

LOWER MILFORD TOWNSHIP  
LEHIGH COUNTY, PENNSYLVANIA

RESOLUTION 2025-1

FEE SCHEDULE AND SUBMISSION CRITERIA FOR CERTAIN APPLICATIONS

WHEREAS, certain permits, documents and administrative services are requested by residents and members of the public; and

WHEREAS, the Board of Supervisors are concerned that costs of said permits, documents and administrative services are not borne by the taxpayers of Lower Milford Township.

NOW, THEREFORE, be it hereby resolved by the Board of Supervisors of Lower Milford Township, that the following fee schedule and submission criteria be adopted for calendar year 2025, effective upon adoption, unless superseded by a subsequent resolution or ordinance, and rescinding all other fee schedules in conflict with this resolution.

**BUILDING PERMIT AND INSPECTION:**

Residential Building Permit	\$250.00 Deposit Fee at Time of Submission
Commercial Building Permit	\$500.00 Deposit Fee at Time of Submission

All building permits are subject to a \$4.50 PA Labor and Industry Permit Fee. Certificate of Occupancy fee is additional. All building permit application fees shall be made payable to *Cowan Associates, Inc.* and fees shall be charged in accordance with the attached Cowan Associates, Inc. price list.

**MISCELLANEOUS:**

An Erosion and Sedimentation plan and permit is required for earth disturbances of 1,500 square feet or greater for all types of permits. (See separate fees)

A stormwater management plan review and permit are required for the installation of greater than 1,500 square feet of impervious surface for all types of permits. (See separate fees)

A Zoning Permit is required for all new construction, additions, and alterations. (See separate fees).

No building permit or inspections required for residential accessory structures less than 1,000 square feet — only a zoning permit is required.

No building permit or inspections required for agricultural use structures — only a zoning permit is required.

**RESIDENTIAL/COMMERCIAL BUILDING CODE APPEALS:**

Application to the Building Board of Appeals	\$100.00
Hearing before Building Board of Appeals	\$500.00

**ZONING PERMIT FEES**

Review application and perform site inspection for Zoning compliance	
Residential Use	\$50.00
Agricultural Use	\$50.00

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Commercial Use	\$200.00
All Other Uses	\$100.00

**STORMWATER MANAGEMENT FEES:**

Review of Stormwater Management Plan

**PERMIT FEES:**

Residential/Agricultural (Plan review and 1 inspection) **\$401.00**

Commercial (Plan review and 1 inspection) **\$699.00**

Engineer to review plans and applications for any project proposing the installation of greater than 1,500 square feet of new impervious cover. (per hour)

**\$117.00/hr.**

Re-Review of Plan (per hour)

**\$117.00/hr.**

Re-Inspection (per hour)

**\$117.00/hr.**

**EROSION & SEDIMENTATION CONTROL AND FINAL GRADING PLOT PLAN PERMIT**

PRIOR TO EARTH DISTURBANCE INVOLVING more than 1,500 SF, an Erosion & Sedimentation Control & Final Grading Plot Plan shall be submitted with the building or zoning permit application along with any and all other applicable permits, fees, etc. as required by Ordinance, Resolution or Regulation of Lower Milford Township.

THE PLAN shall contain the following, where applicable:

- Property boundary dimensions.
- Location of structure, showing setback distances to all property lines and at least two (2) ties to installed property corners.
- Location of well, septic tank, primary drain field and alternate drain field, showing distance to closest property line.
- Isolation distance of well to septic tank and drain field.
- Soil pipe, well supply line and utility line(s), crossing the property and entering the dwelling.
- Building restriction line, swales, easements, streams, Natural Features as required by the Zoning Ordinance.
- Site grading, directing of storm water run-off away from building and septic system.
- Contour lines, both existing and proposed.
- Dimensions of driveway and grade percentages.
- Location and dimension and inverts of driveway pipe.
- First floor elevations.
- Location of tree planting and/or existing wooded areas.
- Location of soil stockpile area and erosion and sedimentation control measures.

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- Statement of total area of disturbance.
- Location of on-lot stormwater facilities/BMP's.
- Pre-and post-development building coverage and/or impervious surface percentages.
- Swale and drainage channel cross sections
- Spot grades at high points and low points.
- References bench mark
- Narrative of on-lot erosion sedimentation control procedures.
- Narrative of operation and maintenance of on-lot infiltration stormwater BMP facilities.

SHOULD THE LOT BE PART of an approved subdivision plan, any and all notes and restrictions contained on the approved subdivision plan shall be applicable whether or not depicted on the Erosion & Sedimentation Control & Final Grading Plot Plan.

EROSION AND SEDIIMENTATION CONTROL measures shall be in conformance with the approved subdivision Plan and the Lehigh County Conservation District Guidelines. ALL earth disturbance totaling 5,000 S.F. or greater must submit and receive Lehigh County Conservation District Approval and/or an NPDES Permit prior to issuance of a Township erosion & sedimentation control/grading plan permit. Applicants are responsible for making application to the Lehigh County Conservation District and all associated fees.

ADDITIONAL INFORMATION may be required as deemed necessary to insure enforcement of all Ordinances, Resolutions, and Regulations of Lower Milford Township.

PERMIT FEES:

Residential	\$519.00	
Commercial	\$629.00	Re-review or additional inspections \$117.00/hr.

**DRIVEWAY PERMIT:**

- Any person, partnership or corporation who wishes to construct any private roadway, driveway and/or street which will intersect with any Township Road or Street shall pay a fee of \$197.00 for Residential and \$301.00 for Commercial per connection.
- Such fee shall be paid with the application for a Driveway Permit and include two (2) inspections. Re-inspection shall be charged at \$117.00 per hour.
- Any new or re-located driveway entrance requiring a curb-cut shall pay an additional hourly fee of \$117.00 for inspection of the replaced curb.
- For Roads or Driveways intersecting with a State Highway, Road or Street, a Highway Occupancy Permit must be obtained from PENNDOT prior to construction of the driveway.
- An escrow deposit may be required, dependent upon scope of work, in an amount determined by the Township Engineer at the time of plan review.

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- Driveways permitted without an attached structure will require an E&S and Stormwater plan regardless of the square footage of earth disturbance,

**TOWNSHIP HIGHWAY OCCUPANCY PERMIT**

1. A Highway Occupancy Permit is required for all work performed within a Township Road Right-of-Way other than a driveway/road opening.
2. Fees for Highway Occupancy Permits shall be charged in accordance with the current PENNDOT fee schedule.

**APPLICATIONS AND APPEALS TO THE ZONING HEARING BOARD**

**ZONING HEARING APPEAL FEE FOR VARIANCES AND INTERPRETATIONS,  
APPLICATIONS FOR SPECIAL EXCEPTIONS**

1. Any person, partnership or corporation filing an appeal or application with the Zoning Hearing Board of Lower Milford Township, shall pay the following fee(s) at the time such application or appeal is filed with Township:  
A FEE of \$600 will be charged for Residential appeals and applications.  
A FEE of \$900 will be charged for Non-Residential appeals and applications
2. Any Zoning Appeal or Application which the appellant or applicant requests a continuation, the appellant or applicant will be charged \$200 in addition to the initial fee, to cover the costs involved for such a continuation. Any continuation after first continuation will also be at a fee of \$200.
3. Challenge to Validity of an Ordinance - \$1,000

**APPLICATIONS TO THE BOARD OF SUPERVISORS**

**CONDITIONAL USE APPLICATIONS**

1. Any person, partnership or corporation filing a conditional use application with the Board of Supervisors shall pay the following fee at time of application:  
A FEE of \$600 will be charged for Residential Applications  
A FEE of \$900 will be charged for Non-Residential Applications
2. Any application which requires a continuation of the first meeting, the applicant will be charged \$200 in addition to the initial fee, to cover the costs involved for such a continuation. Any continuation after first continuation will also be at a fee of \$200.

**VALIDITY CHALLENGE AND CURATIVE AMENDMENT**

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1. Any person, partnership or corporation filing a validity challenge and curative amendment with the Board of Supervisors shall pay a fee of **\$900** at time of filing.
2. Any additional hearings beyond the first hearing shall be charged **\$500** per hearing to cover administrative expenses.

**SUBDIVISION AND LAND DEVELOPMENT FEES**

**1. CHANGES IN EXISTING LOT LINES:**

- A. An application fee of **\$300** shall be paid at the time an application for a review of a lot line change plan is submitted to the Township Office.
- B. At the time of filing a Lot Line Change Application, a deposit of **\$2,500** Professional Service Agreement Escrow shall be made to the Township to cover the costs of reviewing the plan as set forth in the Subdivision & Land Development Ordinance. The difference between the amount deposited and actual costs incurred to review the Plan, shall be charged or refunded to the Developer at the time the finalized. An executed Record Plan shall not be delivered to the Developer until all costs have been paid by the Developer. Costs shall be deducted from Escrow Monies as are incurred by the Township.
- C. All costs incurred by the Township in reviewing the Lot Line Change Plan shall be billed and paid by the Developer regardless whether Final Plans are approved or not. In no case will a Final Plan be approved and signed by Township Officials until costs due from the Developer are paid. Application fees are **NOT** refundable if Plans are withdrawn after the application and Plans are considered received by the Planning Commission of Lower Milford Township.

**2. SUBDIVISION OF TWO (2) OR MORE LOTS:**

**ESCROW**

- A. (1) At the initial filing of an application for review of a Subdivision Plan having 2 to 9 lots, a Deposit of **\$7,000** for Professional Service Agreement Escrow shall be made.  
(2) A Subdivision Plan of 10 or more lots shall make a deposit of **\$10,000** for Professional Service Agreement Escrow.
- B. When the balance in Escrow falls to **\$3,000** an additional **\$3,000** deposit shall be made to cover further costs. These monies shall be paid to the Township to cover the costs of reviewing the subdivision as set forth in the Subdivision and Land Development Ordinance. The difference between the amount deposited and actual costs incurred to review the Plans, shall be charged or refunded at the time

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the Subdivision Plans are finalized. A quarterly statement will be sent to the Developer reflecting the Escrow balance.

- C. An executed record Plan shall not be delivered to Developer for recording until all costs have been paid by Developer. Costs shall be deducted from the Escrow Account monies as are incurred by the Township.
- D. All costs incurred by the Township for reviewing the Subdivision Plans shall be billed and paid by the Developer regardless whether the Final Plan be approved or not. In no case will a Final Plan be approved or signed by the Township Officials until costs due from Developer are paid. Application Fees are not refundable if the Subdivision is considered received by the Planning Commission of Lower Milford Township as defined in the Lower Milford Township Subdivision and Land Development Ordinance.

APPLICATION FEES

- A. SKETCH PLAN (Optional): If a Sketch Plan is submitted, a Fee of \$500 plus \$50 per lot shall be paid at the time an application for review of a Sketch Plan is submitted to the Planning Commission at the Township Office.
- B. PRELIMINARY SUBDIVISION PLAN APPLICATION:  
A Fee of \$500 plus \$100 per lot shall be paid at the time an application for review of a Subdivision Plan and required attachments are submitted to the Township Office.
- C. FINAL SUBDIVISION PLAN APPLICATION:  
A Fee of \$500 plus \$50 per lot shall be paid at the time an application for review of a Final Plan with required attachments are submitted to the Township Office.

3. LAND DEVELOPMENT PLAN:

ESCROW

- A. (1) A deposit of \$7,000 for Professional Service Agreement Escrow shall be made for development of 5 or less acres;  
(2) \$10,000 for over 5 acres.
- B. When the balance in Escrow falls to \$3,000, an additional \$3,000 deposit shall be made to cover further costs. These monies shall be made to the Township to cover costs of reviewing the land development as set forth in the Subdivision and Land Development Ordinance.

The difference between the amount deposited and actual costs incurred to review the Plans shall be charged or refunded at the time the Land Development Plans are finalized.

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A quarterly statement will be sent to the Developer reflecting the Escrow balance.

C. An executed record Plan shall not be recorded until all costs have been paid by Developer. Costs shall be deducted from the Escrow Account monies as incurred by the Township.

D. All costs incurred by the Township reviewing the Land Dev. Plans shall be billed and paid by the Developer regardless whether the Final

Plan be approved or signed by the Township Officials. Application Fees are not refundable if the Land Development Plans are considered received by the Planning Commission of Lower Milford Township as defined in the Lower Milford Township Subdivision and Land Development Ordinance.

**APPLICATION FEE**

A. SKETCH PLAN SUBMISSION (Optional):

If a Sketch Plan is submitted, an application Fee of \$500 shall be paid to the Township Office.

B. PRELIMINARY PLAN SUBMISSION:

A Fee of \$500 shall be paid to the Township Office for Preliminary Plan Application.

c. FINAL PLAN SUBMISSION:

A Fee of \$500 shall be paid to the Township Office for Final Plan Application.

**ON-LOT SEWAGE FEES**

The following fees shall be paid in connection with the approval of on-site sewage systems and the subsequent maintenance of malfunctioning systems:

(A) PERMITTING (per lot or EDU) \*\*\*:

Permit Application and Issuance - per lot

Individual-Conventional/Residential	\$220.00
Design Review	220.00
Site Verification Inspection	220.00
Commercial/Experimental	125.00/hr.

(B) INSPECTION\*\*\*:

Final Inspection/per Inspection	\$220.00
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(C) SOIL TESTING\*, \*\*\*:

Soil Profile Evaluation (up to 3 profiles)	\$450.00
Complete Percolation Test (6 hole test) **	\$750.00

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Perc Test Observation (per test)	\$500.00
(D) PLANNING***:	
Planning Module/Plan Reviews, Site Visits	\$125.00/hr.
(E) ADMINISTRATIVE SERVICES:	
Testing/Research/Enforcement/Summary Report	\$125.00/hr.

\*Subdivisions and Land Developments require replacement area testing.

\*\*Test site must be accessible by pick-up truck

\*\*\* Includes ten percent (10%) municipal fee

**LIMEPORT WWTW SEWERAGE TAPPING AND USER FEES**

A wastewater treatment facility has been constructed to serve the Village of Limeport, tapping and user fees are charged to those properties served by the treatment facility in accordance with Ordinance No. 116, enacted the 18<sup>th</sup> day of February 2010.

TAPPING FEE PER EDU \$ 4,243.00

ANNUAL USER FEE PER EDU \$ 1,200.00

**NEW CONNECTIONS OUTSIDE THE EXISTING LIMEPORT SEWERAGE AREA:**

1. Planning Module review and approval:
  - a. A \$2,500 Professional services agreement escrow must be established
  - b. Billed on hourly rates in accordance with municipal engineering service fees.
2. Construction and connection fees are in accordance with new connections within the existing Limeport sewerage area.
  1. All connections shall require the use of a grinder pump in accordance with the standard sewer specifications of Lower Milford Township.
  2. The property owner is responsible to submit plumbing, electrical and any other applicable permit applications. Application fees will be calculated in accordance with the current fee schedule established by the Board of Supervisors.
  3. The property owner is responsible for the purchase and installation of the lateral, lateral kit and grinder pump and wet-well in accordance with the standard sewer specifications of Lower Milford Township.
  4. After a 1-year maintenance period, the property owner shall dedicate the pump and lateral to Lower Milford Township. After the 1-year



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maintenance period the township will assume the maintenance of the pump.

5. Prior to the end of the 1-year maintenance period, the property owner will prepare a declaration of easement to Lower Milford Township in a form acceptable to the Township. The easement shall be of sufficient area to allow for the maintenance of the sewer lateral and pump.
6. Review of the associated permit applications, plans, equipment, installation and easements will be performed by the Township Engineer and solicitor at the Township's applicable compensation rate for such services

**LATE FEE FOR QUARTERLY SEWER PAYMENTS:**

A fee of **\$20** will be charged to accounts that fail to make their quarterly payment to the Limeport WWTP. The late fee of **\$20** will be charged to users each month that the quarterly payment is not paid in full

**ATTORNEY'S FEE:**

Attorney's fees for preparation of a lien for the collection of any delinquent account - **\$175.00**

**FLOODPLAIN ADMINISTRATION**

A **\$2,500** deposit for Professional Service Agreement Escrow shall be deposited for the Township Engineer to review plans and applications as set forth in the Floodplain Ordinance, in accordance with the Engineer fees.\*

Zoning Permit, Building Permit and Inspection fees shall follow the foregoing fee schedule in accordance with the proposed use.

\*Should the escrow account fall below **\$1,000** before completion of review, an additional **\$1,000** shall be deposited.

**WIRELESS COMMUNICATION FEES**

1. Review of Building Permit Application and accompanying plans and data:
  - a. Billed at applicable hourly rate of **\$117.00/hr.**
  - b. A deposit of **\$2,500** for Professional Service Agreement Escrow is required (new and co-location on existing structures)
2. Inspections:
  - a. **\$117.00/hr.** as needed according to plans
  - b. **\$117.00/hr.** as needed for re-inspection

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3. Building Permit Fees:

- a. New tower and equipment structures, **\$2,109.00** up to 1,000 square feet of disturbed area
- b. **\$50** each additional 100 square-foot increment, rounded up to the next full increment
- c. Co-location on existing structure, **\$1,018.00** (includes equipment structures)

**TIMBER HARVEST**

The following fees shall be charged in connection with Timber Harvest activities:

1. An application fee of **\$1,000.00** will be charged.
2. An Erosion and Sedimentation control permit will be required, and fees will be charged in accordance with the foregoing fee schedule.
3. A Temporary driveway permit may be required (Township or State). Fees for township road driveway permits are charged in accordance with the foregoing fee schedule.

**SOLICITATION FEES**

A Solicitation permit is required at a fee of **\$50.00**. See permit for additional application requirements.

**SPECIAL EVENT PERMIT FEES**

In accordance with Resolution 2023-13, the following fees shall be charged for a special event permit application:

Special Event Permit Application Fee (filed 30 days prior)	<b>\$50.00</b>
501 c(3) Non-profit Organization Permit Application Fee	<b>\$25.00</b>
Late fee (filed less than 30 days prior to the event)	<b>\$25.00</b>
Street Closing - Fees to be charged hourly at the fully loaded overtime rate of the responding Public Works Department employee(s), as determined by the Township Treasurer	

**FIREWORKS DISPLAY**

A permit shall be required for fireworks displays within the township at a fee of **\$50.00**. See permit for additional application requirements.

**ELECTED TAX COLLECTOR FEES**

Tax Certifications:	<b>\$15.00</b>
Tax Duplicates:	<b>\$5.00</b>
Returned Check: current bank fee (no additional fee is added)	
Refunds: If there is an overpayment of a bill, a refund will be issued if it is greater than \$1.00	

**RECORDS REQUESTS/COPIES/ORDNANCES/MAPS**

Fees for copies and/or Township records requests shall be paid in accordance with Resolution 2020-4,

Zoning Ordinance	<b>\$40.00</b>
Subdivision and Land Development Ordinance	<b>\$30.00</b>
Standard Construction Details & Specifications	<b>\$5.00</b>

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All other ordinances	\$ .25 per page per side
Large Zoning Map	\$16.50
Small Zoning Map	\$4.00

Items requiring outside reproduction will be charged at the actual cost incurred by the Township.

**ADDITIONAL ADMINISTRATION FEES**

For all initial escrow deposits over \$2,500, funds will be placed in an interest-bearing account and a 2% administrative fee will be charged on all escrow disbursements excluding account balance refunds.

All initial escrow deposits \$2,500 and under will be non-interest bearing and will be maintained in a general township escrow account. A one (1) time administrative fee of \$10 will be deducted from the balance.

A return check fee will be charged on all returned checks in accordance with the Township's incurred charge.

ALL ESCROW DEPOSIT accounts having a balance of \$5 or less upon completion of permitting and/or project will be closed and transferred to the Township's General Fund.

**ORDINANCE NO. 118 - REVISED APPENDIX A**

Strip/Stockpile Clearing	\$ 2.91 per sq. yard
12" Subgrade Cut or Fill	7.32 per sq. yard
6" Subbase 2A Stone	16.71 per sq. yard
4" 25mm Base Course	41.73 per sq. yard
2" 19mm Binder Course	18.52 per sq. yard
Sweep/Tack Coat	4.40 per sq. yard
1.5" 9.5mm Wearing Course	<u>19.92 per sq. yard</u>
<b>Total</b>	<b><u>\$111.51 per sq. yard</u></b>
 Curb	 \$23.44 per linear foot
Sidewalk	\$9.39 per square foot

ENACTED AS A RESOLUTION BY THE BOARD OF SUPERVISORS OF LOWER MILFORD TOWNSHIP, LEHIGH COUNTY, PENNSYLVANIA, THIS 6<sup>th</sup> DAY OF JANUARY 2025.

LOWER MILFORD TOWNSHIP

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ATTEST:

Emily Mei  
Township Secretary

BOARD OF SUPERVISORS

Glenn D. Kipeli  
Chair

Donald F. Burk  
Vice-Chair

Jack W.  
Supervisor



**COWAN ASSOCIATES, INC.**  
**UCC Permit Price List**  
**Lower Milford Township**  
**Effective January 1, 2025**

	PERMIT TYPE	FIXED FEE	HOURLY RATE	NOTES
A	<b>Residential Construction</b>			
	<b>Commercial Construction</b>			
	<b>Erosion and Sedimentation</b>			
	<b>Stormwater Management</b>			

D	Detached/Accessory Buildings			
1	Garages/Accessory Structure	\$611.00		Electric, Plumbing and Mechanical Permits are Additional
2	PA Labor and Industry Permit Fee	\$4.50		Applies to each permit card issued
E	Swimming Pools			
1	Above Ground Pool	\$307.00		24" depth or greater
2	In Ground Pool	\$989.00		Electric, Plumbing and Mechanical Permits are Additional
3	Hot Tub/Spa	\$308.00		Electric, Plumbing and Mechanical Permits are Additional
4	PA Labor and Industry Permit Fee	\$4.50		Applies to each permit card issued
F	Driveway Permit			
1	Residential	\$197.00		Plan review and up to two (2) inspections
2	Commercial	\$301.00	\$117.00/Hr.	Permit Only Plan Review and Inspection at Hourly Rate
G	Miscellaneous			
1	Retaining walls (over four feet high)	\$319.00	\$117.00/Hr.	Permit Only Plan Review and Inspection at Hourly Rate
2	Photovoltaic (Solar) Power Systems	\$413.00		
3	Electric Vehicle Charging Station	\$319.00		
4	Standby Generator	\$319.00		
H	Clerical			
1	Letter and Legal Size Photo Copies	\$0.80		Per sheet
2	Plan Copies (Medium) 24" x 36"	\$8.50		Per sheet
3	Plan Copies (Large) up to 36" x 48"	\$16.50		Per sheet
4	File Retrieval/Photo Copying		\$117.00/Hr.	\$250.00 Deposit Escrow Required

Note: Any person who commences any work before obtaining the necessary permits shall be subject to 100% of the usual permit fee in addition to the required permit fees.

**ORDINANCE NO. 127**

**AN ORDINANCE OF THE TOWNSHIP OF LOWER MILFORD AMENDING THE ZONING ORDINANCE TO REVISE, CLARIFY AND EXPAND PROVISIONS RELATED TO RESIDENTIAL USES, AGRICULTURAL USES, DEFINITIONS AND OTHER REVISIONS AND CLARIFICATIONS**

**WHEREAS**, The Township of Lower Milford enacted a Zoning Ordinance, Ordinance Number 114, on July 20, 2009; and

**WHEREAS**, The Township now desires to amend the Zoning Ordinance to revise, clarify and expand the provisions for residential uses, agricultural uses, definitions and other revisions and clarifications.

**NOW, THEREFORE, BE IT ORDAINED AND ENACTED** that the Zoning Ordinance of Lower Milford Township be amended as follows:

**ARTICLE II** Definition of Terms - The following definitions are hereby added or altered:

**AGRICULTURE**: The cultivation of the soil and the raising and harvesting of the products of the soil including but not limited to, raising of grains, vegetables and fruits; vineyards; nurserying; horticulture; forestry; beekeeping; and animal husbandry of common domestic farm animals and birds such as cows, horses, sheep, hogs, goats, rabbits, chickens, ducks, turkeys, pigeons, llamas, alpacas, emus, rheas, and similar non-predatory animals and birds pursuant to the regulations of this Ordinance. The raising or keeping of minks, or garbage-fed pigs, is prohibited. The keeping of domestic or other animals or birds as pets or for domestic purposes shall not be construed as agriculture.

**ANIMAL HUSBANDRY** – The raising and/or keeping of common domestic farm animals and birds, all as defined under **AGRICULTURE**, with the intent of producing capital gain or profit through the selling of any animal or bird products. The keeping of domestic or other animals or birds as farm pets, or for domestic purposes pursuant to the regulations of this Ordinance, shall not be construed as animal husbandry.

**CLEAR-CUTTING** –The uniform felling and/or removal of all trees on a given tract of any size, or any portion of a tract greater than one-half (0.5) acre in contiguous area, during a single timber harvesting operation or within a three (3) year period. See also “**SELECTIVE CUTTING**.”

**COMMON DOMESTIC COMPANION ANIMALS (PETS)** – The non-commercial keeping or raising of domestic companion pets for personal enjoyment or domestic purposes, such as dogs, cats, and common house birds. This can also include certain common domestic farm animals kept as pets or for domestic purposes subject to the limitations of this Ordinance.

**COMMON DOMESTIC FARM ANIMALS** – Livestock such as horses, cattle, sheep, pigs or other domestic animals commonly thought of as farm animals, and small animals such as poultry, rabbits, or other animals commonly thought of as farm animals, may be kept as personal pets. This does not include domestic companion animals (pets) such as dogs or cats. This does not include any animals or birds kept for slaughter, or animals or birds kept with the intent of producing capital gain or profit through the selling of animal or bird products.

**GROUP HOME** - A dwelling unit operated by an individual, family or organization with a program to provide a supportive living arrangement for individuals where special care is needed by the persons served due to age, emotional, mental, developmental or physical disability. This definition shall expressly include facilities for the supervised care of persons with disabilities subject to protection under the

Federal Fair Housing Act as amended, but not including any use that is a criminal treatment center. Group homes must be licensed where required by any appropriate government agencies, and a copy of any such license must be delivered to the Zoning Officer prior to the initiation of the use. A Group Home typically involves an individual residing on the premises for more than 30 days at a time.

- A. Group homes shall be subject to the same limitations and regulations by the Township as the type of dwelling unit they occupy.
- B. It is the express intent of the Township to comply with all provisions of the Federal Fair Housing Act, as amended, and regulations promulgated thereunder, in the construction of this term.
- C. Group homes shall not include halfway homes, work release or any home or facility designed for the rehabilitation of juvenile or adult criminal violators, or any person who constitutes a direct threat to the physical safety of others, including but not limited to, persons prone to physical violence against persons or property.

**KENNEL** – An establishment equipped with pens, yards, runways or other appurtenances specifically designed or intended for the breeding, boarding, or training of dogs, where the dogs will remain on the property for a minimum of 24 hours, for compensation.

**NON-NUISANCE INDUSTRY** – Any industry which is not detrimental to the environment in which it is located by reason of the emission of smoke, noise, odor, dust, vibration, or excessive light, beyond the limits of its lot, or by reason of generating excessive traffic with attendant hazards. Non-nuisance industry may include contracting uses such as offices and supply shops for uses relating to building supplies, electric, heating, plumbing, masonry, painting, roofing, and similar trades, as well as indoor business endeavors such as those enumerated in Article XIII D (uses only as permitted in each District) and subject to all regulations in Article XIII including but not limited to parking, signs, lights, and physical performance requirements under Section 1306.

**REASONABLE ACCOMMODATION** – Modifications or exceptions to rules, policies, practices, or services when necessary to afford persons with disabilities an equal opportunity to the enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms.

**SECONDARY FARM FAMILY BUSINESS** - An agricultural accessory use of non-nuisance industry such as repair of agricultural equipment, butcher shop, processing of local agricultural products, farm to table food preparation or classes, or other types of agricultural businesses which provide a secondary source of income to the primary agricultural use. Any such use must meet non-nuisance industry guidelines regarding the emission of smoke, noise, odor, dust, light, and all physical performance requirements listed in Section 1306.

**TEMPORARY DWELLING FOR FAMILY MEMBER(S)** – A second detached dwelling unit for the express purpose of housing certain family members of the occupants of the primary dwelling located on the property in accordance with criteria found in Article XII, Section 1200.A.

**TIMBER HARVESTING PLAN** – A plan submitted in conformance with the provisions set forth in Article XII, Section 1200.A. of this Ordinance, which describes, by means of text and maps, proposed actions involving the removal of trees from a tract of land. Such plan shall have been prepared by a professional with demonstrated expertise in forest management, and shall document measures to be taken to: protect water quality; minimize impacts from skid trails and logging roads, landing areas, and the tree removal process; and ensure site restoration. A Forest Stewardship Plan that promotes the use of BMPs



and is consistent with the Sustainable Forestry Initiative may be part of a Timber Harvesting Plan submittal, as provided for in Section 1200.A.

**TREE MASS (PLANT COMMUNITY)** - groups of plants sharing a common environment that interact with each other, animal populations, and the physical environment such that the mass of trees, vines, hedges or other plant material intertwine to create a nearly-impenetrable forest line. Tree masses can include forest interior habitat. Any construction or disturbance to a tree mass or plant community shall be calculated according to the tree protection zone.

**VETERINARY HOSPITAL** – A place where animals or pets are given medical or surgical treatment, which can include outdoor runs and overnight boarding of animals. Boarding of animals in certain Districts may be limited to indoor only, short-term care incidental to hospital use.

**WILDLIFE REHABILITATION CENTER** – A building, structure, pen or portion(s) thereof or an area of land where animals are housed, kept or maintained for the purpose of wildlife rehabilitation, whether the animal can be released into the original habitat after care or not, or which offers animals commonly known as wildlife medical care and treatment.

**ARTICLE III** Section 301. Use Regulations in the AC-Agricultural Conservation District is amended to add the following subsection:

- A.1.m. Group Home
- A. 2.k. Kennels.
- B.8. Veterinary hospitals.
- D.5 Reference to Ordinance No. 53 is changed to Ordinance No. 58
- D.8. Agriculture.

**ARTICLE IV** Section 401. Use Regulations in the RC-Resource Conservation District is amended to add the following subsection:

- A.1.1. Group Home
- B.16. Veterinary hospitals and kennels.
- C. Uses permitted as conditional use
  - Use 3 is deleted and the remaining uses renumbered accordingly 3-8
- D.5. Reference to Ordinance No. 53 is changed to Ordinance No. 58
- D.8. Agriculture.

**ARTICLE V** Section 501.

- A.8. Group Home
- B.9. Veterinary hospitals, kennels and animal rescue shelters.
- C.2. is deleted, and remaining Uses numbered 2-4
- D.6 Reference to Ordinance No. 53 is changed to Ordinance No. 58
- D.8 Agriculture.

**ARTICLE VI** Section 601.

- A.8. Group Home
- B.9. Kennels
- C.4. Veterinary hospital, excluding veterinary hospitals offering commercial boarding using outdoor runs.
- D.6 Reference to Ordinance No. 53 is changed to Ordinance No. 58
- D.8. Agriculture.

**ARTICLE VII** Section 701. Use Regulations in the VC-Village Center District is amended to add the following subsection:

A.20. Group Home

B.6. Veterinary hospital, excluding veterinary hospitals offering commercial boarding using outdoor runs.

D.5. Reference to Ordinance No. 53 is changed to Ordinance No. 58

D. 7. Agriculture.

**ARTICLE X** Section 1001. H. Maximum Disturbance is amended for Class II Woodlands from 15% to 20%

Section 1004.

A.3. Except on areas of very steep slopes, permitted woodland disturbance on any lot or tract shall not exceed twenty (20) percent of any area designated Class II Woodland on the adopted Lower Milford Township Woodland Classification Map.

C.2.b. Heritage Trees, Heritage Vegetation, and/or Higher Value Species;

Section 1005. Heritage Trees – Subsection C. Any Timber Harvest involving Heritage Trees shall require a special exception in all Districts. In addition to meeting the standards set forth in Article XIV, Section 1403.B., the following standards shall also apply.

1. No Heritage Trees may be removed without having been surveyed and identified by a certified arborist or forestry engineer.

2. No Heritage Trees shall be removed without presentation of a plan for replacement in accordance with the provisions in Article X.

3. Trees or other plants that have been determined by a certified arborist or forestry engineer to be dead or diseased or in any manner constituting a safety hazard shall not be considered Heritage Trees for the purposes of protection and replacement.

Section 1009.F.1.b. Ratio for Class II Woodlands. Remove, *Regulated by Underlying Resource* and insert 80%

**ARTICLE XII** Supplementary Regulations, Section 1200. is amended to add or arrange the following subsections:

A.2. Agriculture

Agriculture shall be permitted by right in the AC, RC, RR-1 and RR-2 Districts, and as an accessory use in all districts, subject to the following standards.

A.2.b. Animal Husbandry, including the use of barns, animal shelters, or other structures commonly associated with animal husbandry, shall be permitted by-right in the AC, RC, and RR-2 Districts subject to the following standards, but shall exclude any agricultural activity meeting the definition of Intensive Agriculture, which are subject to conditional use approval in accord with Article XII, Section 1200.A.3.

A.2.d. original is omitted.

A.2.d. No slaughtering operations for commercial purposes shall be permitted.

A.2.e. All manure management practices and operations shall comply with the applicable regulations of the Pennsylvania Department of Agriculture and the Department of Environmental Protection.

A.4. Animal Rescue Shelter or Wildlife Rehabilitation Center

- b. The Zoning Hearing Board shall consider the nature and character of the surrounding neighborhood, as well any impact on the surrounding properties consistent with Article XIV, Section 1403, with special attention in the case of a wildlife rehabilitation center, to the general safety, health and general welfare of the community.
- c. The applicant shall explain measures that will ensure that the proposed use will comply with all nuisance regulations including but not limited to noise, odor, and waste management, along with a plan for storage and disposal of deceased animals within 24 hours of an animal's death.
- d. Any shelter building, structure, pen, feed yard, or manure storage area shall be located at least one hundred (100) feet from any lot line, seventy-five (75) feet from any street line, and five hundred (500) feet from all existing dwellings except any dwelling located on the same property.
- e. No outdoor free roaming or running animals are permitted. All wildlife rehabilitation animals shall be kept indoors or outdoors only on a leash under the full control of the owner, or within a secure, completely enclosed cage or fenced area of sufficient height to prevent escape from the property. Facilities and outdoor cages must be locked and constructed to reasonably secure the containment of wildlife being rehabilitated and ensure the exclusion of other wild and domestic animals from the facility.

#### A.9. Common Domestic Farm Animals as Pets

Non-traditional pets (i.e. other than dogs, cats or common house birds) can be kept according to the following limitations:

- a. Small common domestic farm animals such as poultry, rabbits or other small non-nuisance animals (excluding mink, roosters and garbage fed pigs) may be kept as domestic pets on residential properties in all districts. Unless the parcel is over 3 acres, the number of small animals shall not exceed twelve (12) aggregate. Roosters are not permitted on residential properties under three (3) acres in RR-2 or VC Districts. Coops or shelters must be located in rear yards and meet a minimum of twenty-five (25) foot setback from both side and rear property lines.
- b. Large and medium sized and additional numbers of small common domestic farm animals and birds may be kept as pets or for domestic purposes (other than animal husbandry or qualifying as Intensive Agriculture) on a parcel of at least three (3) acres in the AC, RC, and RR-2 Districts, and which meets the minimum yard requirements pursuant to the following requirements:
  - 1) One (1) large animal such as a horse, cow, or pig, four (4) medium sized animals such as sheep; or not more than twenty-five (25) poultry, fowl, rabbits, or other small animals (excluding minks and garbage fed pigs) for the initial three (3) acres;
  - 2) One (1) additional large animal per added 1 ½ acres, or four (4) additional medium sized animals, or twenty-five (25) additional small animals (excluding mink) may be kept per each additional acre;
  - 3) Animal shelters for animals kept as pets or for domestic purposes on parcels over three (3) acres but less than ten (10) acres shall meet the following setbacks:
    - i. for large and medium sized animals: such shelters shall be three hundred (300) feet from any existing dwelling other than the owner's, seventy-five (75) feet from all street lines, and one hundred (100) feet from all lot lines.
    - ii. for under forty (40) small animals: such shelters must be twenty (20) feet from all lot lines.
    - iii. for over forty (40) small animals: such shelters must be three hundred (300) feet from existing dwellings, except the owner's, seventy-five (75) feet from all street lines, and one hundred feet (100) from all lot lines.

#### A.10. Communications Antennas and Communications Equipment Buildings by Permitted Use

#### A.11. Communications Towers as Conditional Uses

#### A.12. Day Care Centers for Children and Older Adults

A.13. Group Home

- a. Zoning permit applications for a Group Home shall include a statement setting forth full particulars on the operation to be conducted, and to file with the Township the approvals of the Pennsylvania Department of Health, Labor and Industry, State and Public Welfare, Human Relations Commission, as well as to Title VI of the Civil Rights Act of 1964, where applicable; and
- b. Any Group Home with at least 4 residents shall provide the Township with copies of any required certification from sponsoring agencies, including but not limited to, the Federal Housing Authority or the Pennsylvania Department of Public Welfare, on an annual basis.
- c. There shall be no more than 6 residents in any Group Home.
- d. There shall be 24-hour supervision by people qualified by training and experience in the field for which the group home is intended.
- e. The use shall be licensed under any applicable State program.
- f. Any medical or counseling services provided shall be only for residents.
- g. One off-street parking space shall be provided for a) the supervisor, b) each additional employee per shift, c) every 2 residents.
- h. The Group Home activity shall not be related to criminal rehabilitation of either juveniles or adults.
- i. In any case where an applicant seeks a reasonable accommodation of any of the standards and conditions herein pursuant to provisions of the Fair Housing Act, a written application shall be filed with the Zoning Hearing Board.

A.14. Golf Course

A.15. Heliports

A.16. Home Related Business

A.17. Kennels

- a. The minimum lot size shall be one (1) acre.
- b. All kennel pens and sales areas associated with kennels shall not be located closer than one hundred (100) feet from all property lines and street right-of-way lines, except if the owner of the prospective structure owns land on the other side of the road opposite the location of the proposed structure. In this case, such structure need only be set back from the street right-of-way line fifty (50) feet.
- c. There shall be no outdoor activity conducted between 10:00p.m. and 6:00a.m. and there shall be no illuminated signs during such hours.
- d. Animal waste and all hazardous materials, including pesticides, shall be disposed of and stored outside of the required setbacks and buffer areas.
- e. (Original omitted.)

A.18. Membership Club or Lodge

A.19. Mobile Home Siting

A.20. Oil and Gas Well Operations

A.21. Open Pit Mining, Strip and Borrow Mining, and Related Aggregate Processing Facilities

A.22. Outdoor Farmers Market

A.23. Outdoor Recreation Uses

A.24. Private Landing Strips

A.25. Public and Private Academic Schools

A.26. Recreational Camping Park

A.27. Roadside Stands, Temporary

- A.28. Rural Occupations
- A.29. Solar or Other Alternative Energy Generation
- A.30. Stand-alone Wind Turbine
- A.31. Temporary Dwelling for Family Member(s)
- A.32. Temporary Structures and Uses

A.33. Timber Harvest

b. Any timber harvesting operation shall be undertaken in accordance with a Timber Harvesting Plan approved by the Township. All Timber Harvesting Plans shall be submitted to the Township for review for compliance with the standards for timber harvesting operations set forth herein. Within thirty (30) days of submission to the Township, a Timber Harvesting Plan shall be approved or denied.

c.2) Identification of all significant natural features on the property including steep slopes, wetlands, Riparian Buffer zones, Heritage Trees, Heritage Vegetation or Higher Value Species located within the area of timber harvest operations as defined in Article II.

d. Any permits required by any other agency under any applicable regulation shall be the responsibility of the landowner or timber harvesting operator as applicable. Copies of all required permits and a letter of adequacy from the Lehigh County Conservation District shall be submitted to Lower Milford Township before any timber harvest permit will be issued.

A.34. Winery

**ARTICLE XIII Section 1303. ACCESS DRIVEWAYS.**

A. All entrance or exit driveways for a public garage, public parking area, filling station, service station or car washing station shall have a minimum unobstructed width of ten (10) feet. Every combined entrance and exit access driveway shall have a minimum total unobstructed width of twenty (20) feet. All other driveways shall have a minimum width no less than ten (10) feet, and have a minimum width of twelve (12) feet within the legal right-of-way, unless otherwise regulated by PennDOT design standards.

**ARTICLE XIV.**

D. Reasonable accommodations. After having received a complete written application, the Zoning Hearing Board may grant a reasonable accommodation to specific section(s) of this Ordinance if the applicant proves to the clear satisfaction of the Zoning Hearing Board that such modifications are necessary to provide a reasonable accommodation under the Americans With Disabilities Act, 42 U.S.C. section 12101 et. Seq., and/or the Federal Fair Housing Act and/or applicable state and federal law, as amended, to serve persons who the applicant proves have disabilities as defined in and protected by such laws.

**REPEALER.** All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

**SEVERABILITY.** If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of Lower Milford Township, that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

**EFFECTIVE DATE.** This Ordinance shall become effective five (5) days after adoption.

as an Ordinance of the Township of Lower Milford this 20<sup>th</sup> day of April, 2016.

ATTEST:

Allen F. Kyler  
Township Secretary

LOWER MILFORD TOWNSHIP  
BOARD OF SUPERVISORS

[Signature]  
Chair

[Signature]  
Vice-Chair

[Signature]  
Supervisor

ORDINANCE NO. 138

AN ORDINANCE OF THE TOWNSHIP OF LOWER MILFORD AMENDING THE ZONING ORDINANCE BY REPEALING AND REPLACING ORDINANCE NO. 134 WITH AMENDMENTS THAT CLARIFY THE DELETION OF THE TERM NON-NUISANCE INDUSTRY, AMEND THE APPLICABILITY OF NATURAL RESOURCE PROTECTION STANDARDS TO LOT LINE ADJUSTMENTS THAT DO NOT PROPOSE ANY DEVELOPMENT, CORRECT USE A.9 *COMMON DOMESTIC FARM ANIMALS AS PETS*, AND REVISE CERTAIN REQUIREMENTS FOR THE MEDICAL MARIJUANA GROWER/PROCESSOR USE AND THE MEDICAL MARIJUANA DISPENSARY USE; AND BY AMENDING CERTAIN OTHER PROVISIONS TO REQUIRE SUBMISSION OF AN EROSION AND SEDIMENTATION CONTROL PLAN TO THE TOWNSHIP FOR TIMBER HARVESTING OPERATIONS, TO REMOVE THE REQUIREMENT FOR A LETTER OF ADEQUACY FROM THE LEHIGH COUNTY CONSERVATION DISTRICT FOR TIMBER HARVESTING OPERATIONS, AND TO ALLOW FOR WINERIES ON PARCELS UNDER 5 ACRES THAT DEMONSTRATE YEARLY GROSS INCOME OF AT LEAST \$10,000.

WHEREAS, The Township of Lower Milford, hereafter Township, enacted a Zoning Ordinance, Ordinance No. 114, on July 20, 2009; and

WHEREAS, The Board of Supervisors amended Zoning Ordinance No. 114 on April 20, 2016 by Ordinance No. 127; and

WHEREAS, the Township amended Zoning Ordinance No. 114 again on September 19, 2019 by Ordinance No. 134 to, inter alia, create an Expanded Development Overlay District with use regulations, and to add a Medical Marijuana Grower/Processor Use and a Medical Marijuana Distributor Use to certain zoning districts within the Township, along with associated definitions and use requirements; and

WHEREAS, The Township now desires to further amend the Zoning Ordinance by repealing and replacing Ordinance No. 134 to correct typographical errors, to eliminate the Expanded Development Overlay District, to modify certain requirements applicable to the Medical Marijuana Grower/Processor Use and the Medical Marijuana Distributor Use to better align with the requirements of the Pennsylvania Medical Marijuana Act, 35 P.S. § 10231.101 et seq.; and

WHEREAS, the Township also desires to amend certain other zoning provisions by amending the applicability of natural resource protection standards to lot line adjustments that do not propose any development, to require the submission of an erosion and sedimentation control plan to the township for timber harvesting operations, to remove the requirement for a letter of adequacy from the Lehigh County Conservation District for timber harvesting operations, and to allow for wineries on parcels under 5 acres in size that demonstrate yearly gross income of at least \$10,000, in accordance with the section 952 of the Agricultural Area Security Law, 3 P.S. § 952.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED that the Zoning Ordinance of Lower Milford Township and the Zoning Map attached thereto are to be amended as follows.

**SECTION 1.** Ordinance No. 134, adopted by the Board of Supervisors on September 19, 2019 and which became effective five (5) days thereafter, is hereby **REPEALED** and **REPLACED** with the following:

## ARTICLE II

Section 201 *Definition of Terms* is amended by deleting the following definition:

**INDUSTRY, NON-NUISANCE** – Any industry which is not detrimental to the environment of which it is located by reason of emission or smoke, noise, odor, dust, vibration or excessive light, beyond the limits of its lot, or by reason of generating excessive traffic with attendant hazards. Non-nuisance industry may include contracting uses such as offices and supply shops for uses related to building supplies, cement, electric, heating, plumbing, masonry, painting, roofing and similar trades.

Section 201 *Definition of Terms* is amended by adding the following new terms and definitions:

**MEDICAL MARIJUANA** – Marijuana for certified medical use as legally permitted by the Commonwealth of Pennsylvania pursuant to the Medical Marijuana Act.

**MEDICAL MARIJUANA ACT** – Act 16 of 2016, 35 P.S. §§ 10231.101--10231.2110, as amended.

**MEDICAL MARIJUANA DISPENSARY** – A person, including a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, which is registered by the Department of Health under the Medical Marijuana Act to dispense medical marijuana. The term does not include a Health Care Medical Marijuana Organization under Chapter 19 of the Medical Marijuana Act.

**MEDICAL MARIJUANA GROWER/PROCESSOR** – A person, including a natural person, corporation, partnership, association, trust, or other entity, or any combination thereof, which is registered by the Department of Health under the Medical Marijuana Act to grow and process medical marijuana. The term does not include a Health Care Medical Marijuana Organization under Chapter 19 of the Medical Marijuana Act.

## ARTICLE III AC - AGRICULTURAL CONSERVATION DISTRICT

Section 301 *Use Regulations*, subsection (A) Uses permitted by right, is hereby amended by deleting the following subsection:

1.k. Home related business, or rural occupation.

Section 301 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by deleting the following subsection:

9. Non-nuisance industry or secondary farm family business.



Section 301 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by inserting the following subsection:

13. Home related business, or rural occupation.

#### ARTICLE IV RC - RESOURCE CONSERVATION DISTRICT

Section 401 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by deleting the following subsection:

1.g. Home related business, or rural occupation.

Section 401 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by deleting the following subsection:

9. Non-nuisance industry.

Section 401 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by inserting the following subsection:

15. Home related business, or rural occupation.

#### ARTICLE V RR - 1 - RURAL RESIDENTIAL-1 DISTRICT

Section 501 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by deleting the following subsection:

7. Home related business.

Section 501 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by deleting the following subsection:

4. Non-nuisance industry.

Section 501 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by adding the following subsection:

8. Home related business.

Section 501 *Use Regulations*, subsection (C) *Uses permitted as conditional use*, is hereby amended by adding the following subsection immediately following subsection (5):

6. Medical marijuana grower/processor, as detailed in § 1200(A)(16).

#### ARTICLE VI RR - 2 - RURAL RESIDENTIAL-2 DISTRICT

Section 601 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by deleting the following subsection:

7. Home related business.

Section 601 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by deleting the following subsection:

4. Non-nuisance industry.

Section 601 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by adding the following subsection:

8. Home related business.

Section 601 *Use Regulations*, subsection (C) *Uses permitted as conditional use*, is hereby amended by adding the following subsection immediately following subsection (7):

8. Medical marijuana grower/processor, as detailed in § 1200(A)(16).

#### ARTICLE VII *VILLAGE CENTER DISTRICT*

Section 701 *Use Regulations*, subsection (A) *Uses permitted by right*, is hereby amended by deleting the following subsection:

19. Home related business.

Section 701 *Use Regulations*, subsection (B) *Uses permitted by special exception*, is hereby amended by adding the following subsection:

11. Home related business.

Section 701 *Use Regulations*, subsection (C) *Uses permitted as conditional use*, is hereby amended by adding the following subsection immediately following subsection (15):

16. Medical marijuana dispensary, as detailed in § 1200(A)(17).

#### ARTICLE XII *SUPPLEMENTARY REGULATIONS*

Section 1200 *Regulations Applying to Certain Uses and Districts* subsection A.9 *Common Domestic Farm Animals as Pets*, subsection a, is repealed and replaced with the following:

a. Small Common domestic farm animals such as poultry, rabbits or other small non-nuisance animals (excluding mink and garbage fed pigs) may be kept as domestic pets on residential properties in all districts. Roosters are permitted in all districts except residential properties under three (3) acres in the RR-2 or VC Districts. Unless the parcel is over 3 acres, the number of small animals shall not exceed twelve (12) aggregate. Coops or shelters must be located in rear yards and meet a minimum of twenty-five (25) foot setback from both side and rear property lines.

Section 1200 *Regulations Applying to Certain Uses and Districts*, is hereby amended by adding the following subsection immediately following subsection (15):

16. Medical Marijuana Grower/Processor

- a. A medical marijuana grower/processor shall provide proof of registration with the Department of Health or proof that registration has been sought and is pending approval; and shall at all times maintain a valid, accurate, and up-to-date registration with the Department of Health. Should registration be denied or revoked at any time, any approval or permit issued by the Township shall immediately become void.
- b. A medical marijuana grower/processor shall at all times operate in compliance with all Department of Health regulations pertaining to such facilities.
- c. A medical marijuana grower/processor shall comply with the area, bulk, and development regulations as set forth in § 502(C) and § 602(C) respectively depending upon the district in which the facility is to be located.
- d. The maximum floor area of a medical marijuana grower/processor shall be limited to 3,000 square feet, of which sufficient space must be set aside for secure storage of marijuana seeds, related finished product, and marijuana related materials used in production or for required laboratory testing.
- e. A building or structure used as part of a medical marijuana grower/processor operation shall not be located within 400 feet (measured by a straight line in all directions without regard to intervening structures or objects) from the nearest point on the property line of a parcel containing a public, private, or parochial school, day-care center, place of worship, public park, or community center. A minimum setback of 50 feet shall be required for all such buildings or structures. A medical marijuana grower/processor shall not be located closer than 500 feet (measured by a straight line in all directions without regard to intervening structures or objects) from the nearest point on the property line of a parcel containing another medical marijuana grower/processor or medical marijuana dispensary.
- f. A medical marijuana grower/processor must operate entirely within an indoor, enclosed, and secure facility that includes electronic locking systems, electronic surveillance and other features required by the Department of Health. The facility shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
- g. A medical marijuana grower/processor may not operate on the same site as a medical marijuana dispensary.
- h. All external lighting serving a medical marijuana grower/processor must be shielded in such a manner to not allow light to be emitted skyward or onto

adjoining properties, in addition to other applicable Zoning and Code requirements.

- i. There shall be no emission of dust, fumes, vapors or odors that can be seen, smelled, or otherwise perceived from beyond the lot line of the property where the medical marijuana grower/processor is operating.
- j. No one under the age of eighteen (18) shall be permitted in a medical marijuana grower/processor facility.
- k. A medical marijuana grower/processor shall provide only wholesale products to other medical marijuana facilities. Retail sales and dispensing of medical marijuana and related products are prohibited at medical marijuana grower/processor facilities.
- l. No use of medical marijuana shall be permitted on the premises of a medical marijuana grower/processor.
- m. A medical marijuana grower/processor shall provide one (1) off-street parking space per 500 square feet of gross floor area or per employee on the largest shift, whichever is larger.
- n. A landscaped buffer shall be placed and maintained along all side or rear property lines that abut a residential or institutional district or a residential or institutional use. The buffer shall consist of a thirty-five (35) foot wide planting area, containing hedges, evergreens, shrubbery, or suitable vegetation of sufficient planted density to produce a total visual screening consistent with the topography. Wherever possible, existing natural screening such as vegetation and topography shall be retained.
  - 1) All evergreen vegetation to be installed shall not be less than six (6) feet in height at the time of planting and shall be of such species that the expected height at maturity shall not be less than fifteen (15) feet.
  - 2) All deciduous material to be installed shall not be less than eight (8) feet in height or two-inch caliper.
- o. Entrances and driveways to a medical marijuana grower/processor must be designed to accommodate the anticipated vehicles used to service the facility.
- p. Loading and off-loading areas inside of the facility are preferred. If an external loading dock arrangement is designed, it must be within a secure area.

- q. Marijuana remnants and byproducts shall be secured and properly disposed of in accordance with the Department of Health's regulations and shall not be placed within any unsecure exterior refuse containers.
- r. A medical marijuana grower/processor shall submit a site plan for approval by the Township Engineer and a floor plan for approval by the Township Zoning or Building Code Official with regard to their respective compliance with applicable Township ordinances. The floor plan shall identify internal security measures.

17. Medical Marijuana Dispensary

- a. A medical marijuana dispensary shall provide proof of registration with the Department of Health or proof that registration has been sought and is pending approval; and shall at all times maintain a valid, accurate, and up-to-date registration with the Department of Health. Should registration be denied or revoked at any time, any approval or permit immediately shall become void.
- b. A medical marijuana dispensary shall at all times operate in compliance with all Department of Health regulations pertaining to such facilities.
- c. A medical marijuana dispensary shall comply with the area, bulk and development regulations as set forth in § 702.
- d. A medical marijuana dispensary shall not be operated or maintained on a parcel within 1,000 feet (measured by a straight line in all directions without regard to intervening structures or objects) from the nearest point on the property line of a public, private, or parochial school or day-care center. Nor shall a medical marijuana dispensary be located closer than 500 feet from another medical marijuana grower/processor or medical marijuana dispensary.
- e. A medical marijuana dispensary must operate entirely within an indoor, enclosed, and secure facility that includes electronic locking systems, electronic surveillance, and other features required by the Department of Health. The facility shall not be located in a trailer, cargo container, mobile or modular unit, mobile home, recreational vehicle or other motor vehicle.
- f. A medical marijuana dispensary may not operate on the same site as a medical marijuana grower/processor.
- g. All external lighting serving a medical marijuana dispensary must be shielded in such a manner to not allow light to be emitted skyward or onto adjoining properties, in addition to other applicable Zoning and Building Code requirements.

- h. There shall be no emission of dust, fumes, vapors or odors that can be seen, smelled, or otherwise perceived from beyond the lot line of the property on which the medical marijuana dispensary is operating.
- i. No one under the age of eighteen (18) shall be permitted in a medical marijuana dispensary, unless accompanied by a caregiver as required by section 506 of the Medical Marijuana Act.
- j. Medical marijuana dispensaries shall have a single secure public entrance and shall implement appropriate security measures to deter and prevent the theft of marijuana and unauthorized entrance into areas containing medical marijuana
- k. A medical marijuana dispensary shall satisfy the parking requirements set forth in section 1301(D)(3) of the Zoning Ordinance for a "Retail store, service, or shop not covered elsewhere."
- l. Marijuana remnants and byproducts shall be secured and properly disposed of in accordance with the Department of Health's regulations and shall not be placed within any unsecure exterior refuse containers.
- m. A medical marijuana dispensary shall submit a site plan for approval by the Township Engineer and a floor plan for approval by the Township Zoning Officer or Building Code Official with regard to their respective compliance with applicable Township ordinances. The floor plan shall identify internal security measures.

Section 1200 *Regulations Applying to Certain Uses and Districts*, is hereby amended as follows:

**26. Rural Occupations**

- c. *"The maximum building coverage for the lot shall not be exceeded."* is hereby deleted, and replaced with:  
  
*"Access to property must be on a through street; no access from a cul-de-sac or dead-end street is permitted."*

**SECTION 2.** The Lower Milford Township Zoning Ordinance, Article X *Natural Resource Protection Standards*, Section 1009 *Specific Applicability of Natural Resource Protection Standards*, subsection C *Application for Preliminary Subdivision Plan or Land Development*, is **REPEALED** and **REPLACED** with the following:

**C. Application for Subdivision Plan or Land Development.**

- 1. As part of a Sketch Plan submittal prior to the formal submittal of a Preliminary Subdivision Plan or Land Development, the applicant shall be required to submit an Existing Features Plan

with the Sketch Plan that together demonstrate the development's compliance with the natural resource protection standards. The Existing Features Plan shall be prepared and submitted as specified in Section 300 of the Lower Milford Township Subdivision and Land Development Ordinance. For Sketch Plan purposes only, the most current GIS mapped information available from the Lehigh Valley Planning Commission, Lehigh County, Lehigh County Conservation District, Lower Milford Township, PA Spatial Data Access (PASDA) or USGS maps, may be substituted for field-survey information.

2. As part of a Preliminary Subdivision Plan or Land Development application, the applicant shall be required to submit an Existing Features Plan and Preliminary Plan that together demonstrate the development's compliance with the natural resource protection standards. The Existing Features Plan shall be prepared and submitted as specified in Section 300 of the Lower Milford Township Subdivision and Land Development Ordinance.
3. Where an application seeks a lot line adjustment and no development is proposed now or in the future or where a lot has already been approved, the standards set forth in this article shall not apply.

**SECTION 3.** The Lower Milford Township Zoning Ordinance, Article XII *Supplemental Regulations*, Section 1200 *Regulations Applying to Certain Uses and Districts*, subsection 31 *Timber Harvesting Operations*, subsection d is hereby REPEALED and REPLACED with the following:

- d. Any permits required by any other agency under any applicable regulation shall be the responsibility of the landowner or timber harvesting operator as applicable. Copy of all required permits and an erosion and sedimentation control plan shall be submitted to Lower Milford Township at least forty-five (45) days prior to commencement of the timber harvesting operation.

**SECTION 4.** The Lower Milford Township Zoning Ordinance, Article XII *Supplemental Regulations*, Section 1200 *Regulations Applying to Certain Uses and Districts*, subsection 32 *Winery*, subsection d is hereby REPEALED and REPLACED with the following:

- d. The minimum lot area for establishment of a winery is five (5) acres unless, in accordance with the definition of "normal agricultural operation" in section 952 of the Agricultural Area Security Law, 3 P.S. § 952, an applicant establishes that the winery will have an anticipated yearly gross income of at least \$10,000, in which case no minimum lot area requirement shall apply.

**SECTION 5. Repealer**

All Ordinances or parts of Ordinances that are inconsistent herewith are hereby repealed. Specifically, Ordinance No. 134, adopted on September 19, 2019, is hereby repealed.

**SECTION 6. Severability.**


If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of Lower Milford Township, that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

**SECTION 8. Effective Date.**

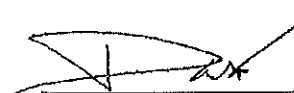
This Ordinance shall become effective five (5) days after adoption.

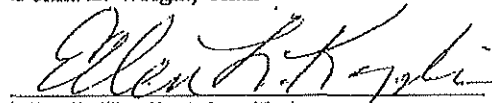
ENACTED as an Ordinance of the Township of Lower Milford this 18<sup>th</sup> day of March, 2021.

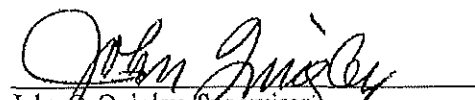
ATTEST:

  
Township Secretary

LOWER MILFORD TOWNSHIP  
BOARD OF SUPERVISORS

  
Donna L. Wright, Chair

  
Ellen L. Koplin, Vice-Chair

  
John C. Quigley, Supervisor



## ARTICLE X

### NATURAL RESOURCE PROTECTION STANDARDS

#### Section 1000. INTENT

The Natural Resource Protection Standards of this Article are established to protect the public health, safety, and welfare by minimizing adverse environmental impacts. These standards are intended to meet the following purposes.

- A. Define and delineate selected natural resources within the Township and establish resource protection standards to assist the Township in reducing the impact proposed uses will have on the environment, consistent with the *Southwestern Lehigh County Comprehensive Plan*.
- B. Conserve and protect areas which are naturally unsuitable for development or which provide valuable wildlife habitat or water resource values, including streams and riparian zones, steep slopes, floodplains, woodlands, wetlands, and hydric soils.
- C. Guide the location of proposed land uses in order to maximize protection of natural resources.
- D. Match the density or intensity of a proposed development with a site's natural resource-based carrying capacity.

#### Section 1001. GENERAL APPLICABILITY OF PROTECTION STANDARDS

- A. In the event that the provisions of this Article and any other provisions of the Township Code are in conflict, the more restrictive provisions shall apply.
- B. In the event that two or more natural resource areas identified in this Article occur on the same lot or tract, disturbance limitations shall be measured separately. Where such resource areas overlap, the most restrictive standard (the least amount of permitted alteration, regrading, clearing, or building) shall apply to the area of overlap.
- C. It shall be a violation of this Ordinance to regrade, fill, pipe, divert, channel, build upon, or otherwise alter or disturb a natural resource protected by this Article prior to the submission, review, and approval of any applicable application for zoning or building permit(s), conditional use or special exception approval, zoning variance, or subdivision or land development plan(s).
- D. Limitations to the disturbance of resources shall apply before, during, and after construction on a site.

- E. Disturbance limitations, established as a maximum percentage of permitted disturbances, shall be applied concurrently as a percentage of each applicable resource area to the extent that it is present on the entirety of any tract or any lot AND as a percentage of the area within each discrete resource area measuring one acre or more. A discrete resource area is the entirety of any single contiguous area comprising any one resource regulated by the provisions of this Article. Any area of resource overlap shall be measured as part of the contiguous resource area with the most restrictive disturbance limitation. For example, if disturbance of twenty-five (25) percent of a particular resource area is permitted, then it shall apply as twenty-five (25) percent of the total area of that resource on the applicable lot or tract. In addition, the twenty-five (25) percent limitation shall apply individually to each discrete resource area measuring one acre or more, regardless of whether, collectively, such areas comprise twenty-five (25) percent of all areas of such resource on the applicable lot or tract.
- F. Disturbance limitations shall be applied based on the occurrence of identified resource areas at the time of adoption of this Article. Disturbance permitted over time in multiple applications on the same lot or tract shall be measured against the same overall limitations established at the time of the first application after the adoption of this Article. For example, if applicable disturbance limitations for a particular resource permit two (2) acres of disturbance, and one (1) acre of disturbance is permitted upon the first application after the adoption of this section, then only one (1) acre shall remain to be permitted for future disturbance of the applicable resource regardless of the total number of applications over the years.
- G. Information submitted to demonstrate compliance with this Article shall be verified as correct by the Township Engineer or other qualified professional as determined by the Township.
- H. Regulations and disturbance limits for each specific resource area set forth below shall be complied with as applicable. The following summary table is provided as an overview of disturbance limitations. In certain cases as provided herein, exceptions or modifications may apply.

<i>Resource Area</i>	<i>Maximum Disturbance</i>
Flood Plain	0 %
Prohibitively Steep Slopes	10 %
Very Steep Slopes	25 %
Moderately Steep Slopes	35 %
Steep Slope Margins	25 %
Wetlands	0 %
Wetlands Margin Zone A	0 %
Wetlands Margin Zone B	20 %
Lakes, Ponds and Watercourses	0 %

Zone One – Inner Riparian Buffer	0 %
Zone Two – Outer Riparian Buffer	20%
Hydric Soils	15%
Heritage Trees	0 %
Class I Woodlands located on Very Steep Slopes	5%
Class I Woodlands outside Very Steep Slopes	15 %
Class II Woodlands	15 %
Class III Woodlands	25 %

**Section 1002. FLOOD PLAIN CONSERVATION**

- A. Flood Plain: Areas identified as within the flood plain of the one hundred year recurrence interval flood shall not be altered, regraded, filled or built upon except in conformance with the Lower Milford Township Flood Plain Zoning Ordinance, as amended, which is incorporated herein by reference. For areas designated as "Approximate 100 Year Flood Plain" along streams and watercourses where the one hundred year flood plain (with a floodway and flood fringe) has not been delineated, the requirements of Flood Plain Soils shall be met.
- B. Flood Plain Soils: All such areas shall not be altered, regraded, filled or built upon except in conformance with the Lower Milford Township Flood Plain Zoning Ordinance, as amended, with respect to which flood plain soils are to be considered to be "Approximate 100 Year Flood Plain." Flood plain soils shall not be used where the one hundred year flood plain (with a floodway and flood fringe) has been delineated.

**Section 1003. STEEP SLOPE CONSERVATION**

- A. Steep slope areas shall be preserved in their natural state whenever possible. Where construction of roads, buildings, driveways, or infrastructure cannot be avoided, disturbance shall be kept to the minimum necessary and, in no case, shall it exceed the following permitted disturbance limits:
1. Moderately Steep Slopes - No more than thirty-five (35) percent of moderately steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed.
  2. Very Steep Slopes - No more than twenty-five (25) percent of very steep slopes shall be regraded, cleared, built upon, or otherwise altered or disturbed.
  3. Steep Slope Margins - No more than twenty-five (25) percent of steep slope margins shall be regraded, cleared, built upon, or otherwise altered or disturbed.
  4. Prohibitively Steep Slopes - No more than ten (10) percent of prohibitively steep slopes shall be regraded, cleared, built upon, or otherwise altered or

disturbed. In addition, disturbance permitted on prohibitively steep slopes shall be limited to the following activities:

- a. Timber harvesting, when conducted in compliance with the required timber harvesting plan of Section 1200.A.31 of this Ordinance. Clearcutting or grubbing of trees is prohibited on prohibitively steep slopes.
  - b. Grading for the minimum portion of a driveway necessary for access to the principal use and sewer, water, and other utility lines when it can be demonstrated to the satisfaction of the Township that no other routing is practicable, but excluding sewage disposal systems.
  - c. Trail(s) of minimum adequate width(s), where developed so as to minimize potential erosion, follow existing topographic contours to the greatest degree practicable, and where using unpaved surfaces to the maximum practicable extent.
- B. All permitted buildings or structures shall be constructed in such a manner as to provide for the least alteration necessary of the existing grade, vegetation, and natural soils condition.
- C. A grading plan shall be provided identifying the existing contours of the site, proposed finished grades, and the proposed location of all buildings and structures. Locations for all stockpiled earth, stone, and other materials shall be shown on the plan and shall not be located within the drip line of any trees intended to remain post permitted disturbance.
- D. Excessive cut and fill shall be avoided. New roads and improvements to existing roads should be designed within the existing contours of the land to the extent possible and strive for compatibility with the character of rural roads.
- E. Finished slopes of permitted cut and fill shall not exceed thirty-three (33) percent slope unless the applicant can demonstrate the method by which steeper slopes will be stabilized and maintained adequately.
- F. Any stockpile(s) of earth intended to be stored for more than twenty-one (21) days shall be seeded or otherwise stabilized to the satisfaction of the Township Engineer. Any disturbed areas of Very Steep Slope and any cut and fill resulting in slopes of greater than twenty (20) percent shall be protected with an erosion control blanket.
- G. Any disturbance of land shall be in compliance with the erosion and sedimentation control standards of Chapter 190, Subdivision and Land Development, and PA DEP Title 25, Chapter 102. All applicants shall refer to the PA DEP *Erosion and Sediment Pollution Control Program Manual* dated March,

2000, or latest addition, for applicable erosion and sediment control standards. Where applicable, in the context of any application before the Township, any applicant shall permit inspection of erosion and sedimentation controls by designated personnel of both the Township and the Lehigh County Conservation District.

1. An erosion and sedimentation control plan and soil stabilization plan shall be submitted consistent with the requirements of Chapter 190, Subdivision and Land Development.
2. The plan shall demonstrate how soil will be protected from erosion during construction and how soil will be stabilized upon the completion of construction.

H. Where the following information has not been previously submitted as part of a subdivision or land development plan application, such information shall be submitted to the Township with building permit, conditional use, special exception, or zoning applications, when applicable:

1. The adequacy of access to the site for emergency vehicles shall be subject to review by the Fire Chief or his designee. The necessary information shall be submitted by the applicant to the Fire Chief or his designee for his review.
2. Grading Plan and Erosion and Sedimentation Control Plans.

#### **Section 1004. WOODLANDS AND HEDGEROWS**

A. Disturbance Limitations for Woodlands and Hedgerows

The disturbance limitations set forth herein shall apply to any woodland disturbance not otherwise regulated as a Timber Harvesting Operation. Clear-cutting of any woodland area shall not be permitted as a means of woodland disturbance except to the minimum necessary to permit the implementation of an approved subdivision or land development, landscape plan, open space management plan, or building permit in conformance with this section. All woodland disturbances other than approved timber harvesting operations shall be subject to the following total disturbance limitations:

1. Permitted woodland disturbance on any lot or tract shall not exceed five (5) percent of any area designated Class I or II Woodland on the Lower Milford Township Woodland Classification Map, where such woodland is coextensive with any area of Very Steep Slope.
2. Except on areas of very steep slopes, permitted woodland disturbance on any lot or tract shall not exceed fifteen (15) percent of any area designated as

Class I (Forest Interior Habitat) on the Lower Milford Township Woodland Classification Map.

3. Except on areas of very steep slopes, permitted woodland disturbance on any lot or tract shall not exceed fifteen (15) percent of any area designated Class II Woodland on the adopted Lower Milford Township Woodland Classification Map.
4. Permitted woodland disturbance on any lot or tract shall not exceed twenty-five (25) percent of any Class III Woodland.
5. Disturbance limitations shall be measured based on the extent of the subject woodland classification at the time of first submission of applicable application(s) after the adoption of this Section and shall be indicated on applicable plan(s). The extent of any area of woodland disturbance shall be measured to include the entire area within two (2) feet of the drip line of any tree where any part of the area within two (2) feet of the drip line of said tree is subject to woodland disturbance. Any disturbance limitation shall run with the land, once established. Subsequent applications shall be subject to the initial determination of disturbance limitations, regardless of intervening disturbance which may have occurred. If, at any time within three years prior to an applicable application, there had existed a greater extent of woodland, such greater area shall be utilized to calculate the extent of woodland disturbance and the limitations set forth herein.

B. Woodland Replacement.

1. Where permitted, any woodland disturbance exceeding any of the following standards shall require provision for vegetation replacement as set forth below. Each of the following standards shall be applied independently and the corresponding replacement requirements shall be cumulative.
  - a. Any woodland disturbance in any of the following areas:
    - 1) Any area designated as Class I or Class II Woodland on the Lower Milford Township Woodland Classification Map;
    - 2) Any area within two (2) feet of the drip line of any Heritage Tree(s);
    - 3) Any area within any Riparian Buffer.
  - b. Woodland disturbance in excess of ten thousand (10,000) square feet of existing area of Class III woodland or hedgerow(s) for each principal use permitted on any lot or tract. As an example, where two principal uses are permitted, woodland disturbance may involve up to twenty-thousand (20,000) square feet (10,000 X 2) before replacement is required, except as otherwise provided herein.

- C. In determining where necessary woodland disturbance shall occur in the context of any subdivision or land development, the applicant shall consider the following:
1. The location(s) and benefit of conservation of healthy mature woodland stands;
  2. The impacts, in terms of functions and values to wildlife, of separating, dividing and/or encroaching on wildlife travel corridors and/or extensive habitat areas. Such impacts must be explicitly assessed in any area designated as one or more of the following:
    - a. Class I or Class II woodlands;
    - b. Heritage Trees or Heritage Vegetation;
    - c. Riparian Buffers.
- D. In areas of permitted woodland disturbance and areas adjacent to permitted woodland disturbance, remaining trees shall be protected from damage. The following procedures shall be utilized during construction in order to protect remaining trees:
1. Where existing trees are to remain, no change in existing grade shall be permitted within the drip line of the trees. Appropriate fencing four (4) feet in height shall be placed two (2) feet outside of the drip line of trees to remain, wherever adjacent to proposed construction. Such fencing shall be maintained in place throughout the duration of construction activity. Roots shall not be cut within two (2) feet of the drip line of any trees to remain.
  2. Trees within twenty five (25) feet of a building, or bordering entrances or exits to building sites, shall be protected by a temporary barrier, such as construction fence or other suitable fencing, to be maintained in place throughout the duration of construction activity.
  3. No boards or other material shall be nailed or otherwise attached to trees during construction.
  4. Construction materials, equipment, soil and/or debris shall not be stored nor disposed of within the drip lines of trees to remain.
  5. Tree trunks, limbs, and exposed roots damaged during construction shall be protected from further damage by being treated immediately in accordance with accepted professional landscape procedures.

E. Calculation of Required Vegetation Replacement.

Where woodland disturbance exceeds any of the standards set forth in Section 1004.B above, applied independently and cumulatively, replacement plantings shall be installed in accordance with the standards set forth below. A sample list of acceptable replacement plantings is found below.

1. Required Replacement Trees shall be determined using the calculation set forth below which results in the greatest number of replacement trees:
  - a. Replacement Tree Calculation Based on Area of Woodland Disturbance.  
At a minimum, for each five hundred (500) square feet of woodland disturbance area, or fraction thereof, in excess of the applicable standard set forth above in Section 1004.B and regardless of the character and sizes of the disturbed vegetation, one tree at least 2-2½" caliper shall be planted.
  - b. Replacement Tree Calculation Based on Specific Tree Removal.  
Regardless of any disturbance allowances, for each tree greater than twelve (12) inches dbh to be removed, required replacement trees also shall be calculated in accordance with the following schedule. For purposes of this section, it shall be assumed that any tree greater than twelve (12) inches dbh shall be removed if located within twenty-five (25) feet of any proposed land disturbance:
 

<u>For each tree to be removed at the following sizes (dbh):</u>	<u>Minimum number &amp; caliper of replacement trees:</u>
One, 12" to 18" dbh	Two 2-2½" caliper
One, 18" to 24" dbh	Three 2-2½" caliper
One, 24" to 36" dbh	Four 2-2½" caliper
One, greater than 36" dbh	Six 2-2½" caliper
2. Required Replacement Shrubs. At a minimum, for each one hundred (100) square feet of woodland disturbance area, or fraction thereof, in excess of the applicable standard set forth in Section 1004.A B and regardless of the character and sizes of the disturbed vegetation, one shrub at least twenty-four (24) to thirty (30) inches in height shall be planted in addition to any required tree replacement. Shrubs planted in accordance with this requirement may be of restoration quality and not necessarily landscaping quality.
3. Required replacement plantings shall be in addition to any required street trees or any other landscape material required.
4. Where approved by the Township as a condition of any building, zoning, subdivision or land development approval or as a condition of grant of modification under Section 1011, required replacement trees may be substituted for greater numbers of trees of smaller caliper such as (2) 1-1/2" -



2" caliper/ (1) 2 - 2-1/2" etc.) than otherwise required. (e.g., for purposes of reforestation).

5. Where approved by the Township as a condition of any building, zoning, subdivision or land development approval or as a condition of grant of modification under Section 1011 some or all of the required replacement plantings may be installed at a site other than that being developed upon written request and approval by the Board of Supervisors.
  6. The locations, selected species, and sizes of all replacement plantings, along with a planting schedule tied to the timing and/or phasing of the development, shall be indicated on the Final Subdivision/Land Development Plan(s) or building permit application, as applicable.
- F. Required replacement vegetation and their measurement shall conform to the standards of the publications "American or U.S.A. Standard for Nursery Stock," ANSI or U.S.A.S. Z60.1 of the American Association of Nurserymen, as amended. All plant material used on the site shall have been grown so as to have a high likelihood of survival on the site (e.g., grown specifically for planting in the applicable USDA hardiness zone) and shall be nursery grown, unless it is determined by the Township that the transplanting of trees partially fulfills the requirements of this section.
- G. Species of replacement plantings selected and planting locations shall reflect careful site evaluation and in particular the following considerations:
1. Existing and proposed site conditions and their suitability for the plant materials, based upon the site's geology, hydrology, soils, and microclimate.
  2. Specific functional and design objectives of the plantings, which may include but not necessarily be limited to: replacement of woodland area removed, enhancement of existing woodland or oldfield area(s), reforestation of riparian buffer areas, mitigation of new woodland edge conditions as a result of land disturbance, provision for landscape buffer, visual screening, noise abatement, energy conservation, wildlife habitats, and aesthetic values.
  3. Maintenance considerations such as hardiness, resistance to insects and disease, longevity, and availability.
  4. Because of the many benefits of Native Plants (ease of maintenance, longevity, wildlife habitat, etc.), the use of nursery-grown free-fruiting native trees and shrubs shall be required. Species selection shall reflect species diversity characteristic of the native deciduous woodland. A list of Township approved native trees and shrubs is provided in the Subdivision and Land Development Ordinance.

- H. All replacement plantings shall be guaranteed and maintained in a healthy and/or sound condition for at least twenty-four (24) months or shall be replaced. In addition, the applicant may be required to escrow sufficient additional funds for the maintenance and/or replacement of the proposed vegetation during the 24 month replacement period and to provide for the removal and replacement of vegetation damaged during construction, based upon the recommendation of the Township Engineer.
- I. Where applicable, all land development, subdivision or zoning permit applications shall include a plan for the long-term management of any woodland area not subject to woodland disturbance and any area selected for introduction of replacement plantings in accordance with this Section. Such plan, which, in the case of the Open Space Design Option, can be part of the *Conceptual and final Open Space Management Plans* submittal requirement, shall include a statement of woodland management objectives and shall demonstrate to the satisfaction of the Board of Supervisors the feasibility of intended management practices, aiming to ensure the success of stated objectives, including the viability of introduced plantings, deterrence of invasive vegetation, and means to minimize any future woodland disturbance. Applicants are strongly encouraged to seek woodland management assistance from a qualified professional.

#### Section 1005. HERITAGE TREES

- A. No Heritage Trees shall be removed from any lot or tract except where undertaken in accordance with an approved timber harvesting plan prepared in accordance with Section 1200.A.31 of this Ordinance, or where the applicant *demonstrates to the satisfaction of the Township* that such removal is essential to eliminate hazardous condition(s). In consideration of any need for tree removal, the Township may engage the services of an arborist, reasonable costs therefore to be borne by the applicant.
- B. Where any applicant for building, zoning, subdivision or land development approval establishes conservation restrictions acceptable to the Township which shall result in the conservation of Heritage Trees in areas proposed for disturbance, all such Heritage Trees to be retained shall be credited toward any tree replacement required under Section 1004.E.1, at the ratio of four (4) trees credited for each Heritage Tree retained.

#### Section 1006. WETLANDS CONSERVATION

- A. Wetlands shall not be regraded, filled, piped, diverted, channeled, built upon, or otherwise altered or subject to land disturbance, including for purposes of access or utility crossings, except where all applicable permits have been obtained and copy thereof submitted to the Township.

- B. Any applicant proposing a use, activity, or improvement which would entail the regrading or placement of fill in wetlands shall provide the Township with proof that the Pennsylvania Department of Environmental Protection (Bureau of Dams and Waterway Safety and Bureau of Water Quality Management) and the U.S. Army Corps of Engineers have been contacted to determine the applicability of state and federal wetland regulations. Any applicant contacted by the Pennsylvania Department of Environmental Protection or the U.S. Army Corps of Engineers in regard to wetlands also shall concurrently provide to the Township a copy of such correspondence.
- C. Where permitted subject to applicable regulation and as otherwise provided herein, sewers or other liquid transport pipelines shall only be permitted to cross wetlands on the minimum traversal distance and where every precaution shall be taken to prevent leaks and to prevent any possible draining of the wetland (e.g., water flowing through or along any pipe or trench). At the expense of the applicant, the Township may require inspection of applicable systems and facilities, including but not limited to x-ray of steel welds, video documentation, televising lines and pressure testing of pipelines.
- D. Where land disturbance in wetland areas is permitted subject to applicable regulation on any lot or tract, no more than ten (10) percent nor more than one (1) acre of any wetland area, whichever is less, shall be disturbed for any purpose. To the maximum extent feasible, any disturbance to or loss of natural wetlands shall be mitigated at the rate of three times the lost or disturbed wetland area in a manner approved by the Township. Mitigation may include creation of wetlands which shall be hydrologically fed with stormwater discharged from an approved stormwater management facility. Created wetlands may be located at a site approved by the Township for such mitigation, whether on or off the property that contains the wetland subject to disturbance. Where approved by the Township, some or a portion of any required wetlands mitigation, in lieu of wetland creation, may be accounted for through permanent conservation of other existing unprotected wetlands or by restoration of former wetlands (e.g., through removal of tile fields or other drainage facilities) by means satisfactory to the Township.
- E. Wetlands shall be staked as part of the subdivision, land development, and/or zoning permit procedure. Prior to any site disturbance or construction within one hundred (100) feet of the wetlands, construction safety fence must be installed around the perimeter of the wetlands Zone A Margin.
- F. Where a jurisdictional determination or full wetland delineation report is required to comply with state or federal regulation, or where requested by the Township, any applicant shall provide the Township with a full wetland delineation report conducted by a qualified wetland biologist, soil scientist, or environmental professional of demonstrated qualifications, subject to the following:

1. Where there is any question as to the accuracy of the wetland delineation report, the Township may hire an Army Corp of Engineers jurisdictional determination to review the delineation and recommend revisions at the applicant's expense.
2. Such a professional shall certify that the methods used correctly reflect the currently accepted technical concepts, including identification and analysis of wetland vegetation, hydric soils, and hydrologic indicators. Methods used in the delineation report shall be acceptable to the Township Engineer or other qualified consultant hired by the Township.
3. The wetland report submitted to the Township shall include a determination of whether wetlands are present on the site and a full delineation, area measurement (in square feet), and description of any wetlands determined to be present.

G. All Hydric Soils shall be considered wetlands unless an on site evaluation is conducted by a qualified wetland biologist, soil scientist or environmental professional of demonstrated qualification.

#### Section 1007. HYDRIC SOILS

- A. With the exception of those uses or activities listed below, and where not otherwise regulated more restrictively under the provisions of this Ordinance, no more than fifteen (15) percent of any Hydric Soil shall be regraded, filled, built upon, or otherwise altered or subject to land disturbance:
  1. Regulated activities permitted by the Commonwealth (i.e. permitted stream or wetland crossing);
  2. Provision for trail and trail access where approved by the Township;
  3. Selective removal of hazardous or invasive vegetation;
  4. Customary agricultural practices; or
  5. Vegetation management in accordance with an approved landscape plan or open space management plan.
- B. Notwithstanding the fifteen (15) percent disturbance limitation set forth above, the following regulations shall apply to Hydric Soils:
  1. No structures for human use or habitation or for regular animal occupancy shall be constructed in any area of hydric soil;

2. No subsurface sewage system shall be constructed within any area of Hydric Soil.
3. No road, driveway, or emergency access shall cross any area of Hydric Soil except where providing necessary access which clearly is otherwise impracticable and only where drainage, adequate base preparation, and paving approved by the Township Engineer shall be provided.

**Section 1008. RIPARIAN BUFFER AND WETLAND MARGIN PROTECTION STANDARDS**

- A. Zone One – Inner Riparian Buffer and Wetland Margin – With the exception of those uses or activities listed below, no land disturbance shall be permitted within the Zone One Riparian Buffer or Wetland Margin:
  1. Regulated activities permitted by the Commonwealth (i.e. permitted stream or wetland crossing).
  2. Provision for trail and trail access where approved by the Township with minimum disturbance to existing woodland vegetation;
  3. Selective removal of hazardous or invasive vegetation; or
  4. Vegetation management in accordance with an approved landscape plan or open space management plan.
- B. Zone Two – Outer Riparian Buffer and Wetland Margin - Except for the following activities, no more than twenty (20) percent of a Zone Two Riparian Buffer or Wetland Margin shall be regraded, filled, built upon, or otherwise altered or subject to land disturbance:
  1. Activities permitted in the Zone One Riparian Buffer or Wetland Margin.
  2. Timber Harvesting Operations, when conducted in compliance with a Timber Harvesting Plan prepared in accordance with Section 1200.A.31 and approved by the Township and Lehigh County Conservation District. Clear-cutting of timber shall not be permitted within the Riparian Buffer or Wetland Margin.

**Section 1009. SPECIFIC APPLICABILITY OF NATURAL RESOURCE PROTECTION STANDARDS**

- A. Application for Conditional Use for the Open Space Design Option.
  1. As part of a sketch plan submittal for use of the Open Space Design Option, an Existing Features Plan shall accompany the Sketch Plan. This plan, together with the Sketch Plan, shall demonstrate the development's compliance with the natural resource protection standards. The Existing

Features Plan and the Sketch Plan shall be prepared and submitted as specified in the current Lower Milford Township Subdivision and Land Development Ordinance. For sketch plan purposes only, the use of the most current GIS mapped information available from the Lehigh Valley Planning Commission, Lehigh County, Lehigh County Conservation District, or Lower Milford Township may be substituted for field-survey information otherwise not available for meeting the submittal requirements.

2. As part of a conditional use application for use of the Open Space Design Option, an Existing Features Plan shall accompany the Site Plan. This Plan, together with the Site Plan, shall demonstrate the development's compliance with the natural resource protection standards. The Existing Features Plan shall be prepared and submitted as specified in the current Lower Milford Township Subdivision and Land Development Ordinance.

B. Application for Special Exception, Variance, or Conditional Use other than for the Open Space Design Option.

1. Any application for special exception, conditional use other than for the Open Space Design Option referenced in subsection A. above, or variance involving subdivision or land development, ultimately subject to submission and approval in accordance with the Lower Milford Township Subdivision and Land Development Ordinance, shall be accompanied by an Existing Features Plan. This Plan, together with the Site Plan, shall demonstrate the development's compliance with the natural resource protection standards. The Existing Features Plan shall be prepared and submitted as specified in Section 300 of the Lower Milford Township Subdivision and Land Development Ordinance.

C. Application for Preliminary Subdivision Plan or Land Development.

1. As part of a Sketch Plan submittal prior to the formal submittal of a Preliminary Subdivision Plan or Land Development, the applicant shall be required to submit an Existing Features Plan with the Sketch Plan that together demonstrate the development's compliance with the natural resource protection standards. The Existing Features Plan shall be prepared and submitted as specified in Section 300 of the Lower Milford Township Subdivision and Land Development Ordinance. For Sketch Plan purposes only, the most current GIS mapped information available from the Lehigh Valley Planning Commission, Lehigh County, Lehigh County Conservation District, or Lower Milford Township may be substituted for field-survey information otherwise not available for meeting the submittal requirements.
2. As part of a Preliminary Subdivision Plan or Land Development application, the applicant shall be required to submit an Existing Features Plan and Preliminary Plan that together demonstrate the development's compliance

with the natural resource protection standards. The Existing Features Plan shall be prepared and submitted as specified in Section 300 of the Lower Milford Township Subdivision and Land Development Ordinance.

D. Application for Zoning Permit.

1. For a Zoning Permit, or in those cases where only a limited amount of the site will be subject to disturbance, the Zoning Officer may determine the area of land required to be shown on a Site Plan such that information submitted will adequately demonstrate compliance with the natural resource protection standards of this Section. Where less than the entire site is to be shown on the Plan, the application shall be accompanied by a written explanation from the applicant as to why it is not necessary to include the entire site with the plan information.

E. Building Envelope.

1. The purpose of the identification of a building envelope on a Sketch Plan, Preliminary Subdivision Plan, Land Development Plan, or Site Plan, as defined in these regulations, is to provide sufficient area for the general location of the building, driveway, patio, other improvements and site alterations while meeting the natural resources protection standards and minimum setback requirements of this Ordinance.
2. For any proposed subdivision, each lot shall have a contiguous building envelope of at least eight-thousand (8,000) square feet for residential lots and twenty-thousand (20,000) square feet for all other permitted uses. In the case of an existing lot, the plan must demonstrate that the permissible building envelope will encompass the improvements and site alterations proposed.
3. For uses with on-lot sewage systems, a three thousand (3,000) square foot or larger area, in addition to the building envelope specified in subsection 2. above, shall be identified for the location of the sewage system. Such additional area shall not include natural features with a one hundred (100) percent protection standard and the portion of those natural features that may not be developed or intruded upon.

F. Site Capacity Calculation (Determining the Net Buildable Site Area)

1. Each site is unique; it has physical features which are rarely duplicated precisely on another site. Portions of some sites may not be usable. The purpose of this subsection is to determine the appropriate intensity of use to which a specific tract may be put, by netting out certain features or land considered to be unbuildable from the total gross acreage of a tract. For each tract, the following calculation shall be submitted by an applicant for Sketch Plan, Conditional Use, Special Exception, Variance, Preliminary Subdivision Plan, Land Development, or Site Plan.

- a. Base Site Area: Certain portions of tracts may not be usable for the activities proposed for the site; these shall therefore be subtracted from the site area to determine Base Site Area.

- 1) Site area as determined by actual on-site Survey \_\_\_\_\_ Ac.
- 2) Subtract –  
  
Land within ultimate right-of-way of existing roads, \_\_\_\_\_ Ac.  
  
Land within utility rights-of-way and/or Easements \_\_\_\_\_ Ac.
- 3) Subtract - land which is not contiguous; i.e., a separate parcel which does not abut or adjoin, nor share common boundaries with the rest of the development; and/or land which is cut off from the main parcel by a road, railroad, existing land uses, and/or major stream so as to serve as a major barrier to common use, or so that it is isolated and unavailable for building purposes.  
\_\_\_\_\_ Ac.
- 4) Subtract - land which in a previously approved subdivision was reserved for natural resources protection reasons (e.g. flood plain, steep slopes, etc.) or for recreation.  
\_\_\_\_\_ Ac.
- 5) Subtract - land uses or zoned for another use; i.e., land which is used or to be used for commercial or industrial uses in a residential development, or land in a different zoning district than the primary use  
\_\_\_\_\_ Ac.

Base Site Area = \_\_\_\_\_ Ac.

- b. Land With Resource Restrictions and Resource Protection Land – Calculate the land with resource restrictions and the resource protection land. In the event that two or more resources overlap, only the resource with the highest open space ratio shall be used in the calculations.



Resource	Open Space	Ac. of Land Resource Protected Ratio (OSR) in Resources	Land (Ac. x OSR)
Flood Plains		100%	
Flood Plain Soils		100%	
Steep Slopes:			
8-15%		65%	
15-25%		75%	
25% or more		90%	
Steep Slope Margin		75%	
Woodlands:			
Class I w/very steep slopes		95%	
Other Class I		85%	
Class II		Regulated by Underlying Resource	
Class III		75%	
Lakes or Ponds		100%	
Watercourses		100%	
Wetlands		100%	
Hydric Soils		85%	
Riparian Areas			
Zone 1		100%	
Zone 2		80%	
Wetlands Margin			
Zone A		100%	
Zone B		80%	
Land with Resource Restrictions			_____ Acres
Resource Protection Land			_____ Acres

c. Net Buildable Site Area - Calculate the Net Buildable Site Area.

Base Site \_\_\_\_\_ Acres

Subtract Resource Protection Land - \_\_\_\_\_ Acres

Net Buildable Site Area = \_\_\_\_\_ Acres

d. Number of Dwelling Units/Lots - Calculate the maximum number of dwelling units (DU's).

Net Buildable Site Area \_\_\_\_\_ Acres

Multiply by Maximum Residential Density  
Specified in Section 1010 x \_\_\_\_\_

Number of Dwelling Units = \_\_\_\_\_ DU's

Note: Fractions of DU's round up if greater than or equal to 0.5, and down if less than 0.5.

- e. Determination of Impervious Surface Ratio: To assure that the amount of impervious surfaces on the site have not exceeded the standard permitted for the various districts, the Impervious Surface Ratio, or Maximum Lot Coverage, for each site shall be calculated. The total area of impervious surface contained in any of the following categories shall be determined.

add:

Streets	_____
Buildings	_____
Driveways	_____
Sidewalks	_____
Patios	_____
Swimming Pools	_____
Other	_____

Total Impervious Surfaces = \_\_\_\_\_

Divide by Base Site Area / \_\_\_\_\_

Equals Impervious Surface Ratio = \_\_\_\_\_

The impervious surface ratio shall be less than or equal to the maximum Impervious Surface Ratio specified in Section 1010, Table of Performance Standards. In the case of conventional subdivisions, permissible impervious surface must be allocated on total tract and a per lot basis so that limitations will not subsequently be exceeded.

#### Section 1010. TABLE OF PERFORMANCE STANDARDS

Zoning District	Max. Residential Density DU/AC	Max. Imp. Sur. Ratio
<u>Agricultural Conservation</u>		
Single-Family <sup>(1)</sup>	0.50	0.15
Single-Family <sup>(2)</sup>	0.10	0.15
All Other	NA	0.15

Resource Conservation

Single-Family	0.25	0.15
Single-Family <sup>(OSDO)</sup>	0.40	0.15
All Other	NA	0.15

Rural Residential-1

Single-Family	0.5	0.20
All Other	NA	0.20

Rural Residential-2

Single-Family	0.30	0.15
Single- and Two-Family <sup>(OSDO)</sup>	0.50	0.25
All Other	NA	0.15

Village Center

Single- and Two-Family	2.0	0.30
Multi-Family	1.0	0.30
Non-Residential	NA	0.30 w/o TDRs 0.50 w/ TDRs
Multi-Use (excluding residential)	NA	0.35 w/o TDRs 0.65 w/ TDRs
Multiple-Residential	3.0 w/o TDRs 6.0 w/ TDRs	0.30 w/o TDRs 0.50 w/ TDRs

- (1) Single-family residential for Pre-Existing Parcels less than ten (10) net acres in size.
- (2) Single-family residential for Pre-Existing parcels ten (10) or more net acres in size.
- (OSDO) Residential development subject to the Open Space Design Option provisions of Article VIII.

## Section 1011. MODIFICATIONS TO NATURAL RESOURCE PROTECTION STANDARDS

### A. Modifications to Natural Resource Protection Standards.

1. For any use or activity not subject to Subdivision or Land Development review, and subject to application for approval of a Conditional Use, Special Exception, or Zoning Variance under the provisions of this Ordinance,

modification(s) to the provisions of Sections 1002 to 1008 may be requested as part of such application.

2. For any use or activity not otherwise subject to zoning permit or approval, modification(s) to the provisions of Sections 1002 to 1008 may be requested in the form of an application for grant of a Special Exception by the Zoning Hearing Board. Such proposal shall be submitted to the Township Planning Commission for review and comment prior to application for a Special Exception to the Zoning Hearing Board in accordance with the administrative procedures.
3. In consideration of approval of any request for modification(s) under this Article, it shall be determined that the specific nature of the lawful use or activity, existing site conditions, and/or safety considerations warrant such modification(s), and that the resource protection purposes of this Article shall be adhered to, to the maximum extent practicable.

- e. The temporary permit may be renewed for additional one (1) year periods, subject to the approval of the Zoning Officer.
- f. The temporary Zoning Permit shall cease when the family member(s) cease to occupy the temporary dwelling.
- g. The temporary dwelling shall be removed within ninety (90) days of expiration of the Zoning Permit.
- h. The property owner shall submit to the Zoning Officer a notarized statement accepting the conditions set forth above and any additional conditions imposed by the Zoning Hearing Board prior to issuance of the temporary Zoning Permit.
- i. A maximum of two individuals shall be permitted to occupy the temporary dwelling.
- j. Only one temporary dwelling shall be permitted per property.

**30. Temporary Structures and Uses**

- a. A temporary Zoning Permit may be issued for a period not to exceed one (1) year for a structure or use which does not comply with the zoning ordinance including such uses as the storage of building supplies and machinery, for a real estate office located on a tract of land where individual properties are being offered for sale.
- b. Such temporary permit shall be issued only upon Zoning Hearing Board approval and written agreement by the owner or his agent to remove such structure or use upon expiration of such permit.
- c. The Zoning Hearing Board may attach such reasonable conditions to the permit as are necessary to protect the public health, safety, and general welfare.
- d. The temporary permit may be renewed annually over a period not to exceed three (3) years, subject to approval of the Township Zoning Officer.

**31. Timber Harvesting Operations**

- a. The following provisions shall apply to all Timber Harvest Operations within the Township to promote management of forests for long-term ecological and commercial benefits; promote good forest stewardship; protect adjoining property owners; minimize the potential for adverse environmental impacts, including 'high-grading' of forests, excessive soil

erosion and the spread of invasive plants; and avoid unreasonable restrictions on forestry.

- b. Any timber harvesting operation shall be undertaken in accordance with a Timber Harvesting Plan approved by the Township. All Timber Harvesting Plans shall be submitted to the Township for review for compliance with the standards for timber harvesting operations set forth herein not less than forty-five (45) days prior to commencement of the timber harvesting operation. Within thirty (30) days of submission to the Township, a Timber Harvesting Plan shall be approved or denied.
- c. Any Timber Harvesting Plan submitted to the Township for review and approval shall be consistent with the Timber Harvesting Guidelines of the Pennsylvania Model Forestry Regulations of the Penn State School of Forest Resources, as applicable, and shall include a plan or plans indicating the following information:
  - 1) Site location and boundaries of both the entirety of the property upon which the timber harvesting operation shall occur and the specific area proposed for timber harvesting;
  - 2) Significant natural features on the property including steep slopes, wetlands, Riparian Buffer zones, known Heritage Trees or Heritage Vegetation.
  - 3) Identification of the classification of the woodland or woodland(s) including areas of forest interior habitat where the timber harvesting operation is proposed to occur, as indicated on the Lower Milford Township *Woodland Classification Map*;
  - 4) The planned route(s) and proposed weight loads of the proposed operation in relation to municipal and state highways and any proposed accesses to those highways;
  - 5) Design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and landings;
  - 6) Design, construction, and maintenance of water control measures and structures such

as culverts, broad-based dips, filter strips,  
and water bars;

- 7) Design, construction, and maintenance of proposed stream and wetland crossings; and,
  - 8) Identification of forest canopy to remain.
- d. Any permits required by any other agency under any applicable regulation shall be the responsibility of the landowner or timber harvesting operator as applicable. Copy of all required permits and a letter of adequacy from the Lehigh County Conservation District shall be submitted to Lower Milford Township at least forty-five (45) days prior to commencement of the timber harvesting operation.
- e. The following management practices shall apply to all timber harvesting operations:
- 1) Felling and skidding of trees shall be undertaken in a manner which minimizes damage to trees or other vegetation not intended to be harvested unless such practice is specified as part of an approved timber harvesting plan.
  - 2) Felling or skidding across any public thoroughfare is prohibited without the express written consent of the Township or Penn DOT, whichever is responsible for the maintenance of said thoroughfare.
  - 3) Prior to initiating any timber harvesting operation, the applicant should review with the Township Public Works Director the condition of any Township road, bridge or other public facility that will be used to transport log loads or that may otherwise be impacted by the timbering operation, and shall provide the Public Works Director with a description of the gross vehicle weight, axle load, and size of vehicles to be used in removal of timber.
  - 4) Slash or tops resulting from a timber harvesting operation shall be cut to a height of four (4) feet or less and left on-site. The burning of slash or tops shall be prohibited.

- 5) No tops or slash shall be left within twenty-five (25) feet of any public thoroughfare or private roadway.
  - 6) Litter resulting from a timber harvesting operation shall be removed from the site or otherwise dealt with as approved by the Township.
- f. No timber harvesting operation or grubbing of trees shall be permitted within any Zone One Riparian Buffer or Wetland. No clear-cutting of timber shall be permitted within any Zone Two Riparian Buffer, Wetland, Wetland Margin or Hydric Soil.
  - g. In all woodlands, a minimum percentage of the forest canopy trees shall remain after the completion of any timber harvesting operation, as set forth in the table below. Remaining forest canopy trees shall be well distributed throughout the area subject to the timber harvesting operation.

	Percentage Forest Canopy Trees to Remain by location		
Woodland Class	<u>Zone One Riparian Buffer or Wetland</u>	<u>Zone Two Riparian Buffer, Wetland Margin, or Hydric Soil</u>	<u>All Other</u>
Class III	100	70	30
Class II	100	80	40
Class I/ Forest Interior Habitat	100	90	50

- h. At least thirty (30) percent of the required remaining forest canopy trees, as provided above, shall be comprised of Higher Value Species. Where the number of trees comprising Higher Value Species that exist prior to the approval of any timber harvesting operation, is less than the number which would be required to comply with this provision, no Higher Value Species may be harvested.
- i. Township representative(s) shall be permitted access to the site of any timber harvesting operation before, during, or after active timber harvesting to review, inspect and ascertain compliance with the provisions set forth herein.



- j. Upon determination that a timber harvesting operation is in violation of these regulations, each day where any violation occurs shall constitute a separate violation subject to the provisions of this Chapter.
- k. Notwithstanding the tree canopy percentage requirements of subsection g. above an applicant for a timber harvesting operation may submit for Township approval, in addition to the Timber Harvesting Plan, a Forest Stewardship Plan prepared by a professional with demonstrated expertise in forest management. The Forest Stewardship Plan shall identify property management and silviculture practices supported by the PA DCNR Bureau of Forestry that will be employed by the timber harvest operator for the subject property. The Plan shall favor extensive use of Best Management Practices (BMPs) for silvicultural activities that will provide the landowner with economic benefits while maintaining or improving wildlife habitat, protecting forest soils and waters, and ensuring the continuation of productive forest ecosystems. Upon Forest Stewardship Plan submittal, the Township may:
  - 1) request a formal review of the Forest Stewardship Plan by PA DCNR Bureau of Forestry staff; or,
  - 2) hire its own forest management professional to review the Plan, the cost of said consultant review shall be born by the applicant.

Recommendations on the Plan forwarded to the Township either by Bureau of Forestry staff or the Township's consultant shall be incorporated into the applicant's Forest Stewardship Plan and a final Forest Stewardship Plan shall be resubmitted to the Township prior to obtaining timber harvesting approval. Once approved, the applicant's Timber Harvesting Plan, and the Forest Stewardship Plan, shall direct the timber harvest operator's silvicultural activities for the subject property, and both Plans shall be maintained at the site for Township inspection.

### 32. Winery

Requirements for wineries are set forth below. If a proposal includes more than one of the elements listed below, the highest applicable permit process shall apply.

- a. The primary purpose of the winery shall be to process wine grapes grown on the winery property or on other local agricultural lands.
- b. Retail sales of wine fruit products shall be limited to those produced, vinted, cellared or bottled by the winery operator or grown on