERVED.

SEC. 17-3. TAX RATE ON REAL PROPERTY.

Editor's note – Section 17-3.A of the Code, which pertained to the tax rate on real property, has been deleted at the direction of the Township. Said section had been derived from the following: Ordinance 2006-9 of December 20, 2006; Ordinance 2007-5 of December 19, 2007; Ordinance 2008-2 of December 17, 2008, which ordinances, along with subsequent amendatory ordinances establishing the tax rate upon real property are on file and available for public inspection in the office of the Township Secretary.

- B. All tax payers subject to paying the aforesaid real estate tax, shall be entitled to a discount of two percent (2%) from the amount of such tax, upon making payment of the whole amount thereof within 2 months from the date of the date of the tax notice. All taxpayers who shall fail to make payment of the aforesaid real estate tax within 4 months from the date of the tax notice shall be charged a penalty of ten percent (10%), which penalty shall be added to the taxes by the Tax Collector and collected by him.

(Ord. No. 2008-2, 12-17-08)

SEC. 17-4. ALTERNATIVE COLLECTOR.

In addition to the authorization for the collection of taxes and institution of tax sales authorized by the Real Estate Tax Sales Law (“RETSL”), 72 PS §5860.201 et seq, the Montgomery County Tax Claim Bureau is appointed as alternative collector and is authorized and directed to file liens for existing delinquent real estate taxes with the Prothonotary of Montgomery County in accordance with the provisions of the Municipal Claims and Tax Liens Act, 53 PS §7101, et seq.

(Ord. No. 2012-4, 12-19-12)

SEC. 17-5. INTEREST.

In accordance with the MCTLA and RETSEL, interest shall be charged on taxes so returned from and after, but not before the first day of the month following the return. Interest shall be charged at the rate of nine percent (9%) per annum.

(Ord. No. 2012-4, 12-19-12)

SEC. 17-6. EXPENSES AND CHARGES.

Pursuant to §7106 of the MCTLA, it is hereby established that the reasonable charges, expenses and fees incurred in the collection of any delinquent account under the MCTLA are hereby fixed at five percent (5%) of the total amount of the delinquent taxes (including interest and penalties), and that additional reasonable attorney's fees incurred in the collection of any delinquent taxes shall be fixed at one percent (1%) of the total amount of the delinquent taxes (including interest and penalties), and that said charges for attorney's fees and for all charges, expenses and fees set forth herein, shall be paid to the County of Montgomery through the Montgomery County Tax Claim Bureau in lieu of payment of commission pursuant to §207 of RETSL.
(Ord. No. 2012-4, 12-19-12)

SECS. 17-7—17-27. RESERVED.

Editor's note – Former Section 17-2, derived from Ord. of Feb. 3, 1954, was repealed by Ord. No. 74-4, enacted Feb. 6, 1974.

ARTICLE II. PER CAPITA TAX***SEC. 17-16. LEVIED.**

- A. *Amount of tax.* A uniform annual per capita tax at the rate of five dollars (\$5) per person beginning January 1, 1978, and for each calendar year thereafter, to provide for general Township purposes, is hereby levied, assessed and imposed upon all residents or inhabitants of the Township, 18 years of age and over and residents as of January 1st each year, in accordance with the Local Tax Enabling Act, act of December 31, 1965, P.L. 1257, No. 511, as amended.
- B. *Amount of discount and penalties.* All taxpayers subject to the paying of the aforesaid per capita tax, shall be entitled to a discount of 2 percentum from the amount of such tax, upon making payment of the whole amount thereof within 2 months from the date of the tax notice. All taxpayers who fail to make payment for the aforesaid per capita tax within 4 months from the date of the tax notice, shall be charged a penalty of 10 percentum, which penalty shall be added to the taxes by the Tax Collector and collected by him.

(Ord. No. 74-1, 1-7-74; Ord. No. 74-10; 12-30-74; Ord. No. 77-8, 12-28-77; Ord. No. 85-12, 12-26-85)

SEC. 17-17. COLLECTION.

The tax levied by Section 17-16 is to be collected in accordance with existing law together with such interest and penalties as may become legally due.
(Ord. of 1-4-67)

SEC. 17-18. PER CAPITA TAX EXONERATION.

- A. *Financial status.* Exoneration will be granted to any single person with an income of less than two thousand four hundred dollars (\$2,400) per year or any married couple having an income of less than four thousand dollars (\$4,000) per year. Income is defined as Social Security, retirement benefits, rent, royalties, dividends, interest, and any other form of income.

* *State law references* – Authority of Township to levy, assess and collect a per capita tax for general revenue purposes, 53 P.S. § 6902; local tax enabling act, 53 P.S. § 6901 et seq.

- B. *Application for exoneration.* All applications must be completed on the standard “Application for Exoneration of Occupation or Per Capita Tax” forms and submitted to an applicant’s Tax Collector prior to September 30 of the year in which taxes are due.
- C. *Permitted exonérations.* The Tax Committee will retain a file of permanent exonérations which are subject to annual review. Persons who would be classified in this permitted status are those having an undue hardship, a severe lack of income, or similar circumstances that would normally be considered as sufficient grounds for exoneration year after year. These exonérations will be rescinded, if a change in any individual taxpayer’s situation should warrant such action by the Tax Committee. All persons who may be in this category must ordinarily submit an application for exoneration; transfer to permanent status will not be automatic.
- D. *Students.* All full-time student nurses, undergraduate college students, high school students, and those full-time students who attend accredited high schools, technical schools, business and vocational schools, colleges, and universities are permanently exonerated from the payment of taxes while matriculated at one of the above institutions, without regard to the amount of income.
- E. *Members of the armed forces.* Any such person is exonerated permanently during the length of his tour of active duty, without regard to the amount of income.
- F. *Hardship cases.* Persons in this category, including the physically handicapped, may be exonerated after review by the Tax Committee even though the income might be higher than that stipulated for exoneration under financial status first above noted.
- G. *Method for reviewing exonérations for approval or disapproval.* A Tax Committee composed of the following representatives will review exonérations and present complete lists for formal action by the representative board of education and boards of Commissioners:
1. Three members of the Pottsgrove School Board “Tax Committee.”
 2. One representative from each of the following: Lower Pottsgrove, Upper Pottsgrove, West Pottsgrove, Township Commissioners (Tax Committee) for a total of three committee members.
 3. Three local tax collectors.
- (Ord. of 1-4-67; Res. of 2-2-72; Ord. No. 74-1, 1-7-74)

SECS. 17-19—17-27. RESERVED.

ARTICLE III. REAL ESTATE TRANSFER TAX*

SEC. 17-28. SHORT TITLE.

This article shall be known as “realty transfer tax ordinance of West Pottsgrove Township.”
(Ord. No. 86-9, 12-29-86)

* *Editor’s note* – Ord. No. 86-9, enacted Dec. 29, 1986, amended the Code by repealing Art. III, §§ 17-28—17-41, pertaining to the real estate tax, which derived from Ord. of Dec. 19, 1957, §§ 1-13, 17. Said ordinance also enacted a new Art. III, §§ 17-28—17-46, to read as herein set out.

SEC. 17-29. AUTHORITY.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within West Pottsgrove Township, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place as authorized by Article XI-D, "Local Real Estate Transfer Tax," 72 P.S. Section 8101-D et seq. (Ord. No. 86-9, 12-29-86)

SEC. 17-30. DEFINITIONS.

The following words or phrases when used in this article shall have the meanings and definitions ascribed to them as set forth in the Tax Reform Code, Article XI-(c) entitled Realty Transfer Tax as amended by Act 77 of 1986, (72 P.S. 8101-C) as is now in force or hereafter amended, except where otherwise provided:

- A. Association.
- B. Corporation.
- C. Document.
- D. Family farm corporation.
- E. Governing body: West Pottsgrove Township.
- F. Members of the same family.
- G. Person.
- H. Real Estate.
 - 1. All lands, tenements or hereditament within the governing body, including without limitations buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees, and other improvements, immovables or interests which by custom, usage or law pass with a conveyance or land, but excluding permanently attached machinery and equipment in an industrial plant.
 - 2. A condominium unit.
 - 3. A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.
- I. Real estate company.
- J. Title to real estate.
- K. Transaction.
- L. Value.

(Ord. No. 86-9, 12-29-86)

SEC. 17-31. IMPOSITION OF TAX; INTEREST.

- A. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of one percent of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.
- B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder of deeds, or his designee, whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
- C. It is the intent of this article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. Section 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the governing body under the authority of that act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half (½) of the rate and such one-half (½) rate shall become effective without any action on the part of the governing body provided, however, that the governing body and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half (½) of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the "Local Tax Enabling Act."
- D. If for any reason the tax is not paid when due, such delinquent tax shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. § 7101, et seq.), as amended, known as "The Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. § 806), as amended, known as "The Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

(Ord. No. 86-9, 12-29-86; Ord. No. 2006-7, § 1, 12-20-06)

SEC. 17-32. EXEMPT PARTIES.

The provisions of Section 1102-C.2, Exempt Parties as set forth in Act 77 of 1986 (P.S. 8101-C) as now in force or hereafter amended are incorporated herein as part of this article by reference as if the same provisions of Section 1102-C.2 were set forth herein at length.

(Ord. No. 86-9, 12-29-86)

SEC. 17-33. EXCLUDED TRANSACTIONS.

The provisions of Section 1102-C.3, Excluded Transactions as set forth in Act 77 of 1986 (72 P.S. 8101-C) as now in force or hereafter amended are incorporated herein as part of this article by reference as if the same provisions of Section 1102-C.3 were set forth herein at length.

(Ord. No. 86-9, 12-29-86)

SEC. 17-34. DOCUMENTS RELATING TO ASSOCIATIONS OR CORPORATIONS AND MEMBERS, PARTNERS, STOCKHOLDERS OR SHAREHOLDERS THEREOF.

The provisions of Section 1102-C.4, Documents Relating to Associations Corporations and Members, Partners, Stockholders or Shareholders Thereof, as set forth in Act 77 of 1986 (72 P.S. 8101-C) as now in force or hereafter amended are incorporated herein as part of this article by reference as if the same provisions of Section 1102-C.4 were set forth herein at length.

(Ord. No. 86-9, 12-29-86)

SEC. 17-35. ACQUIRED COMPANY.

The provisions of Section 1102-C.5, Acquired Company, as set forth in Act 77 of 1986 (72 P.S. 8101-C) as now in force of hereafter amended are incorporated herein as part of this article by reference as if the same provisions of Section 1102-C.5 were set forth herein at length.

(Ord. No. 86-9, 12-29-86)

SEC. 17-36. CREDITS AGAINST TAX.

The provisions of Section 1103-C Credits Against Tax, as set forth in Act 77 of 1986 (72 P.S. 8101-C) as now in force or hereafter amended are incorporated herein as part of this article by reference as if the same provisions of Section 1103-C were set forth herein at length.

(Ord. No. 86-9, 12-29-86)

SEC. 17-37. EXTENSION OF LEASE.

The provisions of Section 1103-C.1, Extension of Lease, as set forth in Act 77 of 1986 (72 P.S. 8101-C) as now in force or hereafter amended are incorporated herein as part of this article by reference as if the same provisions of Section 1103-C.1 were set forth herein at length.

(Ord. No. 86-9, 12-29-86)

SEC. 17-38. PROCEEDS OF JUDICIAL SALE.

The provisions of Section 1104-C, Proceeds of Judicial Sale, as set forth in Act 77 of 1986 (72 P.S. 8101-C) as now in force or hereafter amended are incorporated herein as part of this article by reference as if the same provisions of Section 1104-C were set forth herein at length.

(Ord. No. 86-9, 12-29-86)

SEC. 17-39. DUTIES OF RECORDER OF DEEDS.

A. As provided in 16 P.S. Section 11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the recorder of deeds shall be the collection agent for the local realty transfer tax, including any amount payable to governing body based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from governing body.

B. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

- C. On or before the tenth of each month, the recorder shall pay over to governing body all local realty transfer taxes collected, less two percent (2%) for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The two percent (2%) commission shall be paid to the county.
- D. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the recorder shall rerecord the deed or record the additional realty transfer tax form only when both the state and local amounts and a rerecording or recording fee has been tendered.
(Ord. No. 86-9, 12-29-86)

SEC. 17-40. STATEMENT OF VALUE.

The provision of Section 1109-C, Statement of Value, as set forth in Act 77 of 1986 (72 P.S. 8101-C) as now in force or hereafter amended are incorporated herein as part of this article by reference as if the same provisions of Section 1109-C were set forth herein at length.
(Ord. No. 86-9, 12-29-86)

SEC. 17-41. CIVIL PENALTIES.

- A. If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to the tax an amount equal to fifty percent (50%) of the underpayment.
- B. In the case of failure to record a declaration required under this article on the date prescribed therefore, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax five percent (5%) of the amount of such tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month or fraction thereof during which such failure continues, not exceeding fifty percent (50%) in the aggregate.
(Ord. No. 86-9, 12-29-86)

SEC. 17-42. LIEN.

The tax imposed by this article shall become a lien upon lands, tenements, or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the governing body, which lands, tenements, hereditaments, or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this article, said lien to begin at the time when the tax under this article is due and payable, and continue until discharge by payment, or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the court of common pleas of Montgomery County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. Section 7101 et seq., its supplements and amendments.
(Ord. No. 86-9, 12-29-86)

SEC. 17-43. ENFORCEMENT.

All taxes imposed by this article together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.
(Ord. No. 86-9, 12-29-86)

SEC. 17-44. REGULATIONS.

The Board of Commissioners of West Pottsgrove Township shall designate by resolution the collector who is charged with the enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. Section 81010-C et seq. are incorporated and made a part of this article.

(Ord. No. 86-9, 12-29-86)

SEC. 17-45. RESERVED.**SEC. 17-46. ENABLING ACTS.**

The provisions of Article XI-D entitle Local Realty Transfer Tax, Sections 1101-D and 1102-D as set forth in Act 77 of 1986 (72 P.S. 8101-D) as now in force or hereafter amended are incorporated herein as part of this article by reference as if the same provisions of Sections 1101-D and 1102-D were set forth herein at length.

(Ord. No. 86-9, 12-29-86)

SECS. 17-47—17-49. RESERVED.**ARTICLE IV. LOCAL SERVICES TAX^{*†}****SEC. 17-50. SHORT TITLE.**

This article shall be known and may be cited as the “Local Services Tax.”

(Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-51. DEFINITIONS.

The following words and phrases when used in this article shall have the meaning ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

- A. *Collector*: The person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.
- B. *DCED*: The Department of Community and Economic Development of the Commonwealth of Pennsylvania.
- C. *Earned Income*: Compensation as this term in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 31, 1956, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.

^{*} *Editor’s note* – Art IV was repealed by Ord. No. 2005-5, § 1, enacted Dec. 21, 2005. Art IV was added with a title change by Ord. No. 2005-5, § 2, enacted Dec. 21, 2005.

[†] *Editor’s note* – Art IV was repealed by Ord. No. 2007-4, § 1, enacted Dec. 19, 2007. Art IV was added with a title change by Ord. No. 2007-4, § 2, enacted Dec. 19, 2007.

- D. *Employer*: An individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one (1) or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.
- E. *He, His or Him*: Indicates the singular and plural number, as well as male, female and neuter genders.
- F. *Individual*: Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.
- G. *Net Profits*: The net income from the operation of a business profession; or other activity, as this term is defined in Section 13 (relating to earned income taxes) of the Local Tax Enabling Act, the Act of December 13, 1965, P.L. 1251, § 13, as amended, 53 P.S. § 6913, as amended.
- H. *Occupation*: Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of the political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.
- I. *Person*: Any individual, partnership, association, corporation, or governmental body, or any agency thereof..
- J. *Political Subdivision*: The area within the corporate limits of the Township of West Pottsgrove.
- K. *Tax*: The local services tax at the rate fixed in Section 17-52 of this article.
- L. *Taxpayer*: Any natural person liable for the tax levied by this ordinance.
- M. *Tax Year*: The period from January 1 until December 31 in any year; a calendar year. (Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-52. LEVY OF TAX.

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008; upon the privilege of engaging in an occupation with a primary place of employment within West Pottsgrove Township during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of forty-five dollars (\$45.00), assessed on a pro rata basis, in accordance with the provisions of this article. This tax may be used solely for the following purposes as the same may be allocated by the Board of Commissioners of West Pottsgrove Township from time to time:

- A. Emergency services, which shall include emergency medical services, police services and/or fire services;
- B. Road construction and/or maintenance;
- C. Reduction of property taxes; or

- D. Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 PaCS Ch. 85, Subchapter F (relating to homestead property exclusion).

The political subdivision shall use no less than twenty-five percent (25%) of the funds derived from the tax for emergency purposes. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than fifty-two dollars (\$52) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

(Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-53. AMOUNT OF TAX.

Exemption. Any person whose total earned income and net profits from all sources within the political subdivision is less than twelve thousand dollars (\$12,000) for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

- A. Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent (100%) disability.
- B. Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subparagraph, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania National Guard or the Pennsylvania Air National Guard.

Procedure to Claim Exemption.

- A. A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and which the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the tax year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by Section 17-53(b)(2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applied. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.
- B. With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to

or in excess of twelve thousand dollars (\$12,000) in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the municipality in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under Section 17-53(b)(3).

- C. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under Section 17-53(b)(2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under Section 17-53(b)(2) a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due and the political subdivision may pursue collection under this article.
- D. Except as provided in Section 14-53(b)(2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemptions eligibility or exempting any employee from the local services tax.

Refunds. West Pottsgrove Township, in consultation with the collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar (\$1). West Pottsgrove Township or the collector shall determine the eligibility for exemption and provide refunds to exempt persons.

(Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-54. DUTY OF EMPLOYERS TO COLLECT.

- A. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.
- B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth (1/100) of a dollar (\$1). Collection of the tax shall be made on a payroll basis for each payroll period in which the person is engaging in an occupation, except as provided in paragraph (d) of this Section.

- C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
- D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that include the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within 2 weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.
- E. The tax shall be no more than fifty-two dollars (\$52) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.
- F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of paragraph (b) of Section 17-53 of this article and this Section and remits the amount so withheld in accordance with this article.
- G. Employers shall be required to remit the local services taxes 30 days after the end of each quarter of a calendar year.
(Ord. No. 77-7, 12-28-77; Ord. No. 85-12, 12-26-85; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-55. RETURNS.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.
(Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-56. DATES FOR DETERMINING TAX LIABILITY AND PAYMENT.

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom the tax shall be deducted and paid over to the Collector on or before the 30th day following the end of each calendar quarter of each such tax year.
(Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-57. SELF-EMPLOYED INDIVIDUALS.

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this article and pay the pro rata portion of the tax due the Collection on or before the 30th day following the end of the quarter.
(Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-58. INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION OR EMPLOYED IN MORE THAN ONE POLITICAL SUBDIVISION.

The situs of the tax shall be the place of employment on the first day the person becomes subject to the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:

- A. First, the political subdivision in which the person maintains his principal office or is principally employed;
- B. Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
- C. Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions. (Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-59. NON-RESIDENTS SUBJECT TO TAX.

All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who performs services of any type or kind or engage in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the political subdivision and employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

(Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-60. ADMINISTRATION OF TAX.

- A. The Collector shall be appointed by resolution of the political subdivision. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received from him from each employer of self-employed person, together with the date the tax was received.
- B. The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered, subject to municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which the overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998 (municipalities may detail their appeal processes).

- C. The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

(Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-61. SUITS FOR COLLECTION.

- A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for recovery of any such tax due or unpaid under this article, together with interest and penalty.

- B. If for any reason the tax is not paid when due, interest at the rate of six percent (6%) on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of ten percent (10%) shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection.

(Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-62. VIOLATIONS AND PENALTIES.

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or account in his custody and control setting forth the number of employees subject to this tax who are in his employment, or whoever fails or refuses to file any return required by this article shall be guilty of a summary offense and, upon conviction thereof, shall be subject to the penalties as set forth in Section 1-9 of the Code of Ordinances of West Pottsgrove Township and shall be sentenced to pay a fine of not more than six hundred dollars (\$600) and costs of prosecution. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

(Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-63. INTERPRETATION.

- A. Nothing contained in this article shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the law of the Commonwealth of Pennsylvania.

- B. If the tax hereby imposed under the provisions of this article shall be held by any Court of competent jurisdiction to be in violation of the Constitution of the United States or the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the Court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

(Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 2, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-64. RESERVED.

SEC. 17-65. RESERVED.

(Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-66. ENABLING AUTHORITY.

This article is enacted under the authority of the Local Tax Enabling Act, Act of December 31, 1965, PL 1257, No. 511, as amended by Act 222 of 2004 enacted December 1, 2004, PL 1729, and amended by Act 7 of 2007 enacted June 21, 2007, PL _____.

(Ord. No. 2007-4, §§ 1, 2, 12-19-07)

SEC. 17-67—17-69. RESERVED.

(Ord. No. 77-7, 12-28-77; Ord. No. 2005-5, §§ 1, 12-21-05; Ord. No. 2007-4, §§ 1, 2, 12-19-07)

ARTICLE V. RESERVED***SECS. 17-70—17-89. RESERVED.****ARTICLE VI. EARNED INCOME TAX†****SEC. 17-90. DEFINITIONS.**

The following words and phrases when used in this article shall have the meanings and definitions ascribed to them as set forth to them in the Local Tax Enabling Act of December 31, 1965, P.L. 1257, Section 13 (53 P.S. 6913), as now in force, or hereafter amended, except where otherwise provided:

- A. Governing body: West Pottsgrove Township;
- B. Association;
- C. Business;
- D. Corporation;
- E. Current year;
- F. Domicile;
- G. Earned income;
- H. Income tax officer or officer;
- I. Employer;
- J. Net profits;
- K. Nonresident;
- L. Person or individual;

* *Editor's note* – Ord. No. 88-4, adopted May 4, 1988, repealed Ch. 17, Art. V, §§ 17-70—17-84, pertaining to landfill dumping tax, which derived from Ord. No. 83-6, adopted Dec. 28, 1983; Ord. No. 84-1, adopted March 7, 1984; Ord. No. 84-2, adopted April 4, 1984 and Ord. No. 86-2, adopted Feb. 5, 1986.

† *Editor's note* – Ord. No. 84-3, enacted May 2, 1984, amended Ch. 17 by adding thereto provisions designated Art. V, §§ 17-80—17-93, which provisions were redesignated by the editors as Art. VI, §§ 17-90—17-103, inasmuch as an Art. V had previously been added by Ord. No. 83-6, adopted Dec. 28, 1983.

- M. Preceding year;
- N. Resident;
- O. Succeeding year;
- P. Taxpayer.

(Ord. No. 84-3, 5-2-84)

SEC. 17-91. IMPOSITION OF TAX.

A tax for general Township purposes imposed on:

- A. One percent (1%) of all earned income earned on and after January 1, 1985, by residents.
- B. One percent (1%) of all earned income earned on and after January 1, 1985, within the taxing district by nonresidents.
- C. One percent (1%) of the net profits earned on and after January 1, 1985, of businesses, professions and other activities conducted by residents.
- D. One percent (1%) of the net profits earned on and after January 1, 1985, of businesses, professions and other activities conducted within the taxing district by nonresidents.
- E. The tax levied under this article shall be applicable to earned income received and to net profits earned in the period beginning January 1 of 1985, and ending December 31, 1985, and the tax shall continue in force on a calendar year basis or taxpayer fiscal year basis without annual re-enactment, unless the rate of tax is subsequently changed. The Township may by ordinance change the rate. Such change shall become effective on the date specified in the ordinance.

(Ord. No. 84-3, 5-2-84)

SEC. 17-92. DECLARATION AND PAYMENT OF TAX.

A. Net profits.

1. Beginning with calendar year, 1985, every taxpayer making net profits shall on or before April 15th of the then current year, make and file with the officer on a form prescribed or approved by the officer, a declaration of his estimated net profits during the period beginning January 1st and ending December 31st of the then current year, and pay to the officer in four equal quarterly installments the tax due thereon as follows: The first installment at the time of filing the declaration, and the other installments on or before June 15th of the then current year, September 15th of the then current year, and January 15th of the succeeding year, respectively.
2. Beginning with calendar year, 1985, any taxpayer who first anticipates any net profit after April 15th of the then current year, shall make and file the declaration hereinabove required, on or before June 15th of the then current year, September 15th of the then current year, or December 31st of the then current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.
3. Every taxpayer shall, on or before April 15th of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of net profits earned during the period beginning January 1st of the then current year and ending

December 31st of the then current year, the total amount of the tax due thereon and the total amount of the tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the officer the balance of tax due or shall make demand for refund or credit in the case of overpayment.

4. Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the officer on or before January 31st of the succeeding year, the final return as hereinabove required.
5. The officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.
6. Every taxpayer who discontinues business prior to December 31st of the current year shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

B. Earned income; annual earned income tax return.

1. Every taxpayer shall, on or before April 15th of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of earned income received during the period beginning January 1st of the current year and ending December 31st of the current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
2. Beginning with calendar year 1985, every taxpayer who is employed for a salary, wage, commission, or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make the file with the officer on a form prescribed or approved by the officer, a quarterly return on or before April 30th of the current year, July 31st of the current year, October 31st of the current year, July 31st of the current year, October 31st of the current year, and January 31st of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during three-month periods ending March 31st of the current year, June 30th of the current year, September 30th of the current year, and December 31st of the current year, respectively, and subject to the tax, together with such other information as the officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the officer the amount of tax shown as due thereon.

(Ord. No. 84-3, 5-2-84)

SEC. 17-93. COLLECTION AT SOURCE.

The provisions of Article IV, Collection at Source, as set forth in the Local Tax Enabling Act, act of December 31, 1965, P.L. 1257, Section 13 (53 P.S. 6913), as now in force or hereafter amended, are incorporated herein as part of this article by reference as if the same provisions of Article IV were set forth herein at length.

(Ord. No. 84-3, 5-2-84)

SEC. 17-94. POWERS AND DUTIES OF OFFICER.

- A. The Board of Commissioners of West Pottsgrove Township shall, from time to time, by separate resolution appoint a person, public employee or private agency to administer the provisions of this taxing ordinance who will be designated the income tax officer or officer.
- B. The officer shall be bonded as the Board of Commissioners of West Pottsgrove Township may determine, said bond to cover all monies coming into his hands on behalf of the governing body. Before entering upon his official duties, the officer shall give and acknowledge the bond to the governing body appointing him. Said bond shall be in compliance with the provisions of the Local Tax enabling Act, Act No. 511, as amended, and subject to the approval of the solicitor to the governing body.
- C. It shall be the duty of the officer to collect and receive the taxes, fines and penalties imposed by this article. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.
- D. The officer in charge of the administration and enforcement of the provisions of this article is hereby empowered to prescribe, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of the article, including provisions for the reexamination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in the case of overpayment, for any time period not to exceed 6 years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of this article. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution of the governing body. A copy of such rules and regulations currently in force shall be available for public inspection.
- E. The officer, and agents designated in writing by him, are hereby authorized to examine any of the books, papers and records of any employer, supposed employer, taxpayer or supposed taxpayer in order to verify the accuracy of any return made, or, if no return is made, to ascertain the amount of tax due by any person under this article. Every such employer, supposed employer, taxpayer, or supposed taxpayer, shall give to the officer or to any agent so designated by him, the means, facilities and opportunities for such examination and investigation as are hereby authorized.
- F. The officer is authorized to examine any person under oath concerning any income which was or should have been returned for taxation, and shall have the power and is hereby authorized to issue subpoenas to compel the attendance of persons whom he deems necessary to examine as witnesses, and to compel the production of books, records and papers relating to any account being examined.
- G. Any information gained by the officer or any official or agent so designated by him, or by any official or agent of the governing body, as a result of any declaration, returns, investigations, hearings or verifications required or authorized by the article shall be confidential, except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.
- H. The officer shall distribute earned income taxes to the governing body within 60 days of the deadline for payment by an employer as set forth in Division IV(b) of the Local Tax Enabling Act (53 P.S. § 6913(IV)(b)). The governing body shall not be required to request the officer to distribute the funds collected but shall at least annually reconcile its receipts with the records of the officer and return to or credit the officer with any overpayment. The governing body shall not be required to pay a fee or

commission to any other political subdivision or its tax officer for tax revenue distributed under this subsection. If the officer, within one year of receiving a tax payment, cannot identify the taxing jurisdiction entitled to a tax payment, he shall make payment to the municipality in which the tax was collected.

The remaining provisions of 53 P.S. § 6913, Division IV(h) (approved November 30, 2004) are incorporated herein as part of this Section by reference as if said provisions were set forth herein at length.

(Ord. No. 84-3, 5-2-84; Ord. No. 2005-1, § 1, 5-4-05)

SEC. 17-95. SUIT FOR COLLECTION OF TAX.

The provisions of Article VII, Suite for Collection of Tax, as set forth in the Local Tax Enabling Act, act of December 31, 1965, P.L. 1257, Section 13 (53 P.S. 6913), as now in force or hereafter amended, are incorporated herein as part of this article by reference as if the said provisions of Article VII were set forth herein at length.

(Ord. No. 84-3, 5-2-84)

SEC. 17-96. INTEREST AND PENALTIES.

The provisions of Article VIII, Interest and Penalties, as set forth in the Local tax Enabling Act, act of December 31, 1965, P.L. 1257, Section 13 (53 P.S. 6913), as now in force or hereafter amended, are incorporated herein as part of this article by reference as if the said provisions of Article VIII were set forth herein at length.

(Ord. No. 84-3, 5-2-84)

SEC. 17-97. FINES AND PENALTIES FOR VIOLATION.

The provisions of Article IX, Fines and Penalties for Violation of Ordinances or Resolutions, as set forth in the Local Tax Enabling Act, act of December 31, 1965, P.L. 1257, Section 13 (53 P.S. 6913), as now in force or hereafter amended, are incorporated herein as part of this article by reference as if the said provisions of Article IX were set forth herein at length.

(Ord. No. 84-3, 5-2-84)

SEC. 17-98. APPLICABILITY.

This article shall not apply to personal property or persons to whom or which is beyond the legal power of the governing body to impose the tax herein provided; the net profits of any institution, organization, trust, association or foundation operated for public, religious, educational or charitable purposes; provided that this subsection shall not operate to relieve or exempt any such entity from collection at source of earned income of its employees and remittance of such collections to the officer.

(Ord. No. 84-3, 5-2-84)

SEC. 17-99. EFFECTIVE DATE.

This article shall become effective the first day of January, 1985, for the period, January 1, 1985 to December 31, 1985, and for all calendar years thereafter.

(Ord. No. 84-3, 5-2-84)

SEC. 17-100. RESERVED.

SEC. 17-101. INCORPORATION OF LOCAL TAX ENABLING ACT.

All provisions of the Local Tax Enabling Act, act of December 31, 1965, P.L. 1257, as amended and supplemented, are hereby incorporated herein by reference.

(Ord. No 84-3, 5-2-84)

SEC. 17-102. RESERVED.**SEC. 17-103. SHORT TITLE.**

This article shall be known and may be cited as the "Earned Income Tax of 1985."

(Ord. No. 84-3, 5-2-84)

SEC. 17-104. COLLECTION OF UNPAID OR DELINQUENT TAXES BY SUIT.

The governing body or a person, public employee, or private agency designated by the governing body shall have the power to collect unpaid taxes from the persons owning such taxes by suit in assumpsit or other appropriate remedy. Upon each such judgment, execution may be issued without any stay or benefit of any exemption law. The right of the governing body to collect unpaid taxes under the provisions of this section shall not be affected by the fact that such taxes have been entered as liens in the Office of the Prothonotary or the fact that the property against which they were levied has been returned to the county Commissioners for taxes for prior years.

(Ord. No. § 2, 5-4-05)

SEC. 17-105. COST OF COLLECTION OF DELINQUENT PER CAPITA, OCCUPATION, OCCUPATIONAL PRIVILEGE, AND EARNED INCOME TAXES.

- A. A person, public employee, or private agency designated by the governing body to collect and administer a per capita, occupation, occupational privilege, or earned income tax may impose and collect the reasonable costs incurred to provide notices of delinquency or to implement similar procedures utilized to collect delinquent taxes from a taxpayer. Such costs and charges shall be approved by the governing body by resolution. Such reasonable costs collected may be retained by the person, public employee, or private agency designated to collect the tax. An itemized accounting of all costs collected shall be remitted to the governing body on an annual basis.
- B. Such costs related to the collection of unpaid per capita, occupation or occupational privilege taxes may only be assessed, levied, and collected for 5 years from the last day of the calendar year in which the tax was due.
- C. A delinquent taxpayer may not bring an action for reimbursement, refund or elimination of reasonable costs of collection assessed or imposed prior to the effective date of this Ordinance. Additional costs may not be assessed for delinquent taxes collected prior to the effective date of this Ordinance.

(Ord. No. § 2, 5-4-05)

Chapter 18
TRAFFIC*

- Art. I. In General, §§ 18-1—18-17**
Art. II. Operation of Vehicles Generally, §§ 18-18—18-30
Art. III. Speed Regulations, §§ 18-31—18-44
Art. IV. Snow Emergency, §§ 18-45—18-63
Art. V. Stopping, Standing and Parking, §§ 18-64—18-89
 Div. 1. Generally, §§ 18-64—18-76
 Div. 2. Parking Regulations for Specific Streets, §§ 18-77—18-89
Art. VI. Vehicle Use Restrictions, §§ 18-90—18-92
Art. VII. Parades and Motorcades, §§ 18-93—18-102

ARTICLE I. IN GENERAL[†]

SEC. 18-1. DEFINITIONS.

Words and phrases when used in this chapter shall have the meanings ascribed to them in the Vehicle Code of Pennsylvania, as now in force, or as hereafter amended, except where otherwise provided, as follows:

Alley, alleyway. The entire width between property lines or other boundary lines of every way or place of which any part is open to the public for the purpose of vehicular traffic as a matter of right or custom. The alley or alleyway may be established by deed, easement or prescriptive use and ordinarily intended to provide access to the rear or side of lots or buildings.

Motor vehicle. For the purposes of this chapter, the term motor vehicle shall have the same meaning as the term is defined in Section 102 of the Motor Vehicle Code of Pennsylvania, and shall also include go-carts, minibikes, motorized pedalcycles and snowmobiles.

Registered gross weight. For the purposes of this chapter, the term “registered gross weight” shall have the same meaning as the term is defined in Section 102 of the Vehicle Code.

Truck. For the purpose of this chapter, the term “truck” shall include all trucks, truck tractors, trailers, or semitrailers, as these terms are defined in Section 102 of the Vehicle Code.

Vehicle. Every device in, upon or [by] which any person or property may be transported or drawn upon a highway, street, alley or alleyway, except devices used exclusively upon rails or tracks.
 (Ord. of 6-2-65, § 1; Ord. No. 74-7, 10-2-74; Ord. No. 81-2, 9-2-81; Ord. No. 82-6, 8-4-82)

* *Cross references – Police, Ch. 15; streets and sidewalks, Ch. 16.*

State law reference – Vehicles generally, 75 P.S. § 101 et seq.

[†] *Cross reference – Penalty for violation of article, § 18-33.*

SEC. 18-2. TRUCKS PROHIBITED ON STREETS AND HIGHWAYS WITHIN THE TOWNSHIP.

- A. The streets and highways in the Township of West Pottsgrove are hereby made and designated as limited and restricted from use by trucks where the registered gross weight of said truck is 10,000 pounds or over, and shall apply to traffic in either direction except for emergency vehicles, school buses, and trucks making local delivery or pickups, or where such truck has its origin or destination located within the Township, subject, however, to the parking restrictions as set forth in Article V of this chapter.
- B. The Township Manager and/or the Township Engineer shall cause to be erected appropriate restriction signs which will conform to and meet the requirements of the Vehicle Code.
- C. Any person operating a vehicle in violation of the provisions of this Article I shall be guilty of a summary offense and shall be prosecuted and subject to the same fines, costs and penalties as set forth in the Vehicle Code as amended, wherein such conduct is prohibited.

(Ord. of 5-4-66, §§ 1—3; Ord. of 6-3-70; Ord. of 4-4-73; Ord. No. 74-7, 10-2-74; Ord. No. 81-2, 9-2-81; Ord. No. 84-4, 5-2-84; Ord. No. 85-8, 8-7-85; Ord. No. 94-1, § 1, 5-4-94; Ord. No. 99-1, 4-7-99; Ord. No. 99-2, § I, 4-7-99)

State law reference – Power to prohibit truck traffic, etc., on designated streets, 75 P.S. § 1101(b).

SECS. 18-3—18-17. RESERVED.**ARTICLE II. OPERATION OF VEHICLES GENERALLY*****SEC. 18-18. LEFT TURNS PROHIBITED AT DESIGNATED INTERSECTIONS.**

- A. In order to provide for the general safety and welfare of the inhabitants of the Township, it is ordained that a traffic sign prohibiting a left turn onto Grosstown Road from Dori Lane be prepared and erected on the south side of Dori Lane at the intersection of Dori Lane and Grosstown Road. Such sign shall meet the requirements of the vehicle code as set forth by the Pennsylvania department of highways.
- B. The driver of a vehicle intending to turn to the left at the above intersection or any other intersection which may hereafter be designated as a “no left turn” intersection, shall be prohibited from making a left turn at such designated intersection.

(Ord. of 3-3-71; §§ 1—3; Ord. No. 81-2, 9-2-81)

SEC. 18-19. ONE-WAY STREETS DESIGNATED.

The following streets are hereby made and designated as vehicular one-way streets and all vehicular traffic on such streets is hereby directed to travel and move only in the direction hereinafter indicated, and all vehicular traffic in any direction other than as designated is prohibited:

* *State law references – Operation of vehicles generally, 75 P.S. § 1101 et seq.; power to regulate stopping, 75 P.S. § 1103; to prohibit other than one-way traffic, 75 P.S. § 1103.*

<i>Street</i>	<i>Direction</i>	<i>From</i>	<i>To</i>
Fairview Street	Northerly	Route 422	Vine Street
Howard Street	Northerly	Route 422	Vine Street
Monroe Avenue	Southerly	Berks Street	Elm Street
Rice Street	Easterly	Grosstown Road	Fairview Street
School Lane	Easterly	Race Street	Glasgow Street

(Ord. of 4-3-63; Ord. of 11-4-64; Ord. of 4-6-65, § 4; Ord. of 1-4-67; Ord. No. 73-1, 2-7-73; Ord. No. 81-2, 9-2-81)

SEC. 18-20. THROUGH HIGHWAYS AND STOP INTERSECTIONS DESIGNATED.

A. The following highways are hereby designated through highways for the purposes of this section:

<i>Name of Through Highway</i>	<i>Name of Intersection</i>
Berks Street	East Race Street, Fairview Street, Howard Street, Little Vine Street, Monroe Avenue, Vine Street
Center Street	Howard Street, Jay Street, Kay Street, Lemon Street, Vine Street
Dogwood Lane	Evergreen Road
Edgewood Drive	Acorn Way
Elm Street	Fairview Street, Howard Street, Monroe Avenue, Race Street
Fairview Street	Ash Street, Center Street, Quinter Street, Vine Street
Glasgow Street	Anthony Wayne Drive, Elm Street, Linden Street, Pulanski Street, Quinter Street, Rice Street, School Lane, Walnut Street
Grosstown Road	Ash Street, Berks Street, Center Street, Constitution Avenue, Dori Lane, Elm Street, Holly Drive, Jefferson Street, Linden Street, Monroe Street, Quinter Street, Race Street, Rice Street, Roberts Drive, School lane, Sylvan Drive, Vine Street, West Vine Street, Shane Drive
High Street	Center Street, Old Reading Pike
Holly Drive	Dogwood Lane, Circle Drive
Howard Street	Ash Street, Jefferson Street, Linden Street, Monroe Street, Quinter Street, School Lane, Walnut Street
Jefferson Street	Fairview Street, Lemon Street
Lemon Street	School Lane, Walnut Street
Levengood Road	Nagle Road, Sycamore Boulevard
Linden Street	Monroe Avenue, Fairview Street
Manatawny Road	Grosstown Road, Sell Road
Monroe Street	Fairview Street, Lemon Street
Old Reading Pike	Route 422 by-pass exit, South Grosstown Road
Quinter Street	Lemon Street
Race Street	Center Street, Fairview Street, Howard Street, Jay Street, Jefferson Street, Kay Street, Linden Street, Monroe Street, Quinter Street, Rice Street, School Lane
Rice Street	Fairview Street, Howard Street, Lemon Street
Roberts Drive	Edgewood Drive
School Lane	Fairview Street
Shane Drive	Kristen Circle
Upland Square Drive	Entrance #1 at Upland Square Shopping Center (at Chili's and Giant Gas); Entrance #3 at Upland Square Shopping Center (at Staples); Entrance #4 at Upland Square Shopping Center (at Target)
Vine Street	Ash Street, Elm Street, Howard Street, Jay Street, Jefferson Street, Linden Street, unordained alley known as Lehigh Street, Monroe Street, Quinter Street, School Lane, Walnut Street
Walnut Street	Race Street

- B. The following street intersections are hereby designated and ordained as “STOP” intersections (three-way or four-way stop intersections):

Rice Street at Vine Street;
Vine Street at Rice Street.

- C. The following street intersections are hereby designated “STOP” intersections for vehicular traffic approaching said intersections in the direction or directions of travel and upon the street or streets hereby indicated:

<i>Name of Intersection</i>	<i>Approach to Intersection</i>
Lemon Street and Linden Street	Northbound on Lemon Street, westbound on Linden Street
Levengood Road and Sell Road	Eastbound on Levengood Road
Shane Drive and Kristen Circle	Westbound on Kristen Circle, westbound on Shane Drive eastbound on Kristen Circle

- D. The Township Manager and/or the Township Engineer are hereby directed to erect official traffic-control devices, such as will conform with the requirements and regulations of the Vehicle Code, at the entrances to the through highways and stop intersections designated above.

(Ord. of 7-7-54, §§ 1—4; ord. of 5-4-66; Ord. of 1-4-67; Ord. of 8-5-70; Ord. No. 72-4, 11-1-72; Ord. No. 73-8, 9-5-73; Ord. No. 76-3, 10-6-76; Ord. No. 78-2, 6-7-78; ord. No. 81-2, 9-2-81; Ord. No. 82-5, §§ 1, 2, 7-7-82; Ord. No. 86-6, § 1, 12-3-86; Ord. No. 87-4, 7-2-87; Ord. No. 2009-9, §§ 1, 2, 8-5-09; Ord. No. 2010-5, §1, 10-6-10)

SEC. 18-21. TRAFFIC CONTROL SIGNALS.

The following intersection is designated a traffic control signal intersection, subject to enforcement pursuant to the Pennsylvania Motor Vehicle Code, 75 PaCSA § 3112 and/or such other applicable motor vehicle code sections relating to traffic control devices:

Traffic Control Intersection

Upland Square Drive, at the entrance to Upland Square Shopping Center
(Ord. No. 2009-9, § 3, 8-5-09)

SECS. 18-22—18-30. RESERVED.

ARTICLE III. SPEED REGULATIONS*

SEC. 18-31. GENERALLY.

All speed limit regulations of a permanent nature within the Township shall be enacted as ordinances or as parts of ordinances or as amendments to ordinances of the Township.

(Ord. of 6-2-65, § 2; Ord. No. 81-2, 9-2-81)

* *State law references – Restrictions as to speed, 75 P.S. § 1002; powers of local authorities, 75 P.S. § 1103.*

SEC. 18-32. MAXIMUM LIMITS GENERALLY.

- A. All streets and highways, with the exception of state highways, located in the Township are hereby limited to a maximum of 25 miles per hour speed limit as to all vehicles, except those restricted by Act of Assembly or ordinance to lower maximum speeds and except in those areas restricted by ordinances or by Act of Assembly to a lower speed limit or as otherwise specified in this article, in particular, but not limited to, school zones, railroad crossings and safety zones.
- B. A maximum speed limit of 15 miles per hour is imposed on all vehicles traveling upon the following streets or highways, or parts thereof:

Anthony Wayne Drive	Pulaski Street
Holly Drive	Von Steuben Drive
Circle Drive	Shane Drive
Dogwood Lane	Kristen Circle
Evergreen Road	

- C. The Township Manager and/or the Township Engineer are hereby directed to erect official traffic signs bearing the legend “Speed Limit 25 miles per hour” or “Speed Limit 15 miles per hour,” as will conform and meet the requirements and regulations of the Vehicle Code.
(Ord. of 6-3-70, §§ 1—3; Ord. No. 77-3, § 1, 8-3-77; Ord. No. 81-2, 9-2-81; Ord. No. 85-1, 2-5-85; Ord. No. 10-06, §1, 12-1-10)

SEC. 18-33. VIOLATIONS OF ARTICLE II AND III.

Unless otherwise specified, any person operating a vehicle in violation of the provisions of Article II and III shall be guilty of a summary offense and shall be prosecuted and subject to the same fines, costs and penalties as set forth in the Vehicle code as amended, wherein such conduct is prohibited.
(Ord. of 6-3-48, § 2; Ord. of 6-2-65, § 4; Ord. of 6-3-70, § 4; Ord. No. 81-2, 9-2-81)

SECS. 18-34—18-44. RESERVED.

ARTICLE IV. SNOW EMERGENCY*

SEC. 18-45. SHORT TITLE.

This article shall be known and may be cited as “The Township of West Pottsgrove Snow Emergency Ordinance.”
(Ord. of 7-6-66, § 1, Ord. No. 81-2, 9-2-81)

SEC. 18-46. DEFINITIONS.

- A. *Snow.* Any precipitation depositing any accumulation on the streets including snow, sleet, hail, ice and freezing rain.

* *State law reference – When authorities may restrict right to us highways, 75 P.S. § 1101.*

- B. *Emergency director.* Any Township employee designated as such from time to time by the Board of Commissioners.
- C. *Snow emergency.* A state of highway conditions that is hazardous and dangerous to vehicular and pedestrian traffic and so declared by the emergency director.
- D. *Emergency routes.* All streets in the Township so designated and marked.
- E. *Chains.* Full chains, strap chains or other types of chains mounted on both rear wheels of a motorized vehicle.
- F. *Snow tires.* Tires having treads designed for use in snow, which tires must be in such condition as to serve the purpose for which they are designed.
- G. *Vehicles.* All self-propelled motorized vehicles using Township streets and highways, including taxicabs, but excluding other public transportation conveyances.
(Ord. of 7-6-66, § 2)

SEC. 18-47. EMERGENCY ROUTES.

The Board of Commissioners shall by regulation designate streets which are necessary thoroughfares for the movement of vehicular traffic through the Township as “emergency routes.”
(Ord. of 7-6-66, § 3)

SEC. 18-48. POSTING EMERGENCY ROUTES.

All streets designated as emergency routes shall be posted with suitable signs or markers at intervals not exceeding 1,500 feet, which signs shall bear the words “Emergency Route.”
(Ord. of 7-6-66, § 4)

SEC. 18-49. SNOW EMERGENCY.

- A. When, in the opinion of the emergency director, the actual or expected precipitation of snow will create hazardous or dangerous highway conditions for vehicular or pedestrian traffic, he shall have the authority to declare a “snow emergency.”
- B. The emergency director shall immediately inform the public of the snow emergency by issuing a press release to the local radio and news services.
- C. The snow emergency shall continue in force and effect until the emergency director declares it to be over in the same manner as provided for in subsection (b).
- D. One (1) hour after a snow emergency has been declared and during its existence:
 - 1. No vehicle shall be parked on a snow emergency route.
 - 2. Any person who drives a vehicle without chains or snow tires upon any street in the Township and such vehicle becomes stalled or incapable of moving under its own power, or who leaves such vehicle unattended, shall be in violation of this article and shall be subject to the penalties set forth in this article.

3. Any vehicle stalled, incapable of moving under its own power, or left unattended upon any traffic lane of any street in the Township may be removed or towed away to any other location by the police department or any person authorized by the emergency director.
(Ord. of 7-6-66, § 5)

SEC. 18-50. DESIGNATED EMERGENCY ROUTES.

The following streets shall be designated as emergency routes in time of emergency as declared by the emergency director:

Street	From	To
(1) Berks Street	Glasgow Street	Grosstown Road
(2) Vine Street	Berks Street	Grosstown Road
(3) Center Street	Route 422	Grosstown Road

(Ord. of 7-6-66, § 6)

SEC. 18-51. TOWING.

- A. All vehicles parked, stalled, incapable of moving under their own power or left unattended on the streets in violation of the provisions of this article are hereby declared to be public nuisances, obstructing the necessary and required snow plowing and clearing of the streets of the Township, contrary to public interest, convenience and safety.
- B. The police department is hereby directed to secure and immediately tow away and remove any and all vehicles parked in violation of this article, to notify the registered licensed owner within 24 hours of the removal of his vehicle and to collect the cost of such towing and any necessary storage, together with a penalty of twenty percent (20%) as provided by law in the case of nuisances, before releasing the vehicle to the registered owner. The costs and penalties shall be payable in addition to the fine imposed in this article.

(Ord. of 7-6-66, § 7)

SEC. 18-52. SNOW SHOVELING.

No individual shall be permitted to shovel snow into any street after the street has been plowed.
(Ord. of 7-6-66, § 8)

SEC. 18-53. PENALTIES.

Any person found guilty of violating any of the provisions of this chapter and/or article shall be guilty of a summary offense and upon conviction thereof shall be punished as prescribed in Section 1-9.
(Ord. of 7-6-66, § 9; Ord. No. 81-2, 9-2-81; Ord. No. 86-5, §§ 1I, 2, 10-1-86)

SECS. 18-54—18-63. RESERVED.

ARTICLE V. STOPPING, STANDING AND PARKING*

DIVISION 1. GENERALLY

SEC. 18-64. DEFINITIONS.

For the purposes of this article, the following definitions shall apply:

Bus. For the purpose of this article, the term “bus” shall have the same meaning as the term in Section 102 of the Vehicle Code of Pennsylvania, as now in force, or as hereafter amended.

Cartway. For the purpose of this article, the term “cartway” shall mean that paved portion of the streets, roads and alleys within West Pottsgrove Township approved, designed, and ordinarily used for vehicular traffic, exclusive of the sidewalk, berm or shoulder.

Double parking. “Double parking” shall mean the standing, stopping or parking of any vehicle, whether occupied or unoccupied, or whether in motion or motionless, whether for only a few moments or for a protracted period of time, and shall mean the standing still of any vehicle as aforesaid opposite or alongside of any other vehicle parking in a space specifically provided for the parking of vehicles.

Full trailer. A trailer so constructed that no part of its weight rests upon the towing vehicle. A semi-trailer attached to a towing vehicle by means of any auxiliary front axle or dolly shall be deemed to be a full trailer.

Recreational vehicle or recreational equipment. For the purpose of this article, the terms “recreational vehicle” or “recreational equipment” shall include boats and boat trailers, travel trailers, pickup campers or coaches, motorized dwellings, tent trailers and other trailers including, but not limited to trailers for hauling snowmobiles, motorcycles, or similar singular vehicles and cases or boxes for transporting recreational equipment.

Registered gross weight. For the purpose of the article, the term “registered gross weight” shall have the same meaning as the term is defined in Section 102 of the Vehicle Code of Pennsylvania, as now in force, or as hereafter amended.

School bus. For the purpose of this article, the term “school bus” shall have the same meaning as the term is defined in Section 102 of the Vehicle Code of Pennsylvania, as now in force, or as hereafter amended.

Semi-trailer. A trailer so constructed that some part of its weight rests upon or is carried by the towing vehicle.

Time. The time specified in this article shall be that which is generally observed by the business interests of the Township, whether it be daylight saving time or standard time.

Truck. A motor vehicle designed, used or maintained primarily for the transportation of property.

* *State law reference* – Power of local authorities to regulate stopping, standing and parking, 75 P.S. § 1103 (a).

Truck tractor. A motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

Vehicle, stand, or standing, park and parking shall have the meaning ascribed to them as set forth in the Vehicle Code of Pennsylvania, as now in force, or as hereafter amended.

(Ord. of 3-7-56, §§ 1, 3; Ord. of 7-5-67; Ord. No. 81-2, 9-2-81; Ord. No. 94-1, § 2, 5-4-94; Ord. No. 99-1, 4-7-99; Ord. No. 99-2, § II, 4-7-99)

SEC. 18-65. PROHIBITED GENERALLY.

The privilege of parking vehicles upon the streets designated in this article and upon such other streets, highways or alleys or portions thereof as may hereafter from time to time be designated by ordinance or authority of the Board of Township Commissioners shall be prohibited, limited or restricted as indicated in this article or as indicated in such ordinance. It shall be unlawful for any person to park in or upon any of such streets in violation of such limitations or restrictions or in excess of the period of time indicated for legal parking.

(Ord. of 3-7-56, § 2; Ord. No. 81-2, 9-2-81)

SEC. 18-66. RESERVED.

Editor's note – Ord. No. 99-2, § III, adopted April 7, 1999, repealed former section 18-66 in its entirety which pertained to double parking and parking longer than 24 hours and derived from Ord. of 3-7-56, § 4; Ord. of 7-5-67)

SEC. 18-67. PARKING OF TRUCKS, TRUCK TRACTORS, FULL TRAILERS, SEMI-TRAILERS, BUSES, SCHOOL BUSES, RECREATIONAL VEHICLES AND RECREATIONAL EQUIPMENT.

- A. The parking of all trucks having a registered gross weight in excess of 10,000 pounds shall be prohibited on all streets, roads and alleys within West Pottsgrove Township having a cartway width of less than 32 feet.
- B. The parking of all truck tractors, full trailers, and semi-trailers shall be prohibited on all streets, roads and alleys within West Pottsgrove Township having a cartway width of less than 32 feet.
- C. The parking of all buses and school buses shall be prohibited on all streets, road, and alleys within West Pottsgrove Township having a cartway width of less than 32 feet with the exception of the picking up or discharge of passengers and/or school students.
- D. The parking of all recreational vehicles and recreational equipment on the streets, roads and alleys in West Pottsgrove Township having a cartway width of less than 32 feet for a period in excess of 48 hours shall be prohibited.

(Ord. No. 94-1, § 3, 5-4-94; Ord. No. 99-2, 4-7-99; Ord. No. 99-2, § IV, 4-7-99)

SEC. 18-68. SIGNS.

Official traffic-control devices shall be placed setting forth the parking restrictions as required under the Vehicle Code.

(Ord. of 3-7-56, § 5; Ord. No. 81-2, 9-2-81)

SEC. 18-69. LOADING ZONES.

- A. Allowance shall be made within the no parking areas designated in this article for the necessary loading and unloading of commercial and industrial vehicles.
- B. The police department is hereby authorized and empowered to establish and designate zones within the no parking areas for loading and unloading where reasonably necessary and proper in connection with business or commercial establishments.
- C. No parking shall be permitted within such areas or zones except for business purposes of loading and unloading of industrial vehicles.

(Ord. of 3-7-56, § 6)

SEC. 18-70. IMPOUNDMENT OF ILLEGALLY PARKED VEHICLES.

- A. The police officers are hereby authorized to remove and impound or to order the removal and impounding, of any vehicle parked on any of the streets, highways, alleys, or public property of the Township in violation of any of the provisions of the vehicle Code or of any ordinance of the Township, or of any provisions of this Article V; provided, no vehicle shall be removed or impounded except in strict accordance with the provisions hereof.
- B. Vehicles removed and impounded in accordance with the provisions herein shall be stored in any one of the garages which the Board of Commissioners shall, by resolution, designate from time to time as approved storage garages.
- C. Every such approved storage garage shall post a bond, in the amount of two thousand dollars (\$2,000), to be filed with the Township Secretary, for the indemnifying of the owner of any such impounded vehicle against the loss thereof, or injury or damage thereto, while in the custody of the pound keeper.
- D. The owner of any vehicle removed and impounded as herein provided shall be liable for the cost of such towing and storage, together with a fee of twenty dollars (\$20) to cover the administration of this Section. Payment shall be made to the Township before such impounded vehicles are released to the owner.
- E. Within 12 hours from the time of removal of any vehicle under authority granted by this article, notice of the fact that such vehicle has been impounded shall be sent by the police officers of the Township to the owner of record of such vehicle.
- F. Such notice shall designate the place from which such vehicle was removed, the reason for its removal and impounding, and the pound in which it shall have been impounded.
- G. The payment of any towing, impounding or administrative charges authorized by this article shall be in addition to any fine imposed pursuant to Section 18-83 hereof.

(Ord. of 7-5-67; Ord. No. 77-12, 12-28-77; Ord. No. 81-2, 9-2-81)

SEC. 18-71. RESERVED.

Editor's note – Ord. No. 81-2, enacted Sept. 2, 1981, repealed § 18-71, which had pertained to penalties for violations of this article; said former section was derived from § 7 of an ordinance of March 7, 1956, and Ord. No. 76-2, enacted March 3, 1976.

SECS. 18-72—18-76. RESERVED.

DIVISION 2. PARKING REGULATIONS FOR SPECIFIC STREETS

SEC. 18-77. PROHIBITED AT ALL TIMES.

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle at any time, when signs are in place giving notice thereof:

Berks Street, southerly side, between Glasgow Street and Grosstown Road.

Center Street, easterly side, between Race Street and Lemon Street.

Center Street, both sides, between Vine Street and High Street.

Elm Street, southerly side, from Glasgow Street to Grosstown Road.

Elm Street, westerly side, from Glasgow Street to Grosstown Road.

Fairview Street, northerly side, between Berks Street and Elm Street.

Fairview Street, southerly side, between Route No. 422 and Vine Street.

Fairview Street, westerly side, between Berks Street and Linden Street.

Grosstown Road, westerly side, from High Street to a point 175 feet north of the point formed by extending the center line of Monroe Street to the westerly side of Grosstown Road.

Grosstown Road, easterly side, between a point 150 feet south of the corner formed by the intersection of Monroe Street and Grosstown Road to Dori Lane.

Grosstown Road, both sides, from Dori Lane to Berks Street.

Grosstown Road, westerly side, from Berks Street to Morello Drive.

Grosstown Road, both sides, from Morello Drive to Manatawny Street.

Howard Road, westerly side, between Berks Street and Elm Street.

Howard Street, easterly side, between Center Street and Race Street.

Howard Street, northerly side, between Berks Street and Elm Street.

Monroe Avenue, easterly side, between Linden Street and Berks Street.

Monroe Avenue, easterly side, between Elm Street and Berks Street.

Monroe Street, southerly side, from Vine Street to Grosstown Road.

Monroe Street, both sides, from Vine Street to Grosstown Road.

Monroe Street, northerly side, from Elm Street to Berks Street.

Monroe Street, southerly side, between Grosstown Road and the existing alley, within 10 feet back of curb line.

Monroe Street, southerly side, from Vine Street to Grosstown Road.

Race Street, northerly side, between Jefferson Street and Kay Street.

Race Street, northerly side, between Monroe Street and Kay Street.

Race Street, both sides, from crosswalk at Monroe Street, east for a distance of 50 feet.

Race Street, southerly side, from crosswalk at Center Street, east for a distance of 50 feet.

Race Street, northerly side, between Vine Street and Race Street.

School Lane, southerly side, from Race Street and Glasgow Street.

School Lane, easterly side, from Race Street to Glasgow Street.

School Lane, easterly side, from Vine Street to Race Street.

Unordained alley, known as Lehigh Street, easterly side, from the corner formed by the intersection of said unordained alley and Vine Street, north for a distance of one hundred 185 feet.

Vine Street, southerly side, from Quinter Street to Walnut Street.

Vine Street, westerly side, from crosswalk at Quinter Street, north for a distance of 50 feet.

Vine Street, southerly side, from Grosstown Road to Center Street.

Vine Street, easterly side, from Center Street to Berks Street.

Vine Street, westerly side, between a point 263 feet north from the corner formed by the intersection of Vine Street and Center Street and a point 352 feet north of the corner formed by the intersection of Vine Street and Center Street.

Walnut Street, northerly side, between a point 38 feet east of the corner formed by the intersection of Vine Street and Walnut Street and a point 133 feet east of the corner formed by the intersection of Vine Street and Walnut Street.

(Ord. of 3-6-56, § 2; Ord. of 12-13-61; Ord. of 7-11-62; Ord. of 12-9-64; Ord. of 12-8-65; Ord. of 5-4-66; Ord. of 7-5-67; Ord. of 6-5-68; Ord. No. 81-2, 9-2-81; ord. No. 82-5, § 3, 7-7-82; Ord. No. 83-1, 5-4-83; Ord. No. 83-2, 6-1-83; Ord. No. 84-4-, 5-2-84; Ord. No. 86-6, § 2, 12-3-86; Ord. No. 95-1, 3-1-95)

SEC. 18-78. RESTRICTED PARKING ZONES.

- A. Parking shall be prohibited in the following locations at any and all times between the hours hereby respectively indicated:

Center Street, westerly side, between Race Street and Vine Street, from 8:00 am to 6:00 pm every day.

- B. The following are established as special purpose parking zones, and it shall be unlawful for any person to park a vehicle or to allow it to remain parked, in any such zone, except specifically provided for that zone:

In the Township parking lot, in front of the municipal building which is reserved for parking of police cars and Township vehicles.

(Ord. of 3-7-56, § 2; Ord. No. 81-2, 9-2-81; Ord. No. 90-1, 2-28-90; Ord. No. 2006-5, § 1, 11-12-06)

SEC. 18-79. TWO-HOUR LIMIT.

Upon the following streets or parts thereof, it shall be unlawful for any person to park a vehicle for a period of time longer than 2 hours:

Center Street, easterly side, between Vine Street and Race Street.

Center Street, easterly side, between Lemon Street and Howard Street.

(Ord. of 3-7-56, § 2; Ord. No. 81-2, 9-2-81)

SEC. 18-80—18-81. RESERVED.

Editor’s note – Former section 18-80, which had pertained to a one-hour time limit on parking and was derived from § 2 of an ordinance of March 7, 1956, was repealed by Ord. No. 81-2, enacted Sept. 8, 1981.

(Ord. of 3-6-56, § 2; Ord. of 6-5-68; Ord. No. 77-4, 8-3-77; Ord. No. 81-2, 9-2-81; Ord. No. 2006-5, § 2, 11-12-06)

SEC. 18-81. REPEALED.

Editor’s note – Former section 18-81, which had pertained to “Thirty minute limit” on parking was repealed in its entirety by Ord. No. 81-2, enacted Sept. 8, 1981.

SEC. 18-82. FIFTEEN MINUTE LIMIT.

Upon the following streets or parts thereof, it shall be unlawful for any person to park their vehicle for a period of time longer than 15 minutes:

Lemon Street, easterly side, between Center Street and Monroe Street.

(Ord. of 3-6-56, § 2; Ord. of 8-5-70; Res. of 3-3-71; Ord. No. 81-2, 9-2-81)

SEC. 18-83. VIOLATION OF THIS ARTICLE.

Any person violating any provision of this article is guilty of a summary offense and shall, upon conviction, be sentenced to pay a fine as follows:

- A. For violation of Sections 18-67(a), 18-67(b) and 18-67(c) regulating parking of trucks, truck tractors, full trailers, semi-trailers, buses and school buses, a fine of twenty-five dollars (\$25);
- B. For violation of Section 18-67(d) regulating parking of recreational vehicles and recreational equipment for periods in excess of 48 hours, a fine of twenty-five dollars (\$25);
- C. For violation of Section 18-69 relating to loading zones, a fine of twenty-five dollars (\$25);
- D. For violating of Section 18-77 prohibiting parking, a fine of twenty-five dollars (\$25);
- E. For violation of all other provisions of this article, a fine of twenty-five dollars (\$25).
(Ord. No. 81-2, 9-2-81; Ord. No. 87-3, 4-1-87; Ord. No. 94-1, § 4, 5-4-94; Ord. No. 99-1, 4-7-99; Ord. No. 99-2, § V, 4-7-99; Ord. No. 2006-5, § 3, 11-12-06; Ord. No. 2006-5, § 2, 11-12-06)

SECS. 18-84—18-89. RESERVED.

ARTICLE VI. VEHICLE USE RESTRICTIONS

SEC. 18-90. RESTRICTIONS ON USE OF ALLEYS AND ALLEYWAYS.

It shall be unlawful for any person to operate any unregistered motor vehicle upon the alleys and alleyways within the Township.
(Ord. No. 82-6, 8-4-82)

SEC. 18-91. RESTRICTIONS ON USE OF TOWNSHIP PROPERTY.

It shall be unlawful for any person to operate a vehicle or motor vehicle upon any Township-owned property, except in designated parking areas.
(Ord. No. 82-6, 8-4-82)

SEC. 18-92. PENALTY.

Any person found guilty of violating any of the provisions of this chapter and/or article shall be guilty of a summary offense and upon conviction thereof shall be punished as prescribed in Section 1-9.
(Ord. No. 82-6, 8-4-82; Ord. No. 86-5, §§ 1J, 2, 10-2-86)

ARTICLE VII. PARADES AND MOTORCADES

SEC. 18-93. DEFINITIONS.

For the purpose of this article, the following definitions shall apply:

Parade shall mean any march or procession consisting of people, animals or vehicles, or combination thereof, except funeral processions, upon any public street, sidewalk or alley, which does not comply with normal and usual traffic regulations or controls.

Motorcade shall mean an organized procession containing 20 or more vehicles, except funeral processions, upon any public street, sidewalk or alley.
(Ord. No. 93-1, 8-7-93)

SEC. 18-94. PERMITS, FEES.

It shall be unlawful for any person to conduct a parade or motorcade in or upon any public street, sidewalk or alley in the Township or knowingly participate in any such parade or motorcade unless and until a permit to conduct such parade or motorcade has been obtained from the Board of Commissioners, or their designee, as hereinafter provided. Permit fees may be established by resolution of the Board of Commissioners.
(Ord. No. 93-1, 8-7-93)

SEC. 18-95. PARADE OR MOTORCADE FOR COMMERCIAL PURPOSE PROHIBITED.

No permit shall be issued authorizing the conduct of a parade or motorcade which the Board of Commissioners, or their designee, finds as proposed to be held for the sole purpose of advertising any product, wares, merchandise or event and is designed to be held purely for private profit.
(Ord. No. 93-1, 8-7-93)

SEC. 18-96. INTERFERENCE WITH PARADE OR MOTORCADE.

No person shall knowingly join or participate in any parade or motorcade conducted under permit from the Board of Commissioners, or their designee, in violation of any terms of said permit, not knowingly join or participate in any permitted parade or motorcade without the consent and over the objection of the permittee, nor in any manner interfere with its progress or orderly conduct.
(Ord. No. 93-1, 8-7-93)

SEC. 18-97. APPLICATION FOR PERMIT.

Any person who wants to conduct a parade or motorcade shall apply to the Board of Commissioner, or their designee, for a permit at least 30 days in advance of the date of the proposed parade or motorcade. The Board of Commissioners, or their designee, may in their discretion consider any application for a permit to conduct a parade or motorcade which is filed less than 30 days prior to the date such parade or motorcade is to be conducted. The application for such permit shall be made in writing on a form approved by the Board of Commissioners. In order that adequate arrangements may be made for the proper policing for the parade or motorcade, the application shall contain the following information:

SEC. 18-98. ISSUANCE OR DENIAL OF PERMITS.

- A. *Standards for issuance.* The Board of Commissioners, or their designee, shall issue a parade or motorcade permit conditioned upon the applicant's written agreement to comply with the terms of the permit unless the Board of Commissioners, or their designee, find that:
1. The time, route and size of the parade or motorcade will disrupt to an unreasonable extent the movement of other traffic;
 2. The parade or motorcade is of a size or nature that requires the diversion of so great a number of police officers of the Township to properly police the line of movement and the areas contiguous

thereto that allowing the parade or motorcade would deny reasonable police protection in the Township; and

3. Such parade or motorcade will interfere with another parade or motorcade for which a permit has been issued.

B. *Standards for denial.* The Board of Commissioners, or their designee, shall deny an application for a parade or motorcade permit and notify the applicant of such denial where:

1. The Board of Commissioners, or their designee, makes any finding contrary to the findings required to be made for the issuance of a permit;
2. The information contained in the application is found to be false or nonexistent in any material detail; and

3. The applicant refuses to agree to abide by or comply with all conditions of the permit.

(Ord. No. 93-1, 8-7-93)

SEC. 18-99. CONTENTS OF PERMIT.

- A. The assembly area and time therefore;
- B. The starting time;
- C. The minimum and maximum speeds;
- D. The route of the parade or motorcade;
- E. What portion of streets to be traversed may be occupied by such parade or motorcade;
- F. The maximum number of platoons or units and maximum and minimum intervals of space to be maintained between the units of such parade or motorcade;
- G. The maximum length of such parade or motorcade in miles or fractions thereof;
- H. The disbanding area and disbanding time;
- I. The number of persons required to monitor the parade or motorcade;
- J. The number and type of vehicles, if any;
- K. The material and maximum size of any sign, banner, placard or carrying device therefore;
- L. The materials used in the construction of floats used in any parade shall be of fire-retardant materials and shall be subject to such requirements concerning fire safety as may be determined by the fire chief;
- M. That permittee advise all participants in the parade or motorcade either orally or by written notice of the terms and conditions of the permit prior to the commencement of such parade or motorcade;

- N. That the amplification of sound permitted to be emitted from sound trucks or bull horns be fixed and not variable;
- O. That the parade or motorcade continue to move at a fixed rate of speed and that any willfully delay or willful stopping of said parade or motorcade, except when reasonably required for the safe and orderly conduct of the parade or motorcade, shall constitute a violation of the permit; and
- P. Such other requirements as are found by the Board of Commissioners, or their designee, to be reasonably necessary for the protection of persons or property.

All conditions of the permit shall be complied with so far as reasonably practicable.
(Ord. No. 93-1, 8-7-93)

SEC. 18-100. NOTICES.

Immediately upon the granting of a permit for a parade or motorcade, the Board of Commissioners shall direct that notices be issued to the following:

- A. The Township Manager;
- B. The Chief of Police;
- C. The Fire Chief; and the
- D. Pennsylvania Department of Transportation (Notice to the Pennsylvania Department of Transportation is to be given if the parade or motorcade is to use state designated highways. Such notice shall be given by letter at least 2 weeks prior to the parade or motorcade, specifying the activity, the time and any applicable detour route).

(Ord. No. 93-1, 8-7-93)

SEC. 18-101. REVOCATION OF PERMIT.

Any permit for a parade or motorcade issued pursuant to this chapter may be summarily revoked by the Board of Commissioners, or their designee, at any time when by reason of disaster, public calamity, riot or other emergency, the Board of Commissioners, or their designee, determines that the safety of the public or property requires such revocation. Notice of such action revoking a permit should be delivered in writing to the permittee by personal service or by certified mail.

(Ord. No. 93-1, 8-7-93)

SEC. 18-102. PENALTIES.

Any person found guilty of violating any of the provisions of this chapter and/or article shall be guilty of a summary offense and upon conviction thereof, shall be punished as prescribed in Section 1-9.

(Ord. No. 93-1, 8-7-93)

Chapter 19
WATER AND SEWERS AND SEWAGE DISPOSAL *

- Art. I. In General, §§ 19-1—19-15**
- Art. II. Water, §§ 19-16—19-26**
- Art. III. Sewers and Sewage Disposal, §§ 19-27—19-60**
- Art. IV. Wastewater Standards and Pretreatment Requirements, §§ 19-61—19-130**
 - Div. 1. Generally, §§ 19-61—19-69
 - Div. 2. Regulations, §§ 19-70—19-89
 - Div. 3. Fees, §§ 19-90—19-99
 - Div. 4. Administration, §§ 19-100—19-110
 - Div. 5. Enforcement, §§ 19-111—19-120
 - Div. 6. Penalty Costs, §§ 19-121—19-130
 - Div. 7. Grinder Pumps, §§ 19-131—19-139
- Art. V. Holding Tanks, §§ 19-140—19-151**
- Art. VI. Fats, Oils and Grease Reduction Program, §§ 19-152—19-158**

ARTICLE I. IN GENERAL

SEC. 19-1. SEWAGE TREATMENT SERVICE AGREEMENT - GENERALLY.

- A. West Pottsgrove Township, on the one hand, shall enter into a sewage treatment service agreement (the “agreement”) with the Borough of Pottstown, Montgomery County, Pennsylvania, and the Pottstown Borough Authority (collectively the “borough”), on the other hand, whereby inter alia, the borough will covenant and agree to acquire, to construct, to own and to operate certain sanitary sewage transportation, treatment and disposal system facilities, required for rendering sewage treatment service in and for portions of this Township, and this Township will make certain covenants and agreements with respect of the sewer system owned and operated by this Township including:
 - 1. The enforcing of requirements for connection to and use of such sewer system;
 - 2. The payment of certain sums to the borough in accordance with the agreement;
 - 3. Other related matters. The agreement shall be substantially in the form presented to this meeting, which agreement and the form thereof is approved, provided, however, that certain revisions recommended by this Township shall be incorporated therein.
- B. A copy of the agreement, in the form so presented by the solicitor and as finally approved, shall be filed with the Secretary of this Township and shall be made available for inspection at reasonable times by interested persons requesting such inspection.
(Ord. no. 89-2, § 1, 2-22-89)

* *Cross references* – Uniform construction code, Ch. 7; garbage, refuse and other waste material, Ch. 10; general health, safety and welfare, Ch. 11; housing, Ch. 12; streets and sidewalks, Ch. 16.

State law references – Sewers and drains, 53 P.S. 57401 et seq. collection by installment of the cost of sewer improvements, 53 P.S. § 57501 et seq.; revolving fund for sewer improvements, 53 P.S. § 57601 et seq.; water supply and waterworks, 53 P.S. § 57701 et seq.

SEC. 19-2. AUTHORIZATION.

- A. The President or Vice-President of the Board of Commissioners and the Secretary or an Assistant Secretary of this Township, as applicable, are authorized and directed to execute, to attest, and to deliver the agreement, in behalf of this Township, in the form so approved.
- B. Proper officers of this Township are authorized and directed to execute all documents and to do all acts that may be necessary and proper to carry out [the provisions] of this section and the undertakings of this Township in the agreement.
(Ord. No. 89-2, § 2, 2-22-89)

SECS. 19-3—19-15. RESERVED.

ARTICLE II. WATER

SEC. 19-16. DEFINITION.

In this Code, the term “waters of the Township” shall include all streams and springs and all bodies of surface and ground water whether natural or artificial within the Township boundaries.
(Ord. of 12-3-20, § 2)

SEC. 19-17. POLLUTION OF WATER SUPPLY PROHIBITED.

No owner or occupant of any premises within the Township shall maintain any well, spring, cistern or other source of water supply used for drinking or household purposes and to which the public has or may have access and which is polluted or which is so situated or constructed that it may become polluted in any manner that may render such water supply injurious to health.
(Ord. of 12-3-30, § 10)
Cross reference – General health, safety and welfare, Ch. 11.

SECS. 19-18—19-26. RESERVED.

ARTICLE III. SEWERS AND SEWAGE DISPOSAL

SEC. 19-27. DEFINITIONS.

Unless the context specifically and clearly indicates otherwise, the meaning of terms and phrases used in this article shall be as follows:

Borough shall mean the Borough of Pottstown, Montgomery County, Pennsylvania, a municipal corporation of the Commonwealth, acting by and through its council, and/or the Pottstown Borough Authority, a municipality authority incorporated by appropriate action of such borough acting by and through its board, or, in appropriate cases, acting by and through their authorized representatives;

Building sewer shall mean the extension from the sewage drainage system of any structure to the lateral of a sewer;

Commonwealth shall mean the Commonwealth of Pennsylvania;

Equivalent dwelling unit (EDU) shall be defined and determined as follows:

Flow: 250 gpd

Single family dwelling: 1 EDU

Each multi-family dwelling unit or apartment unit: 1 EDU

Commercial establishment containing, attached to or appended to a residential unit (per commercial and/or residential unit): 1 EDU

Commercial, industrial, public – To be determined by meter service size, as follows:

<i>Water Meter/Service Size (in inches)</i>	<i>Equivalent Dwelling Unit (EDU)</i>
5/8	1
3/4	2
1	3
1.5	6
2	11
3	23
4	41
6	64
8	92

Improved property shall mean any property within the Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged;

Industrial establishment shall mean any improved property located in the Township used or intended for use, wholly or in part, for the manufacturing, processing, cleaning, laundering or assembling of any product, commodity or article, or any other improved property located in the township from which wastes, in addition to or other than sanitary sewage, shall be discharged.

Industrial wastes shall mean any and all wastes discharged from an industrial establishment, other than sanitary sewage.

Lateral shall mean that part of the sewer system extending from a sewer to the curblineline or, if there shall be no curblineline, to the property line or, if no such lateral shall be provided, then “lateral” shall mean that portion of or place in, a sewer that is provided for connection of any building sewer;

Owner shall mean any person vested with ownership, legal or equitable, sole or partial, of any improved property;

Person shall mean any individual, partnership, company, association, society, trust, corporation, municipality, municipal authority or other group or entity;

Sanitary sewage shall mean normal water-carried household and toilet wastes from any improved property;

Sewer shall mean any pipe or conduit constituting a part of the sewer system used for usable for sewage collection purposes;

Sewer system shall mean all facilities, as of any particular time, for collecting and transmitting sanitary sewage and/or industrial wastes, situate in or adjacent to the township and owned by the township;

Street shall mean and shall include any street, road, land, court, cul-de-sac, alley, public way or public square;

Township shall mean West Pottsgrove, Montgomery County, Pennsylvania, a political subdivision of the Commonwealth, acting by and through its Board of Commissioners, or, in appropriate cases, acting by and through its authorized representatives; and

Treatment agreement shall mean the sewage treatment service agreement by and between the township and the borough relating to, inter alia, the transportation, treatment and disposal of sanitary sewage and industrial wastes discharged from the sewer system.

(Ord. No. 93-2, § 2, 5-5-93; Ord. No. 95-3, § 2, 7-5-95)

SEC. 19-28. SYSTEM OF SEWERS AND DRAINS ESTABLISHED.

A system of sewers and drains within the Township is hereby established, the locations of the sewer mains in such system to be, as far as practicable, along and within the lines of the public streets and roads of the Township, as may seem advisable to the Township Commissioners and to the extent and in the places that may from time to time be determined by the Township Commissioners. Where it is reasonably impracticable, in the judgment of the Township Commissioners, in locating any part of such system, to carry such sewers or drains along the lines of public streets or roads, the Commissioners may and shall locate and construct so much of the same as they may deem necessary through private lands, paying to the owners of such lands such reasonable damages as may be agreed upon with such owners or as shall be determined by viewers in the manner provided by law for eminent domain proceedings.

(Ord. of 7-3-46, § 1)

SEC. 19-29. DISPOSITION OF SEWAGE AND DRAINAGE.

The Township Commissioners shall from time to time make all necessary provisions for the disposition of the sewage and drainage within, or for carrying the same beyond, the limits of the Township, and, to this end, they may and shall from time to time enter into such contracts as they may deem advisable and necessary with the Borough of Pottstown and any other municipalities and with other corporations or persons, to purchase, acquire, enter upon, take, appropriate, occupy, and use such lands, rights, and interests, within the corporate limits of such other municipalities, as the Commissioners shall determine to be necessary for the proper location, construction, maintenance use and operation of sewer mains, drains, or disposal plants, or necessary for future additions to and enlargement of such sewage facilities.

(Ord. of 7-3-46, § 2)

SEC. 19-30. COST OF CONSTRUCTION OF SEWERS AND DRAINS; FILING MUNICIPAL LIENS FOR ASSESSMENTS.

A. Sewer and drains shall be constructed in accordance with plans and specifications prepared by the Township Engineer. Sewer and drain construction as designated by this article shall include mains, laterals, pumps, road restoration and paving, and all facilities and services required for the sewer

project including engineering services for design and construction, permit costs and related expenses, including attorney's fees.

- B. The total assessable cost or partial portion of such cost of construction of all sewers and drains constructed by the Township Commissioners under this article shall be charged upon the properties accommodated, improved or benefited thereby to the extent of such benefits and the charge for any such sewer construction in the Township shall be assessed upon the properties, accommodated, improved or benefited by an assessment on each lot or piece of land in proportion to the front footage abutting on the sewer. However, when the lot or piece of land is on a corner, it shall be assessed for its entire frontage abutting on any sewer except when such property is a vacant lot or contains only a single family dwelling, in which case it shall be assessed along the shorter frontage and assessed along the longer frontage abutting on a sewer, commencing at a point no closer to the corner than 125 feet.
- C. Any property benefited, improved, or accommodated by the sanitary sewer which shall not be lawfully subject to assessment in proportion to the front footage, or as to which such manner of assessment shall not reasonably measure the benefit to such property, shall be assessed by the township by an assessment against the properties benefited, improved, or accommodated by the sanitary sewer to the extent of such benefits. Each such benefited, improved, or accommodated property shall be assessed with not less than the whole amount of the benefit accruing to it and legally assessable. The amount of the charge on each property shall be determined as provided in the First-Class Township Code for the assessment of benefits.
- D. Upon completion of the sewer project and by reference to this article, the total cost and expenses including engineering and legal services thereof, shall be determined and shall be, in whole or in part, assessed by township ordinance against the properties benefited, improved or accommodated by the sanitary sewer by an assessment based on the front foot rule as set forth herein and collected in accordance with the assessing ordinance.
- E. Any assessment authorized under this article shall be payable within one month from the date thereof, and after the expiration of said period of one month, interest thereon at the maximum rate as provided by law shall be added thereto.
- F. If any assessment authorized under this article shall not have been paid in full, said assessment shall become due and it shall be the duty of the Township Solicitor to collect the same with interest 30 days after the said notice, by an action in assumpsit, or by a lien to be filed and collected in the same manner as municipal claims. Interest on such lien shall be in the maximum amount authorized by law with respect to such liens.

All such charges assessed hereunder shall be a lien against such properties and said charges shall be assessed and collected and the liens enforced in the manner provided by law. The solicitor shall file a municipal lien against any property owner or owners not paying their assessment in full within 30 days of the date the notice of assessment is given to said owner, the cost of the filing of said lien and the satisfaction thereof to be paid by the owners of the assessed property.

(Ord. of 7-3-46, § 3; Ord. of 9-6-72; Ord. No. 73-2, 3-7-73; Ord. No. 93-2, § 2, 5-5-93)

SEC. 19-31. METHOD OF COLLECTION.

Upon receipt of the Township Engineer's certification of completion of sewer and drainage construction as aforesaid, the Commissioners shall direct the Township Secretary to give notice of the assessment as

provided in the First Class Township Code and to collect from the owner or owners of the aforementioned real property the amount of costs as assessed pursuant to the aforementioned front foot rule or by benefit assessment in the manner hereinabove provided and to provide that payment of the said assessment shall be made payable to the Township Treasurer for the use of the Township, and the Commissioners shall direct the Solicitor of the Township to secure the payment of the assessment together with filing and satisfaction expenses by the filing of the lien in the manner hereinabove set forth.
(Ord. of 7-3-46, § 4; Ord. No. 93-2, § 2, 5-5-93)

SEC. 19-32. REQUIRED SEWER CONNECTIONS; CONNECTION AND USER'S FEES.

- A. The owner of any improved property benefited, improved or accommodated by a sewer shall connect such improved property with such sewer, in such manner as the township may require, within 90 days after notice to such owner from the township to make such connection, for the purpose of discharge of all sanitary sewage and industrial wastes from such improved property; subject, however, to such limitations and restrictions as shall be established herein, or otherwise shall be established by the township or under the treatment agreement, from time to time.
- B. The notice by the Township to make a connection to a sewer, referred to above shall consist of a copy of this ordinance, including any amendments and/or supplements at the time in effect, or a summary of each section thereof, and a written or printed document requiring the connection in accordance with the provisions of this article and specifying that such connection shall be made within 90 days from the date such notice is given. Such notice may be given at any time after a sewer is in place that can receive and can convey sanitary sewage and industrial wastes for treatment and disposal from the particular improved property. Such notice shall be served upon the owner either by personal service or by certified mail, or by such other method as at the time may be provided by law.
- C. All costs and expenses of construction of a building sewer and costs and expenses of connection of a building sewer to a sewer shall be borne by the owner of the improved property to be connected; and such owner shall indemnify and shall save harmless the Township and the borough from all loss or damage that may be occasioned, directly or indirectly, as a result of construction of a building sewer or of connection of a building sewer to a sewer.
- D. If the owner of any improved property benefited, improved or accommodated by a sewer, after 90 days notice from the Township as set forth above, shall fail to connect such improved property, as required, the Township may make such connection and may collect from such owner the costs and expenses thereof with a penalty of ten percent (10%) together with the maximum interest allowed by law, by a municipal claim, an action in assumpsit or such other legal proceeding as may be permitted by law.
- E. Whenever the owner of an improved property connects such property and or the buildings or other structures on said property with the Township sewer system, a connection fee in the amount of one thousand seven hundred dollars (\$1,700) per EDU shall be paid to the Township for each such property, building or other structure so connected to the sewer system. Said fee shall be in addition to any charge which is assessed or collected against such property in the construction or acquisition of such sanitary sewer system by the township.

The connection fee in the amount of one thousand seven hundred dollars (\$1,700) per EDU shall be imposed for all buildings or other structures connected to the sanitary sewer system whether any part, or extension thereof, has been constructed by the Township at the expense of a private person or corporation or has been constructed by a private person or corporation under the supervision of the

Township at the expense of the private person or corporation, regardless of whether said sewer system extension has been formally accepted by Township.

Whenever a sewer user request an increase to it's sewer allocation which is in excess of the sewage or wastewater daily flows as set forth in the user permits issued by the Borough of Pottstown, pursuant to Sections 19-101 and 19-102 of Article IV of the Code of Ordinances of West Pottsgrove Township, such user shall provide the township with satisfactory proof that sufficient capacity exists in the wastewater treatment plant of the Borough of Pottstown and that existing Township sewer line shave the capacity to handle such increased flow. If Township determines that sufficient capacity exists in its lines and in the Borough of Pottstown wastewater treatment plant and which will not violate any terms of the sewage treatment and service agreement between the Township and the Borough of Pottstown, the Township may grant such increase to user, regardless of user's existing water meter size, upon payment of user of the connection fee in the amount of one thousand seven hundred dollars (\$1,700) per EDU for such increase in sewage and/or waste water discharges.

Upon the failure of the owner of any property assessed a connection fee within 3 months after notice to do so, the Township shall collect the cost thereof with a penalty of ten percent (10%), together with the maximum interest allowed by law from the owner by a municipal claim or such other legal proceedings as may be permitted by law.

F. Reserved.

G. The Chairman of the Sewer Committee, the Township Secretary, or any proper Township, officer or official designated by the Board of Commissioners, shall, upon motion by the Commissioners, prepare such notices and cause the same to be served upon the owners of all property abutting on or adjoining any street or alley in which the sewers are laid, a return and record thereof to be made and kept by the Township Secretary. All persons so connecting to such sewer shall be required to pay in addition to the assessment, connection fee, and actual cost of making such connection, a user charge in such amount as may be prescribed by the Township Commissioners from year to year. The user charges shall be payable on a quarterly basis. Such user charges shall constitute a lien, until paid, against the property so connecting with the Township sewer system, and the amount thereof, together with the maximum interest allowed by law, may and shall be recovered by the Township Commissioners or their designated representatives by municipal claim or such other legal proceedings as may be permitted by law.

(Ord. of 73-3, 3-7-73; Ord. No. 89-3, § 1, 3-1-89; Ord. No. 93-2, § 2, 5-5-93; Ord. No. 95-3, §§ 1, 2, 7-5-95; Ord. No. 2006-6, § 1, 11-1-06)

SEC. 19-33. DRAINS, ETC., TO BE ADEQUATE; MATERIAL AND DRAINAGE TO PASS FREELY.

It shall be obligatory upon any and all persons constructing or owning any drain, soil pipe, passage or connection between a sewer and any ground, structure or place of business, an din like manner the duty of the owners of all grounds, structures and business places, and all parties interested therein or thereat, to cause and require that such drain, soil pipe, passage or connection shall be adequate for its purpose, and shall at all times allow to pass freely all material and drainage that enters or should enter the same.

(Ord. of 7-3-46, § 6)

SEC. 19-34. USE OF SEWER SYSTEM; UNLAWFUL DISCHARGES AND CONNECTIONS.

- A. All sanitary sewage and industrial wastes from any improved property, after connection of such improved property with a sewer shall be required under Section 19-32, shall be conducted into a sewer; subject, however, to such limitations and restrictions as shall be established herein or otherwise shall be established by the Township, from time to time.
- B. No person shall place, shall deposit or shall permit to be placed or to be deposited upon public or private property within the Township any sanitary sewage or industrial wastes in violation of Section 19-32.

No person shall discharge or shall permit to be discharged to any natural outlet within the Township any sanitary sewage or industrial wastes in violation of Section 19-32, except where suitable pretreatment has been provided that is satisfactory to the Township.

- C. No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be used or shall be maintained at any time upon any improved property that has been connected to a sewer or that shall be required under Section 19-32 to be connected to a sewer.

Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned and, at the discretion of the township, shall be cleansed and shall be filled, at the expense of the owner of such improved property, under the direction and supervision of the township; and such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned and, if required by the township, not cleansed and filled, shall constitute a nuisance, and such nuisance may be abated, as provided by law, at the expense of the owner of such improved property.

- D. No privy vault, cesspool, sinkhole, septic tank or similar receptacle at any time shall be connected with a sewer.
(Ord. of 7-3-46, § 7; Ord. No. 93-2, § 2, 5-5-93)

SEC. 19-35. PERMITS.

- A. No person shall uncover or open any portion of a street or road, shall connect with, shall make any opening into or shall use, shall alter or shall disturb in any manner, any sewer or any part of the sewer system, nor increase sewage or waste water flows over previously permitted limits, without first obtaining a permit, in writing, from the Township.
- B. Application for a permit required under this section shall be made by the owner of the improved property served or to be served or by the duly authorized agent of such owner.
(Ord. of 93-2, § 2, 5-5-93; Ord. No. 95-3, §§ 1, 2, 7-5-95)

SEC. 19-36. CONDITION FOR CONNECTION TO SEWER.

No person shall make or shall cause to be made a connection of any improved property with a sewer until such person shall have fulfilled each of the following conditions:

- A. Such person shall have notified the secretary, or other designated representative, of the township of the desire and intention to connect such improved property to a sewer;
- B. Such person shall have applied for and shall have obtained a permit as required by Section 19-35.

- C. Such person shall have given the secretary, or other designated representative, of the township at least 48 hours notice of the time when such connection will be made so that the township may supervise and inspect or may cause to be supervised and inspected the work of connection and necessary testing;
- D. Such person shall have furnished satisfactory evidence to the secretary, or other designated representative of the Township that any connection fee that may be charged and imposed by the Township against the owner of each improved property who connects such improved property to a sewer has been paid; and
- E. Such person shall provide the Secretary, or other designated representative, of the township with an estimate of the expected quantity of sanitary sewage or industrial wastes to be discharged into the sewer system from such improved property and, if applicable, evidence of agreement with the Township and the Borough as to the availability of capacity in the waste water treatment plant of the borough, and the terms of payment therefore, to accommodate treatment and disposal of such sanitary sewage or industrial wastes.

(Ord. of 93-2, § 2, 5-5-93)

SEC. 19-37. REGULATIONS GOVERNING BUILDING SEWERS AND CONNECTIONS.

- A. Except as otherwise provided in this section each improved property shall be connected separately and independently with a sewer through a building sewer. Grouping of more than one improved property on one building sewer shall not be permitted, except under special circumstances and for good sanitary reasons or other good cause shown, but then only after special permission of the Township, in writing, shall have been secured and only subject to such rules, regulations and conditions as may be prescribed by the Township.
- B. A building sewer shall be connected to a sewer at the place designated by the Township and where, if applicable, the lateral is provided.
- C. The invert of a building sewer at the point of connection shall be at the same or a higher elevation than the invert of the sewer. A smooth, neat joint shall be made and the connection of a building sewer to the lateral shall be made secure and watertight.
- D. Where an improved property, at the time connection to a sewer is required, shall be served by its own sewage disposal system or sewage disposal device, the existing house sewer line shall be broken on the structure side of such sewage disposal system or sewage disposal device and attachment shall be made, with proper fittings, to continue such house sewer line as a building sewer.
- E. No building sewer shall be covered until it has been inspected and approved by the Township. If any part of a building sewer is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the owner of the improved property to be connected to a sewer.
- F. Every building sewer of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.
- G. Whenever a person desires Township to extend it's sanitary sewer into an area which is designated unsewered under the Township's existing Act 537 Plan, such persons shall be required in addition to

the filing of appropriate planning modules with Township and Department of Environmental Protection, to:

1. Determine the number of EDUs required through appropriate Engineering analysis;
2. Provide Township with satisfactory proof that sufficient capacity exists in the Wastewater Treatment Plant of the Borough of Pottstown to handle the requested allocation;
3. Provide satisfactory proof that existing Township sewer lines and pumping stations have the capacity to handle such increase flow; and
4. Purchase said sewer allocation from Township.

If Township determines that sufficient capacity exists in it's lines and in the Borough of Pottstown Wastewater Treatment Plant and that such sewer extension sill not violate any terms of the Sewage Treatment and Service Agreement between Township and the Borough of Pottstown, Township may permit the extension of sewer service to such unsewered area upon payment by such person of one thousand seven hundred dollars (\$1,700) per EDU request.

In addition, a connection fee in the amount of one thousand seven hundred dollars (\$1,700) per EDU shall be imposed for all buildings or other structures connected to the sanitary sewer system whether any part, or extension thereof, has been constructed by the Township at the expense of a private person or corporation or has been constructed by a private person or corporation under the supervision of the Township at the expense of the private person or corporation, regardless of whether said sewer system extension has been formerly accepted by Township.

Upon the failure of the owner of any property assessed a fee to purchase EDUs for such sewer line extension or to pay the additional connection fee within 3 months after notice to do so, Township shall collect the cost thereof with a penalty of ten percent (10%), together with the maximum interest allowed by law from the owner by a municipal claim or such other legal proceedings as may be permitted by law. (Ord. of 93-2, § 2, 5-5-93; Ord. No. 2006-6, § 2, 11-1-06)

SEC. 19-38. BOND AND LICENSE REQUIRED FOR PERSONS ENGAGING IN BUSINESS OF CONTRACTING TO MAKE SEWER CONNECTIONS.

Any person who may engage in the business of contracting for the making of sewer connections from the curbline to the main shall give a bond in sum of one thousand dollars (\$1,000), conditioned to observe all regulations made by the Township authorities with respect to the construction of such connections and further conditioned upon the careful, competent and workmanlike performance of the work, and shall also apply to the Township Commissioners and secure a license to engage in such constructions, and shall satisfy the Commissioners as to his ability and competency to do such work. (Ord. of 7-3-46, § 11)

SEC. 19-39. INSPECTION, SAMPLING AND TESTING.

The Township and the Borough shall have the right to gain access to and upon the improved property, at all reasonable times, after connection of the building sewer to the sewer for the purposes of inspection, observation, measurement, sampling and testing, and the performance of all other functions relating to sewer services rendered by the Township and the Borough. If at any time said building sewer and the composition or quantity of waste being discharged therein from the improved property does not comply

with the restrictions, rules and regulations set forth herein or hereinafter adopted, or will cause the Township to be in violation of the treatment agreement, notice of same, in writing, shall be given to the owner of the improved property to make the necessary change or repairs within 60 days of receipt of such notice. If the owner shall fail or shall refuse to make said necessary change or repairs within said time period, Township or Borough may refuse to permit such person to discharge sanitary sewage and industrial wastes into the sewer system until such change or repairs shall have been remedied to the satisfaction of the Township and Borough, and such person shall be responsible for paying any surcharges, penalties or rentals payable by the Township to the Borough under the treatment agreement arising from such discharge.

(Ord. of 93-2, § 2, 5-5-93)

SEC. 19-40. SECURITY REQUIRED WHERE TRENCHES ARE CUT INTO CONCRETE, MACADAM, ETC.; COMPLETION OF WORK.

A. A sum, as established by resolution of the Board of Commissioners shall be deposited by cash or certified check with the Township in all cases where trenches are into or through concrete, macadam or any other type of road or pavement surfaces, to secure the proper restoration of the excavation in accordance with Chapter 16, Article IV, and all subparts, together with all applicable building codes and ordinances.

B. All work on connections between the sewer and curb shall be completed within 30 days after issuing the permit required by this article, unless the time be extended in writing by the Sewer Committee or other proper Township Official.

(Ord. of 7-3-46, § 13; Ord. No. 89-3, § 1, 3-1-89; Ord. No. 2009-4, § 8, 3-18-09)

SEC. 19-41. ADDITIONAL RULES AND REGULATIONS.

The Township reserves the right to adopt, by resolution from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a sewer, with the sewer system and compliance with the treatment agreement, which additional rules and regulations shall be construed as if part of this article.

(Ord. of 93-2, § 2, 5-5-93)

SEC. 19-42. PAVING OR PERMANENT IMPROVEMENT OF STREETS OR ALLEYS IN WHICH PUBLIC SEWERS HAVE BEEN CONSTRUCTED.

Whenever hereafter the Township may be ordinance or in any other legal way direct the paving or permanent improvement of any street or alley in which a public sewer has therefore been constructed, the Township Secretary shall serve notice on each owner of property abutting on those portions of the street or alley to be paved, and in which such sewer has been constructed, requiring such owner, within 10 days from such service to make connection with such sewer for each abutting lot of property, at intervals in no case greater than 50 feet at the main, and carry the same to the line of the sidewalks inside the line of the curb, so that the pavement need not afterwards be broken. Such notice shall be served on the owner either personally or by certified mail, or by such method as may be provided by law. Upon failure of any person to comply with such notice, the Township may cause such connection to be made as above provided and collect the costs thereof from the property owner with a penalty of twenty percent (20%) together with the maximum interest allowed by law by filing a municipal lien therefore or by action in assumpsit as provided by law.

SEC. 19-43. CONSTRUCTION OF MAIN SEWERS ON PRIVATE PROPERTY.

Wherever main sewers have been laid through private property with the consent of the owner, or under a right acquired by condemnation proceedings, such owner, his heirs and assigns shall have the right to connect buildings erected on lands abutting along and upon such main sewers upon the same terms and conditions as set forth in this article and under the same regulations prescribed from time to time by the Township for the making of connections with sanitary sewers constructed in the streets and alleys. (Ord. of 7-3-46, § 16; Ord. No. 93-2, § 2, 5-5-93)

SEC. 19-44. CONSTRUCTION OF SEWERS IN BUILDING DEVELOPMENTS.

- A. All sewers of every kind, nature and description proposed to be constructed in building developments within the Township shall be completely constructed, built and installed at the sole cost, expense and liability of the person promoting, sponsoring, managing, constructing, developing or erecting such building development, and/or the owners of property abutting on and benefited by the line as installed, provided that the actual work of construction and installation may at the option and discretion of the Township, be done either by the owners and developers under proper agreement and supervision, or by the Township at the entire cost of the owner.
- B. Prior to the construction and installation of any such sewer, complete plot plans showing detail, elevation, grades and drainage pitch for construction thereof shall first be submitted to the Township Commissioners and approved.
- C. Following such approval, the construction and installation shall be done in conformance with the approved plans and with all Township regulations and requirements in relation thereto, and shall be done, in any event under and subject to the supervision, direction and control of the township engineer and shall be subject to his approval. As built plans shall be provided to township within 60 days of completion of construction.
- D. Any and all sewers or sections thereof hereafter constructed and installed in such building developments within the Township shall not be accepted, connected with, or emptied into the Township system, nor become a part of the Township system until they shall have been completed, inspected, and approved and all connection fees paid and found to be in accordance with the provisions of this article and with all regulations and requirements of the Township, and shall have been so certified by the Township Engineer. Prior to certification, the developer, contractor, or property owners (as the case may be) shall dedicate and transfer good title by deed, bill of sale, or otherwise to the Township of all the sewer lines in such building developments. In addition, at the time of the dedication and transfer of said title to said sewer lines, the transferor shall guarantee for a period of 2 years from the date of said dedication, the stability of all materials and work and to promptly make good and replace all defective materials and to remedy all defects in materials and workmanship, all shrinkage to the satisfaction of the Township Engineer, and at no expense to the Township when notified in writing to do so by the Township Engineer. In order to secure the guarantee as herein required, the township shall be assured by means of a proper guarantee by the deposit of funds or securities in escrow in an amount equal to fifteen percent (15%) of the Township Engineer's estimate of the cost of original construction of said sewer lines and laterals.

(Ord. of 93-2, § 2, 5-5-93)

SEC. 19-45. PERMIT FOR INSTALLATION OF CONDUCTORS OF SURFACE AND DRAINAGE WATER, ETC.

Every owner of real property situate within the Township, in or through which a culvert, conduit, pipe or any other object is used as a conductor of surface and drainage water for the purpose of draining such surface water in its natural course, shall, before the installation of any such pipe, conduit or culvert, upon his private property, first secure from the Township Secretary a permit for the installation, the cost which shall be sum as established by resolution of the Board of Commissioners, and the work shall conform to specifications and size, nature and materials as shall be prepared by the Township Engineer at owner's expense.

(Ord. of 93-2, § 2, 5-5-93; Ord. No. 2009-4, § 8, 3-18-09)

SEC. 19-46. UNLAWFUL DEPOSITS IN GUTTERS OR WATERCOURSES.

It shall be unlawful for any person to put, place, or deposit any snow, hail, ice, grass, debris or any other matter in the paved gutters or watercourses of the Township. Building materials occupying the streets shall not be placed within 20 inches of the curbstone.

(Ord. of 93-2, § 2, 5-5-93)

SEC. 19-47. VIOLATION OF THIS ARTICLE.

Any person who is found by a district judge or court of competent jurisdiction to have violated any provision of this article, the orders, rules, regulations and permits issued hereunder shall, for each and every offense, be sentenced to pay a fine not less than two hundred fifty dollars (\$250) nor more than one thousand dollars (\$1,000) for each offense, or in default of payment of such fine, by imprisonment for not more than 30 days. Each day on which a violation shall occur or continue to occur, shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the Township may recover penalties, damages, costs, reasonable attorney's fees, court costs, court reporter's fees and other expense of litigation by appropriate suit at law against the person found to have violated this article, or the orders, rules, regulations and permits issued hereunder.

(Ord. of 93-2, § 2, 5-5-93)

SECS. 19-48—19-60. RESERVED.

ARTICLE IV. WASTEWATER STANDARDS AND PRETREATMENT REQUIREMENTS*

DIVISION 1. GENERALLY

SEC. 19-61. PURPOSE AND POLICY.

This article sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system operated by the Borough of Pottstown, and enables the Township to

* *Editor's note* – Ord. No. 87-2, adopted Jan. 28, 1987, provided that the provisions thereof be included in the Code as Art. IV of Ch. 17. The editor has codified §§ 1.0—6.0 of said ordinance as Art. IV, §§ 19-61—19-22. Sections 7.0, 8.0 and 9.0 providing for severability, conflict and effective date have been omitted from codification. See the Code Comparative Table for a detailed analysis of inclusion.

comply with all applicable state and federal laws, including the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR Part 403).

The objectives of this article are:

- A. To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge.
- B. To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system inadequately treated into receiving waters or the atmosphere or otherwise be incompatible with the system.
- C. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system.
- D. To provide for equitable distribution of the cost of the municipal wastewater system.

This article provides for the regulation of direct and indirect contributors to the municipal wastewater system through the issuance of permits to certain nondomestic users, and through enforcement of specific requirements for the other users; authorizes monitoring and enforcement activities; requires user reporting; assumes that existing customer's capacity will not be preempted, and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

This article shall apply to the Township of West Pottsgrove and to persons within the township who are users or industrial users of the borough POTW. Except as otherwise provided herein, the superintendent of the borough POTW is hereby authorized to and shall administer, implement and enforce the provisions of this article.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the borough and any industrial users within or out of the Borough, whereby a waste of unusual strength or character may be accepted by the Borough by special agreements in writing, executed prior to such acceptance, containing safeguards, limitations and conditions acceptable to the Borough, which shall comply with all applicable state and federal laws, including the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR Part 403).
(Ord. No. 87-2, § 1, 1-28-87; Ord. No. 89-7, § 1, 12-27-89)

SEC. 19-62. DEFINITIONS.

Unless the context specifically indicates otherwise, the following terms and phrases as used in this article shall have the meanings hereinafter designated:

Act or "*the Act*". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

Approval authority. The regional administrator of the EPA.

Authorized representative of industrial user. An authorized representative of an industrial user may be:

- A. A principal Executive Officer of at least the level of Vice-President, if the industrial user is a corporation;

- B. A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively; and,
- C. A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in 40 CFR Sections 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal or drainage from raw materials storage.

Biochemical oxygen demand (BOD). The quality of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, 5 days at 20° Celsius (68° F), expressed in terms of weight and concentration (milligrams per liter [mg/l]).

Borough. The Borough of Pottstown, the Borough Council of Pottstown, or the Mayor and Borough Council.

Borough authority. The Pottstown Borough Authority.

Building sewer. A sewer conveying wastewater from the premises of a user to the POTW.

Categorical standards. National Categorical Pretreatment Standards or Pretreatment Standards.

Consent agreement. An Agreement entered into by the superintendent or his duly authorized representative for assurance of voluntary compliance or other similar document establishing an agreement with any user responsible for non-compliance. Such document will include specific action to be taken by the user to correct the non-compliance with a time period specified by the document. Such document shall have the same force and effect as an administrative order and shall be judicially enforceable.

Control authority. The Borough or its Superintendent of Utilities.

Cooling water. The water discharged from any user, such as air conditioning, cooling or refrigeration to which the only pollutant added is heat.

Direct discharge. The discharge of treated or untreated wastewater directly to the waters of the Commonwealth of Pennsylvania.

EDU. An equivalent dwelling unit (EDU) shall be defined and determined as follows:

Flow: 250 gpd

Single family dwelling: 1 EDU

Each multi-family dwelling unit or apartment unit: 1 EDU

Commercial establishment containing, attached to or appended to a residential unit (per commercial and/or residential unit): 1 EDU

Commercial, industrial, public – To be determined by meter service size, as follows:

<i>Water Meter/Service Size (in inches)</i>	<i>Equivalent Dwelling Unit (EDU)</i>
5/8	1
3/4	2
1	3
1.5	6
2	11
3	23
4	41
6	64
8	92

Environmental protection agency (EPA). The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation of the administrator or other duly authorized official of said agency.

Grab sample. A sample which is taken from a waste stream over a period of time not to exceed 15 minutes with no regard to the flow in the waste stream.

Ground water. The part of precipitation that infiltrates the ground and creates the zone of saturation.

Harm. Any process change to the POTW, damage to the POTW, pass through or any applicable damage that directly correlates to an industrial discharge.

Holding tank waste. Any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

Indirect discharge. The discharge or the introduction of pollutants into the POTW, including holding tank waste discharged into the POTW and any source regulated under Sections 307(b), (c) or (d) of the Act.

Industrial discharge. The discharge or the introduction of pollutants into the POTW, including holding tank waste discharged into the system and any source regulated under Sections 307(b), (c) or (d) of the Act.

Industrial user.

- A. *Class 1.* Any user of the Borough’s wastewater disposal system who: (1) has a discharge flow to 25,000 gallons or more per average work day; or (2) has a flow greater than five percent (5%) of the flow in the Borough’s wastewater treatment system; or (3) has in his wastes any of the 126 priority pollutants as defined pursuant to Section 307 of the Act of Pennsylvania statutes and rules; or (4) is subject to federal categorical standards; or (5) is found by the borough, Pennsylvania Department of Environmental Regulations (PADER), or the U.S. Environmental Protection Agency (EPA), to have significant impact either singly or in combination with other contributing industries on the wastewater treatment system, the quality of sludge, the system’s effluent quality, or air emissions generated by the system.

- B. *Class 2.* Any user of the Borough's wastewater disposal system that discharge nondomestic pollutants in amounts that, on a routine basis, have an insignificant impact on the treatment system, but may have the potential to impact the collection or treatment system, or to violate the prohibited discharge limitations in the authority's ordinance. This class also includes any industry which presents the potential to cause sewer obstruction, slug loads or chemical spills.
- C. *Class 3.* Any user of the Borough's wastewater disposal system that discharges only sanitary wastes, have dry processes, or are considered to have an insignificant impact on the POTW.

Industrial user permit. As set forth in Section 19-102 of this article.

Inhibitory substances. Material and/or chemicals that kill or restrict the ability of organisms to treat wastes.

Interference. A discharge which causes the inhibition, enhancement or disruption of the POTW treatment processes or operations, or its sludge processes, use or disposal, which alone, or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the Borough's NPDES permit (including an increase in the magnitude or duration of a violation). The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, 33 U.S.C. Section 1345, or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substance Control Act, the Marine Protection, Research and Sanctuaries Act or more stringent state criteria, including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA applicable to the method of disposal or use employed by the POTW.

Mass emission rate. The rate of discharge of a pollutant expressed as a weight per unit of time, usually as pounds or kilograms per day.

MIPP. The borough's Environmental Protection Agency approved municipal industrial pretreatment program.

National categorical pretreatment standards or pretreatment standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act, (33 U.S.C. 1317), and 40 CFR, Chapter 1, Subchapter N, or 40 CFR, Parts 401-471, which applies to a specific industry.

National Pollution Discharge Elimination System or NPDES Permit. A permit issued pursuant to Section 401 of the Act, (33 U.S.C. 1342).

National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Any regulation developed under the authority of Section 307(b) of the Act and 40 CFR Section 403.5.

New source. Any building, structure, facility or installation or any other qualifier found in 40 CFR Section 403.3(k) from which there is or may be a discharge of pollutants, construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act.

Nonindustrial user. A user which discharges wastewater from a residential dwelling or commercial establishment to the POTW.

Non-Significant categorical industrial user. A user that does not discharge more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blow down wastewater). The following conditions must be met:

- A. The Industrial User prior to Control Authority finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
- B. The Industrial User annually submits the certification statement required in 40 Section 403.12(q), together with any additional information necessary to support the certification statement; and
- C. The Industrial User never discharges any untested, concentrated wastewater.

Owner. Any person vested with ownership, legal or equitable, sole or partial of any property and/or building located in the Township.

Pass through. A discharge which exits the POTW into waters of the United States in quantities which may serve to cause a violation or increase in magnitude or duration in violation of the POTW's NPDES Permit.

Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, any other legal entity or their legal representatives, agents or assigns. The masculine gender shall include the feminine, this singular shall include the plural where indicated by the context.

pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in standard units of solution.

Pollutant. Any dredged spoil, solid waste, incineration residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, industrial, municipal and agricultural waste and certain wastewater containing pollutants such as pH, temperature, BOD and so forth, discharged into water.

Pollution. The manmade or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

Pretreatment or treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to, or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes other means, except as prohibited by 40 CFR Section 403.6(d).

Pretreatment requirements. Any substantive or procedural requirement related to pretreatment other than a National Pretreatment Standard imposed on an industrial user.

Pretreatment standards. Prohibited discharge standards, categorical pretreatment standards and local limits.

Process water. Any water that has become wastewater due to the chemical or physical nature of the water, water used to manufacture or produce any product.

Prohibited discharge standards. Absolute prohibitions against the discharge of certain substances.

Publicly owned treatment works (POTW). A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292), which is owned in this instance by the authority. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this article, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the Borough who are, by contract or agreement with the borough, users of the Boroughs POTW.

POTW treatment plant. That portion of the POTW designated to provide treatment to wastewater.

Remediation wastewater. Groundwater or surface water that has become polluted and must be treated to standards as set forth by the Clean Water Act, Act 403 and the MIPP.

Shall is mandatory; *may* is permissive.

Significant industrial user.

- A. A user subject to categorical pretreatment standards under 40 CFR Section 403.6 and 40 CFR, Chapter I.N.
- B. A user that:
 1. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown).
 2. Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 3. Is designated as such by the Control Authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or by violating any pretreatment standard or requirement.
- C. Upon a finding that a user meeting the criteria in number (2) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Borough may, at any time, on its own initiative or in response to a petition received from a user and in accordance with procedures in 40 CFR Section 403.8(f)(6), determine that such user shall not be considered a significant industrial user.

Significant non-compliance. An industrial user is in significant non-compliance if its violation meets one (1) or more of the following criteria:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined by 40 CFR Section 403.3(1).

- B. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits as defined by 40 CFR Section 403.3(1) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH).
- C. Any other violation of a pretreatment standard or requirement as defined by 40 CFR Section 403.3(1) (daily maximum, long term average, instantaneous limit or narrative standard) and POTW.
- D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR Section 403.8(f)(1)(VI)B to halt or prevent such a discharge.
- E. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in an industrial user permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90 day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

Slug load or slug. Any discharge of a non-routine, episodic nature including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

Standard industrial classification (SIC). A classification pursuant to the Standard Industrial Classification manual issued by the Executive Office of the President, Office of Management and Budget 1972.

State. Commonwealth of Pennsylvania.

Stormwater. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

Superintendent. The person designated by the borough to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this article, or his duly authorized representative.

Surface water. Precipitation that does not enter the ground through infiltration, nor is it returned to the atmosphere by evaporation; flows over the ground surface, includes man-made supplies of water.

Suspended solids. The total suspended matter that floats on the surface or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering.

Synergistic reaction. An interaction between two or more individual compounds which produce an injurious effect upon the body (or an organism) which is greater than either of the substances alone would have produced; compound may be characterized as temperature.

Township. The Township of West Pottsgrove or the commissioner of West Pottsgrove Township.

Toxic pollutant. Any pollutant, or combination of pollutants, listed as toxic in regulations promulgated by the administrator of the EPA under the provision of CWA 307(a) or other acts.

User. A source of indirect discharge.

Wastewater. The liquid and water carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated which is contributed into or permitted to enter the POTW.

Waters of the state. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulation of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(Ord. No. 87-2, § 1.2, 1-28-87; Ord. No. 89-7, § 2, 12-27-89; Ord. No. 96-1, § 1, 6-5-96; Ord. No. 2000-1, 3-1-00; Ord. 2009-3, § 1, 1-7-09)

SEC. 19-63. ABBREVIATIONS.

The following abbreviations shall have the designated meanings:

BOD	Biochemical oxygen demand
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
l	Liter
mg	Milligram
mg/l	Milligrams per liter
MIPP	Municipal industrial pretreatment program
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly owned treatment works
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
TKN	Total Kjeldahl nitrogen
USC	United States Code
TSS	Total Suspended solids

(Ord. No. 87-2, § 1.3, 1-28-87; Ord. No. 2000-1, § 2, 3-1-00)

SECS. 19-64—19-69. RESERVED.

DIVISION 2. REGULATIONS

SEC. 19-70. GENERALLY.

A. No user or industrial user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. This

shall be deemed to include any interference or pass through as above defined in Section 19-62. These general prohibitions apply to all such users of the POTW, whether the user is subject to the National Categorical Pretreatment Standards or any other national, state or local pretreatment standards or requirements. A user or industrial user may not contribute the following substances into the POTW:

1. Any liquids, solids or gases, which, by reason of their nature or quantity, are or may be sufficient, either alone or by interaction, with other substances to cause fire or explosion, or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter. At no time shall the effluent wastewater have a closed cup flash point of less than 140 degrees Fahrenheit. Such wastewaters include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, hydrides, sulfides and any other substance which is a fire hazard to the system.
2. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal gut or tissues, paunch manure, bones, hair, hides, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt, residues, residues from refining or processing of fuel or lubricating oil, mud, glass grinding, or polishing wastes.
3. Any wastewater having a pH less than 6.0 or greater than 9.0 unless the POTW is specifically designed to accommodate such wastewater, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment and/or personnel of the POTW.
4. Any wastewater containing toxic pollutants in significant quantity, either singly or by interaction with other pollutants, to injure, to interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters or the POTW, or to exceed the limitations set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act.
5. Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for maintenance and repair.
6. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums to be unsuitable for reclamation and reuse, or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or state criteria applicable to the sludge management method being used.
7. Any substance which will cause the pass through or interference of the POTW, such as but not limited to oils and grease as specified in Section 19-73, and pollutants which result in the presence of toxic gases, vapors or fumes, within the POTW in a quantity that may cause acute worker health and safety problems.

8. Any wastewater with objectionable color not removed in the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions.
 9. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW's which exceeds 40° Celsius (104° F), unless the POTW treatment plant is designed to accommodate such temperature.
 10. Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which cause interferences to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than 15 minutes, more than five times the average 24-hour concentration, quantities, or flow during normal operation.
 11. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal Regulations.
 12. Any wastewater which causes a hazard to human life or creates a public nuisance.
 13. Stormwater, groundwater (except groundwater which is limited solely to leachate from landfills resulting from Pennsylvania Department of Environmental Protection or Environmental Protection Agency directed remediation that is determined not to be harmful to the wastewater plant), roof runoff, subsurface drainage or cooling water.
 14. Inhibitory substances.
- B. Local limits apply at the point of discharge and violation of the local limits will be considered a violation of these regulations.
- C. A user or industrial user or other waste source may discharge ground or surface waters (limited solely to leachate from landfills) from an approved remediation site to the publicly owned treatment works on a short term basis after making application to and receiving approval from the Borough and Township. The approved discharger will be issued a municipal industrial pretreatment program wastewater contribution permit and will be required to meet all regulations. At no time shall the accumulative total of remediation discharge wastewater (specifically limited solely to leachate from landfills) exceed 250,000 gallons per day or two and one-half percent (2.5%) of the wastewater plant's average daily flow, whichever is less.
- (Ord. No. 87-2, § 2.1, 1-28-87; Ord. No. 89-7, § 3, 12-27-89; Ord. No. 96-1, §§ 2, 3, 6-5-96; Ord. No. 2000-1, § III, 3-1-00)

SEC. 19-71. FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

Upon the promulgation of the Federal Categorical Pretreatment Standards (40 CFR Sections 405—471) for a particular industry subcategory, the Federal Standards, if more stringent than limitations imposed under this article for sources in that subcategory, shall control. Each user or industrial user shall be responsible to notify the borough of changes to their status under the federal, state or local regulations.

(Ord. No. 87-2, § 2.2, 1-28-87; Ord. No. 89-7, § 4, 12-27-89; Ord. No. 96-1, § 4, 6-5-96)

SEC. 19-72. MODIFICATION OF FEDERAL CATEGORICAL PRETREATMENT STANDARDS.

Where the Borough’s wastewater treatment system achieves consistent removal of pollutants limited by Federal Pretreatment Standards, the borough may apply to the approval authority for modifications of specific limits in the Federal Pretreatment Standards. “Consistent removal” shall mean the reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in ninety-five percent (95%) of the samples taken when measured according to the procedures set forth in Section 403.7(c)(2) of Title 40 of the Code of Federal Regulations, Part 403- “General Pretreatment Regulations for Existing and New Sources of Pollution,” promulgated pursuant to the Act. The Borough may then modify pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR Part 403, Section 403.7 are fulfilled and prior approval from the approval authority is obtained. (Ord. No. 87-2, § 2.3, 1-28-87)

SEC. 19-73. SPECIFIC POLLUTANT LIMITATIONS.

No user of the Township sewer system shall contribute, or cause to be contributed, directly or indirectly, wastewater containing pollutant levels in excess of the following maximum discharge limitations:

<i>Pollutant</i>	<i>Maximum Daily Limit (mg/l)</i>
Total arsenic	0.12
Total cadmium	0.11
Total chromium	2.00
Total copper	(1)
Total lead	(1)
Total mercury	0.001
Total nickel	0.76
Total silver	(1)
Total zinc	(1)
Total toxic organisms	2.13
Biochemical oxygen demand (BOD ₅)	250

<i>Pollutant</i>	<i>Maximum Daily Limit (mg/l)</i>
Total suspended solids	250
Ammonia, as N	25
TKN, as N	40
Phosphate, as P	10
Oil and grease, as total petroleum hydrocarbons	100

<i>Pollutant</i>	<i>Instantaneous Maximum (mg/l)</i>
Free cyanide	0.56
Total phenols	1.00

The Borough may impose alternate mass and/or concentration limits upon industrial users for all specific parameters within this section as long as the total loading remains within the approved limits, as specified by the United States Environmental Protection Agency. For these pollutants, each industry that is subjected to the requirements of the municipal/industrial pretreatment program, is allocated a specific mass limit (pounds per day) and/or a specific concentration limit (milligrams per liter).

(Ord. No. 87-2, § 2.4, 1-28-87; Ord. No. 89-7, § 5, 12-27-89; Ord. No. 96-1, § 5, 6-5-96; Ord. No. 2000-1, § IV, 3-1-00)

SEC. 19-74. STATE REQUIREMENTS.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations, or those in this article.

(Ord. No. 87-2, § 2.5, 1-28-87)

SEC. 19-75. TOWNSHIP'S RIGHT OF REVISION.

The Township reserves the right to establish, by article, more stringent limitations or requirements on discharges to the wastewater disposal system, if deemed necessary, to comply with the objectives presented in Section 19-61 of this article.

(Ord. No. 87-2, § 2.6, 1-28-87)

SEC. 19-76. EXCESSIVE DISCHARGE.

No user or industrial user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment, to achieve compliance with the limitations contained in the Federal Categorical Treatment Standards, or with any other pollutant specific limitation developed by the township, borough or state.

(Ord. No. 87-2, § 2.7, 1-28-87; Ord. No. 89-7, § 11, 12-27-89)

SEC. 19-77. ACCIDENTAL DISCHARGE.

Each user or industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article into the collection system. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's or industrial user's cost and expense. The Borough shall evaluate at least once every 2 years, if the user requires spill prevention and slug discharge measures to be implemented. If the borough deems it necessary, a slug discharge control plan may be required. The plan must contain certain minimal elements, such as a description of the user's chemical storage and discharge practices, procedures of notifying the Borough of slug loadings, measures of preventing and containing spills and emergency response and follow-up procedures as required by Section 19-102. No user or industrial user who commences contribution to the POTW after the effective date of this part shall be permitted to introduce pollutants into the system until the accidental discharge procedures have been approved by the borough. Review and approval of such plans and operating procedures shall not relieve the user or industrial user from the responsibility to modify its facility as necessary, to meet the requirements of this article. In the case of an accidental discharge, it is the responsibility of the user or industrial user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions.

(Ord. No. 87-2, § 2.8, 1-28-87; Ord. No. 89-7, § 11, 12-27-89; Ord. No. 96-1, § 6, 6-5-96)

SEC. 19-78. WRITTEN REPORT.

Within 5 days following an accidental discharge, the user or industrial user shall submit to the superintendent a detailed written report describing the cause of the discharge and the measures to be taken to mitigate any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW or aquatic life or any other damage to person or property. Such report shall not relieve the user or industrial user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(Ord. No. 87-2, § 2.9, 1-28-87; Ord. No. 89-7, § 11, 12-27-89)

SEC. 19-79. NOTICE TO EMPLOYEES.

A notice shall be permanently posted on the user's or industrial user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur, are advised of the emergency notification procedures.

(Ord. No. 87-2, § 2.10, 1-28-87; Ord. No. 89-7, § 11, 12-27-89)

SECS. 19-80—19-89. RESERVED.

DIVISION 3. FEES

SEC. 19-90. GENERALLY.

- A. There is hereby imposed upon each property located within the Township limits, served by the sewer system and having the use thereof, a fee as hereafter established by resolution of the Board of Commissioners.
- B. It is the purpose of this section to provide for the recovery of costs from users and industrial users of the Borough's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees are set forth in the Borough's schedule of charges and fees, which are adopted by reference by the Township. The Borough may adopt charges and fees which may include:
 1. Fees for reimbursement of costs of establishing and operating the Borough's pretreatment program.
 2. Fees for monitoring, inspections, and surveillance procedures; including but not limited to any and all engineering, legal, administrative, insurance and testing costs and expenses.
 3. Fees for reviewing accidental discharge procedures and construction.
 4. Fees for permit application.
 5. Fees for filing appeals.
 6. Fees for consistent removal by the borough of pollutants otherwise subject to federal pretreatment standards.
 7. Other fees the borough may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this article and are separate from all other fees chargeable by the borough.

(Ord. No. 87-2, §§ 3.1, 3.2, 1-28-87; Ord. No. 89-7, § 11, 12-27-89; Ord. No. 96-1, § 7, 6-5-96; Ord. No. 2000-1, § V, 3-1-00)

SECS. 19-91—19-99. RESERVED.

DIVISION 4. ADMINISTRATION

SEC. 19-100. WASTEWATER DISCHARGERS.

It shall be unlawful to discharge or connect into any sanitary sewer within the Township without a Borough permit or contract, or in any area under the jurisdiction of said Township, or to the POTW any wastewater except as authorized in writing by the Borough in accordance with the provisions of this article. It is hereby expressly directed that the Borough shall have full and complete authority, entitlement and power to monitor, administer and enforce the terms and conditions of this article on behalf of the Township, and in its stead, acting with the full power and authority of the Township delegated hereby.

(Ord. No. 87-2, § 4.1, 1-28-87)

SEC. 19-101. USER PERMIT.

- A. All users proposing to connect to and contribute to the POTW shall obtain a user permit before connecting to or contributing to the POTW.
- B. Pursuant to the authority delegated by the Township to the Borough herein, the superintendent and/or the Borough shall require a user of sewer services to provide information needed to determine compliance with this article or other applicable local, state, or federal laws, rules, or regulations. These requirements may include:
 - 1. Wastewater discharge peak rate and volume records over a specified time period.
 - 2. Information on raw materials, processes, and products affecting wastewater volume and quality.
 - 3. Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
 - 4. A plot plan of sewers on the user's property showing sewer facility locations and all proposed sewer connections to these facilities.
 - 5. Details of systems to prevent and control storm water from entering municipal sewers.
 - 6. All costs incurred for the information described in Division 4 shall be paid by the user of the sewer services in addition to other charges and sewer rentals.
- C. All measurements, test and analyses of the characteristics of waters and wastewaters to which reference is made in this part shall be determined in accordance with the federal regulations test

procedures as found in 40 CFR, Part 136. If 40 CFR, Part 136, does not contain sampling or analytical techniques for the pollutant in question, sampling and analysis must be performed in accordance with procedures approved by the EPA. Sampling methods, locations, times, duration and frequencies are to be determined on an individual basis, subject to approval by the superintendent and/or the borough. All sampling and analysis conducted must be based on data that is representative of conditions occurring during the reporting period.

- D. The user shall be responsible for submitting all applicable county, regional, state, or federal permits or planning documents required for approval of sewer connection.
(Ord. No. 87-2, § 4.2, 1-28-87; Ord. No. 89-7, § 6, 12-27-89; Ord. No. 96-1, § 8, 6-5-96)

SEC. 19-102. INDUSTRIAL USERS.

- A. *Permit application.* An industrial user which is required to obtain an industrial user permit shall complete and file with the borough an application in the form prescribed by the borough and be accompanied by a fee, in an amount as established from time to time by borough resolution for a Class 1 industrial user, a fee, in an amount as established from time to time by borough resolution, for a Class 2 industrial user, a fee, in an amount as established from time to time by borough resolution for a Class 3 industrial user. In support of the application, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:
1. Name, address, location (if different from the address) of applicant and name of the operator and owner of the plant.
 2. SIC number, according to the Standard Industrial Classification Manual, Bureau of the Budget 1972, as amended.
 3. Wastewater constituents and characteristics including, but not limited to those mentioned in Division 2 of this article, as determined by a reliable analytical laboratory, sampling and analysis shall be performed in accordance with procedures established by the EPA, pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended. Both daily maximum and average concentration (or mass, where required) shall be reported.
 4. Time and duration of contribution.
 5. Average daily and three-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any.
 6. Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation.
 7. Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged.
 8. The nature and concentration of any pollutants in the discharge which are limited by any Borough, state or federal pretreatment standards and a statement regarding whether there is compliance with the pretreatment standards on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet applicable pretreatment standards. Pretreatment standards applicable to each regulated process shall be identified. A statement shall be included reviewed by an authorized

representative of the industrial user certified by a qualified professional indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet the pretreatment standards and requirements.

9. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
 - a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the use to meet the applicable pretreatment standards (e.g. hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing constructions, completing construction, etc.)
 - b) No increment referred to in paragraph (a) shall exceed 9 months.
 - c) No later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the superintendent, including, as a minimum, whether it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for delay and the steps being taken by the industrial user to return the construction to the established schedule. In no event shall more than 9 months elapse between such progress reports to the superintendent.
10. Each product produced by tape, amount, process or processes and rate of production.
11. Type and amount of raw materials processed (average and maximum per day).
12. Number and type of employees, hours of operation of plant and proposed or actual hours of operation of pretreatment system.
13. A list of any environmental control permits held by or for the facility.
14. Any other information as may be deemed by the borough to be necessary to evaluate the permit application.

The Borough will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the Borough may issue an industrial user permit subject to the terms and conditions provided herein.

B. Individual Permit.

1. All Class 1 and Class 2 industrial users and such other users as the Borough determines, shall obtain an industrial user permit before connection to or contributing to the POTW. All existing industrial users connected to or contributing to the POTW shall apply for an industrial user permit within 30 days after the effective date of this article. Where a user becomes subject to a new national categorical pretreatment standard, but has not previously submitted an application for an industrial user permit as required by Section 19-101(b), the user shall apply for an

industrial user permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.

2. Where a user becomes subject to a new national categorical pretreatment standard, but has not previously submitted an application for an industrial user permit as required by Section 19-101(a), the user shall apply for an industrial user permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.
3. General permits may be issued to significant industrial users as approved by the Control Authority as long as specific conditions are met. The SIU must file a written request for coverage that identifies the following:
 - a) Contact Information;
 - b) Production Processes;
 - c) Types of waste generated;
 - d) Location of monitoring all wastes covered by general control mechanism;
 - e) Any requests in accordance with 40 CFR Section 403.12(e)(2) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge; and
 - f) Any other information.

C. *Permit modifications.* Upon the promulgation of a national categorical pretreatment standard, the industrial user permit of industrial users, subject to such standards, shall be revised to require compliance with such standards with the time frame prescribed by such standard.

D. *Permit conditions.*

1. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.
2. Effluent limits including BMP, based on application, general pretreatment standards in 40 CFR Part 403, Categorical Pretreatment Standards, local limits and state and local law.
3. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
4. Requirements for installation and maintenance of inspections and sampling facilities.
5. Self-Monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver of a pollutant neither present, nor expected to be present in the discharge in accordance with 40 CFR Section 403.12(e)(2), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency and sample type, based upon the applicable general pretreatment standards in 40 CFR Part 403, Categorical Pretreatment Standards, local limits and state and local law.

6. Statement of the applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the compliance date beyond applicable federal deadlines.
 7. Requirements for submission of technical reports or discharge reports (see subsection (g)).
 8. Requirements for maintaining and retaining plan records relating to wastewater discharge as specified by the borough and affording the borough access thereto.
 9. Requirements for notification of the borough of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
 10. Requirements for notification of slug discharge as per Section 19-102(g)(3) of this Article.
 11. Other conditions as deemed necessary by the borough to ensure compliance with this chapter. The borough may include conditions regarding duration, non-transferability and applicable civil and criminal penalties as provided in CFR Sections 403.8(F)(1)(iii)(A), (B) and (E).
- E. Permit duration. Permits shall be issued for a specified time period not to exceed 5 years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The industrial user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the industrial user's existing permit. The terms and conditions of the permit may be subject to modification by the borough during the term of the permit, as limitations or requirements as identified in Division 2 are modified or as other just cause exists. The industrial user shall be informed of any proposed changes in her permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.
- F. Permit transfer. Industrial user permits are issued to a specific industrial user for a specific operation. An industrial user permit shall not be reassigned or transferred or sold to a new owner, new industrial user, different premises or a new or change operation with the written approval of the Borough. Any succeeding owner shall also comply with the terms and conditions of the existing permit.
- G. Reporting requirements in permit.
1. Compliance date report. Within 90 days following the date for final compliance with applicable pretreatment standards or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user, subject to pretreatment standards and requirements, shall submit to the superintendent a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the industrial user into compliance with the applicable pretreatment standards or requirements. The statement shall include all of the requirements and conditions set forth in Section 19-102(a)(9), above. This statement shall be signed by an authorized representative of the industrial user and certified by a qualified professional.
 2. Periodic compliance reports.
 - a) Any industrial user, whether categorical or non-categorical, subject to a pretreatment standard after the compliance date of such pretreatment standard or in the case of new source after

commencement of the discharge to the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the pretreatment standards or by the Control Authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flow which exceeded the average daily flow allowed in the permit during the reporting period. This report shall be signed by an authorized representative of the industrial user and certified by a qualified professional. In cases where the pretreatment standard requires compliance with a BMP (or pollution prevention alternative), the user shall submit documentation required by the Control Authority or the pretreatment standard necessary to determine the compliance status of the user. At the discretion of the Control Authority and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may agree to alter the months during which the above reports are to be submitted.

- b) The Control Authority may authorize the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated, through sampling and other technical factors, that the pollutant is neither present, nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions.
- 1) The Control Authority may authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.
 - 2) The monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent industrial control mechanisms but, in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanisms.
 - 3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with paragraph (2)(a) of this section and include the certification statement in 40 CFR Section 403.6(a)(2)(ii). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR, Part 136, with the lowest minimum detection level for that pollutant was used in the analysis.
 - 4) Any grant of the monitoring waiver by the Control Authority must be included as a condition in the user's control mechanism. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the Control Authority for 3 years after expiration of the waiver.
 - 5) Upon approval of the monitoring waiver and revision of the user's control mechanism by the Control Authority, the industrial user must certify on each report with the statement below that there has been no increase in the pollutant in its waste stream due to activities of the industrial user.

“Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR _____ (specify applicable National Pretreatment Standard parts), I certify that, to the best of my knowledge and belief, there has been no increase in the level of (list pollutants) in the waste waters due to the activities at the facility since the filing of the last periodic report under 40 CFR Section 403.12(e)(1).”

- 6) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the user’s operations, the user must immediately comply with the monitoring requirements of 40 CFR Section 403.12(e)(1) or other, more frequent, monitoring requirements imposed by the Control Authority and notify the Control Authority.
 - 7) The provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- c) The Control Authority may reduce the requirements in 40 CFR Section 403.12(e)(1) to a requirement to report no less frequently than once per year, unless required more frequently in the pretreatment standard or by the approval authority, where the industrial user meets all of the following conditions:
- 1) The industrial user’s total categorical wastewater flow does not exceed any of the following:
 - (a) 0.01% of the design dry weather hydraulic capacity of the POTW, or 5,000 gpd, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the industrial user discharges in batches;
 - (b) 0.01% of the design dry weather organic treatment capacity of the POTW, and
 - (c) 0.01% of the maximum allowable head works loading for any pollutant regulated by the applicable categorical pretreatment standards for which approved local limits were developed by POTW in accordance with 40 CFR Sections 403.5(c) and (d).
 - 2) The industrial user has not been in significant non-compliance, as defined in 40 CFR Section 403.8(f)(2)(viii), for any time in the past 2 years;
 - 3) The industrial user does not have daily flow rates, production levels or pollutant levels that vary so significantly that decreasing the reporting requirement for this industrial user would result in data that is not representative of conditions occurring during the reporting period pursuant to 40 CFR Section 403.12(g)(3).
 - 4) The industrial user must immediately notify the Control Authority of any changes at its facility causing it to no longer meet conditions of paragraphs c.1.i and ii and c.2 of this section. Upon notification, the industrial user must immediately begin complying with the minimum reporting in 40 CFR Sections 403(e)(1) and 19-102(2)(a) of this article; and

- 5) The Control Authority has imposed mass limitations on industrial users as provided for by this chapter. The report required by this section shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.
 - d) The Control Authority may impose mass limitations on industrial users, whether categorical or non-categorical, which are using dilution to meet applicable pretreatment standards or requirements or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by subparagraph 2(a) above shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the industrial user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass where requested by the Control Authority, of pollutants contained therein which are limited by the applicable pretreatment standards. The frequency of monitoring shall be prescribed in the applicable pretreatment standard. All analysis shall be performed in accordance with procedures established by the Control Authority pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, and amendments thereto or with any other test procedures approved by the Control Authority. Sampling shall be performed in accordance with the techniques approved by the Control Authority. These reports required by this subparagraph shall be signed by an authorized representative of the industrial user and certified by a qualified professional.
3. *Notice of potential problems, notice of violation, resampling requirements, notification of discharge of hazardous wastes, submission of all monitoring data.*
 - a) Notice of potential problems, including slug loading. All categorical and non-categorical industrial users shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined by Section 19-62, by the industrial user.
 - b) Monitoring and analysis to demonstrate compliance. If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation, except the industrial user is not required to resample if (1) the control authority performs sampling at the industrial user at a frequency of at least once per month, or (2) the control authority performed sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling. If an industrial user subject to the reporting requirements in 40 CFR 403.12(E) monitors any pollutant more frequently than required by the control authority, using the procedures prescribed in 40 CFR 403.12(G)(4), the results of this monitoring shall be included in the report.
 - c) Notification of discharge of hazardous waste and submission of all monitoring data. The industrial user shall notify the POTW, the EPA Regional Waste Management Division Director and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR, Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFRE, Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An

identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place within 180 days of the effective date of this rule. Industrial users who commence discharge after the effective date of this rule shall provide the notification not later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR Section 403.12(j). The notification requirement in this section does not apply to pollutants already reported under self-monitoring requirements of 40 Sections CFR 403(b), (d) and (e).

Discharges are exempt from the requirement of the preceding paragraph during a calendar month in which they discharge no more than 15 kilograms of hazardous waste, unless the wastes are acute hazardous wastes as specified in 40 CFR Sections 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month or of any quantity of acute hazardous wastes as specified in 40 CFR Sections 261.30(d) and 261.33(e) requires a one-time notification.

Subsequent month during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing nay additional substance as a hazardous waste, the industrial user must notify the POTW, the EPA Regional Waste Management Waste Division Directors and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

4. Record keeping requirements.

- a) Any industrial user subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section. Such reports shall include all samples:
 - 1) The date, exact place, method and time of sampling and the name of the person or persons taking the samples;
 - 2) The dates analyses were performed;
 - 3) Who performed the analyses;
 - 4) The analytical techniques/methods used; and
 - 5) The results of such analyses.

b) Any industrial user subject to the reporting requirements established in this section shall be required to retain for a minimum of 3 years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the director and the regional administrator (and POTW in the case of an industrial user). This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or POTW or when requested by the director or the regional administrator.

H. Certification statement. The reports required by this subsection (g) shall be accompanied by a specific certification statement as established by 40 CFR Section 403.6(a)(2)(ii).

I. Monitoring facilities. Pursuant to the authority delegated by the Township to the Borough herein, the borough shall inspect the facilities of any significant user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Borough, or their representative, ready access at any time to all parts of the premises for the purpose of inspection, sampling, records examination, copying of records or in the performance of any of their duties.

J. Right to require installation of monitoring equipment and right to implement monitoring procedures. Pursuant to the authority delegated by the Township to the Borough herein, the POTW has the right to require installation of monitoring equipment and has the right to carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplies by industrial users, compliance or non-compliance with applicable pretreatment standards and requirements by industrial users. Representatives of the POTW shall be authorized to enter any premises of any industrial user in which a discharge source or pretreatment system is located or in which records are required to be kept under 40 CFR Section 402.12(M) to assure compliance with pretreatment standards. Such authority shall be at least as extensive as the authority provided under Section 308 of the Act.

(Ord. No. 87-2, § 4.3, 1-28-87; Ord. No. 89-7, § 7, 12-27-89; Ord. No. 96-1, § 9, 6-5-96; Ord. No. 2009-3, §§ 2—4, 1-7-09)

SEC. 19-103. PRETREATMENT.

A. Users and industrial users shall provide necessary wastewater treatment as required to comply with this article, and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the Federal Pretreatment Regulations. Any facilities required to pre-treat wastewater to a level acceptable to the Borough shall be provided, operated and maintained at the user’s expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Borough for review and shall be acceptable to the Borough before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Borough under the provisions of this article. Any new or increased pollutants, subsequent changes in the pretreatment facilities, or method of operation shall be reported to and be accepted by the Borough prior to the user’s or industrial user’s initiation of the changes.

B. The Borough shall publish in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW any industrial user which is in significant non-compliance and/or has continually exceeded discharge limits during the past 12 months. The publication shall also summarize any enforcement action taken against the industrial user during the same 12 months, as per 40 CFR Section 403.8(f)(2)(vii).

- C. Users and industrial users subject to the recordkeeping requirements of this section shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring or reporting requirements required in this chapter, including any monitoring activities undertaken by the user or industrial user independent of these requirements. Records shall include the exact date and time of sampling, the date and time of analysis, the name of the person(s) collecting and analyzing all samples, the methodology used in analyzing the samples and the results of these analyses. These records should be made available for a minimum of 3 years. In the matters of litigation between the industrial user and the borough or where specifically requested by the EPA, the retention period shall be extended. All records relating to compliance with pretreatment standards shall be made available to officials of the EPA, the borough or approval authority upon request.

(Ord. No. 87-2, § 4.3, 1-28-87; Ord. No. 89-7, § 8, 12-27-89; Ord. No. 96-1, § 10, 6-5-96; Ord. No. 2000-1, § VI, 3-1-00; Ord. No. 2009-3, § 5, 1-7-09)

SEC. 19-104. CONFIDENTIAL INFORMATION.

Information and data on a user or industrial user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections shall be available to the public or other governmental agency without restriction unless the user or industrial user specifically requests and is able to demonstrate, to the satisfaction of the borough, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user or industrial user.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this article, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal permit and/or the pretreatment programs provided; however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Information accepted by the borough as confidential shall not be transmitted to any governmental agency or to the general public by the borough until and unless a 10-day notification is given to the user or industrial user.

(Ord. No. 87-2, § 4.5, 1-28-87; Ord. No. 89-7, § 11, 12-27-89)

SECS. 19-105—19-110. RESERVED.

DIVISION 5. ENFORCEMENT

SEC. 19-111. HARMFUL CONTRIBUTIONS.

- A. The Township does hereby authorize and empower the Borough to suspend a user permit or an industrial user permit when such suspension is necessary in the opinion of the borough in order to stop an actual or threatened discharge which presents, or may present, an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW, or causes the POTW to violate any condition of its NPDES permit.

- B. Any person notified of a suspension of a permit shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the Borough shall take steps as deemed necessary, including immediate severance of the sewer connection to prevent or minimize damage to the POTW system or endangerment to any individuals. The Borough shall reinstate the permit by user or industrial user, payment of any damages, fines, penalties or costs associated with the discharge, and the submission of a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence.
(Ord. No. 87-2, § 5.1, 1-28-87; Ord. No. 89-7, § 11, 12-27-89; Ord. No. 96-1, § 11, 6-5-96)

SEC. 19-112. REVOCATION OF PERMIT.

Any user or industrial user who violates the following conditions of this article, or applicable state and federal regulations, is subject to having his permit or contract suspended in accordance with the procedures of Division 5 of this article:

- A. Failure of a user or industrial user to report factually the wastewater constituents and characteristics of his discharge.
- B. Failure to report significant changes in operations or wastewater constituents and characteristics.
- C. Refusal of reasonable access to the premises for the purpose of inspection and monitoring.
- D. Violation of the conditions of the permit or contract.
(Ord. No. 87-2, § 5.2, 1-28-87; Ord. No. 89-7, § 11, 12-27-89)

SEC. 19-113. NOTIFICATION OF VIOLATION.

- A. Letter of violation. Whenever the Borough finds that an instance of noncompliance exists with any industrial user, it may issue a letter of violation specifically citing the noncompliance. A letter of violation includes, but is not limited to reporting and effluent violations. The letter shall be served by the Borough Manager or his authorized representative and may require a form of corrective activity on the part of the industrial user.
- B. When the Borough user or industrial user has violated or is violating this article, the permit or industrial user permit or any prohibition, limitation of requirements contained herein, the Township does authorize and empower the Borough to serve upon such person a written notice stating the nature of the violation. Within 30 days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the Borough by the user of industrial user.
- C. Administrative order. Whenever the Borough finds that an industrial user has violated the terms and conditions of its permit or this article, the Borough may subject the industrial user to an order to correct the violation within a time frame as deemed appropriate and timely by the Borough.
(Ord. No. 87-2, § 5.3, 1-28-87; Ord. No. 89-7, § 9, 12-27-89; Ord. No. 96-1, § 12, 6-5-96)

SEC. 19-114. SHOW CAUSE HEARING.

- A. Pursuant to the authority delegated by the Township to the Borough herein, the Borough may order anyone who causes or allows an authorized discharge to enter the POTW to show cause before the Borough Council why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the borough council regarding the

violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the borough council why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least 10 days before the hearing. Service may be made on any agent or officer of a corporation.

- B. The Borough Council may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the Borough to:
 - 1. Issue in the name of the Borough Council, notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
 - 2. Take the evidence.
 - 3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Borough Council for action thereon.
- C. At any hearing held pursuant to this article, testimony taken must be under oath and recorded stenographically. The transcript so recorded will be made available to any member of the public or any party to the hearing payment of the usual charges thereof.
- D. After the Borough Council has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives, as are necessary and appropriate, may be issued.

(Ord. No. 87-2, § 5.4, 1-28-87)

SEC. 19-115. LEGAL ACTION.

Pursuant to the authority delegated by the Township to the Borough herein, if any person discharges sewage, industrial wastes or other wastes into the Borough’s wastewater disposal system contrary to the provisions of this article, federal or state pretreatment requirements, or any order of the Borough, the Borough Solicitor may commence an action for appropriate legal and/or equitable relief in the Court of Common Pleas of Montgomery County.

(Ord. No. 87-2, § 5.5, 1-28-87)

SECS. 19-116—19-120. RESERVED.

DIVISION 6. PENALTY COSTS

SEC. 19-121. CIVIL PENALTY ASSESSMENT/INJUNCTIVE RELIEF POLICY.

- A. Civil penalty assessment. In addition to proceeding under any other remedy available at law or equity for violation of pretreatment standards and/or requirements, the borough may assess a civil penalty upon the user for the violation pursuant to the Publicly Owned Treatment Works Penalty Law, Act No. 1992-9. The civil penalty shall not exceed twenty-five thousand dollars (\$25,000) per day for

each violation, regardless of jurisdictional boundaries. Each violation for each separate day shall constitute a separate and distinct offense under this chapter.

1. The notice of any such civil penalties as described above shall include a description of the applicable appeals process to be followed which shall include the name, address and telephone number of the person responsible for accepting such appeal.
2. In civil penalty assessment, the Borough will consider all of the following factors:
 - a) The damage to air, water, land or other natural resources of the borough and the surrounding municipalities.
 - b) Cost of restoration and abatement.
 - c) Cost savings, if any, by the industrial user as a result of the violation.
 - d) Past violations, compliance history.
 - e) Industrial user's willingness to work with the WWTP.
 - f) Harm to the WWTP, POTW, the Township collection system, and their personnel.
 - g) Whether the violation resulted or could have resulted in an NPDES Permit PA0025786 violation.
 - h) Whether the violation resulted or could have resulted in a violation or restriction of the Borough WWTP's sludge disposal practices.
 - i) Magnitude of the violation.
 - j) Good faith effort by the industrial user: did the industrial user respond to the notice of violation or the violation in a timely manner; did the industrial user notify the Borough; and did the industrial user take the initiative in a quick and effective corrective action to eliminate the non-compliance.
 - k) The General Civil Assessment Policy of the Borough is given in the Borough's enforcement response plan that is approved by the United States Environmental Protection Agency. Each industrial discharger participating in the pretreatment program should be given a copy of the policy. The fines assessed shall be maximum penalties, which the Borough has the right to reduce or waive in certain circumstances.
 - l) An industrial user charged with penalties shall have 30 days to pay the proposed penalty in full or if the industrial user wishes to contest the amount of the penalty or the fact of the violation, the individual user must file an appeal pursuant to Section 7 of the Publicly Owned Treatment Works Penalty Law, Act. No. 1992-9.
 - m) Unpaid charges, fines and penalties shall, after 30 calendar days, (in the absence of appeal) be assessed an additional penalty of ten percent (10%) of the unpaid balance and interest shall accrue thereafter at a rate of five-tenths percent (0.5%) per month. A lien against the user's property will be sought for unpaid charges, fines and penalties.

- n) All civil penalties collected pursuant to the borough's civil penalty assessment policy will be placed in a restricted account and shall only be used by the Borough for the repair of the damage and any additional maintenance or other costs resulting from the violation(s) on which the penalty was imposed, to pay any penalties imposed on the borough and/or Township by a state or federal agency as a result of violating any pretreatment standards, for the costs incurred by the Borough and/or Township to investigate and initiate enforcement actions against non-complying discharge (including legal and engineering fees), for additional monitoring costs associated with the non-complying industrial user and for capital improvements to the POTW and township collection system required by the pretreatment program. Any remaining funds may be used for capital improvements to the POTW and Township collection system not required by the pretreatment program.
- o) Issuance of an administrative penalty shall not be a bar against or a prerequisite for taking any other action against the user.

B. Injunctive relief.

- 1. Where necessary, the Borough shall also have the power to obtain injunctive relief against any industrial user in violation of a pretreatment standard. Injunctive relief will be granted pursuant to Pennsylvania's law, if any of the following conditions can be determined to be true:
 - a) A discharge from an industrial user presents an imminent or substantial danger to the environment.
 - b) A discharge from an industrial user causes the borough to violate any condition of its NPDES permit, sludge application standards or other state or federal requirement.
 - c) A discharge from an industrial user presents an imminent or substantial danger to the borough's POTW, Borough personnel, the Township collection system or Township personnel, or the general public.
 - d) The industrial user has shown a lack of ability or intention to comply with a pretreatment standard.
- 2. Injunctive relief may also be issued against a non-complying industrial user if the court determines that other enforcement actions available to the Borough would not be adequate to effect prompt correction of the condition of violation. In addition to injunctive relief, the Borough may also be granted civil penalties as hereinbefore described.
- 3. The Borough's power to seek injunctive relief against non-complying industrial users shall apply to all industrial users regardless of political boundary. The injunctive relief may be sought in the court of common please where the POTW is located, where the activity took place, where the condition exists or the public was affected and, to that end, jurisdiction is hereby conferred in law and equity upon such courts.

- C. Right to appeal. The industrial user charged with any penalty previously described shall have 30 days to pay the proposed penalty, in full, or, if the industrial user wished to contest either the amount of the penalty or the fact of the violation, the industrial user must file an appeal of the action pursuant to Pa.C.S., Title 2. The industrial user must formally write to the Borough Manager requesting an appeal hearing, within council chambers. If an appeal has been submitted to the Borough Manager,

the Borough Manager shall initiate an appeal hearing. The Borough Manager shall be considered the “judge” presiding over the appeal hearing. The Borough Manager shall provide to the Borough Council a recommendation on the appeal hearing. Borough Council shall vote on the recommendation on the appeal hearing. Borough Council shall vote on the recommendation by the Borough Manager to make their own recommendation from the corresponding facts that were brought out during the appeal hearing. Once a decision has been reached by the Borough Council, the industrial user that appealed the initial enforcement action must then abide by the decision that Borough Council has made, unless the industrial user files an appeal as allowed by law. If the industrial user fails to appeal within 30 days, the industrial user has waived all rights to contest the violation or the penalty.

(Ord. No. 87-2, § 6.1, 1-28-87; Ord. No. 89-7, § 10, 12-27-89; Ord. No. 96-1, § 13, 6-5-96; Ord. No. 2000-1, § VII, 3-1-00)

SEC. 19-122. FALSIFYING INFORMATION.

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article or wastewater contribution permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000) and, in default of payment of said fine and costs, to a term of imprisonment of not more than 30 days.

(Ord. No. 87-2, § 6.2, 1-28-87; Ord. No. 96-1, § 14, 6-5-96)

SEC. 19-123. PENALTY CALCULATIONS.

The calculation of the civil penalty shall conform to this section:

- A. The violations of the pretreatment requirements are contained in the civil penalty assessment schedule. Once a specific type of violation has been identified, the Borough shall use the civil penalty assessment schedule for fines to be issued to the specific industrial user in violation. If the civil penalty assessment schedule does not contain a specific violation that may be prudent to a penalty, the Borough may determine a specific penalty and the borough may request the United States Environmental Protection Agency’s approval.
- B. Within the civil penalty assessment schedule, the following are definitions in regard to the headings:
 - 1. The Satisfactory Level 1 shall be defined as, the industrial user properly notified the borough of the violation, demonstrated sufficient evidence for the reason of the violation and made a major effort to eliminate the violation.
 - 2. The Satisfactory Level 2 shall be defined as, the industrial user did not properly notify the borough of the violation, demonstrated sufficient evidence for the reason of the violation and made a major effort to eliminate the violation.
 - 3. The Unsatisfactory Level 3 shall be defined as, the industrial user did not notify the borough and demonstrated no evidence for the reason of the violation and the industrial user did not make any efforts to correct the noncompliance.

4. The Unsatisfactory Level 4 shall be defined as, the industrial user did not notify the borough, demonstrated no evidence for the reason of the violation and the industrial user did not make any efforts to correct he non-compliance.
- C. In any instance, the civil penalty assessed shall exceed the economic benefit of non-compliance gained by the industrial user as a result of not complying with the pretreatment requirements. The economic benefit of the non-compliance is that amount of both capital and operating cost saved by the industrial user.
 - D. In any instance, the civil penalty assessed shall, at a minimum, be set so that it fully compensates the Borough and Township for any harm associated with the industrial user violation.
 - E. Civil penalty assessment schedule refers to the schedule adopted by the Borough of Pottstown as set forth in Ordinance No. 1840 adopted December 9, 1996, Section 703, as currently exists or may hereafter be amended by the borough.
(Ord. No. 96-1, § 15, 6-5-96; Ord. No. 2000-1, § VIII, 3-1-00)

SECS. 19-124—19-130. RESERVED.

DIVISION 7. GRINDER PUMPS

SEC. 19-131. PURPOSES.

The purpose of this ordinance is to establish procedures for the installation, use and maintenance of sewage grinder pumps and any associated force mains or low-pressure laterals. It is hereby declared that the enactment of this ordinance is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this municipality.

(Ord. No. 2007-3, § 1, 11-7-2007)

SEC. 19-132. DEFINITIONS.

Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

- A. *Act 537 Plan* shall mean a municipality’s official plan as defined in the Pennsylvania Sewage Facilities Act, Act of January 24, 1966, PL 1535 (1965), No. 537, as amended, 35 P.S. Sections 750.0-750.20a (“Sewage Facilities Act” or “Act 537”).
- B. *Department* shall mean the Pennsylvania Department of Environmental Protection.
- C. *Grider Pump* shall mean any electric motor driven, submersible, centrifugal pump capable of macerating all material found in normal domestic sanitary sewage, including reasonable amounts of objects such as plastics, sanitary napkins, disposable diapers, rubber and the like, to a fine slurry, and pumping this material through a small diameter discharge.
- D. *Improved Property* shall mean any property within West Pottsgrove Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sewage shall or may be discharged.

- E. *Municipality* shall mean West Pottsgrove Township, Montgomery County, Pennsylvania.
- F. *Municipal Authority* shall mean the Board of Commissioners of West Pottsgrove Township.
- G. *Official Plan Revision* shall mean a change in the Municipality's Act 537 Plan to provide for additional or newly identified future or existing sewage facilities needs, as defined fully in Section 1 of the Sewage Facilities Act, 35 P.S. Section 750.1.
- H. *Property Owner* shall mean any person vested with ownership, legal or equitable, sole or partial, of any property located within the municipality.
- I. *Sewage* shall mean any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings or animals and any noxious or deleterious substances being harmful or inimical to public health, or to animal or aquatic life or to the use of water for domestic water supply, or for recreation any substance which constitutes pollution under the Clean Streams Law, 35 P.S. Sections 5691.1-591.1001, as amended.

(Ord. No. 2007-3, § 1, 11-7-2007)

SEC. 19-133. PLANNING REQUIREMENTS.

The connection of existing properties or proposed new land development to an existing or proposed sewerage system through the use of sewage grinder pumps, their associated force mains, or low-pressure laterals shall occur only after an Official Plan Revision to the Municipality's Act 537 Plan, unless exempted under Department regulations, approved by both the Municipality and Department, designates that the proposed activities be served by such a connection.

(Ord. No. 2007-3, § 1, 11-7-2007)

SEC. 19-134. POWERS OF THE MUNICIPALITY.

- A. The Municipality is hereby authorized and empowered to adopt such rules and regulations concerning sewage which it may deem necessary from time to time to affect the purposes herein.
- B. The Municipality is hereby authorized and empowered to take such other actions as are necessary, including, but not limited to entering into agreements with property owners that assure proper operation and maintenance of sewage facilities within the Municipality's borders, including but not limited to sewage grinder pumps and any associated force mains or low-pressure laterals.

(Ord. No. 2007-3, § 1, 11-7-2007)

SEC. 19-135. DUTIES AND RESPONSIBILITIES OF THE MUNICIPALITY.

- A. The Municipality shall exercise its powers and legal authority set forth herein and under all applicable statutes, ordinances and other laws to affect the purposes of this ordinance.
- B. The Municipality may enter into an agreement with each property owner proposing to install or who has installed a sewage grinder pump or low pressure sewage system to assure the short- and long-term operation and maintenance, use, service, repair or replacement of such systems.
- C. All grinder pumps and low-pressure sewer system (and the installation, use, operation, maintenance, service, repair and replacement thereof) shall comply with the rules and regulations of the Municipality in effect from time to time.

- D. All grinder pumps and low-pressure sewer systems shall be connected to the sewage collection and conveyance system in full compliance with the rules and regulations of the Municipality in effect from time to time.
 - E. The Municipality shall bear no responsibility for the purchase, installation, use, operation, maintenance, service, repair or replacement of the grinder pump and/or its low-pressure force main or lateral, except as otherwise set forth herein.
- (Ord. No. 2007-3, § 1, 11-7-2007)

SEC. 19-136. DUTIES AND RESPONSIBILITIES OF PROPERTY OWNERS.

- A. Each Property Owner whose property is served by a grinder pump shall bear full responsibility for providing, installing, using, operating, maintaining, servicing, repairing and replacing his/her grinder pump and/or its low-pressure force main or lateral, unless otherwise set forth herein.
- B. Each Property Owner whose property is served by a grinder pump shall have full responsibility for using the pump consistent with the manufacturer's instructions and shall avoid introducing into the sewerage system materials that may damage the impellers on the pump, including but not limited to items designated as biodegradable in septic tanks.
- C. Each Property Owner whose property is served by a grinder pump shall reduce sewage flow to the grinder pump and/or low-pressure system to a minimum during any period when the grinder pump and/or low-pressure system serving a property is inoperable or during any power outage.
- D. Where the low-pressure force main or lateral is shared between Property Owners, they shall submit to the Municipality a Declaration of Easements, Covenants and Restrictions in recordable form setting forth the agreement of each benefitted Property Owner with respect to the installation, use, operation, maintenance, service, repair and replacement of the low-pressure sewer system, which agreement shall bind all future Property Owners. Following the approval of the low-pressure system by all applicable agencies, the Municipality will not issue a permit for its installation until evidence is presented that the agreement has been recorded in the Office for the Recording of Deeds of Montgomery County, Pennsylvania.

(Ord. No. 2007-3, § 1, 11-7-2007)

SEC. 19-137. VIOLATIONS.

Any person who violates any provisions of this ordinance shall, upon conviction thereof, be sentenced to fine and imprisonment as provided for under Section 1-9 of the Code of Ordinances of West Pottsgrove Township.

(Ord. No. 2007-3, § 1, 11-7-2007)

SEC. 19-138. ABATEMENT OF NUISANCES.

In addition to any other remedies provided in this ordinance, any violation shall constitute a nuisance and shall be abated by the Municipality by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a court of competent jurisdiction.

(Ord. No. 2007-3, § 1, 11-7-2007)

SEC. 19-139. RULES AND REGULATIONS TO BE IN CONFORMITY WITH APPLICABLE LAW.

All such rules and regulations adopted by the Municipality to effectuate this ordinance shall be in conformity with the provisions herein, all other ordinances of the Municipality and all applicable laws, and applicable rules and regulations of administrative agencies of the Commonwealth of Pennsylvania. (Ord. No. 2007-3, § 1, 11-7-2007)

ARTICLE V. HOLDING TANKS

SEC. 19-140. PURPOSE.

The purpose of this article is to establish procedures for the use and maintenance of holding tanks designed to receive and retain sewage whether from residential or commercial uses and it is hereby declared that the enactment of this article is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this municipality. (Ord. No. 89-4, § 1, 3-1-89)

SEC. 19-141. DEFINITIONS.

Unless the context specifically and clearly indicates otherwise, the meaning of the terms used in this article shall be as follows:

Authority shall mean the board of commissioners of West Pottsgrove Township, Montgomery County, Pennsylvania.

Holding tank means a watertight receptacle which receives and retains sewage and is designed and constructed to facilitate ultimate disposal of the sewage at another site. Holding tanks include but are not limited to the following:

- A. *Chemical toilet* which is a toilet using chemicals that discharge to a holding tank.
- B. *Retention tank* which is a holding tank where sewage is conveyed to it by a water carrying system.
- C. *Vault pit privy* which is a holding tank designed to receive sewage where water under pressure is not available.

Improved property shall mean any property within the Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sewage shall or may be discharged.

Municipality shall mean West Pottsgrove Township, Montgomery County, Pennsylvania.

Owner shall mean any person vested with ownership, legal or equitable, sole or partial, of any property located in the Township.

Person shall mean any individual, partnership, company, association, corporation or other group or entity.

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

Use Permit shall mean a permit issued by the authority permitting the use of a holding tank in West Pottsgrove Township.

(Ord. No. 89-4, § 3-1-89; Ord. No. 2007-2, § 1)

SEC. 19-142. RIGHTS AND PRIVILEGES GRANTED.

The authority is hereby authorized and empowered to undertake within the township the control and methods of holding tank sewage disposal and the collection and transportation thereof. The authority may approve such holding tanks sewage disposal if it shall find adequate evidence that the proposed use of the holding tank for a limited period of time would serve the public interest. The purpose of this article is that such holding tank use may be permitted upon application to and approval by the authority, subject to the following conditions:

- A. The use of the holding tank at the time of the application would not have a detrimental affect upon the use of neighboring properties.
- B. That the use of the holding tank is the only feasible method of sewage disposal for the property in question.
- C. That the use of the holding tank would be suitable for the property in question and designed, constructed, operated and maintained in accordance with the requirements of this Article, as well as the Pennsylvania Department of Environmental Protection planning and design standards for holding tanks, as set forth in the Pennsylvania Code.
- D. That the Montgomery County Health Department approve and issue a construction permit for the holding tank installation on the said property.
- E. That the authority determine that the use of the holding tank is necessary to abate an existing nuisance or a public health hazard at the said property.
- F. That security be posted with the authority in an amount necessary to provide for the yearly cost of maintenance and inspection of the holding tank and the annual cost of disposal of holding tank contents, which security shall be deposited with the municipality prior to the issuance of a use permit for the holding tank. Such security shall be in an amount no less than \$7,500 per tank and shall be held by the municipality until the holding tank is no longer in use.” (Ord. No. 2007-2, 11-7-07)
- G. That a sewer moratorium has been imposed by the Department of Environmental Protection which has resulted in a ban upon the issuance of sewer connection permits within the township, and the authority in the exercise of its discretion determines that the holding tanks may be used until the ban on connections is removed.

H. That, in appropriate cases, the use of the holding tanks shall be established by specific dates, as will in the judgment of the authority serve the intention and purpose of this article and the requirements of the regulations set forth in the Pennsylvania Code.

(Ord. No. 89-4, § 3, 3-1-89; Ord. No. 2007-2, § 1)

SEC. 19-143. RULES AND REGULATIONS.

The authority is hereby authorized and empowered to adopt such rules and regulations concerning sewage which it may deem necessary from time to time to affect the purposes contained in this article.

(Ord. No. 89-4, § 4, 3-1-89)

SEC. 19-144. RULES AND REGULATIONS TO BE IN CONFORMITY WITH APPLICABLE LAWS.

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

(Ord. No. 89-4, § 5, 3-1-89)

SEC. 19-145. RATES AND CHARGES.

The authority shall have the right and power to fix, alter, charge and collect rates, assessments, and other charges in the area served by its facilities at reasonable and uniform rates as authorized by applicable law.

(Ord. No. 89-4, § 6, 3-1-89)

SEC. 19-146. EXCLUSIVENESS OF RIGHTS AND PRIVILEGES.

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

(Ord. No. 89-4, § 7, 3-1-89; Ord. No. 2007-2, § 1)

SEC. 19-147. DUTIES OF IMPROVED PROPERTY OWNER.

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

- A. Secure a use permit from the authority prior to the discharging of any sewage from the premises.
- B. Maintain the holding tank in accordance with this or any other ordinance of this municipality, the provisions of any applicable law, and the rules and regulations of the authority and any administrative agency of the Commonwealth of Pennsylvania. Such holding tanks shall be sealed and otherwise treated so that no odor shall escape there from, and shall be pumped at times and frequencies to ensure that the tank shall at no time contain an amount of waste in excess of eighty percent (80%) of its capacity.
- C. Assume responsibility for the collection, transportation and disposition of the contents therein with a holding tank cleaner that is approved by the authority and the Pennsylvania Department of Environmental Resources. The property owner shall supply prior to the issuance of the holding tank use permit, evidence of a written contract with a holding tank cleaner approved by the

Department of Environmental Protection providing for the collection and disposal of the holding tank contents and designation of the proposed ultimate disposal site which has also been approved by the Pennsylvania Department of Environmental Resources.

- D. During the term of use of a holding tank, provide copies of pumping receipts for such permitted holding tank to the authority on a monthly basis.
- E. Obtain an inspection of the holding tank from an accredited holding tank inspection agency and submit a written inspection report on the condition of said tank on the authority on an annual basis. Any repairs or maintenance recommended by the inspection agency shall be made by and at the expense of the property owner.
- F. Enter into an agreement with the authority which shall be recorded in the Office of the Recorder of Deeds of Montgomery County agreeing to the above condition and authorizing the entry of liens against the property serviced by the holding tank for any costs and/or attorney's fees incurred by the authority relating to the enforcement of the provisions of this ordinance against the said property or owner thereof.

(Ord. No. 89-4, § 8, 3-1-89; Ord. No. 2007-2, § 1)

SEC. 19-148. VIOLATIONS; PENALTIES.

Any person who violates any provisions of this article shall, upon conviction thereof, be sentenced to fine and imprisonment as provided under Section 1-9 of the Code of Ordinances.

(Ord. No. 89-4, § 9, 3-1-89)

SEC. 19-149. ABATEMENT OF NUISANCES.

In addition to any other remedies provided in this article, any violation of this article shall constitute a nuisance and may be abated by the municipality or the authority by either seeking appropriate equitable or legal relief from a court of competent jurisdiction.

(Ord. no. 89-4, § 10, 3-1-89)

SECS. 19-150—19-151. RESERVED.

ARTICLE VI. FATS, OILS AND GREASE REDUCTION PROGRAM*

SEC. 19-152. PURPOSE AND POLICY.

The purpose of this Program is to reduce the amounts of fats, oils and grease ("FOG") entering the West Pottsgrove Township and the Borough of Pottstown wastewater collection and treatment system in order to comply with the Clean Water Act of 1977 and the general pretreatment regulations (40 CFR, Part 403). This Program provides for the regulations of FOG contributors to the publicly owned treatment works ("POTW") through the issuance of permits, inspection, sampling and enforcement. The requirements within this Program shall be applied, but not limited to, all food producing facilities within West Pottsgrove Township that discharge effluent to be treated by the Pottstown POTW.

(Ord. No. 2004-1, 3-3-04)

* *Editor's note* – Art VI was added by Ord. No. 2004-1, enacted March 3, 2004.

SEC. 19-153. DEFINITIONS.

The following terms and phrases shall have the designated meanings in the context of this Program. All other terms shall be as defined in Chapter 19, Article IV, Section 19-62 of the Code of Ordinances of West Pottsgrove Township.

Class 1 Producer shall mean any producer who:

- A. Has an oil and grease interceptor on the sewer line;
- B. Has a grease trap on the discharge line from the sink.
- C. This definition *shall not include* any producer who:
 1. Has facilities to produce and sell food but is not currently operating.
 2. Hires a vendor to electronically monitor the condition of a grease trap and schedules the cleaning for the food producing facility. The Borough of Pottstown FOG Administrator must be provided with a copy of the service contract and be notified immediately if the contract ends; and
 3. Has a grease interceptor which automatically cleans the grease trap.

Class 2 Producer shall mean any producer who collects fats, oils and grease and disposes of it into a grease barrel.

Class 3 Producer shall mean any producer who produces little fats, oils and grease and/or has a seasonal operation.

Fog shall mean fats, oils and grease created as a byproduct of cooking.

Fog Administrator shall mean Pottstown POTW Superintendent and/or duly authorized agent.

Fog Spill Report shall mean a report supplied to FOG Administrator by the food producing facility within 5 days of a FOG spill explaining the cause of the spill, steps taken to contain and clean up the spill, and measures taken to prevent the spill from occurring again.

Food Producing Facility (FPF) shall mean any establishment that contributes, directly or indirectly, wastewater containing fats, oils or grease. This includes, but is not limited to, restaurants, schools, private clubs, delis, churches and day care centers.

Oil and Grease Interceptor shall mean an apparatus that collects and contains the fats, oils and grease, and allows the water to be discharged.

POTW shall mean publicly owned treatment works.
(Ord. No. 2004-1, 3-3-04; Ord. No. 2009-1, § 1, 1-7-09)

SEC. 19-154. GENERAL REGULATIONS.

The following regulations apply to all food producing facilities in West Pottsgrove Township contributing wastewater to the Township wastewater collection system and the Borough of Pottstown POTW:

- A. All food producing facilities must have an annual FOG permit in order to discharge to the POTW. The FOG Administrator shall receive all FOG Permit Applications and issue appropriate permits every 3 years.
- B. No food producing facility shall contribute, or cause to contribute, any fats, oils and grease to the POTW. An oil and grease limitation of 100 mg/l shall apply to the discharge from the food producing facility. At the discretion of the FOG Administrator, sampling by the Borough of the discharge shall occur when the food producer is not complying with the requirements of the Program. The food producing facility shall be responsible for providing an adequate sampling port on the grease trap.
- C. The food producing facility is responsible for cleaning and/or having the oil and grease interceptor cleaned on a regular basis so as not to contribute fats, oils and grease to the POTW. The frequency of cleaning shall be in accordance with the "25% Rule," as determined by the FOG Administrator and directed in the FOG Permit. The "25% Rule" requires that the depth of oil and grease (floating and settled) in a trap shall not be equal to or great than twenty-five percent (25%) of the total operating depth of the trap. The operating depth of a trap is determined by measuring the internal depth from the outlet water elevation to the bottom of the trap. In application of this rule, the depth of floating oil and grease shall not be greater than twenty percent (20%) of total operating depth of a trap since five percent (5%) of the oil and grease is generally settled at the bottom of the trap. The cleaning frequency shall also be determined by the size of the interceptor and inspection of the sewer lines.
- D. Existing food producing facilities which currently have an internal grease trap shall be required to clean and maintain that trap in an efficient manner. The following is prohibited to be discharged to an internal grease trap:
 1. Wastewater with a temperature greater than 140 degrees Fahrenheit.
 2. Wastewater from a food grinder/garbage disposal.
 3. Acid or caustic trap cleaners – this may include enzymes and/or degreasers which liquefy the fats, oils and grease and allow it to pass from the grease interceptor and deposit in the Township collection system and POTW lines. Therefore, all enzymes and degreasers must be approved by the FOG Administrator or duly authorized representative.
 4. The discharge from a dishwasher must travel at least 10 feet prior to entering an internal grease trap.
- E. Newly built food producing facilities or renovated existing ones shall install a properly sized oil and grease interceptor on the sewer line from the facility that is approved by the FOG Administrator. The sewer line oil and grease interceptor shall have the following design features (as a minimum): a tee inlet in which one tee branch extends a minimum of one foot below the liquid level, an outlet tee with a minimum submergence of two-thirds ($\frac{2}{3}$) the liquid depth, a baffle to separate the trap into two compartments, and two manhole access ways for inspection of

inlet and outlet tees. The interceptor shall have cleanouts and be located for easy access for pump out and inspection. The following formula shall be used to determine the applicable size for the oil and grease interceptor:

$$\text{Number Meals Per Peak Hour} * \text{Waste Flow Rate} * \text{RT} * \text{Storage Factor} = \text{Interceptor Size}$$

Where:

*Means Multiply

Waste Flow Rate

With Dishwashing Machine	6 Gallon Flow
Without Dishwashing Machine	5 Gallon Flow
Single Service Kitchen	2 Gallon Flow
Food Waste Disposer	1 Gallon Flow

RT – Retention Times

Commercial Dishwasher	2.5 Hours
Single Service Kitchen	1.5 Hours

Storage Factor

Fully Equipped Commercial Kitchen	Open 8 Hours	1
	Open 16 Hours	2
	Open 24 Hours	3
Single Service Kitchen		1.5

Existing facilities' FOG prevention shall be evaluated, and each shall be sized for a grease interceptor. If a food producing facility is found to need a grease interceptor, they shall have a maximum of 6 months to install a properly sized grease interceptor by a qualified installation company.

If a food producing facility is found to need a grease interceptor, they shall have 6 months to install a properly sized grease interceptor by a qualified installation company. After a 30 day grace period, the food producing facility will be fined fifty dollars (\$50) for each day the grease interceptor is not installed.

F. All food producing facilities shall be inspected by the FOG Administrator in the following way:

Class 1 Producer – The inspection frequency shall be quarterly.

Class 2 Producer – The inspection frequency shall be semi-annually.

Class 3 Producer – The inspection frequency shall be yearly.

Food producing facilities violating any of the previous requirements are subject to more frequent inspections, monetary penalties, as well as sampling of the discharge and Administrative Orders.

1. The FOG Administrator may, at his/her discretion, increase or decrease the frequency of routine inspections for a facility. The FOG Administrator will take into account the facility's past compliance history and its willingness to comply with the FOG Program. The frequency of inspections may not be decreased by more than half of the general requirements for the facility's class during each calendar year.
2. Facilities which consistently comply with the requirements of the FOG Program may be permitted to complete a compliance record and return the form, by mail, to the FOG

Administrator. The compliance record may not substitute more than half of the required inspections as determined by the facility’s class.

- G. Overflowing an oil and grease interceptor on the sewer line or on the sink discharge line is strictly prohibited. In such case, the food producing facility shall be responsible for the subsequent containment, cleanup and disposal of the overflow material. IT is the responsibility of the food producing facility to immediately telephone the POTW of the incident. The notification shall include the location of the overflow, the type of material, the volume and corrective actions. Within 5 days for the overflow, the food producer shall submit to the Borough a detailed written report describing the cause of the overflow, steps taken to contain the overflow, steps taken to prevent it from happening again and the cleanup of the overflow.
- H. The food producing facility must keep on site a current grease interceptor cleaning log as provided by the Borough. Included on the cleaning log shall be the following information: date, time, who did the cleaning, volume of waste disposed of, location of disposal and manifest, if done by an outside hauler.
- I. West Pottsgrove Township hereby designates the Borough of Pottstown FOG inspectors as the inspection and permitting agency of all the food processing facilities in the Township. In addition, the Township designates the Borough of Pottstown FOG inspectors as the agency to enforce noncompliance issues and penalties in the name of West Pottsgrove Township.

(Ord. No. 2004-1, 3-3-04; Ord. No. 2009-1, §§ 2—5, 1-7-09)

SEC. 19-155. FEES AND RATES.

All FOG fees shall be payable quarterly for the previous 3 months. All bills are the responsibility of food producing facility and must be paid within 30 days. Bills remaining unpaid after the due date will be charged additional interest at the rate of six percent (6%) per annum.

The following fees shall apply to all food producing facilities contributing to the POTW:

- | | |
|------------------------|-----------------------|
| 1. Permit | \$30 |
| 2. Permit Renewal | \$25 |
| 3. Inspection/Sampling | \$30 – Per Inspection |
| 4. Compliance Record | \$10 |

Any change in the rate and/or fees charged shall be made by a Resolution adopted by the Township. Should the FOG inspectors need to sample any producer, the producer shall be responsible for the costs required for the analytical laboratory to perform the analysis of the sample.

(Ord. No. 2004-1, 3-3-04; Ord. No. 2009-1, § 6, 1-7-09)

SEC. 19-156. ENFORCEMENT.

The Borough shall suspend any FOG permit in which the producer does not adhere to the requirements of the Program. Once the permit is suspended, the producer shall not discharge into the Township collection system and the POTW until the permit is reinstated. The permit shall remain suspended until the

producer shows proof that the non-complying requirement was eliminated. The following shall be the methods of enforcement.

- A. NOV (Notice of Violation) – Necessary when the producer has violated any part of the FOG permit, the Borough may serve the producer with a notice of violation specifically citing the nature of the violation.
- B. Monetary Penalty – Necessary when the producer has failed to adhere to the requirements of the permit on numerous occasions. Penalties shall range from a specific fee to correct an action to costs involved to have a grease trap cleaned.
- C. AO (Administrative Order) – Necessary when a violation occurs, the Borough may subject the producer to an Order to correct the violation within a specific time frame.

(Ord. No. 2004-1, 3-3-04)

SEC. 19-157. PENALTY COSTS.

In addition to all other remedies available to it, the Borough shall have the right to issue a Notice of Violation (“NOV”) and/or impose a penalty, as hereinafter set forth, for a violation of any requirements of the Program. To assess a penalty, the following factors shall be considered:

- A. Damage to the air, water and land of the Township, Borough, and surrounding Townships.
- B. Damage and/or harm to the Township collections system and its appurtenances, Township personnel, POTW and its personnel.
- C. Past violations, compliance history.
- D. Producer’s willingness and efficiency to comply; response to the NOV in a timely manner, notification to the Borough and quick, effective corrective action to eliminate the non-compliance.
- E. *Magnitude of violation.* The producer charged with any penalty shall have 30 days to pay the proposed penalty in full, or shall have the right to appeal the penalty and/or the cause of the violation.

1. Failure to Clean Trap:

- a) 1st Offense – NOV + \$50 penalty.
- b) 2nd Offense – NOV + \$100 penalty.
- c) 3rd Offense – NOV + \$50 penalty for each day the cleaning is not completed.
- d) Failure to clean trap four times in one calendar year shall result in revocation of the facility’s permit.

2. Failure to keep and maintain a cleaning log with the necessary hauling manifests:

- a) 1st Offense – NOV.
- b) 2nd Offense – NOV + \$50 penalty.

- c) 3rd Offense – NOV + \$100 penalty.
 - d) Failure to keep and maintain a cleaning log with the necessary hauling manifests four times in one calendar year shall result in revocation of the facility's permit.
3. Overflow of Grease Trap – NOV + minimum penalty of fifty dollars (\$50). Additional penalties may be assessed depending upon factors listed above and the clean up of site.
4. Failure to return compliance record form:
- a) 1st Offense – NOV.
 - b) 2nd Offense – ineligibility to complete future compliance record forms.

SEC. 19-158. RULES AND REGULATIONS.

The FOG Administrator shall have the power to establish appropriate Rules and Regulations for the administration and enforcement of the provisions of the FOG Program.

(Ord. No. 2004-1, 3-3-04)

Chapter 20
ZONING AND SUBDIVISION AND LAND DEVELOPMENT

SEC. 20-1. ZONING ORDINANCE SAVED FROM REPEAL.

Nothing in this Code or the ordinance adopted this Code shall affect the West Pottsgrove Township Zoning Ordinance of October 2009, as amended, and said ordinance, as amended, is hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

SEC. 20-2. SUBDIVISION AND LAND DEVELOPMENT ORDINANCE SAVED FROM REPEAL.

Nothing in this Code or the ordinance adopting this Code shall affect the West Pottsgrove Township Subdivision and Land Development Ordinance of 2011, as amended and said ordinance, as amended, is hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

**WEST POTTS GROVE TOWNSHIP
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