

The Millcreek Township Conservation District
Zoning Ordinance

The Township of Millcreek
County of Clarion
Commonwealth of Pennsylvania

Ordinance #19

The Millcreek Township Conservation District
Zoning Ordinance

Contents.

- ARTICLE I** Preliminary Provisions.
- ARTICLE II** Definitions.
- ARTICLE III** Classification of Districts.
- ARTICLE IV** Provisions Governing Individual Districts.
- ARTICLE V** General Provisions Governing All Districts.
- ARTICLE VI** The Zoning Officer, Zoning Hearing Board and Zoning Ordinance Administrative Procedures.
- ARTICLE VII** Additional Provisions.
- ARTICLE VIII** The Millcreek Township Conservation District Zoning Map.

- APPENDIX I** The Goals and Objectives for Community Development of Millcreek Township, Clarion County, Pennsylvania.

The following is a listing of additions, deletions and changes to the original draft of the Millcreek Township Conservation District Zoning Ordinance that are to be incorporated into the final draft of the ordinance.

Section 405.103 agricultural activities including pasture, crop production, tree farms, orchards and vineyards.
(deleted: 'no-till'; added: 'vineyards')

Section 402.7 The minimum lot size in the C-2 district shall be one acre or as large as may be necessary to accommodate an approved on-site sewage disposal system, the design and approval of which is subject to rules and regulations of the Department of Environmental Resources; and shall be subject to the following setback and surface area cover restrictions.

.701 through .704 remain unchanged.
(changed from 'two acres' to 'one acre or as large as ...DER;')

Section 404.7 The minimum lot size in the C-4 district shall be one acre or as large as may be necessary to accommodate an approved on-site sewage disposal system, the design and approval of which is subject to the rules and regulations of the Department of Environmental Resources; and shall be subject to the following setback and surface area cover restrictions.

.701 Front yard setback line of fifty feet from the center of the road or the front property line.

.702 Side yard setback line of ten feet from the side lot lines.

.703 Rear yard setback line of thirty feet from the rear lot line.

.704 The maximum surface area that may be covered by buildings, driveways, parking and other appurtenances shall be twenty-five percent.

(added to correct an inadvertent omission in the original draft)

Section 507.110

(deleted)

Section 511. Replacement of Nonconforming Structures.

Structures that may be destroyed or damaged by fire, wind, or some other unpreventable natural occurrence, shall be reconstructed such that the structure is in conformity with the provisions of this ordinance. A nonconforming structure may be reconstructed as a nonconforming structure if and only if the owner can demonstrate to the Board that to reconstruct in accord with the provisions of this ordinance would constitute or create an undue hardship for the owner.

ARTICLE I
Preliminary Provisions.

Section 100 Recitals.

Whereas, the Township of Millcreek is a Township of the second class of the County of Clarion, within the Commonwealth Pennsylvania, and

Whereas, it is the intention of the Board of Supervisors of Millcreek Township to plan the development of Millcreek Township and to govern the Township by various land use regulations including zoning, and

Whereas, the Township recognizes its duty to protect environmentally sensitive areas, the sources and supplies of water, the qualities and quantities of water resources, the quality of the air, public lands and open spaces, areas of historic and patriotic value, as well as other land of unique or significant local or regional interest, and

Whereas, the Township recognizes that people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic, and aesthetic values of the environment; that the Commonwealth's public natural resources are the common property of all the people, including generations yet to come; that the Township, as agent of the Commonwealth and also as trustee of these natural resources shall conserve and maintain them for the benefit of all the people, and

Whereas, the Township recognizes that the land and its related water resources are closely interrelated as the result of the natural geologic formations that underlie the land area of the Township, the topography of the land area of the Township, the hydrology of the Township land area, and the hydrogeologic characteristics of the land area of the Township, and,

Whereas, the whole of the Township's land area comprise high quality or exceptional value watersheds, watersheds that require Special Protection under the Pennsylvania Environmental Master Plan as well as subsequent regulations of the Department of Environmental Resources, and

Whereas, it is in the best interest of the Township to encourage the return to productive use, land and water resources that have been previously degraded and inadequately restored or reclaimed or that have not been restored or reclaimed at all, and

Whereas, it is the intention of the Township to allow and provide for the forums necessary for meaningful public participation in the formulation, adoption and implementation of land use plans, policies, ordinances and regulations for the Township of Millcreek, and

Whereas, it is recognized within the Pennsylvania Environmental Master Plan that in addition to state water quality programs to protect Special Protection watersheds, the assistance of municipal government to comprehensively protect these watersheds is needed, and that environmentally sensitive local plans and development ordinances can complement state water quality programs in this regard, and

Whereas, wetlands perform important hydrologic functions such as maintaining base flow of streams, stabilizing groundwater tables, and provide groundwater discharge. Wetlands protect water quality by filtering out sediments and maintaining the capacity of watercourses to dilute pollutants from runoff, agriculture and waste discharges. Wetlands also regulate storm water runoff and minimize downstream flood potential. Wetlands afford opportunities to observe a variety of flora and fauna, nature photography and nature walks. Wetland soils lack the capability to support most development. Wetland soils with low permeability and high groundwater tables are not suitable for the installation of on-lot septic systems and septic tanks in wetland areas can pollute nearby groundwater supplies, produce foul odors and contaminate surface waters. Wetlands must be recognized for their value and protective action by local and state government, and the public, is necessary to safeguard the wetland resources of Millcreek Township; and

Whereas, Millcreek Township is recognized as a clean air resource area under the standards established within the Federal Clean Air Act. These said standards are designed to protect the public and the environment from any known or anticipated effects of air pollutants. Air pollutants can impair visibility, destroy materials, pollute watercourses, damage plants, kill fish, enter the food chain, alter climatic and ecological patterns and cause various illnesses to humans, wildlife and domestic animals. Clean air is a resource of critical importance to the maintenance of life, health, safety and welfare of the citizens of Millcreek Township; and

Whereas, one of the objectives of the programs implementing the Federal Clean Air Act and the Pennsylvania Pollution Control Act is to prevent pollution in areas which are recognized as clean air resource areas; and

Whereas, the scenic and aesthetic resources of Millcreek Township form an integral part of its environmental quality. These scenic resources include visual amenities such as rolling farmland, forests, mountains, wildlife, clear skies, high quality seeing for astronomical observation, wildflowers and other features. The aesthetic resources

include sensory features of the environment including scents, the singing of birds, the soft touch of a flower, the taste of wild forage foods such as berries and mushrooms, the silence and tranquility of calm weather, running waters, and other features that have inherent beauty to the observer. Human physical and mental well being require visual and sensory influences. Scenic and aesthetic resources of Millcreek Township add richness and diversity to the daily lives of the residents of the Township and enhance the quality of recreational experiences for all citizens that visit or travel through the Township. Overall, scenic and aesthetic resources add immeasurably to the quality and enjoyment of life, and as such merit meaningful consideration with respect to the development and implementation of land use regulations in Millcreek Township; and,

Whereas, the policies espoused by the Commonwealth in support of Section I, Article 27 of the Commonwealth's Constitution include:

It shall be the environmental policy of the Commonwealth to protect those outstanding resources which comprise the State's rich heritage.

It shall be the environmental policy of the Commonwealth to protect the State's natural heritage by discouraging development and land use activities that may degrade these resources.

It shall be the environmental policy of the Commonwealth to protect high quality resources by guiding growth and development patterns in an environmentally sound manner.

It shall be the environmental policy of the Commonwealth to encourage local plans and programs that maintain and enhance natural heritage throughout Pennsylvania.

It shall be the environmental policy of the Commonwealth to strongly enforce existing rules and regulations and develop adequate protection programs to maintain and enhance high quality resource systems.

It shall be the environmental policy of the Commonwealth to ensure protection of essential natural resources by promoting cooperative and comprehensive programs which respect the natural capabilities and limitations of the environment.

It shall be the environmental policy of the Commonwealth to encourage the development of local plans and programs which maintain, protect and provide for the orderly development of the State's natural resources.

It shall be the environmental policy of the Commonwealth to control major withdrawals (of water) in areas of limited water supply in order to protect the natural instream uses.

It shall be the environmental policy of the Commonwealth to protect the State's farmland by strengthening the economic viability of agriculture and supporting agricultural protection programs.

It shall be the environmental policy of the Commonwealth to protect the public health through environmentally sound waste management and disposal practices.

And, Whereas, the Township of Millcreek is comprised of land areas that have soils of local importance as pertains to the successful development and maintenance of sustainable agricultural practices that provide various benefits to the residents and landowners of the Township, and that the Township recognizes the need to protect the soils of local importance from degradation due to erosion, pollution, contamination, urbanization or other negatively impacting factors; and,

Whereas, the Township recognizes that the residential, commercial, agricultural, recreational and conservation uses of land are wholly dependent upon ground water resources for continued viability and as such, the Township recognizes that the need to protect the water resources, and the related land resources, of the Township shall be of the highest priority in developing land use plans and regulations; and

Therefore, be it resolved, enacted and ordained as follows in this Ordinance.

Section 101 Enacting Clause.

Be it ordained and enacted by the Board of Supervisors of Millcreek Township assembled, and it is hereby ordained and enacted by the Board of Supervisors, that from and after the approval and passage of this ordinance, several classes of districts specified herein shall be established and the following regulations shall be in full force and effect.

Section 102 Title.

This ordinance shall be known as The Millcreek Township Conservation District Zoning Ordinance, and the map referred to herein shall be known as The Millcreek Township Conservation District Zoning Ordinance Map.

Section 103 Short Title.

This ordinance shall have a short title of Zoning Ordinance and the map referred to herein shall have a short title of Zoning Map.

Section 104 Effective Date.

The effective date of this ordinance shall be the date of its acknowledged approval by the Board of Supervisors.

Section 105 Purpose.

It is the intent, purpose and scope of this ordinance to protect, promote and facilitate: the public health, safety, morals and the general welfare; to accomplish coordinated development and proper density of population; to promote, protect and facilitate emergency preparedness and operations, the provisions of adequate light and air, access to incidental solar energy, police protection, transportation facilities, public grounds, sewage, recreational facilities, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural use, and other public requirements; as well as the preservation of the natural, scenic and historic values in the environment and the preservation of forests, wetlands, aquifers and floodplains; to prevent the overcrowding of land, blight, danger and congestion in travel and transportation, loss of life, health or property from fire, flood, panic and other dangers; to preserve prime agriculture and farmland, including farmland of statewide importance, considering topography, soil type and classification, and present use; to provide for the use of land within the Township for residential housing of various dwelling types encompassing all basic forms of housing; to accommodate reasonable overall community growth, and opportunities for land uses that are nonresidential.

Section 106 Statement of Community Development Objectives.

This ordinance, The Millcreek Township Conservation District Zoning Ordinance, is consistent with the Statement of

Goals and Objectives for Community Development of Millcreek Township, as outlined within the Comprehensive Plan for Millcreek Township.

Section 107 Filing.

This ordinance, including the Zoning Map, together with any succeeding amendments, shall be on file with the Township Secretary and may be viewed by any interested party by contacting the Board of Supervisors or the Township Secretary.

Section 108 Authority.

The Millcreek Township Conservation District Zoning Ordinance has been developed, and is adopted and implemented under the statutory authority of the Pennsylvania Municipalities Planning Code, Act 170 of 1988, P.L. 1329; the Second Class Township Code, Act 69 of 1933, P.L. 103, reenacted and amended by Act 567 of 1947, P.L. 1481; and other applicable state and federal laws.

ARTICLE II
Definitions.

Section 201 Rules.

201.1 The Particular shall control the general.

201.2 In case of any meaning or implication difference between the text of this ordinance and any other source or map or illustration, the text shall control the meaning.

201.3 The word shall is mandatory and not discretionary. The word may is permissive.

201.4 Words used in the present tense shall include the future; Words used in the singular shall include the plural, and the plural the singular, unless the text clearly indicates the contrary.

Section 202 Definitions of Particular Terms.

Agriculture- The science, art or act of cultivating the soil, producing crops, raising livestock, producing forest products, and in varying degrees the preparation of these products for a variety of uses. The term shall include small and large scale production of crops, livestock and forest products.

Aquaculture- The cultivation of the natural produce of water.

Aquifer- A water bearing stratum of permeable rock, sand or gravel.

Ag-industrial- A business or industry directly related to the agricultural production process, including the combination of the producing operations of a farm, the manufacture and distribution of farm equipment and supplies, and the processing, storage and distribution of agricultural commodities.

Bed and Breakfast- A nonmotel operation designed to accommodate travelers and other nonresidents by providing sleeping quarters and the availability of meals.

Conservation- The careful, planned management of natural resources to prevent exploitation, destruction or neglect; the preservation and protection of natural resources.

Cottage Businesses and Industries- Small, typically in-home or near-home business or manufacturing that are typical of rural or village communities. Examples include, but are not limited to ceramics, crafts, blacksmithing, bakeries, bait shops, firewood production, agricultural vending, and others.

Highland- Land that is typically elevated or mountainous land, particularly with respect to surrounding and nearby land.

Land- The surface of the earth and all its natural resources.

Nuisance- Something that is annoying, unpleasant, or obnoxious. A manmade condition, process, object or activity that is offensive to the beholder and that constitutes an eminent hazard, peril or catastrophe to the local population and environment.

Observatory- A building or place or location given over or equipped for or suitable for observation of natural phenomena.

Produced Water- Water polluted by brine, sediments and other contaminants during the process of drilling land, and being a hazardous waste product requiring proper handling, containment and management.

Special Protection Watersheds- A Department of Environmental Resources designation and categorization of the watersheds of formerly designated Conservation Area Streams. These watersheds are determined by the DER to be of High Quality and Exceptional Value and are subsequently regulated for preservation and protection.

Watercourse- A natural or made channel or area through which water flows, including springs, runs, creeks, brooks, kills, rills, streams, rivers, wetlands, swamps, bogs and ditches.

Watershed- The region or land area bounded peripherally by a parting of water and subsequent drainage ultimately to a watercourse in particular or to a particular body of water.

Wetlands- Land and water resource areas defined and delineated by the Interagency Cooperation of the U.S. Fish and Wildlife Service, the U.S. Environmental Protection Agency, the U.S. Department of the Army- Corps of Engineers, and the U.S.D.A. Soil Conservation Service; utilizing the Federal Manual for Identifying and Delineating Jurisdictional Wetlands.

ARTICLE III
Classification of Districts.

Section 301 Establishment of Districts and the Zoning Map.

301.1 The Township of Millcreek is hereby classified and divided into five (5) districts that are designated as follows:

- C-1 : Watercourse Conservation District.
- C-2 : Watershed Conservation District.
- C-3 : Public Land Conservation District.
- C-4 : Upland Conservation District.
- C-5 : Highland Conservation District.

301.2 The Zoning Map, which is attached and made part of this Zoning Ordinance indicates the boundaries of the land areas that comprise the respective districts.

Section 302 Interpretation of District Boundaries.

302.1 The C-1 District shall constitute a flexible buffer zone that may vary in length and width in accord with the location of the watercourse and its related land resources, including but not necessarily limited to adjacent steep slopes, soils, woodlands, wetlands, and springs.

302.11 The C-1 District shall be defined to include a land strip on each side of a watercourse that is necessary to maintain existing water quality. The length and width of the C-1 District shall be determined by investigation. The proper investigation shall take into consideration:

- .111 The soil type and its relation to the filtration of surface water into the ground, stream or aquifer;
- .112 Types and amounts of vegetative cover and its role in stabilizing soils;
- .113 The slope of the land within the District and its significance in retaining sediments from reaching the streams.
- .114 The wetlands and the related land areas that may impact upon the wetlands.

302.12 The C-1 District shall be maintained to preserve the scenic and natural environmental qualities and functions of the land and to purify water before it reaches the streams.

302.2 The C-2 District shall constitute a fixed zone with respect to the boundaries of the C-3 District that are fixed as the property boundaries of the State Game Lands and Fish Commission Lands; and also with respect to the centerline of any roads dividing the C-2 District from the C-4 District; and also with respect to the topographic line designating the 1700. feet of elevation above sea level (USGS datum) which divides the C-2 District from the C-5 District; and also with respect to the jurisdictional boundaries of the Township. The

C-2 District shall constitute a flexible zone with respect to the proper investigation and determination of the C-1 District.

Section 302.3 The C-3 District shall constitute a fixed zone with respect to the property boundaries of the State Game Lands and Fish Commission Lands; and also with respect to the jurisdictional boundaries of the Township; and also with respect to the topographic line designating 1700. feet of elevation above sea level (USGS datum) which divides the C-3 District from the C-5 District or constitutes a sub district of C-5 within C-3, particularly within State Game Lands Numbers 74 and 283. The C-4 District shall constitute a flexible zone with respect to the proper investigation and determination of the C-1 District.

Section 302.4 The C-4 District shall constitute a fixed zone with respect to the center of the roads dividing the C-2 District from the C-4 District; and also with respect to the topographic line designating the 1700. feet of elevation above sea level (USGS datum) which divides the C-4 District from the C-5 District. The C-4 District shall constitute a flexible zone with respect to the proper investigation and determination of the C-1 District.

Section 302.5 The C-5 District shall constitute a fixed zone with respect to the topographic line designating 1700. feet above sea level (USGS datum) which divides the C-5 district from the C-2, C-3 and C-4 Districts; and also with respect to the jurisdictional boundaries of the Township.

ARTICLE IV
Provisions Governing Individual Districts.

Section 401 C-1: Watercourse Conservation District. Within the C-1 District, the following regulations shall apply:

401.1. The following uses shall be permitted by right within C-1.

- .11 Open Land Recreation.
- .12 Forestry.
- .13 Aquacultural activities including, but not necessarily limited to hatcheries, fish farms, waterfowl propagation, fish bait and bait fish production, and others.
- .14 Agricultural activities including pasture, no-till crop production, tree farming activities, orchards.
- .15 Public water spring access.
- .16 Watering troughs.
- .17 Parking lots.

401.2 The following uses shall be permitted as Special Exceptions within C-1.

.21 Water storage facilities that are not part of an aquacultural activity, but are necessary as part of an agricultural activity.

- .22 Public Utility facilities.
- .23 Bulk water production facilities.
- .24 Bottled water production facilities.

401.3 The following uses shall be conditional uses within C-1.

- .31 Oil and gas drilling and exploration.
- .32 Oil and gas wells and production facilities.
- .33 Produced water storage or containment facilities.

401.4 The following uses shall be prohibited within C-1.

- .41 Nuisances.

401.5 The Special Exceptions permitted within C-1 shall be subject to the following specific criteria:

.521 Water storage facilities that are necessary as part of an agricultural activity shall be designed and located such that the presence of the facility shall not interfere with the natural flow of the watercourse. Access lanes shall be designed, constructed and maintained so as to not contribute to accelerated runoff and so as to not degrade the quality of the watercourse. Erosion and sedimentation control is mandatory.

.522 Public utility facilities shall be located in C-1 only if the applicant can demonstrate that the proposed facility cannot be located in C-2, C-3 or C-4 without causing an undue hardship for the utility. The construction of the facility shall be undertaken without causing watercourse degradation and access lanes, if any, shall be designed, constructed and maintained so as to not contribute to accelerated runoff. Erosion and sedimentation control is mandatory.

.523 Bulk and bottled water production facilities shall be located in C-1 only if the applicant can demonstrate that the facilities cannot be located in C-2 or C-4 without causing an undue hardship for the applicant. Projected withdrawals of water from the watercourse or aquifer shall not cause degradation to the watercourse nor harm any downstream aquatic life habitat.

401.6 The conditional uses within C-1 shall be subject to the following specific criteria.

.631 All oil and gas operations, including drilling, exploration, production and storage of produced water shall be conducted only in strict accord with the regulations of the Department of Environmental Resources and the U.S. Army corps of Engineers. Storage of produced water shall be conducted only on a temporary basis and disposal of produced water shall be by proper treatment and disposal methods for hazardous wastes. No discharges shall be permitted into the watercourse. Erosion and sedimentation control is mandatory. Access lanes shall be designed, constructed and maintained so as to not contribute to accelerated runoff or erosion. Conservation plans, approved by the USDA Soil Conservation Service, Clarion District, are mandatory. On lands that have been drilled or explored previously, no new operations shall commence until such time as any previous activities that are substandard with respect to current regulations are corrected and all environmental threats associated with previous activities have been abated or corrected.

Section 402 C-2: Watershed Conservation District. Within the C-2 District the following regulations shall apply:

402.1 The following uses shall be permitted by right within C-2.

- .101 Open land recreation.
- .102 Forestry.
- .103 Aquacultural activities and related facilities.
- .104 Agricultural activities and facilities.
- .105 Single family residential dwellings and appurtenant structures.
- .106 Seasonal residential dwellings and appurtenant structures.
- .107 Bed and Breakfast operations.
- .108 Water storage impoundments.
- .109 Parks and playgrounds.
- .110 Churches.
- .111 Cemetaries.
- .112 Public utility facilities.
- .113 Individual mobile homes.
- .114 Deer and bear cutting and processing.
- .115 Energy conversion facilities including windmills and solar energy collection hardware.
- .116 Cottage businesses and industries.
- .117 Sportsmans and hunt clubs.
- .118 Service businesses and offices including notary public, insurance, real estate, beauty parlors, barber shop, surveyors and engineers, lawyers,
- .119 Bait shops.
- .120 Firearms dealers.
- .121 Health care facilities and offices.
- .122 Open air market and produce stands.
- .123 Public water spring access.
- .124 Watering troughs.
- .125 Parking lots suitable in size to accommodate the above listed uses.

402.2 The following uses shall be permitted as Special Exceptions within C-2.

- .201 Airstrips and heliports.
- .202 Multi-family residential dwellings and appurtenant structures.
- .203 Public sports complexes and facilities.
- .204 Municipal waste recycling facility.
- .205 Firearms shooting ranges.
- .206 Sawmills and wood products processing facilities.
- .207 Light manufacturing facilities.
- .208 Ag-industrial facilities.
- .209 Bulk and bottled water production facilities.

402.3 the following uses shall be conditional uses within C-2.

- .301 Oil and gas drilling and exploration.
- .302 Oil and gas wells and production facilities.
- .303 Produced water storage or containment facilities.

402.4 The following uses shall be prohibited within C-2.

- .401 Nuisances.

402.5 The Special exceptions permitted within C-2 shall be subject to the following specific criteria:

.5201 Airstrips and heliports may be operated if the applicant can demonstrate that the activities of the operation will not interfere with any permitted uses of any district within the Township. Hours of operation shall be restricted to daylight hours. All runways and helipads shall be maintained as grass areas and be subject to all restrictions and regulations promulgated by the Federal Aviation Administration. Conservation Plans, approved by the USDA Soil Conservation Service, Clarion District are mandatory.

.5202 Multi-family residential dwellings shall be limited in size to four individual living units per building. Said buildings shall not be more than two stories and fire escape facilities shall be integrated into the design so that each unit shall have no less than two means of access and exit. Parking shall be required on the basis of no less than two spaces, off road per unit. Fire extinguishers and smoke detection devices are mandatory per unit. Conservation Plans are mandatory.

.5203 Public sports complexes and facilities may be located in C-2 if the applicant can demonstrate that the proposed development will not interfere with any of the permitted uses of C-2. Consumptive use of water may not interfere with the permitted uses of any other district within the Township. Parking lot areas are to be designed and maintained as pervious surface area with a finished surface area of crushed aggregate limestone or other comparable material. Sewage disposal is to be approved by the Department of Environmental Resources. Facilities may not be located on any land area that exceeds 12% (twelve percent) grade of slope. Conservation Plans are mandatory.

.5204 Municipal waste recycling facility operation shall be permitted if the applicant can demonstrate that the facility and operation will not interfere with any other permitted within C-2. Facility may not be located on any land area that exceeds 12% (twelve percent) grade of slope. Disposal of any solid or residual wastes shall be subject to the regulations of the Department of Environmental Resources. Conservation Plans are mandatory. Hours of operation shall be limited to daylight.

.5205 Firearms shooting ranges shall be designed such that the target backdrop area is of sufficient area and mass to contain any ammunition discharged by a firearm into the target area. Hours of operation shall be limited to daylight hours. Use of the range shall be conducted in a responsible manner so as to prevent injury or the creation of a nuisance to adjacent and nearby properties. Sunday shooting hours shall not commence before high noon. Other open land recreational uses shall be prohibited in the range and target backdrop areas during hours of operation.

.5206 Sawmills, wood processing facilities, light manufacturing facilities, and ag-industrial facilities shall be designed and operated so as to not interfere with other permitted uses within C-2. Operations shall be further required to maintain activities and operations that are non-offensive to adjacent land uses and that do not constitute a public nuisance. Waste products that may be generated must be managed in accord with the regulations of the Department of Environmental Resources. Facilities may not be located on any land area that exceeds 12% (twelve percent) grade of slope. Conservation Plans are mandatory.

402.6 The conditional uses within C-2 shall be subject to the specific criteria listed in Section 401.631.

402.7 The minimum lot size in the C-2 District shall be two acres subject to the following setback and surface cover restrictions.

.701 Front yard setback line of fifty feet from the center of the road or the front property line.

.702 Side yard setback line of twenty feet from the side lot lines.

.703 Rear yard setback line of forty feet from the rear lot line.

.704 The maximum surface area that may be covered by buildings, driveways, parking and other appurtenances shall be twenty-five percent

402.8 No building or structure that shall be utilized for a residential dwelling of any type shall exceed thirty-six feet in height from a point of highest elevation directly adjacent to the building.

Section 403 C-3: Public Land Conservation District. Within the C-3 District, the following regulations shall apply:

403.1 The following uses shall be permitted by right within C-3.

- .101 Open land recreation.
- .102 Forestry.
- .103 Parking lots.
- .104 Boat launch and river access facilities.
- .105 Public utility facilities.
- .106 Firearms shooting ranges.
- .107 Public water spring access.
- .108 Wildlife propagation facilities.

403.3 The following shall be conditional uses within C-3.

- .301 Oil and gas drilling and exploration.
- .302 Oil and gas wells and production facilities.
- .303 Produced water storage or containment facilities.

403.4 The following uses shall be prohibited within C-3.

- .401 Nuisances.

403.6 The conditional uses within C-3 shall be subject to the specific criteria listed in Section 401.631.

Section 404. C-4: Upland Conservation District. Within the C-4 District, the following regulations shall apply.

404.1 The following uses shall be permitted by right within C-4.

- .101 Open land recreation.
- .102 Forestry.
- .103 Public utility facilities.
- .104 Agricultural activities and related facilities.
- .105 Aquacultural activities and related facilities.
- .106 Single family residential dwellings and appurtenant structures.
- .107 Seasonal residential dwellings and appurtenant structures.
- .108 Bed and Breakfast operations.
- .109 Garages, including gasoline and propane distribution facilities.
- .110 Water storage impoundments.
- .111 Cottage businesses and industries.
- .112 Individual mobile homes.
- .113 Churches.
- .115 Public buildings.
- .116 Fraternal organizations buildings and facilities.
- .117 Municipal garages.
- .118 Health care facilities and offices.
- .119 Deer and bear cutting and processing.
- .120 Post Office.
- .121 General stores.
- .122 Hardware and supply stores.
- .123 Personal care homes.
- .124 Open air markets..
- .125 Energy conversion facilities including windmills and solar energy collection hardware.
- .126 Sporting goods stores.
- .127 Home offices.
- .128 Lumber yard and building supply store.
- .129 Cabinet Shop.
- .130 Bulk and bottled water production facilities.

404.2 The following uses shall be permitted as Special Exceptions within C-4.

- .201 Multi-family residential dwellings and appurtenant structures.
- .202 Commercial Strip development.
- .203 Sawmills and wood processing facilities.
- .204 Light manufacturing facilities.
- .205 Ag-industrial facilities.
- .206 Municipal waste recycling facility.
- .207 Sewage treatment operations.

404.3 The following uses shall be conditional uses within C-4.

- .301 Oil and gas drilling and exploration.
- .302 Oil and gas wells and production facilities.
- .303 Produced water storage or containment facilities.
- .304 Treated sewage disposal and dispersal.

404.4 The following uses shall be prohibited in C-4.

- .401 Nuisances.

404.5 The Special Exceptions permitted within C-4 shall be subject to the following specific criteria.

.5201 Multi-family residential dwellings shall be limited in size to four individual living units per building. Said building shall not be more than two stories and fire escape facilities shall be integrated into the design of the building so that each building shall have no less than two means of access and exit. Parking shall be required on the basis of no less than two spaces, off road per unit. Fire extinguishers and smoke detection devices shall be mandatory per unit. Conservation Plans are mandatory.

.5202 Commercial strip development shall be permitted provided that the entrance and exit to the development are consolidated for safe, controlled access to the development. Commercial strip development shall only be permitted in C-4 along state highways and not township roads. The Township reserves the right to require an environmental impact statement be provided by the applicant to the Township, particularly addressing water quality impact, consumptive use water withdrawal and the related impact of the withdrawal on adjacent landowners and land uses, storm water management, air, water and noise pollution, diffused or scattered light, and other meaningful criteria particularly related to the proposed development site. The commercial strip development shall be designed such that finished grade contour and elevation, landscaping, buffer strips of land, retained trees or woods and other features contribute to the compatibility of the commercial strip development with that of the adjacent, surrounding and nearby uses of land. Conservation Plans are mandatory.

.5203 Sawmills, wood processing facilities, light manufacturing facilities, and ag-industrial facilities shall be designed and operated so as to not interfere with other permitted land uses within C-4. Operations shall be further required to maintain activities and operations that are non-offensive to adjacent land uses and that do not constitute a public nuisance. Waste products that may be generated must be managed in accord with the regulations of the Department of Environmental Resources. Facilities may not be located on any land area that exceeds 12% (twelve percent) grade of slope. Conservation Plans are mandatory.

.5206 Municipal waste recycling facility operation, and sewage treatment operations shall be permitted if the applicant can demonstrate that the design of the proposed facilities is such that the facilities will not interfere with any other permitted uses within C-4. Disposal of any solid or residual wastes shall be subject to the regulations of the Department of Environmental Resources. Conservation Plans are mandatory. Hours of operation shall be limited to daylight.

404.6 The conditional uses in C-4 shall be subject to the specific criteria below and also as listed in Section 401.631.

.6304 Treated sewage may be disposed of and dispersed within C-4 only in strict accord with the regulations of the Department of Environmental Resources, particularly but not limited to, regulations pertaining to the handling of sewage and the dispersal of sewage as a soil amendment. A Conservation Plan is mandatory. The Township reserves the right to require that the proposed land use activity be subjected to the further scrutiny of a Public Benefit Land Use Determination, as outlined in Section 507. The Township shall reserve the right to place additional conditions as it may deem necessary to protect the general health, safety and welfare of the Township's citizens and also to protect the natural environment of the Township.

Section 405 C-5: Highland Conservation District. Within the C-5 District, the following regulations shall apply.

405.1 The following uses shall be permitted by right within C-5.

- .101 Open land recreation.
- .102 Forestry.
- .103 Agricultural activities including pasture, no-till crop production, tree farms, orchards,
- .104 Scenic vista lookout.
- .105 Observatories.

405.3 The following uses may be conditional uses within C-5.

- .301 Communication facilities.
- .302 Windmills.

405.6 The conditional uses within C-5 shall be subject to the following specific criteria.

.6301 Communication facilities may be permitted when the applicant can demonstrate to the Township that the proposed facilities will not interfere with any permitted use of land within the Township. Furthermore the proposed facility should be designed and located so as to minimize or prevent injury or loss of life and property in the event of a catastrophic event such as a tower collapse, guy cable snap or other potentially dangerous occurrence that may be associated with the facility. Conservation Plans are mandatory. Furthermore, the facility shall not be permitted if the proposal is not in accord with any provisions of a scenic or aesthetic designation of the area that may be applicable at the time of application for conditional use.

.6302 Windmills may be permitted in C-5 if the applicant can demonstrate to the Township that the facility will not interfere with other permitted land uses within the district. Conservation Plans are mandatory. Furthermore, windmills shall not be permitted if the proposal is not in accord with any provisions of a scenic or aesthetic designation of the area that may be applicable at the time of application for conditional use.

ARTICLE V

General Provisions Governing All Districts.

Section 501 Conformance and Permits.

No land shall be used, no building shall be erected or altered, no structure shall be constructed, no facility shall be operated, and no activities shall be conducted; unless in conformity with the regulations specified herein for the district in which it is located, and then only after applying for and securing all permits, licenses and right of ways required by all applicable ordinances of Millcreek Township and all other applicable state and federal laws.

Section 502 General Restrictions.

No building, structure or facility shall hereafter be erected, constructed or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have a narrower or smaller rear yard, side yard, or front yard than is herein specified for the district in which the building is located.

Section 503 Prohibition and Abatement of Nuisances.

No land shall be used for activities that constitute a nuisance, including but not limited to, the accumulation of garbage and rubbish, the storage of abandoned or junked vehicles, on private or public property, and the carrying on of any offensive manufacture or business. The Board of Supervisors may take action to abate any nuisance under the General Powers of the Second Class Township Code, in order to enforce the requirements of the provisions herein.

Section 504 Substandard Dwellings.

In districts permitting residential dwellings, no structure shall be occupied as a dwelling if the structure is in need of such major structural repairs that it would be unsafe or unsanitary without said repairs, or if the premises do not have adequate sewage disposal facilities, or if the premises have been constructed without first applying for and securing the permits necessary for the construction of an on site sewage disposal system, and for the construction, erection or placement of a structure pursuant to the requirements of the Township Building Permit Ordinance.

Section 505 Substandard Lots.

Nothing in the Provisions Governing Individual Districts shall be held to prohibit the erection or placement of a single-family residential dwelling upon a lot whose size is inadequate to meet the lot area requirements, provided that such a lot on the effective date of this ordinance was held under separate ownership from any adjoining lots or is a lot in a recorded plan which complies with all regulations except lot area requirements. All lots, standard and substandard are subject to the siting and placement requirements for an on site sewage disposal system as promulgated by the Department of Environmental Resources.

Section 506 Land Use Conservation Planning.

All land use activities within all districts shall be subject to the proper planning, permitting and implementation procedures required by any local, state and federal regulations and laws. These procedures shall include, but not necessarily be limited to, local ordinances, regulations promulgated by the Pennsylvania Department of Environmental Resources, the United States Department of Agriculture Soil Conservation Service, The United States Army Corps of Engineers, the United States Environmental Protection Agency and other applicable regulations and laws that serve to conserve the natural features and environmental qualities of Millcreek Township while allowing for the short and long term reasonable use of private and public land.

Section 507 Public Benefit Land Use Determination.

Any proposed land use activity that may have the potential for water quality degradation, constitute a major withdrawal of water for consumptive use from a watercourse or aquifer in the Township, or have the potential for significant environmental harm due to the scope and nature of the proposed activity; and which activity may have been approved by state or federal regulatory agencies due to a justification as a result of necessary social, economic or other significant public value, shall be subject to a Public Benefit Land Use Determination by the Township based on the following criteria:

507.1 Public Benefit Land Use criteria.

- .101 The abatement or prevention of pollution.
- .102 Protection of public health safety and welfare.
- .103 Prevention or reduction of flood damage.
- .104 Development of energy resources.
- .105 Creation or preservation of significant employment.
- .106 Abatement or prevention of public nuisances.
- .107 Provision of public utility services.
- .108 Creation of essential social and economic

development which benefits a substantial portion of the public.

.109 Evidence that the activity cannot possibly be located at another site or location within the Township due to unique physical characteristics of the proposed site or location.

.110 Evidence that the activity cannot possibly be located at another site or location within the Commonwealth due to unique physical characteristics of the proposed site or location.

.111 Evidence that meaningful local public participation had been attempted and accomplished by the applicant of the proposed activity during the preliminary stage of site or location determination and selection.

- .112 Impact on the local quality of life.
- .113 Consistency with local planning initiatives.
- .114 Consistency with regional planning initiatives.
- .115 Impact on local emergency management preparedness.
- .116 Impact on local and regional land values.

507.2 Procedure for Public Benefit Land Use Determination.

.201 Any applicant for a building permit for a proposed land use activity that is subject to the provisions of this

section shall be responsible for the formulation of a response to the Township based upon the criteria outlined in Section 507.1. It shall be the sole responsibility of the applicant to provide a complete response to the Township for each of the criteria listed in Section 507.1. The applicant and Township shall follow conditional use application procedures for review and final determination of the Public Benefit Land Use Determination.

Section 508 . Forestry.

Timber management practices, including the planting, maintenance and harvesting of forest products shall be subject to the regulations of the Department of Environmental Resources pertaining to the construction of logging roads and landing areas. Erosion and sedimentation control procedures are required to minimize or prevent rapid runoff and subsequent water quality degradation. Bark and debris are not to be left accumulated at landings so as to prevent degradation of water quality from decomposition and runoff. All timber harvesting activities shall be subject to the guidelines developed by the Pennsylvania Forestry Association, 1979. : Historic First...PFA's New Timber Harvesting Guidelines. Fertilizers, herbicides, pesticides and fungicides shall only be utilized by individuals properly trained and certified in their respective usage. Whenever possible, streamside timber growth shall be maintained to protect the ecological balance of the watercourse.

Section 509 Agricultural Activities.

Landowners engaged in agricultural activities are encouraged to develop and implement soil conservation plans for the land areas that are actively plowed or utilized for manure management. Vegetative buffer strips shall be maintained along any and all watercourses and C-1 Districts that are part of the land area utilized for crop production, manure management, farm roads and pastures.

Section 510 Aquacultural Activities.

The development of aquacultural activities are permitted provided that the activities do not degrade the water quality of any watercourse and do not threaten the ecological balance of downstream aquatic and biotic lifeforms. Pennsylvania Fish Commission licensing and approval of proposed activities may be required.

ARTICLE VI
The Zoning Officer and The Zoning Hearing Board

Section 601 Appointment and powers of the Zoning Officer.

A Zoning Officer shall be appointed by the Board of Supervisors. The appointee shall not hold any elective office in the Township of Millcreek. Qualifications for the position of Zoning Officer shall include being able to demonstrate to the Township's satisfaction, a working knowledge of municipal zoning. The Zoning Officer shall administer the Zoning Ordinance and shall do so in accord with its literal terms. The Zoning Officer shall not have the power to permit any construction or any use of land or change of use of land which does not conform to the Zoning Ordinance. The Zoning Officer may be authorized to institute civil proceedings as a means of enforcement of the literal terms of the Zoning Ordinance.

Section 602 The Zoning Hearing Board.

Upon enactment of the Zoning Ordinance, the Board of Supervisors shall create the Millcreek Township Zoning Hearing Board, hereinafter referred to as the Board.

602.1 Membership of the Board.

Membership of the Board shall consist of three appointed residents of Millcreek Township, duly appointed by resolution of the Board of Supervisors. The terms of the appointed Board members shall be three years each, and so fixed that the term of office of one member shall expire each year. The Board will promptly notify the Board of Supervisors of any vacancies that may occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Township.

602.2 Removal of Members.

Any member of the Board may be removed for malfeasance, misfeasance, or nonfeasance in office or for any other just cause by a majority vote of the Board of Supervisors, with the vote being taken after the member has received a fifteen day advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

602.3 Organization of the Board.

.301 The Board shall elect its officers from its own membership, who shall serve annual terms and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive any further action by the Board as provided for in Section 602.5.

602.4 Expenditures for Services.

Within the limits of funds appropriated by the Board of Supervisors, the Zoning Hearing Board may employ secretarial, clerical, legal, and other technical and consulting services as may be needed. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Board of Supervisors.

602.5 Hearings.

The Board shall conduct hearings and make decisions in accord with the following requirements:

.501 Public notice shall be given and written notice shall be given to an applicant, the Zoning Officer, such other parties as the Board of Supervisors may designate by an ordinance and to any party who has made a timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.

.502 The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead expenses connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

.503 The hearing shall be held within sixty days of the applicant's request, unless the applicant has agreed in writing to an extension of time.

.504 The hearing shall be conducted by the Board or the Board may appoint any member as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the applicant or the appellant as the case may be, in addition to the Township, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

.505 The parties to the hearing shall be the Township, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have the power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.

.507 The chairman or acting chairman of the Board or the hearing officer presiding shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including

witnesses and documents requested by the parties.

.508 The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

.509 Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

.510 The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. the appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid for by the Board if the transcript is ordered by the Board or the hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

.511 The Board or the hearing officer shall not communicate, directly or indirectly, with any party or the representative of any party in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of the hearings with any party or the representative of the party unless all parties are given an opportunity to be present.

.512 The Board or the hearing officer as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within forty-five days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based upon any provision of the Pennsylvania Municipalities Planning Code, or this Ordinance, or any other ordinance or regulation or rule shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that the decision or findings are final, the Board shall make the hearing officer's report and recommendations available to the parties within forty-five days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than thirty days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within the sixty days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an

extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection .501 of this Section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

.513 A copy of the final decision or, where no decision is called for, of the findings, shall be delivered to the applicant personally or mailed to the applicant not later than the day following its date. To all other persons who have filed their name and addresses with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

602.6 The Township opts to not include mediation proceedings. Any options for mediation proceedings in the future shall follow guidelines in Section 908.1 of the Pennsylvania Municipalities Planning Code.

602.7 Jurisdiction of the Zoning Hearing Board.

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

.701 Substantive challenges to any land use ordinance, except those brought before the Board of Supervisors pursuant to Section 60

.702 Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance and a zoning hearing board has not been previously established, the appeal raising the procedural questions shall be taken directly to court.

.703 Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or the failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, lot or structure.

.704 Appeals from a determination by a municipal engineer or the zoning officer with reference to the administration of any flood plain or flood hazard ordinance or such provision within a land use ordinance.

.705 Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance.

.706 Applications for special exceptions under the zoning ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance.

.707 Appeals from the determination of any officer or agency charged with the administration of any transfers of any development rights or performance density provisions of a zoning ordinance.

.708 Appeals from the Zoning Officer's determination under Section 608.

.709 Appeals from the determination of the Zoning Officer or a municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving any provisions that may be adopted under subdivision and development ordinance provisions or any planned residential development regulation provisions.

602.8 The Zoning Hearing Board's Function: Variances.

.810 The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

.8101 That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located.

.8102 That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

.8103 That the unnecessary hardship has not been created by the appellant.

.8104 That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

.8105 That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation at issue.

.820 In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of the Pennsylvania Municipalities Planning Code and the Zoning Ordinance.

602.9 The Zoning Hearing Board's Function: Special Exceptions.

.910 Where the Board of Supervisors, in the Zoning Ordinance, has stated special exceptions to be granted or denied

by the Zoning Hearing Board pursuant to express standards and criteria, the Board shall hear and decide requests for such special exceptions in accordance with such standards and criteria. In granting a special exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Zoning Ordinance, as it may deem necessary to implement the purposes of the Pennsylvania Municipalities Planning Code and the Zoning Ordinance.

603 The Jurisdiction and Function of the Board of Supervisors.

603.1 The Board of Supervisors or, if designated, the planning commission, shall exclusive jurisdiction to hear and render final adjudications in the following matters, with exceptions being noted:

.101 All applications for approvals of any planned residential developments under Article VII pursuant to provisions therein of Section 702, if such planned residential development provisions have been enacted by the Township.

.102 All applications for subdivisions or land developments, provided that the Township has enacted a Subdivision and Land Development Ordinance at the time of application. Any provision requiring that final action concerning subdivision and land development be taken by a planning agency rather than the Board of Supervisors shall vest exclusive jurisdiction in the planning agency in lieu of the Board of Supervisors for the purposes of the provisions of this paragraph.

.103 All applications for conditional use under the express provisions of the Zoning Ordinance pursuant to the Pennsylvania Municipalities Planning Code Section 603 (c)(2).

.104 All applications for curative amendment to the Zoning Ordinance.

.105 All petitions for amendments to land use ordinances. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.

.106 Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provisions thereof with reference to erosion and sedimentation control and storm water management insofar as the same relate to application for land development. Where the appeal relates to development of land not involving subdivision and land development or planned residential development application and the determination of the Zoning Officer or municipal engineer, the appeal shall be to the Zoning Hearing Board as provided in Section 602. Where the applicable land use ordinance vests final jurisdiction for final administration of subdivision and land development applications in a planning agency, all appeals from determinations under this paragraph shall be to the planning agency and all appeals from the decision of the planning agency shall be to court.

.107 All applications for special encroachment