

**EAST UNION TOWNSHIP
SCHUYLKILL COUNTY
PENNSYLVANIA**

CODIFICATION OF ORDINANCES

DATE OF ENACTMENT: APRIL 21, 2021

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CHAPTER 1

ADMINISTRATION AND GOVERNMENT

Part 1

Official English Ordinance

§101. Title. This chapter shall be known and may be cited as the “East Union Township Official English Ordinance.”

§102. Findings and Declaration of Purpose. The residents of the Township find and declare:

(a) That the English language is the common language of the Township of East Union, of the Commonwealth of Pennsylvania and of the United States of America.

(b) That the use of a common language removes barriers of misunderstanding and helps to unify the people of East Union Township, the Commonwealth of Pennsylvania, and the United States, and helps to enable the full economic and civic participation of all its citizens, regardless of national origin, creed, race or other characteristics, and thus a compelling governmental interest exists in promoting, preserving, and strengthening the use of the English language.

(c) That proficiency in the English language, as well as in languages other than the English language, benefits East Union Township both economically and culturally and should be encouraged.

(d) That, in addition to any other ways to promote proficiency in the English language, the government of the Township of East Union can promote proficiency in English by using the English language in its official actions and activities.

(e) That in today’s modern society, the Township of East Union may also need to protect and preserve the rights of those who speak only the English language to use or obtain governmental programs and benefits.

(f) That the government of the Township of East Union can reduce costs and promote efficiency in its roles as employer and as a government of the people, by using the English language in its official actions and activities.

§103. Official English Declaration.

(a) The English language is the official language of the Township of East Union.

(b) The Supervisors and officials of the Township of East Union shall take all steps necessary to insure that the role of English as the common language of the Township of East Union is preserved and enhanced.

(c) The government of the Township of East Union shall make no policy that diminishes or ignores the role of English as the common language of the Township of East Union.

(d) Official actions of the Township of East Union that bind or commit the Township of East Union or that give the appearance of presenting the official views or position of the Township of East Union shall be taken in the English language, and in no other language. Unofficial or non-binding translations or explanations of official actions may be provided separately in languages other than English, if they are appropriately labeled as such and reference is made to a method to obtain the official action; unless otherwise required by federal law or the law of the Commonwealth of Pennsylvania, no person has a right to such an unofficial or non-binding translation or explanation, and no liability or commitment of the Township of East Union shall be based on such a translation or explanation.

(e) No ordinance, decree, program, or policy of the Township of East Union or any of its subdivisions shall require the use of any language other than English for any documents, regulations, orders, transactions, proceedings, meetings, programs, or publications, except as provided in Section 104 below.

(f) A person who speaks only the English language shall be eligible to participate in all programs, benefits and opportunities, including employment, provided by the Township of East Union and its subdivisions, except when required to speak another language as provided in Section 104 below.

(g) No law, ordinance, decree, program, or policy of the Township of East Union or any of its subdivisions shall penalize or impair the rights, obligations or opportunities available to any person solely because a person speaks only the English language.

§104. Exceptions. The Township of East Union may use a language other than English for any of the following purposes, whether or not the use would be considered part of an official action:

- (a) To teach or encourage the learning of languages other than English.
- (b) To protect the public health or safety.
- (c) To teach English to those who are not fluent in the language.
- (d) To comply with the Native American Languages Act, the Individuals with Disabilities Education Act, the Voting Rights Act, or any other federal law or law of the Commonwealth of Pennsylvania.
- (e) To protect the rights of criminal defendants and victims of crime.
- (f) To promote trade, commerce, and tourism.

(g) To create or promote mottos or designations, inscribe public monuments, and perform other acts involving the customary use of a language other than English.

(h) To utilize terms of art or terms or phrases from other languages which are commonly used in communications otherwise in English.

§105. Private Use Protected. The declaration and use of English as the official language of the Township of East Union should not be construed as infringing upon the rights of any person to use a language other than English in private communications or actions, including the right of government officials (including elected officials) to communicate with others while not performing official actions of the Township of East Union.

§106. Interpretation. Nothing in this Ordinance shall be interpreted as conflicting with the statutes of the United States, or the laws of the Commonwealth of Pennsylvania.

§107. Severability. If any part or provision of this Part, or the applicability of any provision to any person or circumstance, is held to be invalid by a court of competent jurisdiction, the remainder of this Part shall not be affected thereby and shall be given effect to the fullest extent practicable.

Part 2

Meetings and Work Sessions

§201. Scheduling of Regular Meetings. The regular meetings of East Union Township shall be held on the first Wednesday of each month at 6:00 P.M. at the Municipal Building, 10 Elm Street, Sheppton, Pennsylvania 18248, or at such other times and places as Supervisors may designate pursuant to public notice and in accordance with law.

§202. Work Sessions and Special Meetings. Work sessions and special meetings shall be governed by the following rules:

(a) Work sessions and special meetings may be scheduled by Township Supervisors as needed. Work sessions may be convened on the same date as a regular or special meeting provided that the time periods do not conflict with one another.

(b) Work sessions and special meetings may be called upon written request of a member of the Board of Supervisors. All Board Members shall receive at least twenty-four (24) hours advance notice of any scheduled work session or special meeting. The notice shall state whether the meeting or session is for general or special purposes, and if it is for a special purpose, the notice shall contain a general statement of the nature of the business to be transacted. This notice shall be in addition to the public notice required under §204 of this Part. Presence at a meeting constitutes waiver of notice.

§203. Organizational Meetings. The Board of Supervisors shall conduct organizational meetings as follows:

(a) Organizational meetings shall be scheduled on the first Monday of January of each year commencing at a time to be announced by the Board of Supervisors. If the first Monday is a legal holiday, the organizational meeting shall take place the following day.

(b) At the organizational meeting, the Board of Supervisors shall elect from its members a Chairperson and Vice-chairperson, and it may appoint a secretary and treasurer. In addition to these elections, after organizing, the Supervisors may transact such other business as may be properly before it and consider the meeting a regular meeting.

§204. Advertising Meetings. All regular meetings, special meetings and work sessions shall be advertised as required by Law.

§205. Conduct of Meetings, Quorum. Supervisors shall conduct meetings as follows:

(a) The Chairperson, or in the absence of the Chairperson, the Vice-chairperson, shall preside over all meetings of the Supervisors, and shall perform such other duties as may be prescribed by Law or Ordinance.

(b) A majority of the Board of Supervisors shall constitute a quorum for purposes of conducting a meeting.

(c) The Board of Supervisors may by resolution establish such rules of parliamentary procedure for the conduct of its meetings as it deems appropriate. In the event that no such resolution is adopted, then Roberts' Rules of Order, the latest edition, shall be utilized to conduct all meetings.

Part 3

Compensation of Elected Officials

§301. Compensation of Supervisors. Each supervisor of East Union Township elected or appointed to office shall receive compensation as a supervisor in the annual amount of \$150.00 per month. The established compensation of the Supervisors is consistent with 53 P.S. §65606(a), which provides that supervisors of second class townships having a population of not more than 4,999 shall be compensated in an amount not to exceed \$1,875.00 annually. In addition, the compensation for the elected supervisor holding the office of Treasurer is currently established at \$500.00 per month, which compensation is in addition to the compensation he or she receives as a supervisor.

§302. Compensation of Tax Collector. The compensation of the East Union Township Tax Collector for real estate tax certifications and duplicate bills shall be \$10.00 each. The compensation of the Tax Collector for collection of real estate taxes has been established at 8% of the amount of tax collected.

Part 4

Appointed Officers

§401. Code Enforcement Officer.

(a) Appointment of Code Enforcement Officer Authorized; Compensation. The Board of Supervisors shall appoint one or more Code Enforcement Officers. The resolution appointing a Code Enforcement Officer shall state the compensation, if any, to be paid from Township funds.

(b) Qualifications. The Code Enforcement officer shall meet the qualifications established by the Township, which shall at a minimum include a working knowledge of Municipal Codes.

(c) Specific Duties and Responsibilities of Code Enforcement Officer. The Code Enforcement Officer shall have the following duties and responsibilities:

(1) Enforcing the applicable provisions of the Code of Ordinances.

(2) Providing information to the general public, governmental agencies, and Township Officials, both elected and appointed, on the Code of Ordinance and the applicable permit process under applicable Code provisions which are the responsibility of the Code Enforcement Officer.

(3) Performing property inspections for compliance with the Code of Ordinances.

(4) Keeping the Code of Ordinances current and updated, including keeping official records of all business and activities of the Code Enforcement Office.

(5) Preparing and presenting monthly reports to the Board of Supervisors on all activities, including attending Work Sessions and Regular and Special Meetings, when requested to attend.

(6) Attending meetings and presenting evidence and testimony at hearings, if required or necessary.

(7) Assisting the Secretary in scheduling Appeal Hearings.

(8) Acting on complaints, and detecting and investigating Code violations, and seeking compliance with the provisions of the Code of Ordinances.

(9) Assisting the Solicitor in prosecuting Code violations, which may include attending hearings before Appeal Boards, the appropriate District Justice, and a Judge of the Court of Common Pleas.

(10) Issuing or denying permits or certificates that may be required under one or more provisions of the Code of Ordinances.

(11) Engaging in all other lawful and proper activities necessary to carry out the duties of Code Enforcement Officer.

§402. Building Code Official.

(a) Appointment of Building Code Official Authorized; Compensation. The Board of Supervisors shall appoint a Building Code Official. The resolution appointing the Building Code Official shall state the compensation, if any, to be paid from Township funds.

(b) Qualifications. The Building Code Official shall meet the minimum qualifications mandated by the Commonwealth of Pennsylvania, which shall include certification to issue permits and conduct inspections under the Uniform Construction Code and its sub-codes.

(c) Specific Duties and Responsibilities of Building Code Official. The Building Code Official shall have the following duties and responsibilities:

(1) Providing information to the general public, governmental agencies and Township Officials, both appointed and elected, on any and all aspects of building, construction and property maintenance.

(2) Reviewing permit applications for compliance with applicable local laws, ordinances and regulations, and overseeing, supervising and/or issuing or denying permits, depending on whether a Code Administrator is appointed by the Township.

(3) Performing property inspections for all new construction; remodeling or renovations of existing structures, and existing business and residential properties for compliance with the applicable edition of the International Property Maintenance Code, the Existing Structure Code and all other applicable local laws, ordinances, and regulations, including but not limited to the applicable edition of the Uniform Construction Code and its sub-codes.

(4) Maintaining ordinances and records of all official action, including permit applications accepted, permits issued, occupancy permits issued, complaints received, enforcement notices issued, and all general property information.

(5) Preparing and presenting a monthly report to the Board of Supervisors on all activities and fees collected for the preceding month, including attending work sessions and meetings when requested.

(6) Attending and presenting evidence and testimony at Planning Commission meetings, Appeal Board hearings, Supervisors meetings and hearings, when requested or necessary to do so.

(7) Acting on complaints and detecting and investigating violations of the applicable provisions of the Property Maintenance Code, existing Structures Code, Uniform Construction Code and all its sub-codes and seeking compliance therewith.

(8) Prosecuting violations, which may include attendance at court proceedings.

(9) Engaging in all other lawful and proper activities necessary to carry out the duties of the Building Code Official.

§403. Zoning Officer.

(a) Appointment of Zoning Officer Authorized; Compensation. The Board of Supervisors shall appoint a Zoning Officer. The resolution appointing the Zoning Officer shall state the compensation, if any, to be paid from Township funds.

(b) Qualifications. The Zoning Officer shall meet the qualifications established by the Township, which shall at a minimum include a working knowledge of municipal zoning.

(c) Specific Duties and Responsibilities of Zoning Officer. The Zoning Officer shall have the following duties and responsibilities:

(1) Enforcing the provisions of the Zoning Ordinance in accordance with its literal terms.

(2) Reviewing zoning permit applications for compliance with the Zoning Ordinance and issuing zoning permits, or denying zoning permit applications when warranted.

(3) Providing information to the general public, governmental agencies, and Township Officials, both elected and appointed, on any and all aspects of the Zoning Ordinance and zoning permit process.

(4) Performing property inspections for compliance with the Zoning Ordinance.

(5) Keeping the Zoning Ordinance, Zoning Map and all records of official action filed and readily available for public inspection, including zoning permit applications, zoning permits, fees collected, complaints received, enforcement notices issued, and all general property information and other correspondence.

(6) Preparing and presenting monthly reports to the Board of Supervisors on all activities and fees collected, including attending work sessions, when requested to attend, and at least one regular monthly meeting each month.

(7) Attending and presenting evidence and testimony at Planning Commission and Zoning Hearing Board meetings.

(8) Assisting the Secretary of the Zoning Hearing Board to schedule hearings and process zoning appeal applications, including making arrangements for the stenographer's presence at every hearing and taking the steps necessary to insure that the

property subject to the hearing is properly posted in the time periods mandated by the Pennsylvania Municipalities Planning Code.

(9) Acting on zoning complaints, and detecting and investigating zoning violations, and seeking compliance with the provisions of the Zoning Ordinance.

(10) Assisting the Solicitor in prosecuting Zoning Violations, which may include attending hearings before the Zoning Hearing Board, the appropriate District Justice, and a Judge of the Court of Common Pleas to prove that one or more violations of the Zoning Ordinance have occurred, or non-compliance with a decision of the Zoning Hearing Board.

(11) Issuing or denying all other permits or certificates that may be required under the Zoning Ordinance, including, but not limited to Certificates of Non-conformity and Certificates of Zoning Compliance, or Use and Occupancy Permits.

(12) Engaging in all other lawful and proper activities necessary to carry out the duties of the Zoning Officer.

Part 5

Boards and Commissions

§501. Planning Commission.

(a) The East Union Township Planning Commission shall consist of three (3) members, all of whom shall be citizens of East Union Township.

(b) The term of office of the members of the Planning Commission shall be four (4) years and should expire on December 31st or until a successor is appointed, except that the terms of the members first appointed shall be so fixed that no more than two (2) shall be reappointed during any future calendar year. In the event of vacancies, the Board of Supervisors shall appoint a member to fill the unexpired term.

(c) The names, address, and terms of office of the initial members of the Planning Commission and any subsequent reappointments, new appointments or vacancies shall be established by enactment of a resolution of the Board of Supervisors.

(d) The Planning Commission shall at the request of the Board of Supervisors have the power and shall be required to:

(1) Prepare the comprehensive plan for the development of East Union Township as set forth in the Pennsylvania Municipalities Planning Code (MPC) and present it for the consideration of the Board of Supervisors.

(2) Maintain and keep on file records of its action. All records and files of the Planning Commission shall be in the possession of the Board of Supervisors.

(e) The Planning Commission at the request of the Board of Supervisors may:

(1) Make recommendations to the Board of Supervisors concerning the adoption or amendment of an official map.

(2) Prepare and present to the Board of Supervisors a zoning ordinance, and make recommendations to the Board of Supervisors on proposed amendments to it.

(3) Prepare, recommend and administer subdivision and land development and planned residential development regulations.

(4) Prepare and present to the Board of Supervisors a building code and a housing code and make recommendations concerning proposed amendments thereto.

(5) Do such other acts or make studies as may be necessary to fulfill the duties and obligations imposed by the MPC.

(6) Prepare and present to the Board of Supervisors an environmental study.

(7) Submit to the Board of Supervisors a recommended capital improvements program.

(8) Prepare and present to the Board of Supervisors a water survey, which shall be consistent with the State Water Plan and any applicable water resources plan adopted by a river basin commission. The water survey shall be conducted in consultation with any public water supplier in the area to be surveyed.

(9) Promote public interest in, and understanding of, the comprehensive plan and planning.

(10) Make recommendations to governmental, civic, and private agencies and individuals as to the effectiveness of the proposals of such agencies and individuals.

(11) Hold public hearings and meetings.

(12) Present testimony before any board.

(13) Require from other departments and agencies of the Township such available information as relates to the work of the Planning Commission.

(14) In the performance of its functions, enter upon any land to make examinations and land surveys with the consent of the owner.

(15) Prepare and present to the Board of Supervisors a study

regarding the feasibility and practicability of using renewable energy sources in specific areas within the Township.

(16) Review the zoning ordinance, subdivision and land development ordinance, official map, provisions for planned residential development and such other ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.

(f) The Planning Commission may, with the consent of the Board of Supervisors, accept and utilize any funds, personnel or other assistance made available by Schuylkill County, the Commonwealth of Pennsylvania, or the federal government, or any of their agencies, or from private sources. The governing body may enter into agreements or contracts regarding the acceptance or utilization of the funds or assistance in accordance with the governmental procedures of the Township.

(g) All other resolutions and ordinances or parts thereof, inconsistent herewith, are hereby repealed.

EDITOR'S NOTE: This Ordinance No. 10 of 2008 was adopted by the East Union Township Board of Supervisors on October 20, 2008.

§502. Uniform Construction Code Appeals Board.

(a) The Township has elected to administer and enforce the provisions of the Pennsylvania Construction Code Act, Act 45 of 1999, 35 P.S. §§7210.101-7210.1103, as amended from time to time, and its regulations.

(b) The Uniform Construction Code, contained in 34 Pa. Code, Chapters 401-405, as amended from time to time, has been adopted as the municipal building code of the Township and is hereby incorporated herein.

(c) Administration and enforcement of the Code within the Township is currently being undertaken by the designation of a code official to serve as the municipal code official to act on behalf of the Township;

(d) A Board of Appeals is established consisting of five (5) members and its members shall be appointed by resolution of the Township Board of Supervisors in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein.

(e) This ordinance shall be effective immediately following the date of its enactment.

(f) If any section, subsection, sentence, or clause of this ordinance is held, for any reason, to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance.

§503. Zoning Hearing Board.

(a) Creation, Appointment, Term and Vacancy. Township does hereby acknowledge that a Zoning Hearing Board has been created at the time of adoption of this Part, and a Zoning Hearing Board is hereby created by this Part. The membership of the Zoning Hearing Board currently consists of five (5) members. However, in the future the membership may, upon determination of the Township, consist of either three or five residents of the Township appointed by resolution of the Township. The terms of office of a three member Zoning Hearing Board shall be three years and shall be so fixed that the term of office of one member shall expire each year. The terms of office of a five member Zoning Hearing Board shall be so fixed that the term of office of one member of a five member board shall expire each year. The Zoning Hearing Board shall promptly notify the Township of any vacancies that may occur on the Board. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall not hold any other elected or appointed office in the Township nor shall any member be an employee of the Township.

(b) Alternate Members. The Township may appoint by resolution at least one but not more than three residents of the Township to serve as alternate members on the Zoning Hearing Board. The term of office of an alternate member shall be three years. Alternate members shall not hold any other elected or appointed office in the Township, including service on the Planning Commission or as a Zoning Officer, nor shall any alternate member be an employee of the Township. Alternates may participate in all proceedings and discussions before the Zoning Hearing Board as provided by the applicable provisions of the Pennsylvania Municipalities Planning Code, specifically §903(b) and §906(b). The Chairperson of the Zoning Hearing Board may designate alternate members of the Board to replace any absent or disqualified member, and the Chairperson may designate as many alternate members as may be needed to reach a quorum.

(c) Organization of the Zoning Hearing Board. The Zoning Hearing Board shall elect from its own membership its officers, who shall serve annual terms and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a Hearing Officer from its own membership to conduct any hearing on its own behalf and the parties may waive further action by the Board provided in §908 of the Pennsylvania Municipalities Planning Code.

(d) Expenditures of the Zoning Hearing Board. Within the limits of funds appropriated by the Township, the Zoning Hearing Board may employ and contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board and alternate members of the Board (when designated to perform their duties) may receive compensation for the performance of their duties, as may be fixed by the Township, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Township.

(e) Conduct of Business. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedures, consistent with the Township Zoning Ordinance and the laws of the Commonwealth of Pennsylvania. The Board shall keep full public records of its

business, which records shall be the property of the Township, and shall submit reports of its activities to the Township as requested by the Township.

(f) Jurisdiction. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

(1) Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to §609.1 and §916.1(a)(2) of the Pennsylvania Municipalities Planning Code.

(2) Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the municipality and a zoning hearing board has not been previously established, the appeal raising procedural questions shall be taken directly to court.

(3) Appeal from the determination of the zoning officer including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

(4) Appeal from a determination by a municipal engineer or the zoning officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.

(5) Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to §910.2 of the Pennsylvania Municipalities Planning Code.

(6) Applications for special exceptions under the zoning ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to §912.1 of the Pennsylvania Municipalities Planning Code.

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

(8) Appeals from the zoning officer's determination under §916.2 of the Pennsylvania Municipalities Planning Code.

(9) Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Article V or VII applications.

(g) Hearings and Decisions. The Zoning Hearing Board shall conduct hearings and make decisions in accordance with §908 of the Pennsylvania Municipalities Planning Code; which requirements include the following:

(1) Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by ordinance or, in the absence of ordinance provision, by rules of the board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.

(A) The governing body may prescribe reasonable fees with respect to hearings before the zoning hearing board. Fees for said hearings may include compensation for the secretary and members of the zoning hearing board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the zoning hearing board, expenses for engineering, architectural or other technical consultants or expert witness costs.

(B) The first hearing before the board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief provided the persons opposed to the application may, upon the written consent on the record by the applicant and the municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal. (Acts 2 and 43 of 2002)

(2) The hearings shall be conducted by the board or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board; however, the appellant of the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final. (Act 2 of 2002)

(3) The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the board, and any other person including civic or community organizations permitted to appear by the

board. The board shall have power to require that all person who wish to be considered parties enter appearances in writing on forms provided by the board for the purpose.

(4) The chairman or acting chairman of the board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and appears, including witnesses and documents requested by the parties.

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

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

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

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

(9) The board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reason thereof. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decisions or findings are final, the board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings, and the board's decision shall be entered no later than 30 days after

the report of the hearing officer. Except for challenges filed under section 916.1 where the board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection (1.2), the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the board to meet or render a decision as hereinabove provided, the board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection (1) of this section. If the board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any part opposing the application to appeal the decisions to a court of competent jurisdiction. (Act 2 and 43 of 2002)

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

§504. Recreation Board.

(a) Membership shall consist of seven (7) individuals selected upon the basis of their respective qualifications and fitness to serve, and who represent the various interests of the community. Three Members must be Officers of the American Legion Home Association, Post 616.

(b) All members shall be appointed by a majority of Township Supervisors at a publicly held meeting. Members may be removed at the discretion of a majority of the Board of Supervisors.

(c) The term of each member shall be for five years except that of the members first appointed, two shall serve for one year, two shall serve for two years, one shall serve for three years one shall serve for four years and one shall serve for five years. Upon the expiration of the terms of the members first appointed, successors shall be appointed in like manner for the terms of five years each. Vacancies shall be filled in the same manner and appointments will be for the remainder of an unexpired term.

(d) The Recreation Board shall have the power to adopt its own rules and regulations for its meetings. It also shall have the power to establish rules and regulations for the use and maintenance of the places of recreation located within the Township, including the hours of operation. Provided that those rules and regulations are not inconsistent with any other township ordinance, and are approved by a majority of Township Supervisors at a publicly held meeting.

(e) The Recreation Board shall prepare a budget each year and submit said budget to the Township for its review and approval. The budget shall be prepared and delivered to the

Township Board at least 60 days prior to the date of the Township Boards' public meeting on the Township budget.

(f) The Recreation Board shall have the power to negotiate agreements and enter into contracts, and to work with any other organization regarding the establishment and hereby declared as the intention of the East Union Township Supervisors of the Township of East Union, that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included.

EDITOR'S NOTE: This Ordinance No. 10 was adopted by the East Union Township Board of Supervisors on October 20, 2008.

Part 6 Police Department

§601. Police Department.

(a) Establishment of Police Department. A police department is hereby established in and for East Union Township, Schuylkill County, Pennsylvania. The Chief of Police shall be the chief executive of the Police Department. The Chief of Police shall be under the direction of the Township Board of Supervisors, be in charge of the Police Force and have supervision over its members in the exercise of their powers, duties and authority.

(b) Subordinate to the Chief of Police is hereby established the classification of Patrolman, and such additional classifications to which the Township Supervisors shall at any specific time have appointed one or more police officers. The number of persons to serve as patrolman on a full time and/or part time basis, and the compensation of each shall be as determined by the Township Supervisors from time to time.

(c) Nothing herein contained shall affect the authority of the Township Supervisors to appoint special policemen and/or utilize Fire Polices during emergencies.

(d) Duties. The Chief of Police and any other offices appointed pursuant to this Ordinance shall be responsible for the enforcement of the laws of the Commonwealth of Pennsylvania, the County of Schuylkill and the Ordinances of East Union Township.

(e) Interference with Police Officers.

(1) It shall be unlawful for any person knowingly, willfully, enforceable to obstruct, resist, oppose or interfere with any of the police officers of this Township in the performance of their duties as set forth above, in serving or attempting to serve or execute any process or order of any Court, or other legal process whatsoever or in making or attempting to make any arrest or arrests within the limits of this Township, or to assault any such police officer in the performance of his duties as aforesaid.

(2) Any person violating the provisions of the Section (e)(1) of this

Part shall upon conviction thereof before any duly authorized district magistrate judge, be sentenced to pay a fine or not less than Three Hundred (\$300.00) Dollars nor more than One Thousand (\$1,000.00) Dollars for each offense and in default of payment thereof with costs, shall undergo imprisonment in the County Jail for a period not exceeding Ninety (90) days.

EDITOR'S NOTE: This Ordinance No. 3 of 2007 was adopted by the East Union Township Board of Supervisors on September 24, 2007.

Part 7 Township Manager

SECTION 1. Appointment and Removal of a Township Manager.

Township Manager (hereinafter referred to as "Manager") may be appointed for an indefinite term by a majority of all of the members of the Board of Supervisors (hereinafter referred to as "Board"). The Manager, if appointed, shall serve at the pleasure of the Board and may be removed at any time by a majority vote of the Board. At least thirty (30) days before any removal becomes effective, the Board shall furnish the Manager with a written statement setting forth its intention of removal.

SECTION 2. Powers and Duties of a Manager.

The powers and duties of a Manager are subject to recall or modification by Ordinance or Resolution of the Board.

SECTION 3. Disability or Absence of a Manger.

If a Manager becomes ill or needs to be absent from the Township, the duties of the Manager shall be performed during his or her absence by such person as may be designated by the Board.

SECTION 4. Severance Clause.

Should any Section, paragraph, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of said Ordinance shall not be affected thereby, and shall remain in full force and effect.

SECTION 5. Repealer Clause.

All Ordinances or parts of Ordinances or Resolutions conflicting with the provisions of this Ordinance are hereby repealed to the extent of such conflict.

SECTION 6. Qualifications.

The Manager shall be chosen solely on the basis of his or her executive administrative abilities, with special reference to his or her actual experience in, or his or her knowledge of the accept-

ed practices in respect to the duties of the office. The Manager may, but need not be a resident of the Township, at the time of his or her appointment.

SECTION 7. Compensation.

The Manager shall receive compensation as set annually by resolution of the Board.

SECTION 8.

- The Manager is responsible for directing day-to-day conduct of the Township business.
- Assigns and directs work
- Originates and maintains contacts with Federal, State and County agencies and other municipalities and organizations with who East Union Township conducts business.
- Serves as liaison between the Board of Supervisors and Township Engineer, Solicitor and all other boards, authorities, commissions and committees.
- Initiates preparation of specifications, bid proposals, and advertising for contracts.
- Maintain public relations contacts with Township residents, business people and land developers.
- Respond to inquiries and/or meet with them to resolve concerns.
- Administer and help develop Township personnel policies, procedures and programs. Conduct/administer employee performance reviews.
- Recommend personnel actions.
- Prepare and assist the Treasurer in preparing and managing the annual budget.
- Provide administrative support for police and road crew functions.
- Assist preparation of legislative actions, including drafting text, monitoring required reviews and advertising.
- Record plans, deeds, etc.; sewer allocation; monitor sewer billing, tax collection and building permits.
- Manage building and grounds maintenance.
- Maintain files on all subdivision/land development projects; manage related correspondence; administer due dates schedule.
- Other miscellaneous duties as may be required by the Board of Supervisors.

EDITOR'S NOTE: This Ordinance No. 2 of 2014 and was adopted by the East Union Township Board of Supervisors on February 12, 2014.

Part 8
Participation of East Union Township in the
PSATS Unemployment Compensation Group Trust

Section 1.

That the Board of Supervisors adopts the Restated Trust Agreement and agrees to participate in the Trust in accordance with the amended and updated terms of the Restated Trust Agreement and that the Chairman of the Board of Supervisors and Secretary of the Township are hereby authorized to sign the Restated Trust Agreement and any other agreements necessary for the Township's participation in the Trust.

The Restated Trust Agreement is on file for inspection and review at the Township's offices at 10 East Elm Street, Sheppton, Pennsylvania. The Restated Trust Agreement may be subsequently modified or amended in accordance with its terms, but in no event shall such modifications or amendments divert any of the trust funds from the purposes of the Trust. The Township may withdraw from the Trust in accordance with the Restated Trust Agreement, including if the Board of Supervisors determines the modifications or amendments are not in the best interests of the Township.

Section 2.

That the participation of the Township in the Trust is authorized for the purpose of pooling resources for the purpose of providing unemployment compensation insurance for Participation Employers at reasonable cost.

Section 3.

That as forth in greater detail in the Restated Trust Agreement and as otherwise stated herein, the following conditions apply to the participation of the Township in the Trust:

1. That each Participating Employer must meet the admission and eligibility requirements set forth therein;
2. That each Participating Employer agrees to pay all contributions when due as provided in the Restated Trust Agreement or as otherwise established by the Board of Trustees, and
3. That each Participating Employer complies with all other conditions of the Restated Trust Agreement.

Section 4.

That the Township agrees to participate in the Trust and may withdraw for any

reason and in accordance with the Restated Trust Agreement provided that It has fulfilled all its financial obligations to the Trust upon withdrawal.

Section 5.

That the effective date of the Township's agreement to and joinder in the Restated Trust Agreement and the participation of the Township in the Trust pursuant to the terms of the Restated Trust Agreement will be June 3, 2015.

Section 6.

That each Participating Employer delegates to the Board of Trustees the powers enumerated in the Restated Trust Agreement.

Section 7.

That the organizational structure of the Trust shall consist of a Board of Trustees. Under the Restated Trust Agreement, the Board of Trustees is authorized to, among other things, enter into contracts with third parties to perform various services necessary for the administration of the Trust.

Section 8.

That the funds required for the operation of the Trust shall be provided by the Participating Employers through scheduled appropriations as determined by the Board of Trustees.

Section 9.

That the Trust is empowered to enter into contracts for policies of group insurance and employee benefits, including Social Security, for employees of the Trust, if any.

Section 10.

That as a condition of participating in the Trust, the Township agrees to comply with all of the terms and conditions in the Restated Trust Agreement.

Section 11.

That the Secretary of the Township shall provide a certified copy of this Ordinance upon its enactment to the Board of Trustees of the Trust.

Section 12.

The Board of Supervisors of the Township is hereby authorized to take any and all such other actions as may be necessary or appropriate to carry out the purposes of this Ordinance and comply with the requirements of the attached Restated Trust Agreement and any duty adopted amendments thereto.

Section 13.

The duration of the term of the Township's participation in the Trust and obligations under the Restated Trust Agreement shall continue until withdrawal from the Trust by the Township in accordance with the terms of the Restated Trust Agreement.

Section 14.

The Board of Supervisors hereby specifically finds and determines as follows:

1. The conditions of the intergovernmental cooperative agreement are set forth in the Restated Trust Agreement incorporated by reference herein.
2. The Township shall participate in the Trust in accordance with the Restated Trust Agreement until it withdraws by giving notice to the Board of Trustees in accordance with the terms of the Restated Trust Agreement.
3. The purpose and objectives of the intergovernmental cooperative arrangement, including powers and scope of authority delegated to the Board of Trustees, are set forth in the incorporated Restated Trust Agreement.
4. The manner and extent of financing of the agreement are that (i) funds to implement the Township's obligations under the agreement shall come from the normal and usual budgeted amounts for Township employee compensation and employee benefits and (ii) no borrowing is anticipated to be required.
5. The Trust shall be managed by the Board of Trustees pursuant to the terms of the Restated Trust Agreement.
6. All assets and property, real or personal, of the Trust shall be titled to, acquired, managed, licensed or disposed of by the Trust, and its Board of Trustees, in accordance with the terms of the Restated Trust Agreement.
7. The Trust in accordance with the Restated Trust Agreement shall be empowered to enter into contracts for policies of group insurance and employee welfare benefits to be offered to Participating Employers for their eligible employee and dependents.

Section 15.

The provisions of this Ordinance are severable and, in the event, that any provision is invalid, void, illegal or unconstitutional by any court, it is the intent of the Board of Supervisors that such determination by the Court shall not affect or render void the remaining provisions of this Ordinance. It is the declared intent of the Board of Supervisors that this Ordinance

would have been enacted if any provision subsequently declared to be void, invalid, illegal or unconstitutional had not been included at the time of enactment.

Section 16.

Nothing in this Ordinance shall be interpreted to affect any rights or liabilities of the Township, or to affect any cause of action, existing prior to the enactment of this Ordinance.

Section 17.

This Ordinance shall take effect five (5) days from the date of adoption.

EDITOR'S NOTE: This Ordinance No. 1 of 2015 and was adopted by the East Union Township Board of Supervisors on September 2, 2015.

CHAPTER 2

BUILDINGS AND STRUCTURES

Part 1

House Number Display

§101. Name. This Ordinance shall be known and cited as the “East Union Township House Number Display Ordinance.”

§102. Purpose. The purpose of this Ordinance is to establish a system within East Union Township whereby the addresses of all premises will be identified and to provide rules and guidelines to facilitate the enforcement thereof.

§103. Definitions. As used in this Part, the following words or terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) “Premises”- means any lot or parcel of land owned by any person, firm or corporation, public or private, improved with building, whether occupied or unoccupied.

(b) “House Number”-means the official number assigned to a premises by the Schuylkill County Communication Center.

(c) “Street or Road Name”-means any official name as recognized by governmental agencies.

§104. Regulations.

(a) No Street or Road Name shall be changed without the approval of the East Union Township Board of Supervisors or the Schuylkill County Communication Center.

(b) Every Premises shall display the distinctive house number assigned to that Premises by the Schuylkill County Communication Center. The individual digits shall be no less

than four (4) inches in height (three (3) inches if made of a reflective material) in block style letters and shall be in a contrasting color to the background. The house number shall be displayed in one of the following fashions:

(1) If the number is displayed on a house, the number shall be placed upon the front of the house in such a position as to be plainly visible to all traffic coming to the Premises from either direction.

(2) If a house is more than 50 feet from the improved portion of the street or road or is not clearly visible from the street or road, the number shall be displayed on a sign adjacent to the street or road on which the property fronts. Such sign shall be attached to a fence or post at a height that assures that the number will not be obscured by winter snows or snowplowing.

§105. Violation. Failure to display a house number within 60 days after the adoption of this Part, or in the case of new construction, prior to the issuance of a Certificate of Occupancy, shall be considered a violation of this Part and shall be subject to penalties hereinafter provided.

§106. Saving Clause. The provisions of this Part are hereby declared to be severable and if any clause, sentence, word, section or provision is declared void or unenforceable, for any reason, by a court of competent jurisdiction, the remaining portions of said Ordinances shall remain in full force and effect.

§107. Penalties. Any person, firm or corporation violating the provisions of this Ordinance shall be guilty of a misdemeanor subject to a fine of not more than one hundred dollars (\$100) or imprisonment in the county jail for a period of not to exceed ninety (90) days, or both. Such fine and imprisonment shall be at the discretion of the court. Each and every day during which such violation continues shall be considered as a separate and distinct violation hereof and may be charged and prosecuted as such. The above specified penalties may be imposed for each such violation.

§108. Enforcement. This Part shall be enforced by the Code Enforcement Officer of East Union Township, the Fire Marshall of East Union Township, or the Fire Chief of the Shepton Oneida Volunteer Fire Company. Enforcement shall be by action brought before a district justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

§109. Effective Date. This Ordinance shall take effect 30 days following publication, as required by law

EDITOR'S NOTE: This is Ordinance No. 3 of 2011.

Part 2
Dangerous Structures

§201. Definitions. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Dangerous Structures – includes all building or structures which have any or all of the following defects:

(1) Those whose interior walls or other vertical structural members which list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base;

(2) Those which, exclusive of the foundation, show damage or deterioration to thirty-three percent (33%) of the supporting member or members, or damage or deterioration to fifty percent (50%) of the non-supporting enclosing or outside walls or covering;

(3) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;

(4) Those which have been damaged by fire, wind or other causes so as to be dangerous to life, safety, or the general health and welfare of the occupants or the public;

(5) Those which are so damaged, dilapidated, decayed, unsafe, unsanitary, vermin infested or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein;

(6) Those which have parts thereof which are so attached that they may fall and injure property or members of the public;

(7) Those which lack illumination, ventilation or sanitation facilities or because of another condition are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the occupants or the public.

(8) Those which because of their location are unsanitary, or otherwise dangerous, to the health or safety of the occupants or the public;

(9) Those which house unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that it is found to be a hazard to life, health, property, or safety of the public or occupants of the premises or structure. Unsafe equipment may contribute to the finding that the structure is unsafe or unfit for human occupancy or use.

(10) Those existing in violation of any provision of the building code, international property maintenance code, fire prevention code, or other ordinances of the Township.

(b) Dwelling or Dwelling Unit - means any building having a roof supported by columns or walls and intended for shelter, housing, enclosure of persons and property, or the conducting of any business or commercial use.

(c) Extermination – means control and elimination of insects, rodents or other pests by eliminating their harborage places, removing or making inaccessible, materials that may serve as their food, poisoning, spraying fumigating, trapping, or by any other recognized and legal pest eliminating methods.

(d) Garbage – means animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

(e) Infestation – means the presence, within or around a structure, of any insects, rodents or other pest.

(f) Property – means a piece, parcel, lot or tract of land.

(g) Rubbish – means combustible and noncombustible waste materials, except garbage, including residue from the burning of wood, coal, coke, and other combustible material, paper rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust.

(h) Structure – means anything constructed or erected with a fixed or ascertainable location on the ground or in water, whether or not affixed to the ground or anchored in the water, including buildings, walls, fences, platforms, docks, wharves, billboards, signs, and walks.

(i) Whenever the words “dwelling unit” “dwelling unit” or “premises”, are used in this Part, they shall be construed as though they were followed by the words “or part thereof”.

§202. Dangerous Structures Declared Nuisances. All dangerous structures within the terms of §201 of this Part are hereby declared to be public nuisance and shall be repaired, vacated, or demolished as herein provided.

§203. Standards for Repair, Vacation, or Demolition. The following standards shall be followed in substance by the Code Enforcement Officer of the Township in ordering repair, vacation, or demolition:

(a) If the dangerous structure can reasonable be repaired so that it will no longer exist in violation of the terms of this Part, it shall be ordered to be repaired.

(b) If the structure is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, or the public and is so placarded, it shall be ordered to be vacated within such length of time, not exceeding thirty (30) days as is reasonable.

(c) No dwelling or dwelling unit which has been placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Code Enforcement Officer or Police Officer. The Code Enforcement Officer or Police Officer shall remove such placard whenever the defect or defects upon which the placarding action was based have been eliminated.

(d) If a dangerous structure is fifty percent (50%) or more damaged or decayed, or deteriorated from its original condition; if a dangerous building cannot be repaired, so that it will no longer exist in violation of the terms of this Part, or if a dangerous structure is a fire hazard existing or erected in violation of the terms of this Part or any ordinance of the Township or statute of the Commonwealth of Pennsylvania, it shall be ordered to be demolished; provided, the cost of repairs to rectify or remove the conditions constituting the nuisance exceed fifty percent (50%) of the market value of the building at the time demolition is proposed.

§204. Duties of Code Enforcement Officer.

(a) The Code Enforcement Officer shall inspect on a regular basis dwellings, buildings and structures to determine whether any conditions exist which render such premises dangerous buildings within the terms of §201 above.

(b) Whenever an inspection discloses that a dwelling, building or structure has become a public nuisance, the Code Enforcement Officer shall issue a written notice to the person or persons responsible, which shall:

(1) Be in writing;

(2) Include a statement of the reasons it is being issued;

(3) State a reasonable time to rectify the conditions constituting the nuisance or to remove and demolish the dwelling, building, or structure;

(4) Be served upon the owner, or the owner's agent, or the occupant(s), as the case may require.

(A) Except in emergency cases and where the owner, occupant, lessee, or mortgagee is absent from the Township, all notices shall be deemed to be properly served upon the owner, occupant or other person having an interest in the dangerous building, if a copy thereof is served upon him or her personally, or if a copy thereof is posted in a conspicuous place in or about the structure affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of the Commonwealth.

(B) Except in emergency cases, and in all other cases where the owner, occupant, lessee, or mortgagee is absent from the Township, all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, and

all other persons having an interest in said structure, as shown by the records of the County Recorder of Deeds, to the last known address of each, a copy of such notice shall be posted in conspicuous place on the dangerous structure to which it relates. Such mailing and posting shall be deemed adequate service.

(5) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Part and with the rules and regulations adopted pursuant thereto.

(c) The Code Enforcement Officer shall appear at all hearings conducted by the Township to testify as to the condition of dangerous structures.

§205. Hearings.

(a) Any person affected by any notice which has been issued in connection with the enforcement of any provision of this Part, may request and shall be granted a hearing on the matter before the Township Board of Supervisors; provided, that such person shall file with the Township Secretary a written petition requesting such hearing and setting forth a brief statement of the grounds therefore within ten (10) days after the day the notice was served. Upon receipt of such petition, the Township Secretary shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn. The hearing shall be commenced not later than thirty (30) days after the day on which the petition was filed.

(b) After such hearing the Township shall sustain, modify or withdraw the notice. If the Township sustains or modifies such notice, it shall be deemed to be an order. Any notice served pursuant to this Part shall automatically become an order if a written petition for a hearing is not filed with the Township Secretary within ten (10) days after such notice is served.

(c) Any aggrieved party may appeal the final order to the Court of Common Pleas in accordance with the provisions of the Pennsylvania Rules of Civil Procedure.

§206. Removal of Notice Prohibited. No person shall remove or deface the notice of dangerous structure, except as provided in §203 (c).

§207. Emergency Cases. Whenever the Code Enforcement Officer finds that an emergency exists which requires immediate action to protect the public health, he or she may without notice or hearing, issue an order reciting the existence of such an emergency and requiring that such action be taken as is necessary to meet the emergency. Notwithstanding the other provisions of this Part, such order shall be effective immediately. Any person to whom such order is directed shall comply therewith immediately, but upon petition to the Code Enforcement Officer shall be afforded a hearing as soon as possible. After such hearing, depending upon the findings as to whether the provisions of this Part have been complied with, the Code Enforcement Officer shall continue such order in effect, or modify, or revoke it. The costs of such emergency repair, vacation or demolition of such dangerous structures shall be collected in the same manner as provided herein for other cases.

§208. Abatement by Township. If the owner, occupant, mortgagee, or lessee fails to comply with the order of the Code Enforcement Officer within the time specified in the notice issued by him or her and no petition or hearing is filed within ten (10) days thereafter, or following a hearing by the Township where the order is sustained thereby, the Code Enforcement Officer shall cause such building or structure to be repaired, vacated, or demolished, as determined by the Township in accordance with the standards set forth in this Part. The Township may collect the cost of such repair, vacation or demolition together with a penalty of ten percent (10%) of such cost, in manner provided by law, or the Township may seek injunctive relief in a court of competent jurisdiction pursuant to the Pennsylvania Rules of Civil Procedure.

§209. Penalties. Any person who violates any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not more than One Thousand Dollars (\$1,000.00), and in default of payment thereof to undergo imprisonment for a term not to exceed thirty (30) days. Each day that a violation continues beyond the date fixed for compliance shall constitute a separate offense.

EDITOR'S NOTE: This is Ordinance No. 4 of 2006 adopted by the East Union Township Board of Supervisors on June 5, 2006; amended by Ordinance No. 4 of 2008 replacing Borough with Township.

Part 3 Chronic Nuisance Properties

§301. Title. This Ordinance shall be known as the "East Union Township Chronic Nuisance Property Ordinance".

§302. Purpose.

(a) East Union Township finds that "Chronic Nuisance Properties":

- (1) Jeopardize the public health, safety, welfare and morals;
- (2) Cause adverse impacts to the residents of the Township and interfere with the residents quality of life and quiet enjoyment of their property;
- (3) Diminishing property values;
- (4) Prevent people from moving into the Township; and
- (5) Pose a financial burden on the Township by repeated calls for service by codes, streets, and police.

(b) This Ordinance is meant to:

- (1) Identify "Chronic Nuisance Properties";
- (2) Hold those persons responsible for such properties accountable; and

(3) Remedy nuisance activities that frustrate the purpose of this Ordinance by providing a process for abatement.

§303. Definitions. For purposes of this Ordinance:

- (a) “Abate”- means to repair, replace, remove, destroy, or otherwise remedy a condition, which constitutes a violation of this Ordinance by such means and in such a manner and to such an extent of the general health, safety and welfare of the community.
- (b) “Control”- means the ability to regulate, restrain, dominate, prevent, or govern property, or conduct that occurs on a property.
- (c) “Chronic Nuisance Property”- means property upon which three or more founded nuisance activities occur or exist within a 12-month period.
- (d) “Drug-related activity”- means any unlawful activity at a property which consists of the manufacture, delivery, sale, storage, possession, or giving away of any controlled substance as defined by State law.
- (e) “Issuing Officer”- includes the fire chief, a police officer or a code enforcement officer of the Township.
- (f) “Nuisance activity’ means:

(1) Any nuisance as defined by state law or local ordinance occurring on, around or near a property, including but not limited to, violations of the following laws and regulations:

- (a) Unauthorized and junk vehicles;
- (b) Building, property maintenance or fire codes; and
- (c) Health, safety and sanitation.

(2) Any criminal conduct as defined by state law or local ordinance occurring on, around or near a property, including, but not limited to, the following activities or behaviors:

- (a) Stalking;
- (b) Harassment;
- (c) Failure to disperse;
- (d) Disorderly conduct;
- (e) Assault;
- (f) Any domestic violence crimes;
- (g) Reckless endangerment;
- (h) Prostitution;
- (i) Patronizing a prostitute;
- (j) Public disturbance noises;
- (k) Lewd conduct;

- (l) Any firearms/dangerous weapons violations;
- (m) Drug related loitering;
- (n) Any dangerous animal violations; and
- (o) Any drug related activity.

(3) “Nuisance Activity”- may not include conduct where the person responsible is the victim of a crime and had no control over the criminal act. A victim of domestic violence or other crime should not refuse to call 911 because of this Ordinance.

(g) “Person Responsible”- means, unless otherwise defined, any person who has titled ownership of the property or structure which is subject to this Ordinance; an occupant in control of the property or structure which is subject to this Ordinance; a developer, builder, or business operator or owner who is developing, building or operating a business on the property or in a structure which is subject to this Ordinance; or any person who has control over the property and allows a violation of this Ordinance to continue.

(h) “Person”- means any natural person, joint venture, partnership, association, club, company, corporation, business trust, organization, or the manager, lessee, agent, officer or employee of any of them.

(i) “Premises” or “Property”- means any public or private building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as a residential or commercial property. The terms premises and property are used in this Ordinance interchangeably but mean the same thing.

(j) “Rental Unit”- means any structure or part of a structure, including but not limited to any dwelling unit, single, two-family or multi-family family dwelling unit, home, room, or apartment, which is rented to another and used as a residence, or sleeping quarters for one or more persons.

§304. Violation.

(a) Any property within East Union Township, which is a Chronic Nuisance Property is in violation of this Ordinance and shall be subject to its remedies; and

(b) Any person responsible for property who permits a property to become a Chronic Nuisance Property shall be in violation of this Ordinance and subject to its remedies.

§305. Notice.

(a) When any police officer, fire chief, or code enforcement officer of the Township, receives documentation confirming the occurrence of three or more nuisance activities within a twelve month period on any property, he or she shall issue a notice of violation to the person responsible for such property, in writing.

(b) The notice of violation shall include:

(1) The street address or legal description sufficient for identification of the property;

(2) A concise description of the nuisance activities that exist, or that have occurred on the property;

(3) A demand that the person responsible for such property respond to the issuing authority within 10 days of service of the notice to discuss the nuisance activities and create a plan to abate the chronic nuisance;

(4) Offer the person responsible an opportunity to abate the nuisance activities giving rise to the violations; and

(5) A statement describing that if legal action is sought, the property could be subject to closure and civil penalties in the amount of not less than \$300.00 and no more than \$600.00 per day if declared a chronic nuisance property. Each day the violation continues shall constitute a separate offense.

(c) The notice of violation shall be served upon the person responsible by one or more of the following methods: U.S. first class mail; Certified mail; posting of the Property; or hand delivery.

§306. Penalties for Violation. Any person responsible who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable thereof in a civil enforcement proceedings commenced by the issuing officer, shall pay a judgment of not less than \$300.00 and no more than \$600.00 per day, plus all court costs, including reasonable attorney fees incurred by the Township as a result of pursuing a civil enforcement proceeding. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the magisterial district Judge. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to law. Each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Township.

§307. Other Remedies.

(a) In addition to filing a civil action against the person responsible, the Township may through its solicitor also file an action at law or in equity to eject the occupants from the Chronic Nuisance Property; abate the violations; and close the Chronic Nuisance Property for a period of 12 months for each time the property has been declared a Chronic Nuisance Property.

(b) Upon closing a Chronic Nuisance Property, the Township reserves the right to secure the Chronic Nuisance Property against all unauthorized access, use and occupancy for the 12-month period. This remedy is in addition to the imposition of civil penalties and costs.

§308. Unlawful Acts of Landlords under this Ordinance. Any of the following shall be a violation of this Ordinance:

(a) A domestic violence victim receives an eviction notice, which cites violations of this Ordinance.

(b) A landlord engages in informal eviction or refuses to renew a tenant's lease, telling the Tenant that the Tenant is no longer welcome due to the Tenant's use of police services or the violence committed against the Tenant.

(c) A landlord instructs a tenant that the tenant must stop calling the police, codes or the fire chief, or the tenant may face eviction.

§309. Severability. If any portion of this Ordinance, or its application to any person or circumstances, is held invalid, the validity of the Ordinance as a whole, or any other portion thereof, or the application of the provisions to other persons or circumstances is not affected. If any one or more sections, subsection, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance and the same shall remain in full force and effect.

§310. Conflicts. Any ordinance or resolution or part thereof conflicting with the provisions of this Ordinance is hereby repealed so far as the same affects this Ordinance.

§311. Effective Date. This Ordinance shall become effective immediately following its enactment, the same being indicated below.

EDITOR'S NOTE: This is Ordinance No. 5 of 2020 and was adopted by the East Union Township Board of Supervisors on June 18, 2020.

EDITOR'S NOTE: The original version of this Ordinance misnumbered sections 309, 310, and 311. Those misnumbered sections have been properly numbered.

CHAPTER 3

CODE ENFORCEMENT

Part 1

International Property Maintenance Code

§101. Adoption of International Property Maintenance Code. East Union Township does hereby adopt the International Property Maintenance Code, 2015 edition, as published by the International Code, Inc. referred to in this Part as the “Code”.

§102. Title. The Code may be known and cited as the “2015 International Property Maintenance Code of East Union Township”.

§103. Unlawful Acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this Code. The Code Official (being the Building Inspector, a Police Officer, or Code Enforcement Officer appointed by East Union Township) shall administer and enforce the provisions of the 2015 International Property Maintenance Code.

§104. Notice of Violation. The Code Official shall serve a notice of violation or order in accordance with Section 107 of the 2015 International Property Maintenance Code.

§105. Prosecution of Violation. Any person failing to comply with a notice of violation or order served in accordance with Section 107 of the 2015 International Property Maintenance Code shall be deemed guilty of a summary offense or civil proceeding and be subject to the penalties delineated in Section 106.4 of the 2015 International Property Maintenance Code and Section 106 of this Part, below. In addition, if the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code pursuant to Section 106.5 of the Code.

§106. Violations and Penalties under Section 106.4 of the Code. Any person who shall violate this Code shall be subject to one of the following enforcement proceedings as determined by the Code Official:

- (a) A civil enforcement proceeding with fines of not more than \$600.00 for each offense, together with the cost of prosecution; or
- (b) A summary proceeding with fines of no more than \$1,000.00 or imprisonment for a term not to exceed 30 days, or both, at the discretion of the Court. In either type of proceeding, each day that a violation continues after due notice has been served shall be deemed a separate offense.

§107. Abatement of Violation. The imposition of the penalties prescribed under Section 106 above may not preclude the Code Official from instituting appropriate action or restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

§108. Amendments to the 2015 International Property Maintenance Code. The following sections of the 2015 International Property Maintenance Code are amended:

(a) **Section 101.1 Title.** *The following is inserted:* The regulations shall be known as the “2015 International Property Maintenance Code of East Union Township” (hereinafter known as the “Code”).

(b) **Section 102.3 Application of other codes.** *The last sentence is changed to read as follows:* “Nothing in this Code shall be construed to cancel, modify or set aside any provision of the East Union Township Zoning Ordinance”.

(c) **Section 103.5 Fees.** *The following is inserted:* The schedule of fees for activities and services performed by the Department shall be as follows unless changed or amended by Resolution of East Union Township Board of Supervisors:

1. Inspections:
 - i. Residential-\$50.00; and
 - ii. Non-Residential-\$100.00.
2. Re-Inspections (for failed inspections):
 - i. Residential-\$50.00 first reinspection and \$100.00 for second or subsequent re-inspection(s); and
 - ii. Non-Residential-\$100.00 first reinspection and \$150.00 for second or subsequent re-inspection(s).
3. Unusual Technical Issues: Where an unusual technical issue arises, the Code Official may engage the services of an expert to render an opinion on the issue. The owner of any premises that requires the Code Official to engage the services of an expert shall be required to pay the expert fees at the expert’s hourly rate, not to exceed an hourly rate representing that which is consistent and customary, at the time, in that particular area of the expertise. This fee should include the services rendered by the expert including inspection, review of reports, diagrams or plans, preparation and issuance of an expert report and testimony before the board of appeals and any court proceeding.
4. Review of Reports of Inspection by Approved Agencies or Individuals:
 - i. Residential-\$25.00; and
 - ii. Non-residential-\$100.

(d) **Section 106.3 Prosecution of violations.** *The section is replaced with:* Any person failing to comply with a notice of violation or order served in accordance with Section 107 shall be deemed guilty of a summary or civil infraction as determined by East Union Township, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(e) **Section 106.4. Violation penalties.** *This section is replaced with:* Any person who shall violate this Code shall be subject to one of the following enforcement proceedings as determined by the Code Official:

1. A civil enforcement proceeding with fines of not more than \$600.00 for each offense, together with the cost of prosecution; or
2. A summary proceeding with fines of no more than \$1,000.00 or imprisonment for a term not to exceed 30 days, or both, at the discretion of the Court.

In either type of proceeding, each day that a violation continues after notice has been served shall be deemed a separate offense.

(f) **Section 112.4 Failure to comply.** *This section shall read that:* Any person who shall continue to work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for fines in amounts as set forth in Section 106.4 of the Code, as amended above in Section 108(e).

(g) **Section 202. General definitions.** *The following definition is revised:*

[A] Code Official- shall mean the Code Enforcement Officer appointed by the East Union Township Board of Supervisors to enforce the Code of Ordinances of the Township, including the administration and enforcement of this Code, or any duly authorized representative appointed by East Union Township.

(h) **Section 302.4 Weeds.** *The following shall be inserted:* Weeds or plant growth in excess of six (6) inches in height.

(i) **Section 304.14 Screens.** *The following shall be inserted:* During the period from May 1 to October 1.

(j) **Section 602.3 Heat supply.** *The following shall be inserted:* Heat supply must be provided by Landlord from September 1 to June 1 of each year.

(k) **Section 602.4 Work spaces.** *The following shall be inserted:* Occupy-able work spaces shall be provided from September 1 to June 1 of each year.

Except as amended in this §108 above, the International Property Maintenance Code of 2015 is adopted herein in its entirety.

§109. Filing of ordinance and code. One copy of the International Property Maintenance Code, 2015 edition, as published by the International Code, Inc. shall be kept on file in the office of the Township Secretary along with a copy of this Part. A copy of the 2015 International Property Maintenance Code is also available on line for viewing at <http://www.iccsafe.org>. Copyright infringements apply.

§110. Severability. If any section, subsection, clause or provision of this Part shall be held invalid or unconstitutional by any court of competent jurisdiction such decision shall not affect any other section, subsection, clause, or provision this Part so long as it remains legally enforceable minus the invalid portion. East Union Township hereby declares that it would have passed this Part, section, subsection, clause and provision of this Part, irrespective of the fact that any one or more sections, subsections, sentence, clauses and phrases be declared unconstitutional.

§111. Repealer. All ordinances or parts thereof which are inconsistent with this Part are hereby repealed to the extent of their inconsistencies.

§112. Effective Date. This Ordinance shall become effective immediately following its adoption.

EDITOR'S NOTE: This Ordinance was not numbered, but was adopted by the East Union Township Board of Supervisors on July 6, 2020 to repeal Part 1 of Chapter 3, which adopted the 2009 Edition of the International Property Maintenance Code.

Part 2

Uniform Construction Code

§201. Administration.

(a) The Township hereby elects to administer and enforce the provisions of the Pennsylvania Construction Code, Act 45 of 1999, 35 P.S. §§7210.101-7210.1103, as amended from time to time, and its regulations.

(b) The Uniform Construction Code, contained in 34 Pa. Code, Chapters 401-405, as amended from time to time, is hereby adopted and incorporated herein by reference as the municipal building code of this Township.

(c) Administration and enforcement of the Code within this Township shall be undertaken in any of the following ways as determined by the Township from time to time by resolution:

(1) By the designation of an employee of the Township to serve as the municipal code official to act on behalf of the Township;

(2) By the retention of one or more construction code officials or third-party agencies to act on behalf of the Township;

(3) By agreement with one or more other municipalities for the joint administration and enforcement of this Act through an inter-municipal agreement;

(4) By entering into a contract with another municipality for the administration and enforcement of the Uniform Construction Code on behalf of this Township;

(5) By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of structures other than one-family or two-family dwelling units and utility and miscellaneous use structures.

§202. Board of Appeals. A Board of Appeals shall be established by resolution of the governing body of this Township in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time en-

forcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

§203. Code Requirements.

1. All building code ordinances or portions of ordinances which were adopted by the Township on or before July 1, 1999, and which equal or exceed the requirements of the Code shall continue in full force and effect until such time as such provisions fail to equal or exceed the minimum requirements of the Code, as amended from time to time.
2. All building code ordinances or portions of ordinances which are in effect as of the effective date of this ordinance and whose requirements are less than the minimum requirements of the Code are hereby amended to conform with the comparable provisions of the Code.
3. All relevant ordinances, regulations and policies of this Township not governed by the Code shall remain in full force and effect.

§204. Fees. Fees assessable by the Township for the administration and enforcement undertaken pursuant to this Part and the Code shall be established by the governing body by resolution from time to time.

§205. Effective Date. This ordinance shall be effective five (5) days after the date of passage of this ordinance.

§206. Severability. If any section, subsection, sentence, or clause of this ordinance is held, for any reason, to be invalid, such decision or decisions shall not affect the validity of the remaining portions of this ordinance.

EDITOR'S NOTE: This Ordinance was adopted by the East Union Township Board of Supervisors on June 7, 2004.

Part 3

Landlord-Tenant Rental Registration

§301. Short Title. This part shall be known and may be cited as the "East Union Township Rental Registration Ordinance."

§302. Definitions. For purposes of this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) AGENT- Individual of legal majority who has been designated by the Owner, as the agent of the Owner, or manager of the Property under the provisions of this Ordinance.

(b) TOWNSHIP- East Union Township.

(c) TOWNSHIP CODE- The Building Code (Property Maintenance Code 2009 as may be amended by subsequent ordinance) officially adopted by the governing body of the Township, or other such codes officially designated by the governing body of the Township for the regulation of construction, alteration, addition, repair, removal, demolition, location, occupancy and maintenance of buildings and structures.

(d) OFFICE- The Office of Code Enforcement for the Township of East Union.

(e) DWELLING UNIT- A single habitable unit, providing living facilities for one or more persons, including permanent space for living, sleeping, eating, cooking and bathing and sanitation, whether furnished or unfurnished. There may be more than one Dwelling Unit on a Premises.

(f) DORMITORY- a residence hall offered as a student or faculty housing to accommodate a college or university, providing living or sleeping rooms for individuals or groups of individuals, with or without cooking facilities and with or without private baths

(g) INSPECTOR- any person authorized by Law or Ordinance to inspect buildings or systems, e.g. zoning, housing, plumbing, electrical systems, heat systems, mechanical systems and health necessary to operate or use building within the Township of East Union. An Inspector would include those identified in Section 8- Enforcement.

(h) FIRE DEPARTMENT- The Fire Department of the Township of East Union or any member thereof, and includes the Chief of Fire or his designee.

(i) HOTEL- A building or part of a building in which living and sleeping accommodations are used primarily for transient occupancy, may be rented on a daily basis, and desk service is provided, in addition to one or more of the following services: maid, telephone, bellhop service, or the furnishing or laundering of linens.

(j) LET FOR OCCUPANCY- To permit, provide or offer, for consideration, possession or occupancy of a building, dwelling unit, rooming unit, premise or structure by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of land.

(k) MOTEL- A building or group of buildings which contain living and sleeping accommodations used primarily for transient occupancy, may be rented on a daily basis, and desk service is provided, and has individual entrances from outside the building to serve each such living or sleeping unit.

(l) OCCUPANT- A person age 18 or older who resides at a Premises.

(m) OPERATOR – Any person who has charge, care or control of a Premises which is offered or let for occupancy

(n) OWNER- Any person, Agent, or Operator having a legal or equitable interest in the property; or recorded in the official records of the state, county, or municipality, as holding title to the property; or otherwise having control of the property, including the guardian of the

estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court of competent jurisdiction.

(o) OWNER – OCCUPANT- An owner who resides in a Dwelling Unit on a regular permanent basis, or who otherwise occupies a non-residential portion of the Premises on a regular permanent basis.

(p) PERSON- Any person, partnership, firm, association, corporation, or municipal authority or any other group acting as a single unit.

(q) POLICE DEPARTMENT- The Police Department of the Township of East Union or any member thereof sworn to enforce laws and ordinances in the Township, and precludes the Chief of Police or his designee.

(r) PREMISES- Any parcel of real property in the Township, including the land and all buildings and structures in which one or more Rental Units are located.

(s) RENTAL UNIT- A Dwelling Unit or Rooming Unit which is let for occupancy and is occupied by one or more Tenants.

(t) ROOMING UNIT- Any room or groups of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

(u) TENANT- Any Person authorized by the Owner or Agent who occupies a Rental Unit within a Premises regardless of whether such Person has executed a lease for the Premises.

§303. Appointment of an Agent or Manager. Each Owner who is not an Owner-occupant, or who does not reside in East Union Township or within a ten (10) mile air radius of the Township limits, shall appoint an Agent who shall reside in the Township or within a ten (10) mile air radius of the Township limits.

§304. Duties of Owner or Agent.

(a) The Owner has the duty to maintain the Premises in good repair, clean and sanitary condition, and to maintain the Premises in compliance with the current Codes, Building Codes and Zoning Ordinance of the Township of East Union. The Owner may delegate implementation of these responsibilities to an Agent.

(b) The duties of the Owner and/or Agent shall be to receive notices and correspondence, including service of process, from the Township of East Union; to arrange for the inspection of the Rental Units; do or arrange for the performance of maintenance, cleaning, repair, pest control, snow and ice removal, and ensure continued compliance of the Premises with the current Codes, Building Codes and Zoning Ordinance in effect in the Township of East Union, as well as arrange for garbage removal.

(c) The name, address and telephone number of the Owner and Agent, if applicable, shall be reported to the Code Enforcement Office in writing upon registering the Rental Units.

(d) No Dwelling Unit shall be occupied, knowingly by the Owner or Agent, by a number or persons that is in excess of the requirements outlined in the 2009 International Property Maintenance Code.

§305. Notices.

(a) Whenever an Inspector or Code Enforcement Officer determines that any Rental Unit or Premises fails to meet the requirements set forth in the applicable Codes, the Inspector or Code Enforcement Officer shall issue a correction notice setting forth the violations and ordering the Occupant, Owner or Agent, as appropriate, to correct such violations. The notice shall:

- (1) Be in writing;
- (2) Describe the location and nature of the violation; and
- (3) Establish a reasonable time for the correction of the violation.

(b) All notices shall be served upon the Occupant, Owner or Agent, as applicable, personally or by certified mail, return receipt requested. A copy of any notices served solely on an Occupant shall also be provided to the Owner or Agent. In the event service is first attempted by mail and the notice is returned by the postal authorities marked “unclaimed” or “refused”, then the Code Enforcement Office or Police Department shall attempt delivery by personal service on the Occupant, Owner or Agent, as applicable. The Code Enforcement Officer shall also post the notice at a conspicuous place on the Premises. If personal service directed to the Owner or Agent cannot be accomplished after a reasonable attempt to do so, then the notice may be sent to the Owner or Agent, as applicable, at the address stated on the most current registration application for the Premises in question, by regular first class mail, postage prepaid. If such notice is not returned by the postal authorities within five (5) days of its deposit in the U.S. Mail, then it shall be deemed to have been delivered to and received by the addressee on the fifth day following its deposit in the United States Mail.

(c) For purposes of this Ordinance, any notice hereunder that is given to the Agent shall be deemed as notice given to the Owner.

(d) There shall be a rebuttable presumption that any notice that is given to the Occupant, Owner or Agent under this Part shall have been received by such Occupant, Owner, or Agent if the notice was served in the manner provided by this Part.

(e) Subject to section 305(d) above, a claimed lack of knowledge by the Owner or Agent, if applicable, of any violation hereunder cited shall be no defense to closure of rental units pursuant to Section 310, as long as all notices prerequisite to such proceedings have been given and deemed received in accordance with the provisions of this Part.

(f) All notices shall contain a reasonable time to correct, or take steps to correct, violations of the above. The Occupant, Owner or Agent to whom the notice was addressed may request additional time to correct violations. Requests for additional time must be in writing and either deposited in the U.S. Mail (post-marked) or hand delivered to the Code Enforcement Office within five (5) days of receipt of the notice by the Occupant, Owner or Agent. The

Township retains the right to deny or modify time extension requests. If the Occupant, Owner or Agent is attempting in good faith to correct violations but is unable to do so within the time specified in the notice, the Occupant, Owner or Agent shall have the right to request such additional time as may be needed to complete the correction work, which request shall not be unreasonably withheld.

(g) Failure to correct violations within the time period stated in the notice of violation shall result in such actions or penalties as are set forth in Section 311 of this Part. If the notice of violation relates to actions or omissions of the Occupant, and the Occupant fails to make necessary correction, the Owner or Agent may be required to remedy the condition. No adverse action shall be taken against an Owner or Agent for failure to remedy a condition so long as the Owner or Agent is acting with due diligence and taking bona fide steps to correct the violation, including but not limited to pursuing remedies under a lease agreement with an Occupant or Tenant. The Township shall not be precluded from pursuing an enforcement action against any Occupant or Tenant who is deemed to be in violation.

§306. Insurance. In order to protect the health, safety and welfare of the residents of the Township, it is hereby declared that the Township shall require hazard and general liability insurance for all property owners letting property occupancy in the Township.

(a) Minimum coverage; use of insurance proceeds. All Owners shall be required to obtain a minimum of fifty thousand (\$50,000.00) dollars in general liability insurance, and hazard and casualty insurance in an amount sufficient to either restore or remove the building in the event of a fire or other casualty. Further, in the event of any fire or less covered by such insurance, it shall be the obligation of the Owner to use such insurance proceeds to cause the restoration or demolition or other repair of the property in adherence to the Township Code and all applicable ordinances.

(b) Property owners to provide Township with insurance information. Owners shall be required to place their insurance company name, policy number and policy expiration date of their Rental Property Registration form, or in the alternative, to provide the Code Enforcement Office with a copy of certificate of insurance. A registration Certificate (see section 307 below) shall not be issued to any Owner or Agent unless the aforementioned information has been provided to the Code Enforcement Officer. The Code Enforcement Office shall be informed of any change in policies for a particular rental property or cancellation of a policy for said property within thirty (30) days of said change or cancellation.

§307. Rental Registration and License Requirements.

(a) No Person shall hereafter occupy, allow to be occupied, advertise for occupancy, solicit occupants for, or let to another person for occupancy any Rental Unit within the Township for which an application for license has not been made and filed with the Code Enforcement Office and for which there is not an effective license. Initial application and renewal shall be made upon forms furnished by the Code Enforcement Office such purpose and shall specifically require the following minimum information:

(1) Name, mailing address, street address and phone number of the Owner, and if the Owner is not a natural person, the name, address, and phone number of a designated representative of the Owner.

(2) Name, mailing address, street address and phone number of the Agent of the Owner, if applicable.

(3) The street address of the Premises being registered.

(4) The number and types of units within the Premises (Dwelling Units or Rooming Units).

The Owner or Agent shall notify the Code Enforcement Office of any changes of the above information within thirty (30) days of such change.

(b) The initial application for registration and licensing shall be made by personally filing an application with the Code Enforcement Office by August 7th, 2008. Thereafter, any new applicant shall file an application before the Premises is let for occupancy, or within thirty (30) days of becoming an Owner of a currently registered Premises. One application per property is required, as each property will receive its own license.

(c) Upon receipt of the initial application or any renewal thereof and the payment of applicable fees as set forth in Section 308 below, the Code Enforcement Office shall issue a Rental Registration License to the Owner within thirty (30) days of receipt of payment.

(d) Each new license issued hereunder, and each renewal license, shall expire on December 31st of each year. The Code Enforcement Office shall mail license renewal applications to the Owner or designated Agent on or before November 1st of each year. Renewal applications and fees may be returned by mail or in person to the Code Enforcement Office. A renewal license will not be issued unless the application and appropriate fee has been remitted.

§308. Fees.

(a) Annual License Fee. There shall be a license fee for the initial license and an annual renewal fee thereafter. Fees shall be assessed against and payable by the Owner in the amount of \$5.00 per Rental Unit, payable at the time of initial registration and annual renewal, as more specifically set forth in Section 307 above.

(b) Occupancy Permit Fee. There shall be a one-time occupancy permit fee of \$10.00 for every new Occupant, which is payable by the Occupant. For purposes of initial registration under this ordinance, this fee shall be paid for all current Occupants by August 7th, 2008. Thereafter, prior to occupying any Rental Unit, all Occupants shall obtain an occupancy permit. It shall be the Occupant's responsibility to submit an occupancy permit application to the Code Enforcement Office, pay the fee and obtain the occupation permit. If there are multiple Occupants in a single Rental Unit, each Occupant shall obtain his or her own permit. Owner or Agent shall notify all prospective Occupants of this requirement and shall not permit occupancy of a Rental Unit unless the Occupant first obtains an occupancy permit. Each occupancy permit issued is valid only for the Occupant for as long as the Occupant continues to occupy the Rental Unit for which such permit was applied. Any relocation to a different Rental

Unit requires a new occupancy permit. All Occupants age 65 and older, with adequate proof of age, shall be exempt from paying the permit fee, but shall be otherwise required to comply with this section and the rest of the Ordinance.

(1) Application for occupancy permits shall be made upon forms furnished by the Code Enforcement Office for such purpose and shall specifically require the following minimum information:

- (i) Name of Occupant
- (ii) Mailing address of Occupant
- (iii) Street address of Rental Unit for which Occupant is applying, if different from mailing address
- (iv) Name of Landlord
- (v) Date of lease commencement
- (vi) Proof of age if claiming exemption from the permit fee
- (vii) Proper identification showing proof of legal citizenship and/or residency

(2) Upon receipt of the application and the payment of applicable fees as set forth above, the Code Enforcement Office shall issue an Occupancy Permit to the Occupant immediately.

§309. Enforcement.

(a) The following persons are hereby authorized to enforce this Ordinance:

- (1) The Chief of Police
- (2) Any Police Officer
- (3) Code Enforcement Officer
- (4) The Fire Chief

(b) The designation of any person to enforce this Part or authorization of an Inspector, when in writing, and signed by a person authorized by Section 309(a) to designate or authorize an Inspector to enforce this Part, shall be prima facie evidence of such authority before the Magisterial District Judge, Court of Common Pleas, or any other Court, administrative body of the Township, or of this Commonwealth, and the designating Director or Supervisor need not to be called as a witness thereto.

§310. Failure to Correct Violations. If any Person shall fail, refuse or neglect to comply with a notice of violation as set forth in Section 305 above, the Township shall have the right to file an enforcement action with the Magisterial District Judge against any Person the Township

deems to be in violation. If, after hearing, the Magisterial District Judge determines that such Person or Persons are in violation, the Magisterial District Judge may, at the Township's request, order the closure of the Rental Unit(s), or assess fines in accordance with Section 311 below, until such violations are corrected. Such order shall be stayed pending any appeal to the Court of Common Pleas of Schuylkill County.

§311. Failure to Comply with this Part; Penalties.

(a) Except as provided in subsections 311(b) and 311(c) below, any Person who shall violate any provision of this Part shall, upon conviction thereof after notice and a hearing before the Magisterial District Judge, be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00) and not more than Three Hundred Dollars (\$300.00) plus costs, or imprisonment for a term not to exceed ninety (90) days in default of payment. Every day that a violation of this Part continues shall constitute a separate offense, provided, however, that failure to register or renew or pay appropriate fees in a timely manner shall not constitute a continuing offense by shall be a single offense not subject to daily fines.

(b) Any Owner or Agent who shall allow any Occupant to occupy a Rental Unit without first obtaining an occupancy permit is in violation of Section 308(b) and shall, upon conviction thereof after notice and a hearing before the Magisterial District Judge, be sentenced to pay a fine of One Thousand Dollars (\$1,000.00) for each Occupant that does not have an occupancy permit and One Hundred Dollars (\$100) per Occupant per day for each day that Owner or Agent continues to allow each such Occupant to occupy the Rental Unit without an occupancy permit after Owner or Agent is given notice of such violation pursuant to Section 305 above. Owner or Agent shall not be held liable for the actions of Occupants who allow additional occupancy in any Rental Unit without the Owner or Agent's written permission, provided that Owner or Agent takes reasonable steps to remove or register such unauthorized Occupant(s) within ten (10) days of learning of their unauthorized occupancy in the Rental Unit.

(c) Any Occupant having an occupancy permit but who allows additional occupancy in a Rental Unit without first obtaining the written permission of the Owner or Agent and without requiring each such additional Occupant to obtain his or her own occupancy permit is in violation of Section 308(b) of this Part and shall, upon conviction thereof after notice and a hearing before the Magisterial District Judge, be sentenced to pay a fine of One Thousand Dollars (\$1,000.00) for each additional Occupant permitted by Occupant that does not have an occupancy permit and One Hundred Dollars (\$100.00) per additional Occupant per day for each day that Occupant continues to allow each such additional Occupant to occupy the Rental Unit without an occupancy permit after Occupant is given written notice of such violation by Owner or Agent pursuant to Section 305 above.

§312. Applicability and Exemptions to this Part. The provisions of the Part shall not apply to the following properties, which are exempt from registration and license requirements:

(a) Hotels, Motel and Dormitories.

(b) Rental Units owned by Public Authorities as defined under the Pennsylvania Municipal Authorities Act, and Dwelling Units that are part of an elderly housing multi-unit

building which is Seventy-Five Percent (75%) occupied by individuals over the age of sixty-five (65).

(c) Multi-dwelling units that operate under the Internal Revenue Service Code Section 42 concerning entities that operate with an elderly component.

§313. Confidentiality of Information. All registration information collected by the Township under this Part shall be maintained as confidential and shall not be disseminated or released to any individual, group or organization for any purpose except as provided herein or required by law. Information may be released only to authorized individuals when required during the course of an official Township, state or federal investigation or inquiry.

§314. Repealer. All ordinances or parts of ordinances which inconsistent with this Part are hereby repealed.

§315. Severability. If any section, clause, provision or portion of this Part shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Part so long as it remains legally enforceable without the invalid portion. The Township reserves the right to amend this Part or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Part, and the effective administration thereof.

§316. Effective Date. This Part shall become effective five (5) days following the date of adoption.

EDITOR'S NOTE: This is Ordinance No. 7 of 2008 adopted by the East Union Township Board of Supervisors on July 7, 2008.

Part 4 **Certificate of Occupancy**

§401. Short Title. This Ordinance shall be known and may be cited as the "Certificate of Occupancy Ordinance for the Township of East Union."

§402. Definitions. For purposes of this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Board of Appeals - means the appeal board established by resolution of East Union Township pursuant to the adoption of the Uniform Construction Code.

(b) Building – means any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals, or property.

(c) Code Enforcement Officer or Building Inspector - means the person appointed by the Township of East Union to enforce and administer the provisions of this ordinance.

(d) Commercial - means a building where any nonresidential use, occupation or enterprise is being conducted or performed for a profit, including industrial and institutional uses.

(e) Rooming House – means a building containing one or more dwelling units for the rooming or boarding of at least two or more persons. This term shall include tourist homes, lodging houses and boarding houses.

§403. Inspections and Access. The Code Enforcement Officer or Building Inspector is authorized to make inspections to determine whether dwellings unit, rooming houses, and commercial buildings located within the Township conform to the requirements of this ordinance. For

the purpose of making such inspections, the Code Enforcement Officer or Building Inspector is permitted to enter, examine and survey at all dwellings units, rooming houses, and commercial buildings, and shall be free to have access thereto upon notice and during all reasonable times for the purpose of such inspection, examination and survey.

§404. Certificate of Occupancy Required.

(a) Certificate Required. It shall be unlawful for any person to occupy or for any owner or agent thereof to permit the occupation of any building, or addition thereto, or part thereof, for any purpose until a certificate of occupancy has been issued by the Code Enforcement Officer or Building Inspector, which certificate may not be issued until it has been demonstrated to the satisfaction of the Code Enforcement Officer or Building Inspector that the occupancy complies with all the provisions of this ordinance.

(b) Change of Ownership. No building changing ownership shall be occupied or used without the new owner first securing a certificate of occupancy from the Code Enforcement Officer or Building Inspector. For buildings not changing occupancy subsequent to a change in ownership, the new owner shall obtain a certificate of occupancy within thirty (30) days of the date of acquiring ownership.

(c) False Statements. It shall be unlawful for any person to knowingly make any false statement in an application for a certificate of occupancy, including, but not limited to the names, ages, relationship or number of occupants who will occupy the building.

(d) Inspections. If the inspected building meets Township standards with regard to the following:

1. Smoke detectors
2. Stairway guardrails
3. Open electric/GFI circuits
4. Lack of hot water/heat
5. Broken glass
6. Broken balances on bedroom windows
7. Improper guardrails or handrails for decks or stairs
8. Second means of egress on buildings two stories or higher
9. Fire extinguishers and emergency lighting with commercial buildings, multi-family dwelling units and rooming houses.
10. Occupancy loads established by either the 2003 International Building Code (IBC) or the 2003 International Fire Code (IFC), whichever is least restrictive.

A certificate of occupancy shall be issued by the Code Enforcement Officer or Building Inspector.

(e) Annual Inspections. In the case of commercial buildings with an intended occupancy of fifty (50) or more persons; multi-family dwelling units; and rooming houses, a certificate of occupancy shall only be valid for a period of one year from the date of the last inspection was performed. The issuance of a certificate of occupancy and the annual inspections required under this section shall be in addition to those required under subsection 404 (a) and (b) above.

§405. Fees.

(a) A fee of \$35.00 shall be paid to the Township and shall accompany each request for a certificate of occupancy in the case of single family or two-family dwelling units. In addition, inspection fees shall be paid to the Code Enforcement Officer or Building Inspector at the time of making application, and prior to any inspections. No application shall be considered filed with the Township until all related fees have been paid in full.

(b) A fee of \$75.00 shall be paid to the Township and shall accompany each request for a certificate of occupancy in the case of multi-family dwelling units, rooming houses, and commercial buildings. In addition, inspection fees shall be paid to the Code Enforcement Officer or Building Inspector at the time of making application, and prior to any inspections.

(c) The fees set forth under this section may be changed from time to time by resolution of the Township.

§406. Notice of Violation. If it appears to the Code Enforcement Officer or Building Inspector that a violation of this ordinance has occurred, the Code Enforcement Officer or Building Inspector shall initiate enforcement proceedings by issuing an enforcement notice to the owner of record of the building, to any person who has filed a written request to receive violation notices regarding the building, and to any other person requested in writing by the owner of record of the building. The enforcement notice shall state at least the following:

(a) The name of the owner of record and any other person against whom the Code Enforcement Officer or Building Inspector intends to take action.

(b) The location and/or address of the building in violation.

(c) The specific violation with a description of the requirements which have not been met and citing in each instance the applicable sections and provisions of this ordinance.

(d) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

(e) That the recipient of the notice has the right to appeal within thirty (30) days from date of the issuance of the notice.

(f) That failure to comply with the notice within the time specified, unless extended by appeal to the Board of Appeals, constitutes a violation, with a description of the sanctions that will result if the violation is not corrected.

In any appeal of an enforcement notice to the Board of Appeals, the Code Enforcement Officer or Building Inspector shall have the responsibility of presenting evidence first.

§407. Jurisdiction and Enforcement Remedies.

(a) Jurisdiction. The District Judge shall have initial jurisdiction over proceedings brought under this ordinance.

(b) Civil Enforcement Remedies. Any person who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable thereof in a civil enforcement proceedings commenced by the Code Enforcement Officer or Building Inspector, shall pay a judgment of not more than six (\$600.00) hundred dollars, plus all court costs, including reasonable attorney fees incurred by the Township as a result of said proceedings.

(c) The remedy provided for under this section of the ordinance shall be in addition to any and all other remedies available to the Code Enforcement Officer or Building Inspector for a violation of this ordinance either in law or in equity.

§408. Transfer of Ownership.

(a) It shall be unlawful for the owner of any building upon which a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of the building to another person until the provisions of the notice of violation have been complied with.

(b) The person to whom a building is to be transferred may consent to make repairs which have been required by a notice of violation from the Code Enforcement Officer or Building Inspector, by entering into an agreement with the Township to make the repairs required under the notice of violation on or before the date set forth in the notice. The Code Enforcement Officer or Building Inspector may not issue an occupancy permit until such time as the repairs are completed by the new owner of the building.

§409. Repealer. All ordinances or parts thereof which are inconsistent herewith are hereby repealed to the extent of their inconsistencies.

§410. Effective Date. This ordinance shall become effective immediately following its adoption.

CHAPTER 4

CONDUCT

Part 1

Public Indecency

§101. Purpose. It is deemed to be in the best interest of the residences, citizens, inhabitants and businesses of the Township of East Union to establish reasonable and uniform regulations for certain conduct hereinafter indicated.

§102. Regulation. The regulation of said conduct hereinafter indicated is necessary to protect the health, safety, morals and general welfare of the citizens of the Township of East Union so as to promote the public health, safety and welfare of its citizens, to restrict the act of being nude in such places as are open to the general public.

§103. Conduct Defined. The Township Supervisors hereby declare the following conduct to be illegal as hereinafter set forth, and further, that such activities are hereby declared to be and constitute public indecency. A person who knowingly or intentionally, in a public place:

- (1) Engages in sexual intercourse;
- (2) Engages in deviate sexual conduct;
- (3) Engages in a state of nudity*; or
- (4) Fondles the genitals of himself/herself or another person.

*Nudity, as used in this Part, means the showing of the human male or female genitals, pubic area or buttocks with less than fully opaque covering, the showing of the female breasts with less than a fully opaque covering of any part of the nipple, or showing of covered male genitals in a discernibly turgid state.

§104. Penalties.

- A. Individual Offenses.** Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be guilty of a summary offense and sentenced to pay a fine or not more than Six Hundred Dollars (\$600.00) and costs of prosecution and/or to

undergo imprisonment for not more than ninety (90) days, provided that each violation of any provision of this Ordinance and each day the same is continued shall be deemed a separate offense.

B. Corporate and Joint Offenses. In the event any of the unlawful and illegal activities specified herein are conducted by or in the name of a corporation, partnership, joint venture, trust, firm or association, in addition to (corporate) entity liability, the officers, agents or principals of said corporation, partnership, joint venture, trust, firm or association shall be deemed in violation of this Ordinance as well as the person or persons engaged in the unlawful activity, and upon conviction thereof, be guilty of a summary offense and sentenced to pay a fine of not more than Six Hundred Dollars (\$600.00) and costs of prosecution and/or to undergo imprisonment for not more than ninety (90) days, provided that each violation of any provision of this Ordinance and each day the same is continued shall, be deemed a separate offense.

§105. Constitution. The unlawful activities specified herein shall constitute separate and distinct offenses for each and every day in which said activities are conducted.

§106. Repealer. Any Resolution, Ordinance or part of any Ordinance or Resolution inconsistent herewith and any amendments thereof are hereby expressly repealed insofar as they affect this Ordinance.

Part 2

Prohibition of the Possession and Sale of Drug Paraphernalia

§201. Purpose. The Township is desirous of controlling and eliminating drug paraphernalia and believes it is in the best interests of health, safety and welfare that the sale and possession of every nature and kind of drug paraphernalia to be prohibited and is desirous of adding additional remedies to those existing in the Commonwealth of Pennsylvania.

§202. Definitions.

“**DRUG PARAPHERNALIA**” means all equipment, products and materials of any kind which are used, intended for use or designed for use in planning, propagating, cultivating, growing, harvesting, or any species of plant which is a controlled substance in violation of this act. It includes, but is not limited to:

1. Kits used, intended for use, intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.

3. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing Equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.
7. Separation gins and shifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.
8. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
9. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in storing or concealing controlled substances.
10. Containers and other objects used, intended for use or designed for use, or designed for use in parenterally injected controlled substances into the human body.
11. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injected controlled substances into the human body.
12. Objects used, intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - i. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal howls.
 - ii. Water pipes.
 - iii. Carburetion tubes and devices.
 - iv. Smoking and carburetion masks.
 - v. Roach clips, meaning objects used to hold burning material such as marijuana cigarette that has become too small or too short to be held in hand.

- vi. Miniature cocaine spoons and cocaine vials.
- vii. Chamber pipes.
- viii. Carburetor pipes.
- ix. Electric Pipes.
- x. Chillers.
- xi. Bongs
- xii. Ice pipes and chillers.

13. Items that can be used to introduce substances into the human body that may be used for legitimate purposes in business, industry or medicine but can be used to cause intoxication or stupefaction, or cause other physical or mental impairment.

§203. Factors for Consideration. In determining whether an object is drug paraphernalia, the Court or other authority should consider, in addition to all other logically relevant factors, statements by an owner or by anyone in control of the object concerning its use, prior convictions, if any, of the owner, or anyone in control of the object, under any state or federal law relating to any controlled substance, the proximity of the object, in time and space, to a direct violation of this act, the proximity of the or object to controlled substances on the object, direct or circumstantial evidence of the intent of owner, or of anyone in control of the object, to deliver to a person who he knows, or should reasonably know, intends to use the object to facilitate a violation of this act, the innocence of the owner or anyone in control of the object as to a direct violation of this act, should not prevent a finding that the object is intended for use or designed for use as drug paraphernalia, instructions, oral or written provided with the object concerning its use, descriptive materials accompanying the object which explain or depict its use, national and local advertising concerning its use, the manner in which the object is displayed for sale, whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items in the community such as licensed distributor or dealer of tobacco products, direct or circumstantial evidence of the ratio of sales of the objects to the total sales of the business enterprise, the existence and scope of legitimate uses for the object in the community, and expert testimony concerning its use.

§204. Violation. It shall be a violation of this Part for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Controlled Substance, Drug Device and Cosmetic Act.

§205. Penalties. Any person who shall violate this Part shall be liable, upon summary conviction, to a fine of not less than Six Hundred (\$600.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, together with costs of prosecution and up to Thirty (30) days imprisonment or both. Each day that a violation shall continue shall be deemed to be a separate offense and shall be punishable as such. Fines and costs imposed under the provisions of this Part shall be enforceable and recoverable in the manner at the time provided by applicable law.

§206. Severability. If any provision of this Part or the application thereof to any person or circumstances is determined to be invalid, the invalidity does not affect other provisions or applications of the Part which can be given effect without the invalid provision or application and to this end, provisions of this Part are severable

§207. Repealer. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

§208. Effective Date. This Ordinance shall become effective five (5) days after final enactment or adoption and shall remain in full force and effect until amended or revoked.

EDITOR'S NOTE: This Ordinance No. 1 of 2009 was adopted by the East Union Township Supervisors on February 2, 2009.

Part 3

Prohibition of the Ascent, Descent, Ingress, Egress and Regress of Aircraft to, into and out of the Township

§301. Definitions. The following words and phrases when used in this ordinance shall, for the purpose of this ordinance, have the meanings respectively ascribed to them in this section:

(a) Aircraft-means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air, including helicopters, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment.

(b) Airman-means an individual (including the person in command and any pilot, mechanic or member of the crew) who engages in the operation of aircraft while underway.

§302. Prohibition. The ascent, descent, ingress, egress and regress of aircraft in, into, from and out of East Union Township, Schuylkill County, is hereby prohibited.

§303. Exceptions. The following are excepted from this Part:

(a) The operation of aircraft in the course of bona fide emergencies or beyond the control of the airman.

(b) The operation of non-passenger carrying aircraft such as model airplanes or toys having power requirements of one horsepower or less or pounds of thrust converted thereto.

(c) The ascent, descent, ingress, egress and regress of aircraft for purposes of the arrival or departure of mythical persons or animals established folklore such as Santa Claus and the Easter

Bunny shall be excepted from the operation of this ordinance upon the following terms and conditions. At least 10 days prior to the scheduled arrival or departure, those responsible therefor or in custody of said mythical persons or animals shall apply in writing to the Board of Supervisors of East Union Township, Schuylkill County, for a written permit, which said application shall contain the time, date and place of the scheduled arrival or departure, the names and addresses of the responsible person or those in custody, the purposes for which the arrival or departure is requested and such other information as the Township may require, including evidence of public liability insurance. The Board of Supervisors of EAST UNION TOWNSHIP, SCHUYLILL COUNTY, or its agent, is further authorized upon receipt of due written application to issue permits in exception to this ordinance for other purposes of a public or humanitarian nature consistent with public welfare and safety of East Union Township and its residents.

§304. Penalties. Any person, firm or corporation, or airman violating any of the provisions of this Part shall upon conviction before any district magistrate be subjected to a fine of not more than Ten Thousand (\$10,000.00) Dollars and costs of prosecution and in default thereof shall undergo imprisonment in the Schuylkill County Prison for a period not exceeding one year.

§305. Severability. The provision of this Part are severable. If any sentence, clause, or section of this Part is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionally, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, or sections of this Part. It is hereby declared to be the intent of the Board of Supervisors of East Union Township that this Part would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, or section not been included herein.

§306. Effective Date. This Part shall become effective five (5) days after enactment.

§307. Repeals. All ordinances or parts of ordinances inconsistent with this Part are hereby repealed insofar as they may be inconsistent herewith.

EDITOR'S NOTE: This Ordinance No. 2008-6 was adopted by the East Union Township Supervisors on March 18, 2008.

Part 4 **Prohibition of Possession and Use of Tobacco Products by Minors**

§401. Definitions. The following words and phrases when used in this ordinance shall, for the purpose of this ordinance, have the meanings respectively ascribed to them in this section:

- (a) Alley- means a street or highway intended to provide access to the rear or side of lots or buildings and not intended for the purpose of through vehicular traffic.
- (b) Highway-means the entire width between the boundary lines of every

way publicly maintained when any part thereof is open to the use of the public or purpose of vehicular travel. The term includes a roadway open to the public or private school or public or historical park.

(c) Roadway-means that portion of the highway improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk, berm or shoulder.

(d) Sidewalk-means that portion of a street between curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

(e) Traffic Way-includes the entire width between property lines or other boundary lines of every way or place of which any part is open to the public for purpose of vehicular travel as a matter of right or custom.

§402. Conduct Prohibited. It shall be unlawful for any minor under the age of eighteen (18) years to use or possess Tobacco, in any form, within the Township of East Union, or any Township owned property.

§403. Penalty. A violation of this Part shall be a summary offense, and any person who violates this section shall, upon conviction, be sentenced to pay a fine of up to Fifty (\$50.00) dollars.

EDITOR'S NOTE: This Ordinance No. 2009-6 was adopted by the East Union Township Board of Supervisors on September 8, 2009.

Part 5
Unaccompanied Minors on Public Streets or Areas of the
Township at Certain Specific Times

SECTION 1. Purpose.

The purpose of this ordinance is to protect the health, safety and welfare of all residents of the Township. The ordinance will further help to reduce juvenile crime and thus promote the public welfare. It will also reduce perpetration of crime on minors that may be vulnerable during curfew hours and will also promote and support the parent child relations and provide an additional layer of supervision when appropriate.

SECTION 2. Definitions

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

ESTABLISHMENT – any privately owned place or business carried on for a profit or any place to which the public is invited.

MINOR – Any person under the age of 18 years.

OFFICIAL TOWNSHIP TIME – Eastern Standard Time, except when Daylight Savings Time is the prevailing time in the Commonwealth.

OPERATOR – Any individual, firm, association, partnership, or corporation, managing or conducting any establishment, and whenever used in any clause prescribing a penalty, the term “operator” as applied to the associations or partnerships shall include the members or partners thereof, and applied to corporations, shall include the officers thereof.

PARENT – Any natural parent of a minor, guardian, or any adult person 21 years of age or older who is responsible for the care and custody of a minor.

PUBLIC PLACE – Any public street, highway, road, alley, park, parking lot, playground, public building or vacant lot in East Union Township.

REASONABLE EXCUSE – Medical or other similar emergency, activities of junior firefighters, employment, school functions, written reasonable permission of parents or guardian.

SECTION 3. Prohibited Conduct.

- A. It shall be unlawful for any minor to remain in or upon any public place or any establishment between the hours of 10:00 pm and 6:00 am of the following day. Township time.
- B. The provisions of this section shall not apply to any minor accompanied by a parent and/or legal guardian, or to a minor who is on legitimate business directed by such minor’s parent and/or guardian, or to any minor who is engaged in gainful lawful employment during the curfew hours.

SECTION 4. Prohibited Conduct of Parents.

- A. It shall be unlawful for any parent knowingly to permit any minor to remain in or upon any public place or any establishment between the hours of 10:00 pm and 6:00 am of the following day, Township time.
- B. The provisions of this section shall not apply to any parent who accompanies a minor or to a parent and/or legal guardian of a minor who is on legitimate business or to any parent and/or legal guardian of a minor engaged in gainful lawful employment during the curfew hours.

SECTION 5. Prohibited Conduct of Owners or Operators of Establishments.

- A. It shall be unlawful for any operator of any establishment or his agents, servants and employees knowingly to permit any minor to remain upon the premises of said establishment between the hours of 10:00 pm and 6:00 am of the following day, Township time.

SECTION 6. Enforcement.

- A. Any police officer who finds a minor violating the provisions of this ordinance shall obtain from the minor his or her name, address, age, phone number, and names of parents and/or legal guardian. The minor shall thereupon be instructed to proceed to his or her home and shall, if necessary, be accompanied by the police officer. The officer shall ascertain whether the parents and/or legal guardians and, if so, to notify them orally of any violations cause by

the minor and, if applicable, the violation pertaining to the parent. If neither of the parents and/or legal guardian is at home, the police officer shall take measures to contact the parent or legal guardian to determine a course of action to insure the minor's safety. Such actions shall be included in the officer's official police report. In all cases, whether or not oral notice has been given, a written notice shall also be mailed to that parents and or legal guardian of the minor advising them of the violation of this ordinance.

SECTION 7. Violations and Penalties.

- A. Any minor, parent, or legal guardian, and/or operator of any establishment or any of his agents, servants or employees, who shall violate the provisions of this ordinance shall, for the first offense, at the discretion of the police officer, be given a verbal warning and/or be fined not more than \$50 plus cost of prosecution; second violation, shall not be fined more than \$150 plus cost of prosecution.

All ordinances or parts thereof inconsistent with the provisions of this Ordinance are hereby repealed to the extent of the inconsistency.

The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Ordinance or on the provisions of the East Union Township Code.

This Ordinance shall be effective five (5) days following its legal enactment. This Ordinance amends Ordinance No. 2016-3 which was passed on June 8, 2016.

EDITOR'S NOTE: This is Ordinance No. 4 of 2016 and was adopted by the East Union Township Board of Supervisors on September 4, 2016 to Amend Ordinance No. 3 of 2016.

Part 6 **Prohibiting Smoking and the Carrying of Lighted Objects** **in Specific Places in the Township**

SECTION 1. Definitions

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning giving herein. When not inconsistent with the contexts, word used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

TOWNSHIP – shall mean the Township of East Union.

BOARD – shall mean the Board of Supervisors.

FIRE INSPECTOR – shall mean the Fire Inspector of East Union Township.

PERSON – shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

SMOKING – the lighting, holding or carrying of or emitting or exhaling the smoke of a pipe, cigar or cigarette of any kind.

MUNICIPAL BUILDINGS – those buildings owned by East Union Township used in providing municipal services such as the police and administrative office building (except as noted below).

MUNICIPAL VEHICLES – those vehicles owned by East Union Township used in providing municipal services such as the police and administrative vehicles, as well as the maintenance vehicles.

SECTION 2. Smoking Prohibited in Specified Places.

No person shall smoke or carry a lighted cigar, cigarette, pipe or match, or use any spark, flame or fire producing device not specifically authorized for use in such place by the Fire Inspector in any of the Municipal Buildings.

SECTION 3. Exceptions.

SECTION 4. Enforcement.

The East Union Township Police Department shall enforce the provisions of this Ordinance.

SECTION 5. Penalties.

The penalty for violation of this Article shall be as follows:

FIRST OFFENCE	\$50.00
SECOND OFFENSE	\$100.00 fine plus costs
THIRD OFFENCE	\$200.00 fine plus costs
SUBSEQUENT OFFENSE	\$300.00 fine plus costs

In default for any payment for any offense, imprisonment not to exceed thirty (30) days.

SECTION 6. Effective.

This Ordinance shall become effective on September 3, 2014.

EDITOR’S NOTE: This is Ordinance No. 1 of 2014 and was adopted by the East Union Township Board of Supervisors on September 3, 2014.

CHAPTER 5

FEES

Part 1 **Schedule of Fees**

§101. Schedule of Fees. Unless otherwise specified in a specific ordinance or part of this Code, the following schedule of fees shall apply:

- (a) **Uniform Construction Code.** Building Permit Fee Schedule (Requires Zoning Permit First)
 - (1) Residential
 - (i) New Construction-\$110.00 plus 1% of total construction cost*
Plan Review-\$150.00 per dwelling unit
Review of Revised Plans- \$75.00
 - (ii) Repairs and Renovation-\$25.00 plus 1% of total construction cost*
Plan Review-\$150.00 per dwelling unit
Review of Revised Plans-\$75.00
 - (iii) Demolition-\$150.00 per dwelling unit
 - (iv) Utility and Miscellaneous Group U-4.5% of construction cost*
Plan Review (if required)-\$71.00
 - (2) All use groups other than Residential
 - (i) New Construction-\$310.00 plus 1% of total construction cost**
 - (ii) Repairs and Renovations-\$55.00 plus 1% of total construction cost**
 - (iii) Plan Review for Buildings with an estimated construction value of up to \$3,000,000.00 the Buildings Plan Review fee is 0.0013 of the estimated value (\$250.00 Minimum)
 - (iv) Plan Review for Buildings with an estimated construction value of \$3,000,000.00 up to \$6,000,000.00 the Building Plan Review fee is \$3,900.00 plus 0.0005 of the estimated value over \$3,000,000.00
 - (v) Plan Review for Buildings over \$6,000,000.00 the fee is \$5,400.00 plus 0.0004 of the valuation over \$6,000,000.00
 - (vi) The Plan Review Fee for Electrical, Mechanical and Plumbing are computed at 25% of the Building Plan Review fee for each discipline
 - (vii) Review of Revised Plans is 25% of Initial Plan Review Fee
 - (viii) Demolition is \$0.01 per sq. ft. (\$150.00 Minimum)
 - (ix) Signs (as required)-\$71.00 plus \$2.00 per sq. ft.
 - (3) State Act 13 Fee (All Use Groups)-\$4.00

- (4) Re-Inspections (For Failed Inspections – All Use Groups)
 - (i) All re-inspections will be invoiced at a rate of \$71.00/hr. plus expenses.
- (5) Construction Not Covered Above. Any construction, not specifically cited above, requiring a permit and inspection shall be associated with the closest specific construction type indicated.
- (6) Commencing Activities Prior to the Issuance of Permits or Submittal of Plans. Activities commenced prior to the issuance of permits or submittal of plans required by East Union Township pursuant to the Pennsylvania Uniform Construction Code shall be subject to an additional fifty percent (50%) administrative fee.

*All costs estimates are to be based on a minimum of \$100.00/Sq. Ft. for all use groups and \$25.00/Sq. Ft. for residential accessory structures. Certified contractors estimates may be accepted.
 **Additional costs determined at time of review by UCC inspector.

(b) Zoning

- (1) Zoning Permits
 - (i) Residential Uses-New Construction-\$150.00
 - (ii) Residential Uses-Additions-\$100.00
 - (iii) All Other Residential Uses including Home Occupations, Accessory Structures and/or Uses and Swimming Pools-\$75.00
 - (iv) Nonresidential Uses-New Construction and/or Use of Property with or without Structure-\$350.00
 - (v) Nonresidential Uses-Additions-\$200.00
 - (vi) Non Residential uses-Accessory Structures or Uses-\$150.00
 - (vii) Signs (New or Replacement)
 - Commercial/Industrial-\$100.00
 - Institutional-\$100.00
 - Public/Semipublic Uses-\$50.00
 - Billboards-\$500.00

*If a zoning permit is denied and not subsequently issued, for whatever reason, the applicant shall only be refunded one-half of the permit fee, which fee represents the review/administrative fee

- (2) Certificate of Nonconformity
 - (i) Residential Uses-\$50.00
 - (ii) Nonresidential Uses-\$100.00

- (3) Applications to Zoning Hearing Board-
 - (i) Residential Dimensional Variances Only - \$500.00.
 - (ii) All Other residential appeals - \$750.00.
 - (iii) All nonresidential appeals - \$1,000.00.
 - (iv) In addition to the above referenced fees, when the costs of any appeal exceed the application fee, the applicant shall be responsible for those additional costs. Costs include notice and advertising, necessary administrative overhead connected with the hearing and one-half of the appearance fee of the stenographer. The cost of the original transcript, when required or requested, shall be governed by Section 1506(J) of the Zoning Ordinance.

- (4) Conditional Use Permit/Appeal
 - (i) Residential-\$500.00 plus \$25.00 Per Dwelling unit or Mobile Home
 - (ii) Nonresidential Uses-\$1,000.00
 - (ii) In addition to the above referenced fees, when the costs of the conditional use appeal exceed the application fee, the applicant shall be responsible for those additional costs. Costs include notice and advertising, necessary administrative overhead connected with the hearing and one-half of the appearance fee of the stenographer. The cost of the original transcript, when required or requested, shall be governed by Section 1506(J) of the Zoning Ordinance.

- (5) Administrative Appeals – UCC Appeals Board - \$500.00

- (6) Amendments (Text, Map or Curative Amendment)-\$750.00
In addition to the above referenced fees, the applicant shall be responsible for costs incurred by the Township for notice and advertising costs, necessary administrative overhead connected with the hearing and one-half of the appearance fee of the stenographer. The applicant shall also be responsible for the cost of the original transcript, when required or requested.

(c) Subdivision and Land Development

- (i) Minor Subdivision-\$350.00 plus \$10.00 for each lot or dwelling unit.
 - (ii) Major Subdivision-\$750.00 plus \$10.00 for each lot or dwelling unit.
 - (iii) Land Development/Site Plan-\$750.00
- (d) UCC/Building (Requires Zoning Permit First)
- (1) Residential

New Construction.....	\$110.00 plus 1% of total construction cost*
Plan Review.....	\$150.00 per dwelling unit
Review of Revised Plans.....	\$75.00
Repairs and Renovations.....	\$25.00 plus 1% of total construction cost*
Plan Review.....	\$150.00 per dwelling unit
Review of Revised Plans.....	\$75.00
Demolition.....	\$150.00 per dwelling unit
Utility & Miscellaneous Group U.....	4.5% of construction cost*
Plan Review (if required).....	\$75.00

(2) All use groups other than Residential

New Construction.....	\$310.00 plus 1% of total construction cost**
Repairs and Renovations.....	\$55.00 plus 1% of total construction cost**
Plan Review	
For Buildings with an estimated construction value up to \$3,000,000.00 the Building Plan Review fee is: 0.0013 of the estimated value. (\$250.00 Minimum)	
For Buildings with an estimated construction value over \$3,000,000.00 up to \$6,000,000.00 the Building Plan Review fee is: \$3,900.00 plus 0.0005 of the estimated value over \$3,000,000.00	
For Buildings over \$6,000,000.00 the fee is: \$5,400.00 plus 0.004 of the valuation over \$6,000,000.00	
The Plan Review Fee for: Electrical, Mechanical and Plumbing are computed at 25% of the Building Plan Review fee for each discipline	
Review of Revised Plans.....	25% of Initial Plan Review Fee
Demolition.....	\$0.01 per sq. ft. (\$150.00 Minimum)
Signs (as required).....	\$71.00 plus \$2.00 per sq. ft.

*All costs estimates are to be based on a minimum of \$100.00/Sq. Ft. for all use groups and \$25.00/Sq. Ft. for residential accessory structures. Certified contractor estimates may be accepted.

**Additional costs determined at time of review by UCC Inspector state Act 13 Fee (All Use Groups^ pursuant to Pa DCED (currently \$4.50) \$4.50 Re-Inspections (For Failed Inspections – All Use Groups) All re-inspections will be invoiced at a rate of \$75.00/hr. plus expenses.

(3) Construction Not Covered Above

Any construction, not specifically cited above, requiring a permit and Inspection shall be associated with the closet specific construction type indicated.

(4) Commencing Activities Prior to the Issuance of Permits or Submittal of Plans

Activities commenced prior to the issuance of permits or submittal of plans required by East Union Township pursuant to the Pennsylvania Uniform Construction Code shall be subject to an additional fifty percent (50%) administrative fee.

(e) **Miscellaneous**

(i) Street Excavation Permits

-Initial 50 feet of excavation: \$85.00

-Plus \$85/each additional foot or increment thereof -Plus

Inspection (Minimum one hour) \$45.00

-Plus processing and issuing an excavation permit in a newly paved or constructed street-\$400 for the first fifty (50') linear feet, and \$200 for every subsequent fifty (50') linear feet or increment thereof.

(ii) Solicitation Permit- \$75.00 per year or \$50.00 per calendar month.

(iii) Contractor Registration-\$75.00 per year.

EDITOR'S NOTE: The Fee Schedule was adopted by the East Union Township Board of Supervisors by Resolution No. 1 of 2012 on January 3, 2012.

EDITOR'S NOTE: The Fee Schedule was amended by the East Union Township Board of Supervisors by Resolution No. 10 of 2020 on August 20, 2020.

Part 2

Professional Consulting Fees

§201. Definition. The following words or phrases when used in this act shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

(a) "Professional Consultants" includes persons who provide expert or professional advice, including, but not limited to, architects, attorneys, certified public accounts, engineers, geologists, land surveyors, landscape architects or planners.

§202. Reimbursement of Costs for Professional Consultants. A developer or applicant of a subdivision or land development plan or application shall be required to reimburse the Township the costs incurred by the Township with retaining professional consultants to review, inspect, and report on subdivision and land development plans or applications. These fees shall be in addition to the basic filing fees for subdivisions and land developments as set forth in Part 5, §101(c).

§203. Establishing of an Escrow Account by the Township for Subdivisions or Land Developments. The Township may require an applicant or developer to establish an escrow account with the Township at any time for what the Township believes will be its expected costs for professional consultants.

§204. Fee Agreement. An applicant or developer shall sign a fee agreement with the Township consisting with this Part at the time of filing a subdivision or land development. The Fee Agreement shall be in the form attached hereto as Exhibit “A”.

**EXHIBIT “A”
FEE AGREEMENT**

In addition to the applicable filing fees, the Developer/Applicant agrees to reimburse East Union Township for all professional consulting fees associated with the review of the plat, review and preparation of documents/agreements/reports, and inspections to guarantee compliance with the plat and all permits and approvals.

The Developer/Applicant understands that “Professional Consultants” includes person who provide expert or professional advice, including, but not limited to architects, attorneys, certified public accountants, engineers, land surveyors, landscape architects or planner.

The Developer/Applicant agrees to pay any invoices issued by East Union Township for professional consultant fees within 30 days of the date received.

The Developer/Applicant understands and agrees that a plat or approval may be withheld until such time as all fees are paid to East Union Township.

Developer/Applicant

DATE: _____

Signature

Part 3
Attorney's Fees and Costs in
Collection and Enforcement Matters

SECTION 1. PURPOSE.

WHEREAS, East Union Township (the "Township") has determined it to be in the best interest of all citizens and taxpayers of the Township to establish a procedure for the Township to recover promptly the amount of delinquent unpaid municipal charges in any manner permitted by law, including, if necessary, legal proceedings; and

WHEREAS, the Municipal Claims Act authorizes the adding reasonable attorneys' fees to the total payable amount with respect to unpaid municipal claims, only if the municipality involved has approved by ordinance a schedule of reasonable attorneys' fees; and

WHEREAS, the Township has reviewed the subject of attorneys' fees for collection and enforcement matters and has determined that the fees set forth in the schedule hereby adopted are reasonable in amounts for the services herein described.

NOW, THEREFORE, it is hereby **ENACTED** by the Board of Supervisors as follows:

SECTION 2. SCHEDULE OF FEES.

The Township hereby approves the following schedule of attorneys' fees for services in connection with the enforcement of an ordinance and the collection of charges and other items covered by the Municipal Claims Act, which is hereby determined to be fair and reasonable compensation for the services set forth below:

LEGAL SERVICES

FEE FOR SERVICES

Standard Collection Letter Filing of Municipal Lien Municipal Lien Satisfaction Title Search	\$35.00 \$150.00 plus filing and service fees \$100.00 Third-party cost
Preparation of Magistrate Complaint	\$50.00 plus filing and service fees

EDITOR'S NOTE: This is Ordinance No. 6 of 2020 and was adopted by the East Union Township Board of Supervisors on June 18, 2020.

CHAPTER 6

FINANCIAL ADMINISTRATION

Part 1

Per Capita Tax

§101. Levy. For general revenue purposes, beginning on the first of January of the year following the adoption of this Part, and from year to year thereafter, a tax is hereby levied and assessed in the amount of Five Dollars (\$5.00) per capita for each and every person who is eighteen (18) years or more of age and is a resident of East Union Township, Schuylkill County, Pennsylvania.

§102. Penalty Added to Unpaid Tax. A penalty of ten percent (10%) is imposed on the amount of taxes due and payable by any person neglecting to pay the tax herein levied and assessed within a period of four (4) months after the date of the tax notice.

§103. Collection By Tax Collector; Recovery of Unpaid Taxes. All taxes and penalties levied and assessed by this Part shall be collected by the tax collector of the Township and shall be recoverable in the same manner as other taxes are by law recoverable by tax collector.

§104. Compensation of Tax Collector. The compensation of the tax collector shall be the same as the compensation fixed by the Township for collection of other Township taxes.

§105. Authority. This part is enacted pursuant to the authority of the Act of December 31, 1965, P.L. 1257, known as the "Local Tax Enabling Act", as amended.

Part 2

Realty Transfer Tax

§201. Legal Authority, Short Title. This Part is enacted under the Act of June 25, 1947, P.L. 1145, of the General Assembly of the Commonwealth of Pennsylvania, as amended, and shall be known as the "East Union Township Supervisors Realty Transfer Tax Ordinance", and the tax herein and hereby imposed shall be designated as the "East Union Township Supervisors' Real Estate Transfer Tax."

§202. Definitions. The following words or phrases, when used in this ordinance shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

1. "Association" Any partnership, limited partnership or other form of unincorporated enterprise owned, operated or conducted by two or more persons.
2. "Document" Any deed, instrument or writing whereby any lands, tenements or hereditaments within the Township of East Union or any interest or estate therein shall be granted, bargained, sold or otherwise conveyed to the Grantee, Purchaser or any

other person, but does not include wills, mortgages, transfers between parent and child or the spouse of such child, and leases.

3. "Grantor" The person named in the document as party from whom the interest in the real estate is passing.
4. "Grantee" The person named in the document as party receiving the interest in the real estate is passing.
5. "Person" Every natural person, co-partnership, association or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" as applied to co-partnerships or associations shall mean the partners or members thereof and as applied to corporations, the tax officers and directors thereof.
6. "Tax" The tax levied, assessed and imposed by this Ordinance.
7. "Secretary" The Secretary of the Board of Supervisors of East Union Township, Schuylkill County, Pennsylvania.
8. "Board of Supervisors" The Board of Supervisors of East Union Township, Schuylkill County, Pennsylvania.
9. "Value" In the case of any document granting, bargaining, selling or otherwise conveying any land, tenement or hereditament, or interest or estate therein, the amount of the actual consideration therefor, including liens or other encumbrances thereon and ground rents or a commensurate part of the rent or other encumbrances thereon and ground rent where such liens or other encumbrances thereon and ground rents, also encumber or are charged against other lands, tenements or hereditaments. Provided, that where such document shall set forth a small or nominal consideration, the "Value" thereof shall be determined from the price set forth or actual consideration for the contract of sale, or in the case of a gift or other document without consideration, from the actual monetary worth of the property granted, bargained, sold or otherwise conveyed, which in either event, shall not be less than the amount of the highest assessment of such lands, tenements or hereditaments for local tax purposes.
10. "Transferring Real Estate" The transfer or change of title and/or possession of real estate from the Grantor to the grantee by the surrender of title and/or possession by the Grantor or his agent, and the entry of constructive entry into possession by the Grantee or his agent, which transfer or change of possession takes place at the site of the Real Estate involved, regardless of where the deed is prepared, executed, delivered accepted, recorded or where settlement is consummated.

§203. Imposition of Tax. An excise tax to provide revenue for general Township purposes is hereby imposed upon the privilege of transferring real estate or any interest or estate therein situated wholly or partly within the Township of East Union, Pennsylvania, at the rate of one-half per cent (1/2) of the value of the real estate transferred. Where the transfer involves real estate situate partly within and partly without the boundaries of the Township of East Union,

the tax so levied shall be only on that part of the value apportioned to the part of the real estate situate within the boundaries of the Township of East Union.

§204. Liability. The tax shall become due from and be paid by the Grantor at the time of the delivery of the document, however, if the Grantor, for any reason, shall not pay the tax or its exempt by law, the Grantee shall become liable therefor and remain liable until the tax, penalty and interest have been discharged or paid according to the provisions of this Ordinance.

§205. Certificate of Value Required.

- A. On and after the effective date of this Part every Grantor or his agent in any transfer taxable hereunder, shall prior to the delivery or acceptance of the document, place thereon a certificate signed by him or for him by a title insurance company, licensed real estate broker or attorney-at-law, which shall set forth the value of the real estate transferred, the amount of real estate transfer tax imposed hereby, that the same has been paid and the date of payment. No Grantee or his agent shall offer for recording or record any document in the Office of the Recorder of Deeds of Schuylkill County, Pennsylvania, which document does not contain the certificate nor unless the tax hereby imposed shall first have been paid.
- B. No Recorder of Deeds shall accept for recording any document that is not properly stamped in accordance with the provisions of this Part.
- C. A Certificate of Value shall be attached to said deed.

§206. Payment of Tax.

- A. The Real Estate transfer tax, interest and penalties, if any, shall be paid to the Secretary, who is hereby charged with the collection thereof.
- B. The Secretary shall collect on behalf of the Supervisors all taxes, interest and penalties received, collected or recovered hereunder, and pay over the same to the Supervisors. All payments made by the Secretary to the Supervisors shall be accompanied by an accurate written report of the collections transmitted.
- C. The Secretary is authorized and empowered to prescribe, adopt and promulgate rules, regulations, and forms relating to any matter or thing pertaining to the administration and enforcement of this Part and the collection of the tax, interest and penalties hereby imposed, subject to the approval of the Supervisors of East Union Township. The Secretary is hereby authorized to deputize the Recorder of Deeds of Schuylkill County to collect the aforesaid tax at the time of recording any deed upon which the tax may be due and for the said services the Recorder of Deeds shall be paid the sum of one per cent (1%) of any taxes so collected.

§207. Penalty. All taxes imposed by this Part not paid within ten (10) days after the due date shall bear interest from the due date at the rate of one-half of one per cent (1/2%) per month

until paid, and in addition, a penalty of ten per cent (10%) of the tax is hereby imposed for failure to pay said tax within ten (10) days after due date.

§208. Recoverability. All taxes, interest and penalties imposed by this Part shall be recovered as other debts of like character are now by law recoverable.

§209. Lien upon Real Estate. The Tax, together with interest and penalties, hereby imposed, when due and unpaid, shall be a lien upon the real estate within the boundaries of the Township, which is the subject of the transfer, said lien to be effective as of the date when the tax became due hereunder and said lien shall continue until discharged by payment or as provided by law. The Solicitor of the Township is hereby authorized and empowered to file a lien or claim, or otherwise proceed according to law, for the collection of any unpaid tax, interest or penalty hereunder.

§210. Disclaimer. It shall be unlawful for any person falsely or fraudulently to do any act or make any return, statement, or certificate under this Part, or to fail to pay the tax, interest and penalty, if any, imposed by this Part.

§211. Violations and Failure to Comply. Any person who shall fail, neglect or refuse to comply with any of the provisions of this Part in addition to any other penalty herein provided, upon summary conviction, shall be sentenced to pay a fine not to exceed One Hundred Dollars (\$100.00) and costs of prosecution for each and every offense, and further shall be required to pay the amount of tax, together with all interest and penalties, which should have been paid on the transfer taxed hereunder, or to undergo imprisonment for not more than thirty (30) days for the non-payment of the same within ten (10) days from the imposition thereof, or both.

§212. Severability. The provisions of this Part are severable, and if any word, words, part, parts, provisions, section, sentence, clause, exception or redemption shall be illegal, invalid or unconstitutional, such illegality, invalidity or unconstitutionality shall not affect or impair any of the remaining words, parts, provisions, sections, sentences, clause, exceptions or exceptions of this Part, and it is hereby declared to be the intent of the Board of Supervisors of the Township of East Union that this Part would have been adopted if such illegal, invalid or unconstitutional part had not been included therein.

Part 3 **Earned Income Tax**

§301. Definitions. Unless the context clearly provides otherwise, the following words and terms shall be interpreted as follows:

“Association” A partnership, limited partnership, or any other unincorporated group of two or more persons.

“Business” An enterprise, activity, profession or any other undertaking of any unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association, or any other entity.

“Corporation” A corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country, or dependency.

“Current Year” The calendar year for which the tax is levied.

“Domicile” The place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

“Earned Income” Compensation as determined under section 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as the “Tax Reform Code of 1971,” and regulations in 61 PA. Code Pt. I subpt. B. Art. V (relating to personal income tax). Employee business expenses are allowable deductions as determined under Article III of the “Tax Reform Code of 1971.” The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

“Earned Income Tax Administrator, Income Tax Officer or officer” Person, public employee or private agency designated by the East Union Township Board of Supervisors to collect and administer the tax on earned income and net profits.

“Employee” Any person who renders services to another for a financial consideration or its equivalent, under an express or implied contract, and who is under the control and direction of the latter and shall include temporary, provisional, casual, or part-time employment.

“Employer” A person, partnership, association, corporation institution, governmental body, unit or agency, or any other entity employing one or more persons for a salary, wage, commission, or other compensation.

“Independent Contractor” A person who, while performing services, is not under the direction and control of another person, as to the result to be accomplished by the work and as to the details and means by which that result is accomplished, such as authors, professional men, seamstresses, laundresses, tailors and registered and practical nurses. Where the independent contractor is in the permanent or part-time employment of an employer, however, that contractor will be considered an employee of said employer for the purpose of withholding the tax due under the Ordinance.

“Net Profits” The net income from the operation of a business, profession, or other activity, except corporations, determined under section 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as the “Tax Reform Code of 1971,” and regulations in 61 PA. Code Pt. I subpt. B. Art. V (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

- (1) any interest earnings generated from any monetary accounts or investment instruments of the farming business;
- (2) any gain on the sale of farm machinery;
- (3) any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and
- (4) any gain on the sale of other capital assets of the farm.

“Non-resident” A person, partnership, association or other entity domiciled outside the taxing district.

“Ordinance” As adopted by the Taxing District empowering the tax for a given year, or any part thereof.

“Person” Any individual, partnership, association or other entity.

“Preceding Year” The calendar year before the current year.

“Resident” A person, partnership, association or other entity domiciled in the taxing district.

“Significant Services” Includes services that are provided with rooms in hotels, boarding houses, apartment houses furnishing hotel services, tourist homes, motor courts, or motels and assisted living facilities. Additionally, providing maid service, room service, valet parking, decorating assistance, delivery services, transportation services, and concierge services are significant. Providing food and nursing care are also significant services. Examples of services that DO NOT constitute Significant Services include, providing heat, lighting, electric service, elevators, cleaning public access and exit areas, collecting trash and maintenance of the property in a usable rentable condition are not usually significant services. Also, payments for parking cars usually are not rents. Payments for warehousing of goods or the use of personal property are not rents if significant services are provided in connection with the payments.

“State” Encompasses government entities other than the Commonwealth of Pennsylvania located within the United States, but does not include foreign countries, for purposes of crediting provisions.

“Succeeding Year” The calendar year following the current year.

“Taxing District” “Taxing Jurisdiction” or “District” East Union Township, Schuylkill County, Pennsylvania, which is a political subdivision levying and assessing an earned income

and net profits tax, who has appointed or commissioned an Earned Income Tax Administrator to collect and administer the tax on earned income and net profits.

“Taxpayer” A person, partnership, association, or other entity required hereunder to file a return of earned income or net profits, or to pay a tax thereon

§302. Tax on Earnings and Net Profits of Residents and/or Non-Residents.

(a) By virtue of this Part, a tax for general revenue purposes of one percent (1%) is hereby re-imposed on the following:

- (1) The earned income, as defined herein, of residents and non-residents, where applicable, of the taxing jurisdiction during the calendar year.
- (2) The net profits, as defined herein, of residents and/or non-residents of the taxing district during the calendar year.

(b) The tax levied under (a)(1) above shall relate to and be imposed upon salaries, wages, commissions, and other compensation paid by an employer, or on his behalf, to a person who is employed by him.

(c) The tax levied under (a)(2) above shall relate to and be imposed on the net profits of any business, profession or other activity carried on by a person or owner or proprietors, either individually or in association with some other person or persons.

(d) The entire taxable earnings of resident employees and the total net profits of residents from businesses, professions and other activities are subject to this tax. The above item referring to residents would also apply to a taxing jurisdiction which levied these taxes on the non-residents as well as residents. Neither the source of the earnings or net profits, nor the place or places where the services were rendered exempt a resident from the tax.

§303. Exemption of Corporations. Every corporation, including sub-chapter S corporations, shall be exempt from this tax. This exemption shall not apply to wages, salaries or other compensation paid by an S corporation to a shareholder for services rendered by the shareholder.

§304. Exemption of Non-Profit Organizations.

(a) The net profits of any institution or organization operated for public, religious, educational, or charitable purposes, organization of institutions not organized or private profit, and trusts or foundations established for any of these purposes shall be exempt from the tax on net profits.

(b) This section shall not be construed to exempt any person who is an employer from the duty of withholding the tax at source from his employees and paying the amount withheld to the Income Tax Officer.

§305. Registration of Taxpayers. Every resident of a taxing jurisdiction who received, or anticipates that he will receive, taxable earned income in the form of earnings or net profits dur-

ing the calendar year must register his name and residence address, his social security number, and the name and address of his place of employment or business with the Earned Income Tax Administrator. All residents will thereafter be responsible for reporting changes in their name, place of residence, or place of employment or business to the Earned Income Tax Administrator. In the districts which levy the non-resident factor, the above would also apply to these persons. Where a taxpayer believes that he will not receive taxable earned income for any given year, he must apply to and receive from the local taxing body a written exoneration from registering and filing subsequent returns.

§306. Annual Tax Returns.

(a) On or before April 15 every person who has taxable net profits shall file with the Earned Income Tax Administrator, on a form prescribed by him, an annual final return, as required by the local Resolution and/or Ordinance, showing all taxable income from January 1 of the current year to December 31 of the current year, the total amount of tax due, the amount of tax withheld or paid, and the balance due. A return is required from every person subject to the tax regardless of whether or not any tax is due. All appropriate tax schedules, worksheets, and Federal form 1099s must be attached to the return and signed by the taxpayer. Payment of any tax due should be remitted along with the return. A return will not be considered complete and valid if the appropriate tax schedules, worksheets, and/or Federal form 1099s are not attached; or if the return is not signed; or if payment of any tax due is not remitted with the return.

(b) When the return is made for a fiscal year different from the Administrator's calendar year, the return shall be filed within one hundred and five (105) days from the end of said fiscal year.

(c) At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund in the case of overpayment.

(d) Every taxpayer who discontinues business prior to the end of the calendar year shall within thirty (30) days after the discontinuance of business, file his final return as hereinabove required and pay the tax due, or demand refund in the case of overpayment. Where discontinuance of business is due to the absence of a personal representative, his heirs as designated by the Pennsylvania Intestate Act of 1947, as amended, or as hereafter amended or supplemented, shall file his return within sixty (60) days after the taxpayer's death and pay the tax due or demand refund in the case of overpayment.

(e) If the amount of the net profits as returned by any taxpayer under this Part is finally changed or corrected by the Federal Commissioner of Internal Revenue, or by any other agency or court of the United States, such taxpayer, within thirty (30) days after receipt of notice of such final change or correction shall make a report of same to the Income Tax Officer.

(f) Every person when requested to do so must file a final return, even though he expects to have no net profits, stating on the final return why he expects to have no net profits.

§307. Quarterly Estimated Tax Returns.

(a) Where required by local ordinance or resolution, on or before June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, every person who receives net profits shall make and file with the Collector, on a form prescribed by him, a return or declaration showing his estimated net profits for the period commencing January 1 and ending December 31 of the current tax year. A return is required from every person subject to the tax regardless of whether or not any tax is due.

(b) The declaration or return shall show the amount of tax imposed by this Part on such estimated net profits received by the taxpayer and the balance due. The taxpayer making the declaration or return shall, at the time of filing thereof, pay to the Tax Collector the amount of tax shown as due thereon.

(c) On or before April 15 of the succeeding year, every taxpayer shall make and file with the Collector, on a form prescribed by him, a final return or declaration showing the amount of net profits received during the period commencing January 1 of the current and ending on December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the officer the balance of tax due or shall make demand for refund or credit in the case of overpayment.

(d) Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the officer on or before January 31 of the succeeding year the final return as hereinabove required.

§308. Computation of Net Profits.

(a) The net profits of a business, trade, profession, or other activity shall be computed by subtracting from gross receipts the cost of goods sold and all ordinary and necessary expenses of doing business. These net profits shall be determined either on a cash or accrual basis, in accordance with accepted accounting principles and practices. Net profits do not include income which is not paid for services provided and which is in the nature of earnings from an investment. Ordinarily no business deduction which is not permitted by the Pennsylvania State Government, for income tax purposes will be allowed.

(b) To constitute net profits, all of the following must apply:

(1) The gross profits shall be derived from either, the marketing of a product or service to customers on a commercial basis, or from securities employed as working capital in the business operations or, from accounts and notes receivable from sales of products or services sold in the ordinary course of the business operations, or, from assets which serve an operational function in the ordinary course of business operations.

(2) The marketing activity shall be conducted with the manifest objective of achieving profitable operations.

(3) The marketing activity shall be conducted with regularity and continuity and may not be limited or exclusive.

(c) Offset of losses from one business against profits from another. Taxpayers who generate profits from one business and business losses from another may offset same in calculating their overall net profits.

§309. Taxable Entities. Persons subject to a tax on net profits shall be the following:

(a) Individuals. Any individual engaged in a business, trade, profession, or other activity carried on for profit shall pay a tax on the net profits therefrom.

(b) Partnerships, Associations and other Entities. A partnership, association, or other entity engaged in carrying on a business, trade, profession, or other activity wholly or partly within a taxing jurisdiction shall be required to provide each partner or member with the appropriate information and/or schedule(s), (i.e. Schedule K-1), sufficient to inform the individual of his/her percentage of net profits, whether or not the net profits are actually distributed to the individual. The individual shall include the percentage of the net profits as income when determining his/her tax liability. Each resident partner or member of a non-resident partnership, association, or other entity must pay the tax on his share of the net profits whether or not it is actually distributed to him. "Pass-through" income from an S corporation to an individual shareholder is not taxable, *Scott v. Hempfield Township Area School District*, 643 A.2d 1140 (Pa. Cmwlth. 1994). Compensation paid by an S corporation to an individual for services rendered to the corporation is taxable. "Partnership" income, received by a Limited Liability Company member, where a Limited Liability Company has elected to be taxed as a "partnership" at the state level, is taxable for purposes of net profits. This is deemed to be ordinary income, received by an LLC member. Also the income received as an "individual," in a single member LLC, is taxable for purposes of net profits.

(c) Trusts or Estates. Every estate or trust must pay the tax on:

(1) Net profits resulting from its engagement in any business, trade, or other activity which would require the filing of a return by an individual or partnership, and

(2) Income which would be subject to the tax if received by an individual or partnership.

§310. Deductions from Gross Profits.

(a) All ordinary and necessary expenses of doing business, including reasonable compensation paid employees, shall be allowed. No deduction may be claimed for "salary" or withdrawals of a sole proprietor or of the partners or members of an unincorporated business or enterprise.

(b) A taxpayer who is a wage earner and runs a separate and distinct business may not deduct a business loss against a salary, wage, commission or other earned compensation. However, a person who runs more than one business may deduct a loss from one business against the net profits of another business.

(c) Rentals or other payments required to be made as a condition of the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity, shall be allowed as deductions.

(d) Interest on indebtedness incurred by the business, including mortgage interest (where proprietor also owns the building) and interest payments on loans made for use in the business, shall be allowed as deductions.

(e) Taxes directly connected with the operation of the business and on business property shall be allowed. However, the following taxes are not to be deducted:

- (1) The tax under the Earned Income Tax Resolution or Ordinance.
- (2) Any federal, state, or local taxes based upon income.
- (3) Any gift, estate, or inheritance taxes.
- (4) Taxes or assessments for local benefits or improvements to property which tend to appreciate the value thereof.

(f) Casualty losses sustained during the taxable period and not fully compensated for by insurance or otherwise shall be allowed, if incurred in conducting the trade or business subject to the tax. Where such a loss is claimed, there must be attached to the return a schedule showing in detail the nature of the loss and of the property damaged, destroyed, or stolen, its cost or other valuation, the depreciation sustained prior to the time of the damage, destruction, or theft, the measure of loss, and any recovery through insurance or otherwise. In any event, the amount of the loss to be recognized shall not exceed that permitted for the purpose of the Federal Income Tax.

(g) Bad debts, in a reasonable amount, may be allowed in the year ascertained worthless and charged off; or, at the discretion of the Income Tax Officer (if the reserve method is used), a reasonable addition to the reserve may be claimed; but in no event shall the amount allowed exceed the amount recognized as a deduction for the purpose of the Federal Income Tax.

(h) Depreciation may be claimed and allowed in a reasonable amount for the exhaustion, wear and tear (including a reasonable allowance for obsolescence) of property used in the trade or business. The amount so allowed, however, may not exceed that recognized for the purpose of the Federal Income Tax. The Accelerated Recovery Systems (ACRS) is an acceptable method of depreciation.

(i) A deduction for an office maintained in the taxpayer's home may be taken where the following requirements are met:

- (1) The office is used exclusively and regularly as the taxpayer's "regular place of business"; and
- (2) The office is used exclusively and regularly as a place where clients/customers come to meet the taxpayer during the course of their business.

§311. Items Not Deductible. In computing net profits, no deduction shall in any case be allowed in respect to the following:

- (a) Gifts of any kind, regardless of character or purposes of recipient or donor.
- (b) Personal taxes, including taxes on real estate occupied as taxpayer's residence, personal property taxes, and per capita, occupation, and poll taxes.
- (c) Premiums paid on any life insurance policy covering the life of any employee or of any person financially interested in any trade or business carried on by the taxpayer, when the taxpayer is directly or indirectly a beneficiary under such policy.
- (d) Any amount otherwise allowable as a deduction which is allowable to one or more classes of income wholly exempt from the tax imposed herein.
- (e) Any amount otherwise allowable as an ordinary and necessary expense of doing business which is allowable to interest wholly exempt from the tax imposed herein.
- (f) Any loss resulting from an activity which in the case of a profit would not be considered earned income or a net profit taxable hereunder.
- (g) Contributions by an individual to an Individual Retirement Account, a Keogh/Hr10Plan, a tax deferred annuity, a 401(K) plan, or a Simplified Employee Pension Plan (SEP).
- (h) The ownership or disposition of assets that are held for investment purposes or otherwise serve an investment function.
- (i) The trading in securities for personal purposes and not for the accounts of customers.
- (j) The sale, discontinuation or abandonment of a business or segment thereof.
- (k) Any tax imposed on, or measured by, gross or net earned or unearned income.
- (l) An isolated or nonrecurring transaction, not a normal or routine business activity.

§312. Net Losses / Carry-Over. A net loss in any year may not be carried over to any other year.

§313. Sale of Real Estate / Rentals of Tangible Property.

(a) The income received from the sale of real estate by licensed Realtors in the Commonwealth of Pennsylvania shall be subject to the tax imposed herein.

(b) The income received from the rental of any tangible property, is generally not subject to the tax imposed herein.

(c) However, the leasing of tangible property would constitute operating a business and be subject to the tax imposed, only if: the taxpayer offers the use of his or her property on a commercial basis to others in a marketplace and at least one of the following applies:

- (1) The average period of customer use is 30 days or less; or
- (2) The property is customarily made available for use only during defined business hours; or
- (3) In addition to renting the property, the taxpayer also provides "Significant Services" as defined in this Ordinance; or
- (4) The taxpayer incurs significant operating expenses in making the property available for lease; or
- (5) The leasing activity is incidental to a real estate sales business; and the taxpayer offers the use of his or her property with the intention of realizing a profit; and the leasing of the property is characterized by regularity and continuity of activities.

§314. Annual Tax Returns.

(a) On or before April 15 of the succeeding year, every person who has taxable earned income shall file with the Earned Income Tax Administrator, on a form prescribed by him, an annual final return, as required by the local Resolution and/or Ordinance, showing all taxable income from January 1 to December 31, the total amount of tax due, the amount of tax withheld or paid, and the balance due. A return is required from every person subject to the tax regardless of the fact that his wages may have been subject to withholding of the tax by his employer, or regardless of whether or not any tax is due. All appropriate tax schedules, worksheets, and Federal form W-2s and 1099s must be attached to the return and signed by the taxpayer. Payment of any tax due should be remitted along with the return. A return will not be considered complete and valid if the appropriate tax schedules, worksheets, and/or Federal form W-2s and 1099s are not attached; or if the return is not signed; or if payment of any tax due is not remitted with the return.

(b) When the return is made for a fiscal year different from the Administrator's calendar year, the return shall be filed within one hundred and five (105) days from the end of said fiscal year.

(c) At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund in the case of overpayment.

(d) If the amount of the net earned income as returned by any taxpayer under this Resolution and/or Ordinance is finally changed or corrected by the Federal Commissioner of Internal Revenue, or by any other agency or court of the United States, such taxpayer, within thirty (30) days after receipt of notice of such final change or correction shall make a report of same to the Income Tax Officer.

(e) Every person when requested to do so must file a final return, even though he expects to have no earned income; stating on the final return why he expects to have no earnings, i.e., retired, unemployed, housewife, etc.

§315. Quarterly Estimated Tax Returns.

(a) Where required by local Ordinance and/or Resolution, on or before June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, every person who receives earned income shall make and file with the Collector, on a form prescribed by him, a return or declaration showing his estimated net profits for the period commencing January 1 and ending December 31 of the current tax year. A quarterly return is required from every person subject to the tax regardless of the fact that his wages may have been subject to withholding of the tax by his employer, or regardless of whether or not any tax is due.

(b) The declaration or return shall show the amount of tax imposed by this Ordinance on such estimated earned income received by the taxpayer and the balance due. The taxpayer making the declaration or return shall, at the time of filing thereof, pay to the Tax Collector the amount of tax shown as due thereon.

(c) On or before April 15 of the succeeding year, every taxpayer shall make and file with the Collector, on a form prescribed by him, a final return or declaration showing the amount of net profits received during the period commencing January 1 of the current and ending on December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the officer the balance of tax due or shall make demand for refund or credit in the case of overpayment.

(d) Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the officer on or before January 31 of the succeeding year the final return as hereinabove required.

§316. Exclusions and Deductions from Earnings. The following payments or benefits received by an individual shall not be subject to the tax:

(a) "Social Security Benefits, Retirement Pay and Pensions."

(b) “Sick or Disability Benefits.” Periodical payments received by an individual under a sickness or disability insurance plan are not taxable. Where, however, an employee received a regular salary from his employer during a period of sickness or disability by virtue of his contract of employment, such compensation shall be fully taxed.

(c) “Benefits Arising Under Workmen's Compensation Acts, Occupational Disease Acts, and Similar Legislation.” Compensation received by employees under the provisions of workmen's compensation acts, occupational disease acts, or similar legislation together with any amount received as damages by suit or agreement on account of any injury or disease is not taxable.

(d) “Public Assistance or Unemployment Compensation Payments.” Payments made under any public assistance or unemployment compensation legislation are not taxable.

(e) “Active Military Service Pay.” Compensation paid by the United States to any person for active service in the armed forces of the United States is not taxable. This includes compensation paid to Reserve or National Guard for active duty service.

(f) “Bonuses Paid by United States, Pennsylvania, or any other State, for Active Military Service.” Any bonus or additional compensation paid to a person by the United States, by the Commonwealth of Pennsylvania, or by any other state, for active service in the armed forces of the United States is not taxable.

(g) “Death Benefits.” Where an employer makes death benefit payments to the beneficiary of an employee or to his estate, whether payable in a lump sum or otherwise, such payments are not taxable.

(h) “Proceeds of Life Insurance Policies.” Proceeds of life insurance policies payable by reason of the death of an insured to his estate or to a beneficiary are not taxable.

(i) “Gifts and Bequests.” Cash or property received as a gift or under a will or under statutes of descent and distribution is not taxable.

(j) “Interest Received.” All forms of interest, e.g., on obligations of the United States or its possessions, the Commonwealth of Pennsylvania, or any political subdivision thereof, or on bank or postal savings accounts, mortgages, or loans received by an individual, are not taxable. However, where a person, other than a Corporation, is engaged in the business of lending money at interest, e.g., loan or finance companies or private bankers, the net profits of such business are taxable.

(k) “Board and Lodging to Employees for Convenience of Employer.” The value of meals and lodging furnished to domestics or other employees by the employer for the employer's convenience is not considered earned income and is not taxable.

(l) Income from stocks, trusts, and rental of dwellings, or the mere passive ownership and residing in a dwelling, is not taxable. Gain or loss from rental of real estate and from personal property leased with real estate is not taxable.

(m) "Contributions to an Employee's Trust or Annuity Plan and Compensation under a Deferred Payment Plan." Contributions paid by an employer to or under a stock bonus, pension profit-sharing or annuity plan and compensation paid or accrued on account of any employee under a plan deferring the receipt of such compensation shall not be included in gross taxable earnings. Payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs, including, but not limited to programs covering hospitalization, sickness, disability or death, strike benefits, social security and retirement are not taxable.

(n) "Employees' Deductions for Expenses Directly Connected with employment." Employees who incur and pay expenses directly connected with the performance of their duties or services, may deduct such expenses in computing the amount subject to the tax provided:

- (1) No reimbursement is made by the employer;
- (2) They are reasonable and actual;
- (3) They are recognized as deductions by Federal authorities for Federal income tax purposes.
- (4) Allowable employee business expenses include:
 - (a) Travel while away from home overnight including:
 - (i) Air, rail and bus fares.
 - (ii) Operation and maintenance of an automobile.
 - (iii) Taxi fares or other transportation, such as trips between airport or station and hotel; from one place of business to another; or from where you eat and sleep to temporary work assignment.
 - (iv) Meals and lodging when away from home on business.
 - (v) Tips that are incidental to any of the above.
 - (b) The costs of traveling from one place to another if directly attributable to the conduct of employment and incurred while the employee is not in a travel status. Commuting to and from work are not allowable transportation costs.
 - (c) Allowable education expenses which meet the express requirements of the employer or laws or regulations for keeping a job or position. Tuition, books, supplies, laboratory fees and similar items and certain related travel and transportation costs may be deducted from income. Reimbursements for graduate courses are allowable provided that the courses aid in job skills and do not qualify the employee for a new career.
- (5) Other allowable expenses include but are not limited to:
 - (a) Union dues and initiation fees.
 - (b) Professional dues and subscriptions to professional journals.

- (c) Small tools and supplies.
- (d) Uniforms, not suitable for everyday, and protective clothing required by an employer
- (e) Home Computers. The cost of a home computer which substantially aids the taxpayer in the performance of his employment duties may be depreciated; a letter from the taxpayer's employer must be attached verifying that it is a requirement and/or condition of the job.
- (f) Cellular Telephones. Costs of cellular telephones may be deducted/depreciated where the taxpayer uses same predominantly for his trade or business (i.e. over 50% of said use is for business), and can prove said use with adequate documentation. Employees may deduct the costs of leasing or purchasing of cellular telephones where it is a condition of their employment and used for the employer's convenience.
- (g) Malpractice insurance. Costs/premiums paid for malpractice insurance for attorneys and doctors are deductible business expenses.

(6) An exclusion for an office maintained in the employee's home for the convenience of the employer may be taken if the following requirements are met:

- (a) A suitable work space is not provided by the employer.
- (b) The activity of work is such that it requires a work area for its performance or for the storage of goods and wares on the premises other than that of the employer.
- (c) A letter is submitted on employer's letterhead stating in detail that office is necessary in order for the employee to work for the employer. Said letter must be signed by an appropriate representative of the company.

(7) Expenses which are not allowable include, but are not limited to, child care and moving costs in connection with a change in jobs.

(o) Payments made pursuant to a cafeteria plan qualifying under section 125 of the internal revenue code of 1986" are excluded from compensation and are not taxable.

(p) "Employees' personal use of employer-owned or leased property" and /or services, at no cost or at a reduced cost. Including company automobile, airplane, or other employer-owned or leased property, are not taxable fringe benefits.

§317. Taxable Earnings of Employees. The items of compensation listed below are taxable. They are subject to the tax whether an employee received them directly or through an agent. Moreover, neither kind of rate of payment nor the manner of employment exempts an employee from the tax.

- (a) Salaries
- (b) Wages
- (c) Commissions

- (d) Bonuses
- (e) Drawing Accounts. If amounts received as a drawing account exceed the salaries or commissions earned, the tax is payable on the amounts received. If the employee subsequently repays to the employer any amounts not in fact earned, the tax shall be adjusted accordingly.
- (f) Incentive payments for services rendered
- (g) Tips received
- (h) Fees, such as those received by a director or officer of a Corporation.
- (i) Benefits accruing from employment, including but not limited to annual leave, vacation, holiday and/or severance pay, and welfare benefit programs.
- (j) Taxes assumed by the employer.
- (k) Fellowships. The portion, if any, of payment to a graduate student in a college or university as a fellowship or scholarship grant which represents compensation for services required to be performed by him, is taxable.
- (l) Compensation received in the form of property shall be taxed at its fair market value at the time of receipt. Stock options shall be considered to be received when the option is exercised, exchanged, sold or otherwise disposed.

§318. Registration of Employers.

(a) Every person within a taxing jurisdiction who employs one or more persons, other than domestic servants, on a salary, wage, commission or other compensation basis shall, within fifteen (15) days after becoming an employer, register with the Earned Income Tax Administrator his name and address and such other information as the Administrator may require.

(b) Employers required to register and withhold include all employers who are residents of a taxing jurisdiction, and all other employers who maintain a place of business therein. In the districts which tax both residents and non-residents, every employer must register, as in Section (a) above, which refers to residents only.

§319. Employers Required to Withhold.

(a) Every person within a taxing jurisdiction who employs one or more persons, other than domestic servants, on a salary, wage, commission or other compensation basis shall deduct at the time of payment thereof, that tax imposed by the Resolution or Ordinance upon residents of a taxing jurisdiction regardless of where their services were rendered.

(b) An employer who is engaged in a business activity within and outside of a taxing jurisdiction shall withhold the tax from resident employees who work for such employers, irrespective of the location of such business activity, even though the payroll records and place of payment are not in a taxing jurisdiction.

(c) An employer who employs one or more non-resident employees in a taxing jurisdiction which levies a tax on non-residents, other than domestics, on a salary, wage, commission or other compensation basis, the tax imposed upon non-residents shall be withheld by the employer at time of payment thereof. Said non-resident employee shall be said to be em-

ployed within a taxing jurisdiction which levies an earned income tax on non-residents if he reports to and/or receives work assignments from an employer's office located within said jurisdiction.

§320. Withholding by Non-Resident Employers. Non-resident employers engaged in a business, trade, profession or other activity located outside a taxing jurisdiction are not required to withhold the tax. Any such employer may, however, voluntarily agree with his employee to withhold the tax and transmit it and the appropriate forms to the Earned Income Tax Administrator.

§321. Drawing Accounts and Allowances for Expenses.

(a) If the amount received by an employee as a drawing account exceeds the salaries or commissions earned, the tax shall be withheld on the amount received. If the employee subsequently repays any amount not in fact earned, the tax shall be adjusted accordingly.

(b) An employer required to withhold the tax on compensation paid to an employee may, in determining the amount on which the tax is to be withheld:

(1) Ignore any amount allowed and paid by the employer to the employee for expenses necessarily and actually incurred by the employee in the actual performance of his service, or;

(2) Deduct any amount necessarily incurred and expended by the employee in the actual performance of his services, for which expense he is not to be or has not been reimbursed by the employer; provided, that in either case, such expense must be recognized by the Federal and State authorities for payroll tax purposes and the Federal authorities for income tax purposes, and the employee shall furnish the employer, before said deduction is made, an itemized statement of the expenses claimed.

§322. Withholding by Employers of Nurses, Musicians, Entertainers, Clergymen and Domestic.

(a) Hospital Nurses -- Nurses in the permanent or part-time employ of hospitals, clinics, schools and institutions shall have their earned income tax withheld by their employers.

(b) Musicians

(1) For purposes of this provision, the following terms and phrases shall be defined as follows:

(i) Contractor -- The term "Contractor" means that individual musician through whom the purchaser of music and the musician negotiate the contract of service and the performance thereof. The contractor may or may not perform actual musical service under a contract which he has negotiated.

(ii) Purchaser of Music -- The person, partnership, organization or association for whom or which the musical services are to be performed or furnished, and who exercises an employer's control over the conduct of the musicians.

(2) When a contract for the purchase of music has been executed between a purchaser and a contractor, then the musician shall be deemed to be the employee of the purchaser. The purchaser shall be the person responsible for withholding the tax from the wages paid to musicians.

(3) Name Bands and Orchestras -- A name band or orchestra is one which is identified or known by a name and which holds itself out to the public as a permanent organization, and in addition has either (a) a fixed personnel, or (b) the individual member musician has contracted for his services with the leader or owner of the band at fixed salary, by term or by individual engagement, and over whom the purchaser has no direct control. The leader or owner of the band shall be responsible for withholding the tax from the wages paid to members of such name bands.

(c) Entertainers Other than Musicians.

(1) The owner of a club, cafe, bar, theater or of any place which furnishes entertainment to the public or to its patrons, shall be deemed the person liable as an employer of entertainers. Such employer must deduct the tax from the compensation paid to the entertainer.

(2) Promoters of boxing exhibitions and other sporting events are required to withhold the tax from the compensation paid to the contestants engaged in the particular sporting event.

(d) Lecturers and Speakers. The fees received by resident lecturers and speakers are subject to the earned income tax; the responsibility for the payment of the tax lies with the lecturer or speaker.

(e) Clergymen. The compensation received by ministers, rabbis and clergymen is taxable. This includes offerings and fees received for performing marriages, baptisms, funerals and other religious ceremonies; it DOES NOT include offerings made to the religious institution. A housing allowance paid to clergy is not taxable income rental value of parsonage owned by the congregation and required to be occupied by the cleric is not taxable income to the clergy. A housing allowance used by the clergyman to purchase a home is excluded from taxable income to the extent it is applied to the down payment, mortgage payment, and/or interest, taxes, utilities, costs of repair for the home.

(f) Domestics. The compensation received by domestics is taxable income; HOWEVER, it is not subject to collection at source requirements. The individual employed or working as a domestic is responsible for the payment of the tax.

§323. Liability of Employer.

(a) When an employer required to withhold tax does so withhold, the amount withheld shall constitute in the hands of such employer a trust fund held for the account of the taxing jurisdiction as beneficial owner thereof and the employee from whose compensation such tax was withheld shall be deemed to have paid such tax. The provisions of this paragraph are not applicable in the case of an employer who is not required to withhold tax.

(b) The failure of any employer to withhold the tax shall not relieve the employee from payment of such tax or from complying with the requirements relating to the filing of a final return.

(c) Every employer who willfully or negligently fails or omits to make the deductions required by Section 318 above shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.

(d) Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the officer on or before the last day of the month succeeding the month for which the tax was withheld.

§324. Returns of Employers and Payment of Withheld Tax.

(a) Every employer required to withhold tax shall on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, file a return on a form prescribed by the Earned Income Tax Administrator setting forth the taxes withheld, and pay to the Earned Income Tax Administrator the amount of tax withheld for the preceding quarterly periods ending March 31, June 30, September 30 and December 31 of the current year.

(b) On or before February 28 following the close of the calendar year, every such employer shall file with the Earned Income Tax Administrator an annual return in respect of each employee who earned any taxable salary, wages, commissions or other compensation, setting forth the employee's name, address, political sub-division, and social security number, the amount of such taxable compensation, the amount of tax deducted and paid to Earned Income Tax Administrator therefrom, and such other information as the Tax Bureau may require.

(c) On or before February 28 following the close of each succeeding calendar year, every employer shall furnish two copies of the individual return provided for by paragraph (b) above to the employee with respect to whom it is filed. These copies must also be furnished by employer to employee at end of employment listing the district in which the individual was a resident.

(d) Every employer who discontinues business prior to the completion of the fiscal year shall, within thirty (30) days after discontinuance of business, file the returns required by this section and transmit to the Earned Income Tax Administrator any tax remaining due. Where discontinuance of business is due to the death of the employer, his personal representative or, in the absence of a personal representative, his heirs as designated by the Pennsylvania Interstate Act of 1947, as amended or as hereafter amended or supplemented, shall within sixty (60) days after the death of the employer file his final return and pay the tax due.

§325. Tax Collector.

(a) All taxes, fines, and penalties imposed by these Resolutions and Ordinances shall be paid to the Earned Income Tax Administrator.

(b) The Earned Income Tax Administrator shall keep a record showing the amount received by it from each person or employer/business paying the tax and, if paid by such person in respect of another person, the name of such other person, and the date of such receipt.

§326. Administration and Enforcement, and Rules and Regulations.

(a) The Income Tax Officer is charged with the administration and enforcement of the Resolutions or Ordinances approved by the various Districts. The Income Tax Officer is empowered subject to the approval of the Board of Directors of the Earned Income Tax Administrator to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of the provisions of the Resolution or Ordinance of each District. This includes provision for re-examination and correction of returns and of payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred; and to prescribe forms necessary for the administration of the Resolutions or Ordinances. Under the powers given him, these regulations are issued. Additional regulations and rulings will be issued from time to time as circumstances warrant. No such rule or regulation of any kind shall be enforceable unless approved by resolution of the taxing district.

(b) Any taxpayer or employer desiring a specific ruling should submit all of the pertinent facts in writing to the Income Tax Officer of the Earned Income Tax Administrator and request a determination of his liability for the tax.

§327. Examination of Books and Records of Taxpayers and Employers.

(a) The Income Tax Officer and agents designated by him are authorized to examine the books, papers, and records of any taxpayer or supposed taxpayer or of any employer or supposed employer in order to verify the accuracy of any return; or, if no return was filed, to ascertain the tax due. Every taxpayer or supposed taxpayer and every employer or supposed employer is required to give to the Income Tax Officer or to any agent so designated by him, the means, facilities, and opportunity for such examination and investigations as are authorized. In addition to all other powers, the Income Tax Officer shall have the power, on behalf of the taxing jurisdiction to examine any person under oath concerning salaries, wages, commissions, and other compensation returned, or which should have been returned for taxation

hereunder; to compel the production of books, papers, and records, and the attendance of persons (whether as parties, principals, agents or witnesses) before him.

(b) The information obtained by the Income Tax Officer, his agent or any other official or agent of a taxing jurisdiction, as a result of any returns, investigation, hearings or verifications required or authorized, is confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of the Resolution or Ordinance, or as otherwise provided by law.

(c) Any person aggrieved by any action of the Income Tax Officer shall have the right of appeal as provided by law.

§328. Refunds.

(a) Where a taxpayer as defined herein has erroneously paid any amount of the tax, the taxpayer may file a claim for refund with the Tax Collector. The Tax Collector will pay claims for refund in proper cases. A written claim for refund must be filed by the taxpayer or the employer within three (3) years from the date of filing the final return for the taxpayer's calendar year in which the overpayment was made, except that if the return was filed before the due date, the three-year refund period shall begin on the last day prescribed for filing the return.

(b) The written claim for refund referred to in subsection (a) of this Section shall be deemed a request for a cash refund unless the taxpayer otherwise specified that it is to be credited against a future tax liability.

(c) The Earned Income Tax Administrator is authorized to accept payment of the amount of tax claimed by a taxing jurisdiction in any case where any person disputes the validity or the amount of the tax claim. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the Earned Income Tax Administrator, the amount of the overpayment will be refunded to the person who paid under protest, upon the filing of a claim for refund.

§329. Accounting Records. Taxpayers, employers, and others required to file returns under the provisions of the earned income tax Resolution and/or Ordinance shall keep such records as will permit the filing of true and accurate returns, and such records shall be preserved for a period of not less than six years.

§330. Accounting Periods. Net profits shall be computed on the basis of either the calendar year or fiscal year, or at the option of the taxpayer, upon the basis of that portion or portions of his annual accounting period or periods corresponding with the method on which he files his Federal Income Tax return. The percentage of the total net profits of any fiscal year of a taxpayer beginning or ending within the period beginning July 1, and ending June 30, to which the tax imposed by this Resolution and/or Ordinance shall be applicable or shall be equal to the percentage of the number of days within the taxpayer's fiscal year.

§331. Accounting Methods.

(a) No uniform method of accounting is prescribed. However, the method of accounting used must be consistent with the method of accounting used in the filing of Federal Income Tax returns. Each taxpayer shall adopt such forms and methods of accounting as in his judgment are best suited for his purposes. The two principal methods of accounting are: (1) the cash receipts and disbursements methods, generally called the “cash basis” method; and (2) the “accrual basis” method.

(1) “Cash Basis” method. A taxpayer employing the cash basis of accounting includes in gross income all income subject to tax received during the year in cash or its equivalent. He deducts all disbursements made during the year in cash or its equivalent, provided deduction for such expenditures is authorized by law.

(i) The use of the cash basis is mandatory where no book or records of account are maintained.

(ii) Items of income and expenditure which, as gross income and deduction, are elements in computing taxable income need not necessarily be in the form of cash. It is sufficient that such items, if otherwise properly included in the computation, can be valued in terms of money.

(iii) If the return is made on a “cash basis,” gross profits shall include receipts from commissions, fees and interest, as well as the gross profit or loss from sales of merchandise, chattels, goods, wares, securities, notes, choses-in-action and services.

(2) “Accrual Basis” method. If income is taken into consideration when earned, even though not received in cash, and expenses are considered as soon as incurred, whether paid or not, the system of accounting is said to be on the “accrual basis.” These are the basic rules:

(i) The right to receive an item of income (as distinguished from actual receipt) determines its inclusion in gross income under the accrual method; and

(ii) A deduction cannot be accrued until an actual liability is incurred.

(b) A combination of accounting methods is permitted, provided it clearly reflects income. A taxpayer engaged in more than one business may, in computing taxable income, use a different method for each trade or business.

(c) Methods of accounting must clearly reflect income. No method of accounting is allowed unless it clearly reflects income. Thus, even if the taxpayer's accounts are kept and the return made on a cash basis, unusual cases may arise in which a payment made during the year is not deductible. Where necessary to properly reflect income, inventories must be used. The basis of pricing used for the purpose of the Federal Income Tax must be used in each instance.

§332. Fractional Parts of a Cent. In deducting and withholding the tax at source and in the payment of any tax of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

§333. Suit for Collection of Tax.

(a) The Earned Income Tax Administrator may sue in the name of the taxing district for the recovery of taxes due and unpaid under the applicable taxing district resolution or ordinance.

(b) Any suit brought to recover the tax imposed by the ordinance or resolution shall be begun within three (3) years after such tax is due or within three (3) years after the return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

(1) Where no return was filed by any person, although a return was required to be filed by him under provisions of the ordinance or resolution, there shall be no limitation.

(2) Where an examination of the return filed by any person, or of other evidence relating to such return in the possession of the Income Tax Officer, reveals a fraudulent evasion of taxes, there shall be no limitation.

(3) In the case of substantial understatement of tax liability of twenty-five percent (25%) or more, and no fraud, suit shall be begun within six (6) years.

(4) Where any person has deducted taxes under the provisions of this Ordinance, and has failed to pay the amounts so deducted to the Earned Income Tax Administrator, or where any person has willfully failed or omitted to make the deductions required by this section, there shall be no limitation.

(5) This section shall not be construed to limit the governing body from recovering delinquent taxes by other means provided by this act.

(c) The Earned Income Tax Administrator may sue for recovery of an erroneous refund provided such suit is begun two (2) years after making such refund, except that the suit may be brought within five (5) years if it appears that any part of the refund was induced by fraud or misrepresentative of material fact.

(d) Where suit is brought for the recovery of any unpaid and/or delinquent earned income tax, the person liable therefor shall, in addition, be liable for the costs of collection and interest and penalties imposed.

§334. Wage Attachments.

(a) The Earned Income Tax Administrator shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals employing persons owing delinquent earned income taxes, or whose spouse owes delinquent earned income taxes, or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent earned income taxes, or whose spouse owes delinquent earned

income taxes, upon the presentation of a written notice and demand under oath or affirmation, containing the name of the taxable or the spouse thereof, and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions, or earnings of such individual employees, then owing or that shall within sixty (60) days thereafter become due, or from any unpaid commissions, or earnings of any such taxable in its or his/her possession, or that shall within sixty (60) days thereafter come into its or his/her possession, a sum sufficient to pay the respective amount of the delinquent earned income taxes, and costs shown upon the written notice or demand, and to pay the same to the Earned Income Tax Administrator within sixty (60) days after such notice shall have been given. Such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding two percent (2%) of the amount of money so collected and paid over to the Earned Income Tax Administrator. No more than ten (10%) percent of the wages, commissions or earnings of the delinquent taxpayer or spouse may be deducted at any one time for delinquent Earned Income Taxes and costs. The Earned Income Tax Administrator shall not proceed against a spouse or his/her employer until he had pursued collection remedies against the delinquent taxpayer and his employer under this section. Upon the failure of any such corporation, political subdivision, association, company, firm or individual to deduct the amount of such taxes or to pay the same over to the Earned Income Tax Administrator, less the cost of bookkeeping involved in such transaction, or herein provided, within the time hereby required, such corporation, political subdivision, association, company, firm or individual shall forfeit and pay the amount of such tax for each such taxable whose taxes were not withheld and paid over, or that are withheld and not paid over together with a penalty of ten percent (10%) added thereto, to be recovered by an action of assumpsit in a suit to be instituted by the Earned Income Tax Administrator or by the proper authorities of the taxing district, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law.

(b) Upon presentation of a written notice and demand under oath or an affirmation, to the State Treasurer or any other fiscal officer of the State, or its boards, authorities, agencies or commissions, it shall be the duty of the treasurer or officer to deduct from the wages then owing, or that shall within sixty (60) days thereafter become due to any employee, a sum sufficient to pay the respective amount of the delinquent earned income tax and costs shown on the notice; the same shall be paid to the Income Tax Officer within sixty (60) days after such notice is given.

(c) The Income Tax Officer shall, at least fifteen days prior to the presentation of written notice and demand in Section 7.02(A) or (B), notify the delinquent taxpayer by registered or certified mail that said written notice and demand shall be presented to his employer unless said tax is paid. The return receipt card for said mailing shall be marked to the addressee only and the costs for said notification shall be added to the costs of collection.

§335. Distress Sales.

(a) The tax collector shall have power, in case of the neglect or refusal of any person, co-partnerships, association, or corporation, to make payment of the amount of any tax due by

him, after two months from the date of the tax notice, to levy the amount of such tax, any penalty due thereon, and costs, not exceeding costs and charges allowed constables for similar services by distress and sale of the goods and chattels of such delinquent, wherever situate or found, upon giving at least ten days public notice of such sale, by posting ten written or printed notices, and by one advertisement in a newspaper of general circulation published in the county.

(b) No failure to demand or collect any taxes by distress and sale of goods and chattels shall invalidate any return made, or lien filed for non-payment of taxes, or any tax sale for the collection of taxes.

(c) A taxpayer subject to distraint for delinquent taxes has the right, within ten (10) days after the date of the levy, to appear at the office of the district magistrate in the district in which the goods and chattels are located and demand a hearing on the merits of the claim.

§336. Distress Sales; Interest. If for any reason the tax is not paid when due, interest at the rate of six percent (6%) per annum on the amount of said tax, and an additional penalty of one-half of one percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

§337. Bad Checks. If any check received in payment of taxes, fines or penalties is returned unpaid by the bank, there shall be added to the amount due, a minimum of thirty-five dollars (\$35.00) plus additional costs.

§338. Fines and Penalties for Violation of Ordinances or Resolutions.

(a) Any person who fails, neglects, or refuses to make a return as required by this Ordinance, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the Earned Income Tax Administrator or any agent designated by them to examine his books, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Ordinance, shall upon conviction thereof before any magistrate, or court of competent jurisdiction in Schuylkill County, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each offense, and costs, and, in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty (30) days.

(b) Any person who divulges any information which is confidential under the provisions of this Part, shall, upon conviction thereof before any Magistrate, or court of competent jurisdiction, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each offense, and costs, and, in default of payment of said fines and costs to be imprisoned for a period not exceeding thirty (30) days.

(c) Each day that a corporation, political subdivision, association, company, firm, person or other entity violates this Part may be considered as a separate offense and is punishable as aforementioned in (a) above, for each such offense.

(d) The Penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Ordinance.

(e) The failure of any person to receive or procure forms required for making a return as required by this Part shall not excuse him from making such return.

§339. Generally. Payment of any tax to any political subdivision pursuant to an ordinance or resolution passes or adopted prior to the effective date of the Local Tax Enabling Act shall be credited to and allowed as a deduction from the liability of taxpayers for any like tax respectively on salaries, wages, commissions, other compensation or on net profits of business, professions or other activities and for any income tax imposed by any other political subdivision of this Commonwealth under the authority of this act.

§340. Credits for Tax Paid to Place of Residence. Payment of any tax on salaries, wages, commissions, other compensation or net profits of business, professions or other activities to a political subdivision by residents thereof pursuant to an ordinance or resolution passed or adopted under the authority of the Local Tax Enabling Act shall be credited to and allowed as a deduction from the liability of such persons for any other like tax respectively on salaries, wages, commissions, other compensation or on net profits of business, professions or other activities imposed by any other political subdivision of this Commonwealth of Pennsylvania under the authority of the Local Tax Enabling Act.

§341. Credits for Tax Paid to Other States by Non-Residents of Pennsylvania. Payment of any tax on income to any state or to any political subdivision thereof by residents thereof, pursuant to any State or local law, may, at the discretion of the Pennsylvania political subdivision imposing such tax, to the extent that such income includes salaries, wages, commissions, or other compensation or net profits of businesses, professions or other activities but in such proportions as hereinafter set forth, be credited to and allowed as a deduction from the liability of such person for any other tax on salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities imposed by any political subdivision of this Commonwealth under the authority of this act, if residents of the political subdivision of Pennsylvania receive credits and deductions of a similar kind to a like degree from the tax on income imposed by the other state or political subdivision thereof.

§342. Credits for Tax Paid to Other States by Residents of Pennsylvania.

(a) Payment of any tax on income to any State other than Pennsylvania or to any political subdivision located outside the boundaries of this Commonwealth, by residents of a political subdivision located in Pennsylvania shall, to the extent that such income includes salaries, wages, commissions, or other compensation or net profits of businesses, professions or other activities but in such proportions as hereinafter set forth, be credited to and allowed as a deduction from the liability of such person for any other tax on salaries, wages, commissions,

other compensation or net profits of businesses, professions or other activities imposed by any political subdivision of this Commonwealth under the authority of this act.

(b) No credit or deduction shall be allowed against any tax on earned income imposed under authority of Act 511 for payment of any tax on salaries, wages, commissions, other compensation or net profits of business, professions or other activities to a foreign country, state or political subdivision located outside the geographic and political boundaries of the United States, by residents thereof, pursuant to foreign law.

§343. Calculation of Credits.

(a) Where a credit or a deduction is allowable in any of the several cases hereinabove provided, it shall be allowed in proportion to the concurrent periods for which taxes are imposed by the other state or respective political subdivisions, but not in excess of the amount previously paid for a concurrent period.

(b) No credit or deduction shall be allowed against any tax on earned income imposed under authority of this act to the extent of the amount of credit or deduction taken for the same period by the taxpayer against any income tax imposed by the Commonwealth of Pennsylvania under section 314 of the act of March 4, 1971 (P.L. 6) known as the Tax Reform Code of 1971, on account of taxes imposed on income by other states or by their political subdivisions. (As amended 1967 P.L. 171, No. 47 and 1972 P.L. 1043, No. 261).

§344. Authority. This Part is being adopted pursuant to the authority granted by the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257, as amended by Act 32 of 2008; 53 P.S. Section 6924.101 et seq.

§345. Name. This Part shall be known as the Earned Income Tax Ordinance.

§346. Effective Date. This Ordinance shall become effective immediately following its enactment, and shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed. Changes in the rate shall become effective on the date specified in the Amending Ordinance.

§347. Severability. The provisions of this Part are severable. If any sentence, clause or section of this Part is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair the other remaining provisions, sentences, clauses or sections of this Part. It is hereby declared to be the intent of the Township Board of Supervisors that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause or section not been included herein.

§348. Effect on Other Ordinances. It is hereby declared to be the intent of the Board of Supervisors that this Part replace in its entirety all prior ordinances adopted by the Township levying an earned income tax, or any other actions by the Township to levy an earned income tax. To

the extent this Part conflicts with the provisions of any other ordinance, the provisions of the other ordinances are repealed insofar as they contradict this part.

§349. Gender/Plural. The masculine shall include the feminine and the singular shall include the plural and vice-a-versa.

Part 4 **Local Services Tax**

§401. Title. This Ordinance shall be known as the “East Union Township Services Tax Ordinance”.

§402. Definitions. The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

- 1) “Collector” The person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.
- 2) “DCED” The Department of Community and Economic Development of the Commonwealth of Pennsylvania.
- 3) “Earned Income” Compensation as this term is defined in Section 13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.
- 4) “Employer” An individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.
- 5) “He, His or Him” Indicates the singular and plural number, as well as male, female and neuter genders.
- 6) “Individual” Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.
- 7) “Net Profits” The net income from the operation of a business, profession; or other activity, as this term is defined in Section 13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1251, § 13, as amended, 53 P.S. § 6913, as amended.
- 8) “Occupation” Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.

9) "Political Subdivision" The area within the corporate limits of the Township of Black Creek.

10) "Tax" The local services tax at the rate fixed in Section 803 of this article.

11) "Tax Year" The period from January 1 until December 31 in any year; a calendar year.

§403. Levy of Tax. For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008; upon the privilege of engaging in an occupation with a primary place of employment within the political subdivision during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$52.00, assessed on a pro rata basis, in accordance with the provisions of this article. This tax may be used solely for the following purposes as the same may be allocated by the Board of Supervisors from time to time:

- 1) emergency services, which shall include emergency medical services, police services and/or fire services;
- 2) road construction and/or maintenance;
- 3) reduction of property taxes; or
- 4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch 85, Subch. F (relating to homestead property exclusion).

The political subdivision shall use no less than twenty-five percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than \$52.00 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

§404. Exemption and Refunds.

A. Exemption. Any person whose total earned income and net profits from all sources within the political subdivision is less than twelve thousand (\$12,000) dollars for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

- 1) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent disability.

- 2) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subparagraph, “reserve component of the armed forces” shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

B. Procedure to Claim Exemption.

- 1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person’s employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee’s last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.
- 2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer’s payment to the person of earned income within the municipality in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under clause (3).
- 3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be

liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this article.

- 4) Except as provided in clause (2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

C. Refunds. The Board of Supervisors, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar (\$1): The Board of Supervisors or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

§405. Duty of Employers to Collect.

A. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of this employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed with the political subdivision.

B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided Paragraph D of this Section, for the purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.

C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of

employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

E. The tax shall be no more than fifty-two dollars (\$52) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.

F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Paragraph B of Section 804 of this article and this section and remits the amount so withheld in accordance with this article.

G. Employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.

§406. Returns. Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

§407. Dates for Determining Tax Liability and Payment. In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the thirtieth day following the end of each calendar quarter of each such tax year.

§408. Self-Employed Individuals. Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this article and pay the pro rata portion of the tax due to the Collector on or before the thirtieth day following the end of each quarter.

§409. Individuals Engaged in More than One Occupation or Employed in More than One Political Subdivision.

A. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:

- 1) First, the political subdivision in which a person maintains his or her principal office or is principally employed;
- 2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
- 3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

§410. Nonresidents Subject to Tax. All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§411. Administration of Tax.

A. The Collector shall be appointed by resolution of the political subdivision. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer of self-employed person, together with the date the tax was received.

B. The Collector is hereby charged with the administration and enforcement of this articles and is hereby charged and empowered, subject to municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal to the Court of Common Pleas of Schuylkill County as in other cases provided.

C. The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

§412. Suits for Collection.

A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.

B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection.

§413. Violations and Penalties. Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than Six Hundred Dollars (\$600) and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

§414. Interpretation.

A. Nothing contained in this article shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

B. If the tax hereby imposed under the provisions of this Part shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

§415. Repealer and Severability. Except as set forth hereafter, all ordinances or parts of ordinances inconsistent herewith are hereby repealed. Nothing herein shall be construed to repeal the imposition and collection of an occupation privilege tax, plus applicable penalties and interest, for calendar year 2005 and all prior calendar years, or of an emergency and municipal services tax, plus applicable penalties and interest, for calendar years 2006 and 2007, as the same exist prior to this amendment.

§416. Effective Date. This Ordinance shall go into effect on January 1, 2008, and all years thereafter.

EDITOR'S NOTE: This Ordinance No. 5-2007 was adopted by the East Union Township Board of Supervisors on November 27, 2007.

Part 5
Notification to Tax Collector

§501. Duty of Persons. All persons eighteen (18) years of age or older who are or who become a resident within the township shall, within one (1) week, notify in writing the tax collector of East Union Township of his or her address.

§502. Duty of Landlord. The owner or owners of real property within the township permitted to be occupied by a person or persons other than the owner or owners shall report to the tax collector of East Union Township, in writing, within (30) days of such occupancy of the same name and address of such person or persons.

§503. Penalty.

(a) Failure to submit the notice as set forth in the above sections shall place upon the individual or the owner or owners the obligation of paying the personal, per capita, occupational privilege or any other taxes which the resident individual is required to pay to the Township.

(b) Violation of this Part, shall, upon conviction, be subject to a fine of Three Hundred Dollars (\$300.00) plus costs.

§504. Severability. If any part or provision of this Part is in conflict or inconsistent with applicable provisions of Federal or State statutes, or is otherwise held to be invalid or unenforceable by any Court of competent jurisdiction, such part or provision shall be suspended and superseded by such applicable law or regulations, and the remainder of this Part shall not be affected thereby.

§505. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§506. Effective Date. This Ordinance shall become effective 5 days after the adoption by the Board of East Union Township Supervisors.

EDITOR'S NOTE: This Ordinance No. 2006-8 was adopted by the East Union Township Board of Supervisors on November 6, 2006.

Part 6
Real Estate Tax Ordinance

§601. Rate. The East Union Township Board of Supervisors has set the real estate tax rate at 2.45 mills, of which: (a) 1.79 mills is the general fund; (b) .33 mills is the light fund; and (c) .33

mills is the fire. This millage rate has been established for the fiscal year 2013 by the adoption of a prior ordinance, and at the time of adopting this Part of the Code, the Supervisors intend by its adoption to fix the same rate for the 2014 fiscal year.

EDITOR'S NOTE: The real estate tax was increased from 2.35 mills to 2.45 mills with the increase being applied to the fire fund by Resolution No. 2010-13 adopted by the East Union Township Board of Supervisors on December 6, 2010.

CHAPTER 7

FIRE PROTECTION AND FIRE PREVENTION

Part 1 **Burning**

§101. SHORT TITLE. This ordinance may be known and cited as the “East Union Township Outdoor Burning Ordinance.”

§102. PURPOSE. This ordinance is intended to promote the public health, safety, and welfare of the residents of East Union Township by regulating outdoor burning within the township to protect persons and their property from fire hazards, inconvenience, and the inability to use and enjoy one’s property.

§103. DEFINITIONS. For purposes of this ordinance:

“Agricultural Operation”- means the use of land of ten acres or more for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, and the necessary accessory uses for storing the products. The term shall include incidental retail sales by the producer of products raised on the farm. The above use shall not include, commercial hog farms, fur farms, fertilizer plants, animal kennels or concentrated animal feeding operations as defined and regulated under the Pennsylvania Nutrient Management Act, as amended.

“Board of Supervisors”- means the governing body of East Union Township, Schuylkill County, Pennsylvania.

“Building”- means any roofed structure intended for shelter, housing or enclosure of persons, animals, or property.

“Burn” or “Burning”- includes not only visible flames but also any visible smoke emanating from the burned materials after the flames have died out.

“Burning Container”- means a non-combustible metal, steel, brick, stone, cement, or cinderblock container in which a fire is permitted to be ignited under this ordinance.

“Campfire”- means an outdoor contained fire no more than six feet in width and two feet in height intended for recreation or cooking but not including a fire intended for disposal of waste wood, refuse, garbage, trash, or a bon fire.

“Code Enforcement Officer”- means the person appointed by the board of supervisors to administer and enforce the East Union Township Code of Ordinances, including this ordinance.

“Confined Open Burning” – to ignite, light, set a match to or set a fire in a limited, restricted, or contained non-combustible container where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney. This includes burning in a burn barrel.

“Fire”- includes fire or flames and the smoke therefrom, the smoldering when the flames have subsided and the smoke when the flames have subsided, but smoke is still visible.

"Fire Chief"- means the Chief of the Sheppton-Oneida Volunteer Fire Company or other person designated by the Fire Chief to enforce this ordinance.

“Fire Company”- means the Sheppton-Oneida Volunteer Fire Company or any other company designated by the board of supervisors to provide fire protection services in the township.

"Landowner"- means the legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee authorized under a lease to exercise the rights of the landowner, or other person having a proprietary interest in land.

“Nuisance”- means the burning of materials that create a foul or offensive odor; cause smoke emissions that are reasonably and objectively offensive to occupants of surrounding property; allow malodorous air contaminants to be detectable off the property of the person on whose land the burning is being conducted; or cause emissions to damage or destroy property of another.

“Occupied Building”- means any structure having a roof supported by columns or walls and intended for shelter, housing, or enclosure of persons.

"Open Burning" or “Open Burn”- means kindling or maintaining a fire where the products of combustion are emitted directly into the ambient air without passing through a stack or a chimney.

"Outdoor Burning"- means open burning in an outdoor fireplace or outdoor wood fired burner.

“Outdoor Fireplace”- means a chiminea, patio warmer, or other portable wood-burning device used for outdoor recreation or heating.

“Outdoor Wood Fired Burner”- means a fuel burning device:

- A. Designed to burn wood or other approved solid fuels;
- B. That the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and
- C. Heats building space or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

“Person”- includes any individual, firm, partnership, limited liability partnership, limited liability company, cooperative, corporation, joint venture, association, estate, trust, business trust, receiver, syndicate, holding company, or other group or combination acting as a unit, in the singular or plural, the landowner, and the agent or employee having charge or control of an outdoor fire in the absence of the landowner.

“Prohibited Materials”- means:

A. Solid materials not considered to be highly flammable or explosive:

1. Rags, old clothes, leather, rubber, carpets, furniture, appliances, excelsior, ashes, tin cans, paint cans, glass, crockery, masonry, and other similar materials.

2. Treated or painted wood, plywood, composite wood products that are painted, varnished, or treated with preservatives, been painted, varnished, or coated with a similar material; pressure treated lumber and wood that contains resins or glues as in plywood or other composite wood products.

3. Corrugated cardboard and container board.

B. Solid, liquid, or gaseous waste products which are composed wholly or partly of such materials as:

1. Wasted or spoiled food.

2. Trade waste, industrial, commercial, and nonresidential waste.

3. Animal feces.

4. Plastic or plastic materials or products, including petroleum base products, cans, bottles, nylon, PVC, ABS, polystyrene or urethane foam, and synthetic fabrics, plastic films, and plastic containers.

5. Hazardous substances, including batteries, household chemicals, pesticides, used oil, gasoline, paints, greases, varnishes, and solvents.

6. Tires.

C. Construction and demolition building waste materials, including shingles, insulation, lumber, treated wood, painted wood, wiring, plastics, packaging, wood, metal, stone, brick, cement, or cinderblock or any combination thereof that results from building, construction, remodeling, repair, and demolition operations on a house, commercial or industrial building, or other building or structure.

D. Yard waste limited to leaves, brush, and grass clippings.

“Public Property”- includes any public street or right-of-way, sidewalk, curb, gutter, path, trail, or walkway.

“Recyclables” – means materials consisting of:

A. Containers:

1. Glass bottles and jars - (clear, brown, green) does not include window glass, dinnerware or ceramics.
2. Aluminum and metal food cans.
3. Aluminum trays and foil.
4. Aseptic packaging and gable top containers (milk and juice cartons).
5. Steel cans and tins.

B. Plastics:

1. PET soda, milk, water, and flavored beverage bottles (#1 clear and green plastic resin).
2. HDPE detergent and fabric softener containers (#2 colored plastic resin).
3. PVC narrow neck containers only (#3 plastic resin); examples include health and beauty aid products, household cleaners.
4. LDPE grocery containers (#4 plastic resin); examples include margarine tubs, frozen dessert cups, six and twelve pack rings).
5. PP grocery containers (#5 plastic resin); examples include yogurt cups, narrow neck syrup and ketchup bottles.
6. #7 plastic resin grocery - narrow neck containers only.

For purposes of this ordinance recyclables does not include paper such as:

1. Newspaper, including inserts.
2. Magazines, catalogues and telephone books.
3. Kraft (brown paper) bags.
4. Office, computer, notebook and gift wrap paper.
5. Chipboard (cereal, cake and food mix boxes, gift boxes, etc.).
6. Carrier stock (soda and beer can carrying cases).
7. Junk mail and envelopes.
8. Paperback books (does not include hard cover books).
9. Cardboard (no waxed cardboard).

“Structure”- means any man-made object.

§104. OPEN BURNING PROHIBITED. No person shall open burn prohibited materials and recyclables.

§105. OUTDOOR BURNING PERMITTED. Outdoor burning in an outdoor fireplace, properly zoned outdoor wood fired burner, or campfire is permitted and not regulated under this ordinance.

§106. CONFINED OPEN BURNING PERMITTED. Confined open burning is permitted provided the following requirements are met:

A. No person shall open burn prohibited materials and recyclables, except for cardboard and paper.

B. Open burning shall be conducted only on the property on which the materials were generated.

C. No person may burn in a manner that causes a nuisance.

D. Confined open burning shall be allowed Monday through Saturday, during daylight hours, sunrise to sunset. No confined open burning on Sunday or at night.

E. No materials may be burned upon any public property or any private property without the consent of the landowner.

F. The property where the confined open burning is being conducted must not be less than 100 feet from the nearest occupied building other than the occupied building on the same property where the burning is being conducted. The confined open burning must be located at least 50 feet from any occupied building on the property where the burning is being conducted.

G. Open burning must be contained in a burning container. The only type of burning container that is permitted under this ordinance is a 55-gallon drum or its equivalent and meets the following requirements: (1) The burning container must be covered with a metal screen, grate, or mesh fencing to prevent dispersal of unburned material. (2) The size of the burning container may not exceed the size of a 55-gallon drum/barrel or its equivalent being 34.5 inches in height by 23 inches in width measured from outside edge to edge. (3) The drum or barrel must be located on a concrete block, or a concrete, gravel or other base made of noncombustible material such as gravel, stone or concrete no less than 12 inches wider than the diameter of the drum/barrel. (4) A drum/barrel may not have openings on its side and bottom except for those typical ½ inch openings or holes that act as a flue. (5) When the sides or bottom of the container weakens, collapses or fails, the container must be replaced.

H. The person responsible for igniting the fire shall take the necessary safety precautions to ensure that the fire cannot spread and can be easily extinguished in case of an emergency. The person igniting a fire may not leave it unattended until the fire has been completely extinguished. The person attending the fire shall have fire extinguishing equipment readily to extinguish or control the fire.

I. The use of accelerants such as gasoline is prohibited. Newspaper or dried wood is permitted to start a fire in a burning container.

J. Every person shall take all necessary measures to make certain that the fire is completely extinguished by sunset on the days that confined open burning is permitted.

K. No more than one burning container is permitted on a property.

§107. EXCEPTIONS. The following exceptions apply to administration and enforcement of this ordinance:

A. The board of supervisors may allow the burning of yard waste within the township during the spring and fall months for a specified and limited time. If allowed, the time periods will be for garden clean-up only of yard waste generated from the same property. Specified times may be posted in one or more places at the discretion of the Board of Supervisors: the newspaper, the East Union Township Municipal Building, or the township’s website.

B. Open burning of weeds, brush, and crop stubble being conducted as part of an active agricultural operation is exempt under this ordinance. This exception may not apply when the board of supervisors, the county, the fire chief, or any emergency management coordinator or agency imposes a ban on burning.

C. Any fires set for the purposes of instructing personnel in fire-fighting, provided such training is approved by the Pennsylvania Department of Environmental Protection and State Fire Academy and the local fire department designated by the township to provide services in the township.

§108. BURNING BAN. Confined open burning shall be prohibited when the board of supervisors, the county, the fire chief, or any emergency management coordinator or agency places a ban on burning when weather conditions warrant. The ban may be posted in one or more places at the discretion of the board of supervisors: the newspaper, the East Union Township Municipal Building, or the township’s website.

§109. ENFORCEMENT AND ADMINISTRATION. The code enforcement officer, any assistant code enforcement officer, the fire chief, fire marshal, assistant fire chiefs, and any police officer may administer and enforce any of the provisions of this ordinance, and they may inspect any property for the purpose of administering and enforcing this ordinance.

§110. FINES AND PENALTIES.

A. Except as otherwise provided below, any person who violates any provision of this Ordinance shall, upon conviction thereof, be subject to a civil proceeding or summary offense and payment of a summary fine or civil penalty of:

\$100.00	First Offense
\$300.00	Second Offense
\$600.00	Third and Subsequent Offenses

In addition to the fines, the defendant or violator shall be responsible for court costs and reasonable attorney fees. In default of payment in a summary proceeding, a defendant may also be subject to

imprisonment for a term not to exceed 30 days. A separate violation shall arise for each day of a violation and each applicable section of this ordinance.

B. In the event that a burning ban is declared under Section 108 of this ordinance, the fines for a violation of this ordinance shall increase so that any person who open burns during a burning ban shall, upon conviction thereof, be subject to the payment of a summary fine or civil penalty of:

\$300.00	First Offense
\$600.00	Second and Subsequent Offense

In addition to the fines, the defendant or violator shall be responsible for court costs and reasonable attorney fees. In default of payment in a summary proceeding, a defendant may also be subject to imprisonment for a term not to exceed 30 days. A separate violation shall arise for each day of a violation and each applicable section of this ordinance.

C. In case any person fails to comply with this ordinance and the fire company has to extinguish a fire, then the fire company may recover its costs of doing so to be collected by the fire company from the offending person through a civil proceeding. Abatement and collection under this Subsection shall be in addition to any other enforcement action set forth in this ordinance.

§111. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

§112. REPEALER. All ordinances or parts thereof which are inconsistent with this ordinance are hereby repealed to the extent of their inconsistencies.

§113. EFFECTIVE DATE. This ordinance shall become effective immediately following its adoption.

EDITOR'S NOTE: This is Ordinance No. 1 of 2021 and was adopted by the East Union Township Board of Supervisors on January 21, 2021.

Part 2
Fire and Ambulance Companies

§201. Suspension or Revocation of Authority of the Citizens Fire Company of Brandonville, Pa. a/k/a the Citizens Fire Company. The East Union Board of Supervisors adopted Ordinance No. 1 of 2013 on March 6, 2013, which provided as follows:

AN ORDINANCE REVOKING THE AUTHORITY OF THE CITIZENS FIRE COMPANY OF BRANDONVILLE, PA A/K/A THE CITIZENS FIRE COMPANY TO ACT ON BEHALF OF EAST UNION TOWNSHIP OR TO ENGAGE IN FIRE FIGHTING ACTIVITIES WITHIN EAST UNION TOWNSHIP

WHEREAS, East Union Township, Schuylkill County, Pennsylvania, is a duly organized and operating Township of the second class and thereby governed by the Second Class Township Code;

WHEREAS, the Board of Supervisors may provide for fire protection within the Township under 53 P.S. §66801 of the Second Class Township Code;

WHEREAS, the Board of Supervisors may by ordinance make rules and regulations for the government of fire companies which are located within the Township and their officers under 53 P.S. §66803(b) of the Second Class Township Code;

WHEREAS, the East Union Township Board of Supervisors, Schuylkill County, Pennsylvania, has held hearings with the Citizens Fire Company of Brandonville, Pa, and requesting documents from the Citizens Fire Company of Brandonville, Pa;

WHEREAS, the East Union Township Board of Supervisors, Schuylkill County, Pennsylvania, has made a record request upon the Citizens Fire Company of Brandonville, Pa, and hereby adopts the findings attached hereto as Exhibit "A" based upon a review of the records produced by the Citizens Fire Company of Brandonville, Pa;

WHEREAS, the East Union Township Board of Supervisors, Schuylkill County, Pennsylvania, wishes to suspend the fire fighting activities of the Citizens Fire Company of Brandonville, Pa, and further wishes to revoke any official authority conferred upon the Citizens Fire Company of Brandonville, Pa, by the Township, as a fire fighting entity within the Township;

NOW, THEREFORE, it is hereby ordained and enacted by the East Union Township Board of Supervisors that:

(1) The Citizens Fire Company of Brandonville, Pa, is hereby suspended from any and all fire fighting activities;

(2) The East Union Township Board of Supervisors does hereby revoke any authority, express or implied, previously conveyed upon the Citizens Fire Company of Brandonville, Pa, allowing it to act as an agent of the Township;

(3) The Citizens Fire Company of Brandonville, Pa, by virtue of this Ordinance, is no longer authorized to act on behalf of East Union Township in any capacity or for any purposes;

(4) The Citizens Fire Company of Brandonville, Pa shall no longer receive funding or contribution of any type from East Union Township;

(5) Any property or equipment owned by the Township or the East Union Township Fire Fighters Relief Association shall be returned and delivered to the Township within 30 days from the date of this Ordinance;

(6) The Citizens Fire Company of Brandonville, Pa is no longer permitted to solicit any donations or file for grants as a fire company providing fire protection within East Union Township; and

(7) All fire fighting activities within East Union Township shall be and is hereby assigned to Sheppton-Oneida Volunteer Fire Company, Inc. effective immediately.

All ordinances or parts of ordinances in conflict herewith are hereby repealed except to the extent that they authorize greater remedies than this Ordinance.

The provisions of this Ordinance shall be severable and if any of its provisions are found to be unconstitutional or illegal the validity of any of the remaining provisions of this Ordinance shall not be affected thereby.

EXHIBIT "A"

FINDINGS OF THE EAST UNION TOWNSHIP SUPERVISORS OF THE RECORDS SUBMITTED BY CITIZENS FIRE COMPANY OF BRANDONVILLE PA

1. Grants. It appears that the Fire Company obtained grants in the amount of \$9,500.00 for the years 2009 and 2012. No grants were obtained in 2010 or 2011 despite the grants being readily available to the Fire Company for those years. The funds from the grants obtained in the years 2009 and 2012 were spent improperly as they should have been used for capital improvements not general expenses. This is confirmed by a cursory review of the Income and Expense Statements provided to the Township. This practice jeopardizes future grants and risks requiring reimbursement to the State for the grants already received.

2. Income and Expense Statements. The Income and Expense Statements prepared by the Fire Company indicates that the Fire Company has operated at a loss for the years 2011 and 2012. The Fire Company failed to provide a statement for 2010. The 2009 Statement appears to indicate that although they operated at a small profit of approximately \$700.00, they did so by the improper use of grant funds to pay general expenses.

3. List of Officers. The Fire Company prepared a list of officers on a stained sheet of paper. The list failed to include terms of offices, and the completeness of the list cannot be verified since the Fire Company failed to provide their Meetings Minutes, By-Laws and Articles of Incorporation. These documents should be readily available to the Fire Company as they should be used in the everyday operation of the Fire Company. As such, the Township is unable to ascertain the positions in the Corporation and the terms of offices for those positions.

4. Lack of Records Requested. As stated in paragraph 3 above, the Fire Company failed to provide the Meeting Minutes, By-Laws and Articles of Incorporation. In addition, the Fire Company refused to produce the financial records for the bar, and failed to supply an equipment list to the Township.

5. List of Members. The Township was provided membership cards of both active and inactive members. The cards indicate that of the 36 social members 15 are delinquent in dues since 2012 or longer. The cards also indicate that of the 69 active members 48 have not paid dues since 2012 or longer. It is apparent the records that the Fire Company has not prepared an update list of current social and active members. Also without the By-laws, the Township is unable to ascertain the difference between an active and social member, and the rights, duties and financial obligations of each type of membership.

6. Liquor License. The Fire Company's Liquor License is in the name of the Citizens Fire Company. However, a corporate search found that the Fire Company was incorporated on 4/9/1937 in the name of the Citizens Fire Company of Brandonville, PA. In addition, a review of the insurance revealed that no liquor license liability insurance is being maintained by the unregistered fictitious entity known as the Citizens Fire Company.

7. Insurances. Although a review of the insurance policies provided to the Township revealed that adequate insurance is in place for the two pieces of fire apparatus (tanker and engine) owned by the Fire Company, no general liability or property insurance was provided for the years 2012 and 2013. The policies provided with the exception of vehicle insurance appear to have expired on October 30, 2011.

8. Training Records. Although the Township requested proof of training of members by copies of certificates, no such certificates were provided. Based upon the self serving documents provided, it appears that of the 17 members with training records only 3 of those members had the Essentials of Fire Fighting. Of those 3 members, one of them had obtained the Essentials of Fire Fighting as recently as 2012. The Essentials of Fire Fighting consists of four modules and is the most basic training needed to be a competent and qualified fire fighter in the Commonwealth of Pennsylvania. This is the same standard that East Union Township requires of those persons fighting fires and responding to emergency calls within East Union Township. It is disturbing that only 3 members have the requisite essentials training, when the Fire Company claims to have 68 active members.

9. Call Logs. The call logs indicate that the Fire Company responded to only 10 of the 189 calls in 2012. In 2013, the Fire Company only responded to 3 of the approximately 25 calls for assistance in the Township. In most of the incidents in 2012 and 2013, the Fire Company was cancelled because the other Fire Company in the Township, the Sheppton-Oneida Fire Company, was already on scene indicating an ability to respond to all calls for assistance with a better response time. In addition, the Fire Company failed to supplement the call logs so that the Township could determine if the members responding to calls were adequately trained and equipped for the assistance provided at each call.

10. Equipment. Although the Fire Company failed to provide a list of equipment to the Township, the Township believes that some of the equipment the Fire Company may not be operational to industry standards. The Fire Company failed to test the pump, ladders and hoses on the engine truck.

§202. Designation of Official Fire Company of East Union Township; Sheppton-Oneida Volunteer Fire Company, Inc. The Township of East Union hereby designates the Sheppton-Oneida Volunteer Fire Company, Inc. to provide for fire protection within the Township. The Sheppton-Oneida Volunteer Fire Company, Inc. is designated the official Fire Company of the Township. This designation shall be valid for as long as the Sheppton-Oneida Volunteer Fire Company, Inc. continues to locate its primary facilities within the boundaries of East Union Township.

§203. Designation of Official Ambulance Companies for East Union Township. Basic Life Support (BLS) Ambulance Services shall be shared between Nuremburg

Community Ambulance covering the Sheppton-Oneida sections of the Township, and Shenandoah Community Ambulance covering the Brandonville-Phinneyville section of the Township. Advance Life Support (ALS) Ambulance Services within the Township limits shall be performed by APTS (Advance Patient Transport Services), of Hazleton, Pa.

EDITOR'S NOTE: This Ordinance No. 3 of 1993 was adopted by the East Union Township Board of Supervisors on March 1, 1993. Sections 202 and 203 of this Part was amended to add Basic Life Support and Advance Life Support Services, and any reference to the Citizen's Fire Company of Brandonville was omitted based upon the subsequent revocation by the Township.

Part 3

Escrow of Fire Insurance Proceeds

§301. Purpose and Intent. The Commonwealth of Pennsylvania has enacted Act 98 of 1992 effective on September 7, 1992 amending the Insurance Company Law of 1921 to provide procedures for the payment of certain fire loss claims for the purposes of deterring the commission of arson and related crimes, to discourage the abandonment of property, and to prevent urban blight and deterioration; and the East Union Township Supervisors desire to adopt an ordinance pursuant to Section 508 of the Insurance Company Law of 1921 to provide for the payment of proceeds from certain fire loss claims to the Township.

§302. Fire Insurance Proceeds.

(a) No insurance company, association or exchange (hereinafter the "Insuring Agent") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for fire damage to a structure located within the Township of East Union (hereinafter the "Municipality") where the amount recoverable for the fire loss to the structure under all policies exceeds Five Thousand Dollars (\$5,000.00), unless the named insured or Insuring Agent is furnished by the municipal treasurer with a municipal certificate pursuant to Section 508 (B) of Act 98 of 1992 and unless there is compliance with section 508 (C) and (D) of Act 98 of 1992 and the provisions of this Ordinance.

(b) Where pursuant to Section 508 (B)(1)(I) of Act 98 of 1992, the municipal treasurer issues a certificate indicating that there are no delinquent taxes, assessments, penalties or user charges against real property, the Insuring Agent shall pay the claim of the named insured, provided however, that if the loss is agreed upon by the named insured and the Insuring Agent equals or exceeds 60 percent of the aggregate limits of liability on all fire policies covering the building re-structure, the following procedures must be followed:

(1) The Insuring Agent shall transfer from the insurance proceeds to the designated officer of the Municipality in the aggregate of \$1,000.00 for each \$20,000.00 of a claim and for each fraction of that amount a claim, this section to be applied such that if the claim is \$20,000.00 or less, the amount transferred to the Municipality shall be \$1,000.00; or

(2) If at the time of a proof of loss agreed to between the named insured and the Insuring Agent, the named insured has submitted a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, the Insuring Agent shall transfer to the Municipality from the insurance proceeds the amount specified in the estimate.

(3) The transfer of proceeds shall be on pro rata basis by all companies, associations or exchanges insuring the building or other structure.

(4) After the transfer, the named insured may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure, and the designated officer shall return the amount of the funds transferred to the Municipality in excess of the estimate to the named insured, the Municipality has not commenced to excess of the estimate to the named insured, the Municipality has not commenced to remove, repair or secure the building or other structure.

(5) Upon receipt of proceeds under this section, the Municipality shall do the following:

(i) The designated officer shall place the proceeds in the separate fund to be used solely as security against the total costs of removing, repairing, or securing the building or structure which are incurred by the Municipality. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the municipality in connection with such removal, repair or securing of the building or any proceedings related thereto; and

(ii) It is the obligation of the Insuring Agent when transferring the proceeds to provide the Municipality with the name and address of the named insured. Upon receipt of the transferred funds and the name and address of the named insured, the designated officer shall contact the named insured, certify that the proceeds have been received by the Municipality and notify the named insured that the procedures under this subsection shall be followed; and

(iii) When repairs, removal or securing of the building or other structure have been completed in accordance with all applicable regulations and orders of the Municipality and the required proof of such completion received by the designated officer, and if the Municipality has not incurred any costs for repairs, removal or securing, the fund shall be returned to the named insured. If the Municipality has incurred costs if the cost shall be paid from the fund and if excess funds remain, the Municipality shall transfer the remaining funds to the named insured; and

(iv) To the extent that interest is earned on proceeds held by the Municipality pursuant to this Section, and not returned to the named insured, such interest shall belong to the Municipality. To the extent that proceeds are returned to the named insured, interest earned on such proceeds shall be distributed to the named insured at the time that the proceeds are returned.

(6) Nothing in this section shall be construed to limit the ability of the Municipality to recover any deficiency. Furthermore, nothing in this subsection shall be construed to prohibit the Municipality and the named insured from entering into an agreement that permits the transfer of funds to the named insured of some other reasonable disposition of the damaged property has been negotiated.

§303. Rules and Regulations. The Township may by resolution adopt procedures and regulations to implement Act 98 of 1992 and this Ordinance and may by resolution fix reasonable fees to be charged for municipal activities of certificates and bills, performance of inspections and opening separate fund accounts.

§304. Penalty. Any owner of property, any named insured or insurer who violates the provisions of this Ordinance or who shall fail to comply with any of the requirements hereof shall be sentenced upon conviction thereof to pay a fine not greater than \$1,000.00 plus costs and in default of payment of said fine and costs to a term of imprisonment not exceed thirty (30) days. Each day in which an offense shall continue shall be deemed a separate offense.

§305. Severability. The provisions of this Ordinance are severable, if any sentence, clause or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal or inlaid provision been included herein.

§306. Effective Date. This Ordinance shall take effect immediately.

EDITOR'S NOTE: This Ordinance No. 1 of 1993 was adopted by the East Union Township Board of Supervisors on February 1, 1993.

Part 4

Reimbursement of Costs for Materials and Services

§401. Purpose and Intent. The Board of Supervisors of East Union Township finds:

(a) The Sheppton-Oneida Volunteer Fire Company, Inc., (hereinafter "Fire Company"), a volunteer emergency service organization located within East Union Township, is experiencing ever-increasing financial burdens that are having an adverse impact upon the Fire Company.

(b) In order to ensure the continued viability of the Fire Company and to protect and promote the public health, safety, and welfare, an ordinance must be adopted to authorize the Fire Company to collect money from those who receive fire fighting, rescue and emergency services.

§402. Definitions. As used herein, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

"Fire Company" means the Sheppton-Oneida Volunteer Fire Company, Inc.

"Person" includes an individual, natural person, estate, trust, firm, corporation, partnership, government entity, association or other legal entity.

"Township" means the East Union Township, Schuylkill County, Pennsylvania.

§403. Authorization to Recover Costs and Expenses. East Union Township authorizes the Fire Company to recover the costs of fire fighting materials used and expended, the costs of use of the fire trucks, fire engines, rescue equipment and tankers, the costs of personnel hours and hazardous situation abatement materials involving any fire, safety and rescue incident or operation, and hazardous abatement incident including vehicular accidents and fires within the Township or any other area in which the Fire Company is authorized by the Township or contracted with to provide such services.

§404. Schedule of Costs, Fees and Expenses. East Union Township Board of Supervisors may by resolution, from time to time, establish, revise, amend or rescind a schedule of fees that may be charged by the Fire Company.

§405. Requirements to Pay for Costs, Fees and Expenses. A person shall be liable for the costs, fees and expenses incurred by the Fire Company except where a person is un-insured; where insurance only covers a portion of the amount owed; or as otherwise determined by the Fire Company in the case of hardship, the Fire Company may waive its costs, fees and expenses or the remainder of its costs, fees and expenses.

§406. Collection of Costs and Fees. The costs and fees as outlined in a Resolution of East Union Township Board of Supervisors shall be recovered directly by the Fire Company by direct billing of the Fire Company or by an attorney, collection service or agency contracted with by the Fire Company. In addition to the costs and fees as outlined in a Resolution of East Union Township Council the Fire Company or any attorney or collection service or agency contracted with by the Fire Company shall be authorized to collect in addition to the costs and fees reasonable interest and administration fees for collecting the costs and fees.

§407. Enforcement. In the event that any insurance carrier or person fails to pay any bill or invoice within 30 days of the mailing or delivery of such notice of charges, the Fire Company or any attorney or agency contracted with by the Fire Company who mailed or delivered the bill or invoice may enforce the provisions of this Part by filing a civil action at law in a court of competent jurisdiction for the collection of any amounts due to the Fire Company together with statutory interest, court costs, collection fees and reasonable attorney's fees. The remedies provided herein shall be in addition to any other relief, remedies or penalties that may be appropriate or provided by law.

§408. Severability. The provisions of this Part are severable. If any provision of this Part or its application to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this Part which can be given effect without the invalid provisions or application.

§409. Repealer. Any and all other ordinances, resolutions or parts thereof inconsistent herewith are expressly repealed by the adoption of this Part.

§410. Effective Date. This Ordinance shall become effective five (5) days following the date of its adoption.

EDITOR'S NOTE: This Ordinance No. 1 of 2006 was adopted by the East Union Township Board of Supervisors on June 5, 2006. This Ordinance was revised as part of this Code to allow the Fire Company to waive costs and expenses in certain instances and remove the prior exemptions of

former Section 405 that prohibited billing of costs when the person donated to the Fire Company or was a member of the Fire Company.

Part 5
Firebox/Keybox

§501. Purpose. The East Union Township Board of Supervisors finds that fire in any work and/or industrial facility poses special threats to the health, safety, and well-being of this community; and in the case of emergency access to such facilities is restricted by their nature and by the security provisions thereof.

§502. Installation of Firebox/Keybox Required. The owner of any business enterprise, company, public or private organization, and/or corporation located in East Union Township and occupying a structure of five thousand (5,000) square feet or more, or any high hazard area as determined by the Fire Marshall or Fire Chief such as a sewer treatment plant, shall be required, upon notice from the East Union Township Fire Marshall or Fire Chief, to install a “firebox/keybox” subject to the following terms and conditions:

- (a) The box will be located within one hundred (100) feet of the structure in question.
- (b) The box will contain keys, information, and/or any device necessary for the fire department to gain access to the structure in case of emergency.
- (c) The construction and location of the box will be subject to the supervision and approval of the East Union Township Fire Marshall or the Fire Chief.
- (d) The same will be sealed by the East Union Township Fire Marshall or the Fire Chief in charge and access to the box will be limited to the Fire Marshall or Fire Chief and/or the Fire Department serving the area wherein the structure is located.
- (e) The business enterprise and/or building owner will be responsible for updating the Fire Marshall or Fire Chief regarding changes in accessibility to the building and/or the utility so that the Firebox/Keybox contents can be updated with new keys, information, and/or any device necessary for Fire Department access.

§503. Violation/Penalty. Any failure to comply with §502 above within 10 days of notice from the East Union Township Fire Marshall or Fire Chief will subject the business enterprise and/or owner to a Five Hundred Dollar (\$500.00) fine. Each day the violation continues shall constitute a separate violation.

§504. Inspections. Each structure covered herein will be subject to a bi-annual inspection by the Fire Marshall or Fire Chief regarding the contents of the Firebox/Keybox and their continued application to the structure in question.

§505. Inspection Fees. The fee for any inspection under this Part shall be determined by the Fire Department serving the area wherein the structure is located. The fee for this inspection shall not exceed \$250.00 per inspection and must be paid within a 30-day time limit. Additional fees may be added after the initial 30-day period.

§506. Severability. The provisions of this Part are severable. If any provision of this Part or its application to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this Part which can be given effect without the invalid provisions or application.

§507. Repealer. Any and all other ordinances, resolutions or parts thereof inconsistent herewith are expressly repealed by the adoption of this Part.

§508. Effective Date. This Ordinance shall become effective five (5) days following the date of its adoption.

EDITOR'S NOTE: This Ordinance No. 2 of 2008 was adopted by the East Union Township Board of Supervisors on January 7, 2008. This Ordinance was revised as part of this Code to replace the Lockbox Officer with the Fire Chief.

Part 6 **International Fire Code**

§601. Adoption of International Fire Code.

(a) The regulations of the 2012 edition of the International Fire Code (IFC) and any subsequent amendments or editions as published by the International Building Code Council, Inc. in book form are hereby adopted as the regulations governing the fire prevention in the Township of East Union. Not less than two (2) copies of such code shall be kept on file in the office of the Secretary for review and inspection by the general public.

(b) Except as hereinafter provided, it shall be unlawful to construct, enlarge, alter, repair, move, demolish, or change the occupancy of any building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, or plumbing system, the installation of which is regulated by the technical codes, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit(s) for the work.

(c) Building planning/climate and geographic design criteria. Buildings shall be constructed in accordance with the provisions of this Code as limited by the provisions of this Section 601. Additional criteria shall be established by East Union Township.

(d) The following sections of the IFC are hereby modified by incorporation the following additions, insertions, deletions and changes:

Section 101.1, Title, shall be amended by INSERTING "East Union Township" in the relevant space.

Section 101.3, Intent, shall be amended by DELETING the wording "...new and..." from the section.

Section 103.2, Appointment, shall be amended by DELETING the wording "...chief appointing authority of the jurisdiction; and the fire code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority." and INSERTING the wording " the Board of Supervisors of East Union Township" in its place.

Section 105.1.2, Types of Permits, shall be DELETED in its ENTIRETY and the following language shall be INSERTED in its place: “105.1.2 Operational Permit. An operational permit allows the applicant to conduct an operation or a business for which a permit is required by Section 105.6 for a period of one (1) year based upon a calendar year running from January 1 to December 31, without proration, or until it is renewed or revoked.”

Section 105.1.2.2, Construction Permit shall be DELETED in its ENTIRETY.

Section 105.4, Construction Documents shall be DELETED in its ENTIRETY.

Section 105.6, Required operational permits, shall be amended by INSERTING the word “annual “ resulting in the wording “...to issue annual operational permits...”.

Section 109.4, Violation penalties, shall be amended by INSERTING “summary offense” , “\$1,000.00” and “30 Days”.

(e) Annual Fire Safety Inspections Fees.

(1) The owner or operator of all structures in the Township used for Assembly, Business, Educational, Mercantile, Factory Industrial, Institutional, High Hazard, Residential R-1, R-2, Storage, Utility and Miscellaneous purposes as defined in International Building Codes shall pay an annual Fire Safety Inspection Fee for inspections performed pursuant to and under Section 106 of the IFC, with such fees being due within thirty (30) days of billing.

(2) Annual Fire Safety Inspection Fees are established as follows:

Non-Residential

0 to 999 square feet	\$50.00 per year
1,000 to 3,499 square feet	\$85.00 per year
3,500 to 12,499 square feet	\$125.00 per year
12,500 to 24,999 square feet	\$160.00 per year
25,000 to 49,999 square feet	\$200.00 per year
50,000 to 99,999 square feet	\$300.00 per year
100,000 to 499,999 square feet	\$600.00 per year
500,000 or more square feet	\$800.00 per year
High Hazard	\$800.00 per year

Residential

(R-1 Hotel/Motel)

50 units or less \$75.00 per year plus \$5.00 per unit

51 units or more \$150.00 per year plus \$5.00 per unit

(R-2 Apartments)

26 units or less \$75.00 per year plus \$5.00 per unit

27 units or more \$150.00 plus \$5.00 per unit

Institutional

0 to 25,999 square feet \$160.00 per year

26,000 to 49,000 square feet \$250.00 per year

50,000 or more square feet \$350.00 per year

(f) Annual Operational Permit Fees.

(1) The owner or operator of all structures in the Township used for Assembly, Business, Educational, Mercantile, Factory Industrial, Institutional, High Hazard, Residential R-1, R-2 Storage, Utility and Miscellaneous purposes as defined in International Building Codes shall pay an annual Operational Permit Fee for permits issued pursuant to and under Section 105 of the IFC, with such fees being due within thirty (30) days of billing.

(2) Annual Operational Permit Fees are established as follows:

Aerosol Products in excess of 500 lbs.	\$50.00 per year
Amusement Buildings	\$50.00 per year
Aviation Facilities	\$100.00 per year
Carnivals and Fairs	\$50.00 per year
Cellulose Nitrate Film	\$50.00 per year
Combustible Duct-Producing Operation	\$100.00 per year
Combustible Fibers in excess of 100 Cubic Feet	\$50.00 per year
Compressed Gases	\$50.00 per year

Covered Mall Buildings	\$100.00 per year	
Cryogenic Fluids	\$50.00 per year	
Cutting and Welding	\$50.00 per year	
Dry Cleaning Plants	\$50.00 per year	
Exhibits & Trade Shows	\$50.00 per year	
Explosives	\$150.00 per year	
Fire Hydrants or Valves	\$50.00 per year	
Flammable and Combustible Liquids	\$50.00 per year	
Underground Tanks-Install/Remove		
Residential		
Less than 275 Gallons	\$50.00 per year	
In excess of 275 Gallons	\$75.00 per year	
Non-Residential		
Greater than 275 Gallons & less than 500 Gallons	\$100.00 per year	
Greater than 501 Gallons & less than 10,000 Gallons	\$150.00 per year	In
excess of 10,000 + Gallons	\$200.00 per year	
Floor Finishing	\$50.00 per year	
Fruit & Crop Ripening	\$50.00 per year	
Fumigation & Thermal Insecticidal Fogging	\$50.00 per year	
Hazardous Materials		
Combustible Liquids	\$50.00 per year	
Corrosive Materials	\$50.00 per year	
Explosive Materials	\$100.00 per year	
Flammable Materials	\$50.00 per year	
Highly Toxic Materials	\$100.00 per year	
Oxidizing Materials	\$50.00 per year	
Organic Peroxides	\$100.00 per year	
Pyrophoric Materials	\$100.00 per year	
Toxic Materials	\$50.00 per year	
Unstable (Reactive) Materials	\$100.00 per year	
Water Reactive Materials	\$100.00 per year	
HPM Facilities	\$35.00 per year	
High Piled Storage in excess of 500 Square Feet	\$50.00 per year	
Hot Work Operations	\$50.00 per year	
Industrial Ovens	\$50.00 per year	
Lumberyards & Wood Working Plants	\$50.00 per year	
Liquid Gas Fueled Vehicles/Equipment	\$50.00 per year	
LPG Gas	\$50.00 per year	
Above/Underground-Install/Remove		
Less than 2,000 Gallons	\$50.00 per year	
In excess of 2,000 Gallons	\$100.00 per year	

Magnesium greater than 10 lbs.	\$50.00 per year
Combustible Storage in excess of 2500 Cubic Feet	\$50.00 per year
Open Burning	\$50.00 per year
Open Flame & Torches	\$50.00 per year
Candles/Open Flames (Assembly Occupancy)	\$50.00 per year
Organic Coatings greater than One (1) Gallon	\$50.00 per year
Place of Assembly	\$50.00 per year
Private Fire Hydrants each hydrant	\$50.00 per year
Pyrotechnic Special Effects Materials	\$75.00 per year
Pyroxylin Plastics	\$50.00 per year
Refrigeration Equipment	\$50.00 per year
Repair Garages/Motor Fuel Dispensing Facilities	\$50.00 per year
Roof Top Heliports	\$100.00 per year
Spraying/Dipping	\$50.00 per year
Storage of Scrap Tires & Tire Byproducts	\$50.00 per year
Temporary Membrane Structures (Tents, Canopies)	\$50.00 per year
Tire Rebuilding Plants	\$50.00 per year
Waste Handling	\$50.00 per year
Wood Products in excess of 200 Cubic Feet	\$50.00 per year
Battery Systems in excess of 50 Gallons	\$100.00 per year
Fire Pump or Pumps	\$100.00 per year
Flammable/Combustible Liquids Tanks	\$100.00 per year
Hazardous Materials	\$200.00 per year
Industrial Ovens	\$50.00 per year
LP Gas Tanks	\$50.00 per year
Temporary Tents and Canopies	\$50.00 per year

(g) Future amendments or alterations to the inspection fee schedule set forth in subsections (e) and (f) above shall be made by resolution of the East Union Township Board of Supervisors.

(h) Any uses or structures for which a fee is not established, but an inspection is required under the IFC, shall be \$100.00 per year unless later provided for in a Resolution of the Board of Supervisors.

(i) Failure to obtain Inspection or Permit. Should any owner or operator of a business or premises that is required to have an Annual Fire Safety Inspection performed or required to obtain an Annual Operational Permit fail to pay the within fees associated with said required inspection or permit or should any owner or operator of a business or premises fail to obtain said permit or inspection, that owner or operator shall be deemed to be in violation of this part and subject to the violation provisions set forth in Section 109 of the IFC.

§602. Interferences at fires, incidents. It shall be unlawful for any person not a member of the Fire Department to, in any way, interfere or attempt to be active at any fire, rescue or incident to which the department is called in the Township without first having secured the permit or consent of the officer in charge or incident commander.

§603. Fire Marshall.

(a) Term of Office. A Fire Marshall shall be elected by The East Union Township Relief Association. The Fire Marshall shall serve at the pleasure of the Relief Association for a term of one (1) year.

(b) Duties. The Fire Marshall shall review all of the Township Fire Companies runs cards. Fire chiefs from the Township Fire Companies may design run cards by all shall be reviewed by the Township Fire Marshall. Before the Fire Marshall can make any changes to the run cars the Fire Marshall shall meet with the Fire Chief's and officers of both Fire Companies to discuss any recommended changes. In the event that the Fire Marshall and the Chief's of the fire companies cannot come to a mutual agreement the matter shall be brought before The Township Supervisors, and the decision of the Township Supervisors shall be final.

(c) Qualifications. The East Union Township Fire Marshall shall possess all of the necessary qualifications for the position and shall be accountable to the Relief Association.

§604. Direct of Training.

(a) Term of Office. A Director of Training shall be elected by The East Union Township Relief Association and shall become the head of the training division of the Township Fire Departments. The Director of Training shall serve for a term of one (1) year.

(b) Appointment of Assistants. The Director of Training shall have the authority to appoint assistant directors of training subject to approval of the Fire Marshall.

(c) Training Division & Duties. The Director of Training shall appoint a division of training consisting of the company officers or their designees and they will coordinate and direct all of the training within the fire department. This training program shall be carried out by the various members of the training division of each fire company.

(d) Qualifications. The Director of Training shall possess all of the necessary qualifications for the position and shall be accountable to the Relief Association. The program shall cover fire fighting operations for the protection and saving of life and property.

(e) Completion of Training by Firemen. After a member has attended or completed a course of instruction, proof or training must be submitted within ten (10) days of completion of the course. It shall be the duty of the Director of training to record and maintain accurate records of such instruction. The Director of Training will also maintain an accurate list of those members who are qualified to operate the various apparatus of the departments.

§605. Attendance and performance at incidents- Persons in charge, obedience to orders, unauthorized orders. It shall be the duty of the highest trained officer to take charge of all the companies and squads at any incident. The commands of the officer or any of his assistants shall be obeyed. All companies shall report to the scene of the fire with their apparatus and equipment (except as otherwise ordered), ready for work, and shall remain subject to the order of the officer in charge or any of his assistants until discharged by them. Any unauthorized person giving orders or

attempting to give orders shall be subject to suspension or expulsion. Any member attempting to perform duties beyond their qualifications shall be subject to suspension or expulsion.

§606. Incident Perimeters- Established. The incident commander shall have the authority to establish incident perimeters within which only authorized emergency personnel shall enter. The incident perimeters shall be enforced with the assistance of the Fire Police and the Police Department.

§607. Standard Operating Guidelines – Authorized. The Relief Association shall have the authority to create and establish standard operating guidelines in regards to all emergency responses, safety and training. No guideline shall violate this Part and said guidelines shall be made available to the membership of the Departments.

§608. Safety Officer.

(a) Term of Office. A Safety Officer shall be elected by East Union Township Relief Association and serve at the pleasure of the Relief Association for a term of one (1) year.

(b) Appointment of Assistants. The Safety Officer will have the authority to appoint assistant safety officer(s) subject to the approval of the Relief Association.

(c) Duties. To ensure that all operations of the Volunteer Fire Departments in East Union Township are conducted in the safest manner practical, the Safety Officer shall be responsible for maintaining a safe environment at all incidents that provides for the safety of Department members and other authorized individuals in accordance with established department Standard Operating Guidelines (S.O.G.).

(d) Qualifications. The Safety Officer shall possess all of the necessary qualifications for the position and shall be accountable to the Relief Association.

§609. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

§610. Severability. If any sentence, clause, section or part of this Part, 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 Part. It is hereby declared as the intent of the Township Supervisors that this Part would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

§611. Effective Date. This Ordinance shall become effective five (5) days following the date of adoption.

EDITOR'S NOTE: This Ordinance No. 9 of 2008 was adopted by the East Union Township Board of Supervisors on September 2, 2008. However, at the time of adoption as part of this Code of Ordinances, the edition of the International Fire Code being adopted was changed from the 2006 edition to the 2012 edition. In addition, although at the time of adoption of Ordinance No. 9 of 2008 there were two Fire Companies and at the time of adoption of this Code of Ordinances there is only one Fire Company, the text of this Part was not changed to allow for future fire companies, if any.

This Ordinance was revised as part of this Code to allow for subsequent editions to be automatically adopted by the Township.

Part 7
False Alarms

§701. Title. This Part shall be known and cited as the “East Union Township False Alarm Ordinance”.

§702. Purpose. This Part has been adopted for the following reasons:

(a) The East Union Township Supervisors are concerned with the safety to the general public at large.

(b) The East Union Township Supervisors are aware that there is a significant increase in the risk to the general public when an emergency vehicle is responding with emergency lights and sirens to an emergency alarms.

(c) The East Union Township Supervisors realize that the fire department personnel are all volunteer and use their personal vehicles, gas and give their time when responding to aid the Township.

(d) The East Union Township Supervisors realizes that the fire department, police department and other affected emergency response personnel use Township resources including use of emergency vehicles, gas and time when responding to emergency alarms.

(e) The East Union Township Supervisors are concerned with the ever increasing cost of fuel, vehicle maintenance and replacement costs for the fire apparatus.

§703. Definitions. The following definition shall apply in the interpretation and enforcement of this Part:

False Alarm- Any signal activated by an automatic protection device, any audible alarm or any other kind of direct or indirect signal given to which police, fire department or emergency response agencies respond which is not the result of an attempted illegal entry, burglary, intrusion fire, medical or other similar emergency, excluding weather extremes and utility interruptions, which activates a protection device.

§704. False Alarms Prohibited. It shall be unlawful for the property owner, lessee or any person occupying or otherwise on any premises within East Union Township, to make or cause to be made, a false fire or security alarm, directly or indirectly to any fire department or emergency response agency responding to alarms within the Township, when the false alarm is caused by faulty detection or alarm equipment or by the negligence of said property owner, lessee or person.

§705. False Alarm Service Fees.

(a) The Status of an alarm is to be determined by the police department, Fire Company, Code Enforcement Officer or other affected emergency response agency, and the decision shall be final.

(b) Upon notification of a false alarm, a written report shall be made within fourteen (14) days by the owner or lessee to the affected emergency response agency and shall contain what steps have been taken to eliminate future false alarms.

(c) Service fees for false alarms shall be assessed by the Township as follows:

(1) Second false alarm in any one calendar year shall be subject to a service fee not to exceed Five Hundred Dollars (\$500.00)

(2) Third false alarm in any one calendar year shall be subject to a service fee not to exceed Seven Hundred and Fifty Dollars (\$750.00).

(3) Fourth and subsequent false alarms in any one calendar year, shall be subject to a service fee not to exceed One Thousand Dollars (\$1,000.00).

(d) Services fees shall be payable to the Fire Company, when the Fire Company response to the false alarm.

§706. Penalties and Remedies for Violations.

(a) In the event a violation of this Ordinance occurs, in addition to such other remedies as may be available under existing law, the Township may institute an action in equity to prevent, restraint, correct, abate or enjoin such violation.

(b) Any owner, lessee or person, whether as principal or agent, who violates this Ordinance or assists or abets its violation, shall upon conviction thereof, before any Magisterial District Judge, be sentenced to pay a fine of not less than Two Hundred and Fifty (\$250.00) Dollars, nor more than One Thousand (\$1000.00) Dollars, together with the costs of prosecution, and in default of the payment of said fine and costs, shall be committed to the Schuylkill County Prison for a period not exceeding thirty (30) days. Each violation shall constitute a separate offense, for which a summary conviction may be sought.

§707. Appeal. The appeals process for a violation hereunder shall follow the Means of Appeal Section of the International Property Maintenance Code.

§708. Severability. The provisions of this Part shall be severable, and if any provision hereof shall be declared unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Part. It is hereby declared as a legislative intent of the Township that this Part would have been amended as if such unconstitutional, illegal or invalid provision or provisions had not been included herein.

§709. Repealer. All ordinances or parts of ordinances conflicting or inconsistent with the provisions of this Part are hereby adopted and repeated.

§710. Effective Date. This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors.

EDITOR'S NOTE: This Ordinance No. 8 of 2009 was adopted by the East Union Township Board of Supervisors on December 7, 2009. The Ordinance was revised as part of this Code to provide for payment of service fees to the Fire Company when the Fire Company response to the false alarm.

Part 8
Audible Alarms and Automatic Protection

§801. Title. This Ordinance shall be known and may be cited as “The East Union Township Police, Code Enforcer, and Fire Emergency Alarm Ordinance”.

§802. Application of Provisions. The provisions of this Part shall apply to any person, firm or corporation who operates, maintains or owns any alarm device designed to summon the Police or Fire Department or other municipal agencies to any location in response to any type of alarm signal. This Part shall in no way prohibit any person, firm or corporation from providing service to private facilities within the Township of East Union as long as the service provided by any such person, firm or corporation is in compliance with the provisions of this Part.

§803. Definitions. The following definitions shall apply in the interpretation and enforcement of this Part:

ALARM EQUIPMENT SUPPLIER- Any person, firm or corporation who sells, leases and/or installs automatic protection devices.

ANSWERING SERVICE- A service whereby trained employees in attendance at all times receive pre-recorded voice messages from automatic protection devices reporting an emergency at a stated station and who have the duty to relay immediately by live voice any such emergency message over a designated or direct trunkline to the Emergency Communication Center.

AUDIBLE ALARM- Any device, bell, horn or siren which is attached to the interior or exterior of a building and emits a warning signal audible outside the building and designed to attract attention when activated by a criminal act or other emergency requiring police or firemen to respond.

AUTOMATIC PROTECTION DEVICE- An electrically operated instrument composed of sensory apparatus and related hardware which automatically transmits a prerecorded voice alarm or other signal over regular telephone line, by direct or indirect connection to the Emergency Communication Center, upon receipt of a stimulus from a sensory apparatus that has detected a physical force or condition inherently characteristics of a fire or intrusion.

CENTRAL STATION PROTECTIVE SYSTEM-A protective system, or group of such systems, operated privately for customers by a person, firm or corporation which maintains supervisors and accepts recorded messages from automatic protection devices at a central station having trained operators and guards in attendance at all times that have the duty to take appropriate action upon

receipt of a signal or message, including the relaying of messages by designated or direct trunkline to the Emergency Communication Center.

DESIGNATED TRUNKLINE- A telephone line leading into the Emergency Communication Center that is for the primary purpose of handling emergency messages which originate from automatic protection devices and are transmitted directly, or indirectly, through an intermediary.

DIRECT TRUNKLINE- A non-listed directly connected telephone line leading from an intermediary to the Emergency Communication Center that is for the primary purpose of handling emergency messages on a person-to-person basis.

EMERGENCY COMMUNICATIONS CENTER- The Borough of Frackville's Communication Center located at Frack and Broad Mountain Avenue, which handles all police, fire and other emergency communications.

FALSE ALARMS- Any signal activated by an automatic protection device, any audible alarm of any other kind of direct or indirect signal given the Emergency Communication Center to which police or firemen respond, which is not the result of a burglary, fire, robbery or similar emergency, including weather extremes, which activates a protection device.

INTERMEDIARY- A central station protective system or an answering service as herein defined.

KEY- To use a telephone line and equipment for transmitting a message either directly or indirectly by an automatic protection device.

PERMIT- Written permission, duly granted to an applicant by the Township upon payment of the required fee.

PRIMARY TRUNKLINE- A telephone line leading into the Emergency Communications Center that is for the purpose of handling emergency calls on a person-to-person basis, and which line is identified by a specific listing among the white pages in the telephone directory issued by the Bell Telephone Company.

SECONDARY TRUNKLINE- A telephone line leading into the Emergency Communications Center that is for the purpose of handling administrative and other calls on a person-to-person basis and which is identified by a specific listing among the white pages in the telephone directory issued by the Bell Telephone Company.

TOWNSHIP- East Union Township, Schuylkill County, Pennsylvania.

§804. Application for Permit. Any person, firm or corporation desiring to use a private alarm system or desiring to alter, modify and/or otherwise change an existing approved private alarm system, upon improved property owned or occupied by such person, shall submit a written application to the Chief of Police, Chief of the Fire Department, Fire Marshall, or Code Enforcement Officer on application forms to be provided to the applicant.

§805. Investigation and issuance of the Permits. The Chief of Police, Chief of Fire Department, Fire Marshall, or Code Enforcement Officer shall issue a permit for a private alarm system unless he finds that the system covered by the application does not meet applicable standards. Whenever the Chief of Police, Chief of the Fire Department, Fire Marshall, or Code Enforcement Officer shall refuse to issue a permit, he or she shall advise the applicant in writing of the reason or reasons for refusal.

§806. Expiration and Renewal of Permit; Fees.

(a) Every permit issued for a private alarm system shall expire on December 31 of the year in which it is issued.

(b) Every application for the renewal of a permit for a private alarm system which is directly connected by telephone lease lines from a specific location to the Emergency Communications Center command desk to provide a visual or audio signal shall be accompanied by an annual fee of fifty (\$50.00) dollars for each system.

(c) Every application for the renewal of a permit for a private alarm system which either automatically selects a telephone trunkline of the Emergency Communication Center and then reproduces a pre-recorded message or automatically alerts a person beyond the limits of the property who is engaged in the business of relaying information by human or mechanical means to the Emergency Communications Center shall be accompanied by an annual fee of Fifty (\$50.00) Dollars for each such system.

(d) Permit fees shall be paid to the Fire Company when issued by the Fire Chief or Fire Marshall. Otherwise, permit fees shall be payable to the Township

§807. Terms and Conditions of Permit. All permits for private alarm systems shall be issued upon the following terms and conditions:

(a) A permit shall be issued for each separate improved property, store, building or other facility, and no permit shall be transferred or assigned in any manner.

(b) If required, an applicant shall furnish complete information and specifications for the system. Such information shall include specific data relating to testing procedures and the prevention of false alarms.

(c) Every private alarm system shall be maintained in proper working condition and shall meet standards which may from time to time be promulgated by the Chief of Police, Chief of the Fire Department, Fire Marshall, or Code Enforcement Officer to prevent faulty systems.

(d) Any private alarm connected directly to the Emergency Communication Center command desk shall have a voltage compatible therewith.

(e) No private alarm system which automatically dials a telephone trunkline at the Emergency Communications Center shall dial any number except one specified by the Chief of Police, Chief of the Fire Department, Fire Marshall, or Code Enforcement Officer.

(f) Every permit shall be subject to rules and standards which may be promulgated by the Chief of Police, Chief of the Fire Department, Fire Marshall, or Code Enforcement Officer with respect to private alarm systems. Such rules shall be in writing and shall be given to each permittee at the time of issuance or renewal of any permit or at the time of promulgation or amendment.

§808. Audible Alarms. Current list of installations and timers required.

(a) Within ninety (90) days from the effective date of this Ordinance, every owner or lessee of an audible alarm shall furnish to the Emergency Communication Center a current list of such installations which shall include the following information:

- (1) The name, residence, and telephone number of the owner or lessee;
- (2) The address where the device is installed and the telephone number of that address;
- (3) The names, addresses, and telephone numbers of at least two (2) persons who are authorize to respond to an emergency and gain access to the address where the device is installed.

(b) After the enactment of this Part, owners or lessees must equip audible alarms, other than fire alarms, with a timing mechanism that will disengage the audible alarm after a maximum period of thirty (30) minutes. Audible alarms without such a timing mechanism other than fire alarms, shall be unlawful in the Township and must be disconnected by the owner or lessee within sixty (60) days from the effective date of this Part.

§809. Automatic Protection Devices- Direct Keying.

(a) Automatic protection devices installed after the effective date of this Part shall be keyed to the trunkline assigned them by the Township and/or a designated trunkline approved by the Township.

(b) Within sixty (60) days after the effective date of this Part, all existing automatic protection devices that transmit recorded messages directly to the Emergency Communication Center shall be keyed to the trunkline assigned them by the Township and/or a designated trunkline approved by the Township.

(c) After the effective date of this Part, no one, except an alarm equipment supplier holding a valid permit from the Township, shall install any automatic protection device to an Emergency Communication Center Trunkline.

§810. Automatic Protection Devices- Indirect Keying.

(a) Any person who has an automatic protection device in the Township may arrange to have such device keyed to an intermediary authorized to relay emergency messages to the Emergency Communication Center.

(b) The relay of messages by authorized intermediaries shall be over a trunkline assigned them by the Township and/or a designated trunkline approved by the Township.

(c) Automatic protection devices keyed to an authorized intermediary may also be keyed to another telephone which the owner or lessee of the automatic protection device has available to himself or his representative at some other location.

(d) All information furnished pursuant to these sections shall be kept confidential and shall be for the use of the Emergency Communication Center.

§811. Automatic Protection Devices- Operation Requirements. Automatic protection devices installed in the Township that are keyed to as assigned trunkline in the Emergency Communication Center shall meet the following requirements:

(a) The recorded content shall be, "This is an emergency, please stand by." Then repeat three (3) times, "This is a recorded message reporting the fire/burglar alarm system has been activated at _____ (complete address) _____."

(b) No more than one call shall be made over an assigned trunkline to the emergency Communication Center as a result of a single activation of the automatic protection device.

(c) The message portion may be repeated during one call but the interval between each message shall be no less than three (3) seconds nor more than five (5) seconds.

(d) The secondary mechanism used in connection with an automatic protection device must be adjusted to suppress false indications of fire or intrusion, so that device will not be actuated by impulses due to fleeting pressure changes in water pipes, short flashes of light, the rattling or vibrating of doors and windows, vibrations to the premises caused by the passing of vehicles or any other force not related to alarms.

(e) All components comprising such a device must be maintained by the owner or lessee in good repair to assure maximum reliability of operation.

§812. Automatic Protection Devices- Current list of Installations Required.

(a) Within ninety (90) days from the effective date of this Part, every alarm equipment supplier who has keyed an automatic protection device in the Township to an assigned trunkline shall furnish to the Emergency Communication Center a current list of such installations which shall include the following information:

(1) The name, residence and telephone number of the owner or lessee;

(2) The address where the device is installed and the telephone number of that address;

(3) The name, address and telephone number of a central station protection system or any other person or firm who is authorized to respond to any emer-

gency and gain access to the address where the device is installed. Where there is not 24-hour service maintained, there shall be at least two (2) other persons listed.

(b) By the fifth working day of each month following submission of the initial list, every alarm equipment supplier shall furnish the Emergency Communication Center with a supplemental list of any additional installations he has keyed to assigned trunklines, along with any correction to, or deletions from, list previously furnished. An alarm equipment supplier who enters into the business after the effective date of this Part, shall furnish a list containing the information specified in Section 812(a) by the fifth working day of the month following a first installation and shall thereafter furnish supplemental list as required by this section.

§813. Automatic Protection Devices- Technical Information. Each alarm equipment supplier who sells or leases an automatic protection device in the Township after the effective date of this ordinance, which is keyed to an assigned trunkline, shall furnish operating instructions, a circuit diagram and maintenance manual to the buyer or lessee.

§814. Automatic Protection Devices – Repair Service.

(a) Each alarm equipment supplier who sells or leases an automatic protection device in the Township, which is keyed to an assigned trunkline, shall make service available directly or through an agent on a twenty-four (24) hour per day basis, seven (7) days a week, to repair such device or to correct any malfunction that may occur. Such service shall be made available to any person using an automatic protection device at such users election and expense.

(b) At the time of installation an alarm equipment supplier shall furnish to any buyer or lessee using repair service written information as to how service may be obtained at any time, including the telephone number of the alarm equipment supplier or agent responsible for service. The buyer or lessee and the alarm equipment supplier or agent supplying a service shall be responsible for having the device disconnected or repaired as quickly as possible after notice that the automatic protection device is not functioning properly.

§815. Protective Devices. Disconnecting operational requirements set forth in Section 811 are received by the Emergency Communications Center and the Police and Fire Chief or Fire Marshall concern concludes that the automatic protection device sending such messages should be disconnected in order to relieve the particular Bureau of responding to false alarms, he is authorized to demand that the owner or lessee of the device, or his representative, disconnect the device until it is made to comply with the operational requirements. If disconnection of the defective device is not accomplished promptly, and the Chief of the Bureau concerned determines that the malfunctioning device is repeatedly sending false alarms without intermittent valid alarms, he may take any steps necessary to disconnect the defective protection device.

§816. Suspension of Permit.

(a) Any permit issued for a private alarm system may be suspended by the Chief of Police, Chief of the Fire Department, Fire Marshall, or Code Enforcement Officer, if it shall appear that:

(1) The permittee has failed to comply with the terms and conditions of the permit or has failed to comply with rules or standards promulgated by the Chief of Police, the Chief of the Fire Department, Fire Marshall, or Code Enforcement Officer with respect to private alarm systems;

(2) The permittee or his or her agents knowingly installed or maintained a faulty private alarm systems; or

(3) At the time of installation an alarm equipment supplier shall furnish to any buyer or lessee using repaid service written information as to how service may be obtained at any time, including the telephone number of the alarm equipment supplier or agent responsible for service. The buyer or lessee and the alarm equipment supplier or agent supplying a service shall be responsible for having the device disconnected or repaired as quickly as possible after notice that the automatic protection device is not functioning properly.

§817. Penalty and Remedies for Violation.

(a) Any person who violates a provision of the East Union Township and Fire Emergency Alarm Ordinance shall upon conviction, be fined not more than Three Hundred Dollars (\$300.00) or be imprisoned not more than ninety (90) days or both for each offense. Each day that a violation continues shall be deemed a separate offense.

(b) In the event a violation of this ordinance occurs, in addition to such other remedies as may be available under existing law, the Township may institute an action in equity to prevent, restrain, correct, abate or enjoin such violation.

§818. Permit Fees. The East Union Township shall establish reasonable fees from time to time for all permits to be issued under this Part.

§819. Violation and Penalties. In the event that more than two (2) false alarms (as defined in Section 803 of this Part) are received within a period of ninety (90) days from any single automatic protection device or audible alarm, then the owner or lessee of such device or alarm shall upon conviction, be fined not more than Three Hundred Dollars (\$300.00) or be imprisoned for ninety (90) days, or both. Each false alarm in excess of two (2) within a period of thirty (30) days, shall constitute a separate violation and shall be deemed a separate offense.

§820. Severability. If any provision of this Part is adjudged invalid by a court of competent jurisdiction, said judgment shall apply only to said provision, and the remainder of this Part shall remain in effect.

§821. Effective Date. This Ordinance shall take effect immediately upon final passage, adoption and publication as required by law.

EDITOR'S NOTE: This Ordinance No. 1 of 2000 was adopted by the East Union Township Board of Supervisors on February 7, 2000. This Ordinance was revised as part of this Code to add the Fire Marshall to administration and enforcement, and allow for the payment of the permit fees to the Fire Company when the Fire Company issues the permit.

Part 9
Fire Hydrants

§901. Fire Hydrants. The International Fire Code (IFC), 2012 or subsequent edition, is incorporated by reference. The IFC outlines fire protection systems and appliances public and private. This Part requires the following in addition to those requirements of the IFC. All fire hydrants for any future subdivision, land development, renovations or replacement shall conform to the following standards:

- (a) The color coding under the most current edition of the NFPA 291, Fire Flow Testing and Marking of Hydrants.
- (b) The end connects of each fire hydrant shall be 2 ½” national standard thread.
- (c) The steamer connection of each fire hydrant shall be 5” standard thread with stortz coupling.
- (d) Each fire hydrant shall be fitted with a 4’ reflective Marker Flag.
- (e) Every fire hydrant shall be installed to provide adequate fire flows.
- (f) Any Fire Department connection or sprinkler system connection shall be labeled with a reflective sign indicating the street address of the building it serves and whether it supplies a Fire Department connection or sprinkler system.

§902. Water Mains; Location of Fire Hydrants. All future water mains shall be installed in such a manner to provide adequate fire flows. All water mains shall be at least six (6”) inches in diameter. However, larger mains shall be installed when necessary to insure that a minimum of 500 gallons per minute (gpm) at 20 pounds per square inch (psi) residual pressure is available if the Needed Fire Flow to structures in the area demands such additional flows. The Fire hydrants shall be installed in such a manner that there shall be a fire hydrant within 500 feet of the front entrance of every structure of more than 300 square feet. The distance to the fire hydrant shall be measured along the route that would be accessible to the Fire Department to lay fire hose from the hydrant to the building.

§903. Existing Non-compliant Fire Hydrants. Fire Hydrants that currently exist on mains that will not flow at least 500 gallons per minute at 20 pounds per square inch of pressure will not be used by the Fire Department for connection to the pumper connection of fire apparatus. Such fire hydrants shall be painted solid red in color to indicate to firefighters that this hydrant will not flow adequate gallons per minute to be used in firefighting operations. All such fire hydrants shall be identified by the Fire Chief, color coded, and a list of such fire hydrants shall be compiled and attached to a cover letter from the Fire Chief to the responsible water provider. The cover letter shall contain at least the following words, “The attached list of fire hydrants have been found to have inadequate fire flows and will not be used by the fire department for pumping operations except in the event of immediate and imminent threat of life safety.” Such letter shall be generated annually with a copy to the Township Board of Supervisors.

§904. Maintenance. In addition to those requirements in the IFC, all hydrants found to be defective shall be repaired to proper working order within 36 hours of notification. If the hydrant is not repaired within the time specified the Township may repair the hydrant and all costs will be charged to the owner of the hydrant. The owner of the hydrant will be responsible for the maintenance and repair of hydrants, and will be charged for the repairs if done by the Township when a defective fire hydrant is found, when a fire hydrant is found to be out of service, and when a hydrant is fixed. Any fire hydrant not located within a public Right-of-Way or within an easement which has been deeded to the Township shall be deemed private and will be the responsibility of the owner of the property where the fire hydrant is located.

§905. Obstruction. It shall be unlawful for any person to obstruct or hinder the approach of the Fire Department to any fire hydrants. In order to assure access to fire hydrants, the following requirements must be met:

- (a) A minimum of thirty-six inches of clearance is required around a fire plug.
- (b) No person or entity shall construct any fence or other structure which would encroach the thirty-six inch minimum clearance for fire hydrants as outline in subsection (1) of this section and no fence shall be constructed between the fire hydrant and the roadway.
- (c) Fire hydrants shall not be buried, caps shall be at least 12” from grade.
- (d) No person shall allow trees, bushes or other growth upon the person’s property to interfere with the approach to any fire hydrant or to encroach the thirty-six inch minimum clearance.
- (e) At fire plug may not be painted except by an authorized agent or employee of the Fire Department of the Township.
- (f) Parking of motor vehicles within 15 feet of a fire hydrant is prohibited. Parking lot lines may be required as necessary.
- (g) Exception to the above shall be: Other installations acceptable to and approved by the authority having jurisdiction.

§906. Enforcement. This Part shall be enforced by the Fire Chief or the Fire Marshall, the Police Department, or a Township Code Enforcement Officer.

§907. Severability. Each section, subsection, paragraph, sentence, and clause of this Ordinance is hereby declared to be separable and severable. The validity of any section, subsection, paragraph, sentence, or clause shall not affect the validity of any other portion of this Ordinance, and only any portion declared to be invalid by a court of competent jurisdiction shall be deleted here from.

§908. Repealer. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

§909. Effective Date. This part shall take effect after its final passage.

EDITOR'S NOTE: Except for the amendment as to color coding of fire hydrants as recommended by the Sheppton-Oneida Volunteer Fire Company, Inc., Section 901 of this Part is Ordinance No. 01-2010 adopted by the East Union Township Board of Supervisors on May 3, 2010. This Ordinance as revised as part of this Code to requiring labeling and it is a fire department connection or sprinkler system connection and to allow enforcement by the Fire Chief, the Fire Marshall, a Police Officer or Code Enforcement Officer.

Chapter 10

Hazardous Materials and Petroleum Products

§1001. Liability; Equipment Uses; and Costs. The Owner, Shipper or Carrier of Petroleum or Hazardous Materials and the Common Carrier of any type whatsoever including a pipeline carrying chemicals or hazardous materials shall be liable to the Township to control, extinguish and clean up petroleum type or hazardous materials, spills, leaks or fires involving hazardous materials or petroleum products within the Township when assistance for dealing with leaks, spills or fires involving such hazardous materials or petroleum type products is requested from the jurisdiction involving the incident.

(a) The special equipment or materials included, but are not limited to the following for the cleanup, control, containment and extinguishment of chemical, petroleum or hazardous materials:

- (1) FOAM (FIRE FIGHTING AND VAPOR BARRIER TYPE FOAM)
- (2) DRY CHEMICAL EXTINGUISHER, HALON, METAL X, FOAM OR ANY SPECIALIZED EXTINGUISHER UTILIZED
- (3) SAND AND/OR ABSORBANT MATERIALS OR PADS
- (4) STANDARD FIRE FIGHTING PROTECTIVE CLOTHING DAMAGED OR CONTAMINATED BY SAID SPILL, LEAK OR FIRE INVOLVING HAZARDOUS MATERIALS MAKING THE PROTECTIVE CLOTHING UNSAFE FOR FUTURE FIREFIGHTING ACTIVITIES AND PERSONAL PROTECTION.
- (5) SPECIALIZED PROTECTIVE CHEMICAL SUITS AND RELATED ITEMS FOR PERSONAL PROTECTION.
- (6) ANY OTHER EQUIPMENT AND/OR MATERIAL OR MATERIALS DEEMED NECESSARY BY THE FIRE CHIEF OF DESIGNATED DEPUTY OR ASSISTANT OF THE TOWNSHIP OF EAST UNION OR THE OFFICER IN CHARGE.

(b) The cost of labor shall be the actual wage rates including fringe benefits paid by the Township and actual wage rates including benefits paid to volunteer firefighters by their private employer shall be paid to all personnel involved in the containment, control and extinguishment or cleanup of the incident involving petroleum, chemicals or hazardous materials.

§1002. Liability for Costs. The owner of any petroleum, chemical or hazardous materials, and the common carrier of those products, including pipe lines shall each be equally liable for the costs of cleaning up and disposing of the same. In the event of a spill, leak or fire involving petroleum chemicals or hazardous materials, if the shipper, carrier or owner of the products does not have a

contract with a professional hazardous materials cleanup crew approved by the Pennsylvania Department of Environmental Protection or the Environmental Protection Agency) and if such conditions warrant, the Township Fire Chief or designated deputy or assistant shall have the authority to contact the private for cleanup, control, extinguishment, and not limited to the disposal of hazardous products or substances.

§1003. Collection; Costs. Bills for the amount of the costs set forth in Section 1002 above shall be forwarded by the Fire Department to the Township Secretary, who shall bill the above described liable party. If payment is not made in full within thirty (30) days from the date of mailing the bill, the Township shall turn the matter over to the Township Solicitor for collection litigation as is necessary. Any added costs of collection litigation, interest, late charges, court costs, filing fees, and attorney fees shall be added to the original costs.

EDITOR'S NOTE: This Ordinance No. 4 of 1991 was adopted by the East Union Township Board of Supervisors on April 1, 1991.

CHAPTER 8

FRANCHISES

Part 1 Cable Television

§101. Adoption of Non-Exclusive Franchise Agreement. The East Union Township Board of Supervisors does hereby adopt by Ordinance the following Non-exclusive Franchise Agreement:

NON-EXCLUSIVE FRANCHISE AGREEMENT

AN AGREEMENT made this 6th day of November, 2013, by and between SERVICE ELECTRIC CABLEVISION, INC., a Pennsylvania corporation, hereinafter referred to as the Company, and EAST UNION TOWNSHIP, a political subdivision of the Commonwealth of Pennsylvania in the County of Schuylkill, hereinafter referred to as the Township:

WITNESSETH

The parties hereto, intending to be legally bound hereby, agree as follows:

WHEREAS, Company's predecessor-in-interest, Shen-Heights Television Associates, Inc., had the right and authority to operate a Cable Television System within the corporate limits of the Township pursuant to a franchise agreement granted to such predecessor by Resolution adopted by the Township Supervisors on July 14, 1976, which right and authority now resides with Company pursuant to letter agreement signed by the Township on December 31, 2012; and

WHEREAS, the Township has determined that the continued availability of Cable Television Service affords significant social, educational and entertainment benefits to the public in the Township, and that such continued service can best be assured by granting a franchise renewal to the Company; and

WHEREAS, the Township has determined that the Company has provided a high quality of Cable Television Service at a reasonable cost, has been responsive to the needs and desires of residents of the Township, has expanded its service area and product selection, and has the legal, character, financial, technical and other qualifications to continue to construct, erect, own, operate, and maintain the Cable Television Service serving the Township;

NOW THEREFORE, the parties agree as follows:

SECTION 1. DEFINITIONS. For the purposes of this Agreement, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and words in the masculine gender shall include the feminine gender. The word "shall" is always mandatory and not merely directory.

(a) “Basic Cable Television Service” shall mean that tier of Cable Television Service to which all users must subscribe to obtain the retransmission of local broadcast television signals and for which a charge is made.

(b) “Cable Television Service” or “Service” shall mean the business of furnishing video and/or audio programming or other information to subscribing customers by means of a Cable Television System, and shall include without limitation the definition provided in 47 U.S.C. § 522(6).

(c) “Cable Television System” or “System” shall mean any facility or group of facilities which, in whole or in part, receives, modifies or originates television, FM radio or other electrical or fiber optic signals for the purpose of transmitting or distributing such signals by wire, cable or other means to subscribing members of the public or to selected customers, as herein contemplated. This definition shall include the definition provided in 47 U.S.C. § 522(7).

(d) “Company” is Service Electric Cablevision, Inc., and its lawful successors and assigns.

(e) “Expanded Basic Cable Television Service” shall mean a second tier of services for which a charge is made.

(f) “Franchise Area” shall mean the boundaries of the Township and any areas annexed to the Township during the term hereof.

(g) “Gross Revenues” shall mean revenues collected by Company within the Franchise Area from charges for Basic Cable Television Service and Optional Cable Television Service. “Gross Revenues” shall not include charges for or revenues from equipment rentals or from any source other than Basic Cable Television Services and Optional Cable Television Service as defined herein, and fee shall be reduced by the amount of any tax, assessment, fee or other charge imposed, levied, made or collected by the Township upon or from the Company for the privilege of engaging in business in the Township.

(h) “Optional Cable Television Service” shall mean the furnishing to Cable Television Service for which a per-channel charge is made additional to that for Basic Cable Television Service.

(i) “Person” is any person, firm, partnership, association, corporation, company or organization of any kind.

(j) “Township” is East Union Township, a Municipal Corporation in the County of Schuylkill, Commonwealth of Pennsylvania, and its lawful successors and assigns.

SECTION 2. GRANT OF AUTHORITY. Township hereby grants to Company the non-exclusive right and privilege to construct, erect, operate and maintain a Cable Television System in, under, over, along, across or upon the public streets, highways, sidewalks, rights of way, places, and through easements dedicated for compatible uses within the boundaries of the Township and any areas annexed to the Township during the term hereof, to the extent permitted by law (the “Franchise”). Township also grants Company permission to attach or otherwise affix or install its cables

and other equipment to and in the facilities of any public utility even though the same may occupy or cross over or under the public ways and places of the Township.

SECTION 3. FRANCHISE TERM. This Franchise grant shall be for a period of ten (10) years from November 6th, 2013 through and including November 6th, 2023 (the “Term”), with an option for the Company to renew same for an additional ten (10) years. Exercise of Company’s option shall be by written notice to the Township at least thirty (30) months prior to the expiration of the Franchise Term.

SECTION 4. ACCEPTANCE OF FRANCHISE. This grant is made upon the express condition that the Company, within thirty (30) days after written notice is given to the Company that this Agreement has taken effect and becomes operative, shall file with the Secretary or other duly authorized official of the Township a written acceptance of the same. When this Agreement shall have been accepted by the Company, such Agreement and acceptance shall constitute a contract between the Township and the Company for all the uses, services and purposes set forth in this Agreement. Except as may be otherwise provided by State or Federal law, order or regulation, the rights and obligations of Township and Company shall be those specified herein and shall not be enlarged, diminished or altered by unilateral action of Township during the term of the franchise or renewal thereof. The Company, by its acceptance of the provisions of this Agreement, binds itself to establish, operate and maintain the local Cable Television System and to provide the necessary Cable Television Service as contemplated in this Agreement.

SECTION 5. INSTALLATION AND EXTENSION OF SYSTEM. Company shall serve all residents of Township except to the extent that low household density, adverse terrain or other factors render providing service impracticable or technically or economically unfeasible. Company shall not be required to install, or to extend the Cable Television System, to areas of Township where potential revenues from subscribers to be served therein would produce a return insufficient to economically justify such installation or extension. Without limiting the generality of the foregoing, if otherwise practicable and technically feasible:

(a) Service shall be provided at normal installation and monthly service rates to an individual customer whose point of connection is located within one hundred fifty (150) feet of in place distribution cable.

(b) Company, at its cost, shall make an extension of its cable System where the number of existing households per linear mile of cable to be passed by the extension equals or exceeds the average number of households passed per linear mile of existing cable plant within the Township.

(c) In no event shall Company be required to make an extension where the number of existing households to be passed per mile is less than fifty (50). Company shall not be required to install or extend its System in areas where it cannot: i) obtain necessary rights of way over private property at an economically feasible cost, or ii) obtain permission to attach its facilities to public utility poles, or iii) obtain permission to use necessary conduits.

SECTION 6. REGULATORY ACTION.

(a) The performance by the Company and the Township hereunder is subject to limitations, restrictions, or requirements now existing or which may henceforth be imposed by applicable

law, rule, or order of the Federal Communications Commission or other government, board, commission or authority. The Company shall not be deemed in default of any of the requirements of this Agreement to the extent it acts in compliance with, or refrain from doing anything prohibited by such law, rule or order.

(b) Township agrees that no Person shall construct or operate a Cable Television System or provide Cable Television Service or video programming service to any part of the Franchise Area without first obtaining a franchise, permit, license, authorization or other agreement from the Township. If Township grants another franchise, permit, license, or other agreement authorizing the operation of a Cable Television System or the provision of Cable Television Service or video programming service to any part of the Franchise Area, which contains terms or conditions that are less burdensome or more favorable to the grantee than those imposed upon the Company hereunder, the terms and conditions of this Franchise Agreement shall be immediately amended to include such less burdensome and more favorable terms and conditions upon and in accordance with Company's request.

SECTION 7. CONDITION OF STREET OCCUPANCY.

(a) All transmission and distribution structures, lines, and equipment erected by the Company within the Township shall be so located as to cause minimum feasible interference with the proper use of streets, alleys and other public ways, roads and places, and to cause minimum feasible interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways, roads and places. The Company shall obtain any required permits prior to construction.

(b) In case of any disturbance of pavement, sidewalk, driveway or other surfacing by Company, Company shall, at its expense and in a manner approved by the Township, replace and restore the same in as good condition as before said work was commenced.

SECTION 8. STANDARDS OF SERVICE.

(a) Company shall operate and maintain the System so that under normal operating conditions all customers shall receive signals of good technical quality and a full range of available services.

(b) Company shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system. Upon receipt of a complaint from a subscriber(s) regarding the quality of service, equipment malfunctions, and similar matters, the Company shall promptly investigate such complaints.

(c) Where possible, Company shall commence an investigation of such complaints within 24 hours of their receipt. Resolution of such service complaint(s) shall be made as promptly as possible. The Company shall maintain toll-free telephone access for the receipt of service problems, requests for repairs or customer inquiries.

(d) Company shall keep a maintenance service log for a period of one year that will indicate the nature of each service complaint, the date it was received, and the disposition of said com-

plaint. Upon request, this log shall be made available for inspection by Township during normal business hours.

(e) As subscribers are connected or reconnected, Company shall, by appropriate means such as a card or brochure, furnish information to them concerning the procedures for contacting Company, including its name, address and local telephone number.

(f) All Company's installations shall be of a permanent and durable nature and installed in accordance with good engineering practices. Company's construction and maintenance of its transmission and distribution system shall be in accordance with the provisions of the National Electrical Safety Code prepared by the National Bureau of Standards, The National Electrical Code of the National Board of Fire Underwriters and any applicable state and federal laws or regulations now in effect or later enacted regulating or affecting Company's installation or operation of the System.

SECTION 9. COMPANY LIABILITY INDEMNIFICATION. The Company shall save the Township harmless from all loss sustained on account of any suit, judgment, execution, claim or demand whatsoever resulting solely from the operations of the Company in the construction, operation or maintenance of its System in the Township. Township shall notify Company within ten (10) days after the presentation of any claim or demand, either by suit or otherwise, made against the Township on account of any damages or losses as aforesaid resulting from the operations of the Company. Thirty (30) days from the enactment date of this Agreement, the Company shall furnish satisfactory evidence in writing that it has in force public liability insurance of not less than a \$ 1,000,000.00 for any one person and \$2,000,000.00 for any one accident, and property damage insurance of not less than, \$1,000,000.00, duly issued by an insurance company or insurance companies authorized to do business in this Commonwealth.

SECTION 10. LANDLORD TENANT.

(a) No landlord shall deny access to or demand payment from Company for permitting Company to provide Cable Television Service on or within said landlord's property or premises. Provided, however, that such landlord may be entitled to reasonable reimbursement for any direct expenses incurred by him in connection with the installation of Cable Television Service, and to just compensation for any permanent occupation of his property resulting from the installation of Company's facilities therein.

(b) No landlord shall interfere with the installation of cable television facilities upon his property or premises nor shall such landlord discriminate in rental charges, or otherwise, between tenants who receive cable service and those who do not. No landlord shall demand or accept payment from any tenant, in any form, for permitting Cable Television Service on or within his property or premises.

(c) As used in this Section, the term "Landlord" means any individual, entity owning, controlling, leasing, and operating, or managing leased residential premises.

SECTION 11. FRANCHISE FEES AND PAYMENTS. During the term hereof (and during the renewal term if Company exercises its option to renew as set forth in Section 2 above), as compensation for the rights conferred upon it by this Agreement, including the privilege of engaging in the business of operating a Cable Television System in the Township, the Company shall pay to the

Township a fee equal to zero percent (0%) of Gross Revenues as defined in Section 1 above. Township may increase such fee from time to time during the term hereof (or any renewal thereof) to a ratio of Gross Revenues not exceeding such ratio permitted by applicable law, by giving written notice thereof to Company at least 180 days prior to the desired effective date of such increase. Company shall remit the fee quarterly on the fifteenth day of January, April, July, and October or each year of the Term.

SECTION 12. PUBLICATION COSTS. The Company shall assume the cost of publication of this Agreement if such publication is required by law and shall pay the same upon demand by the Township.

SECTION 13. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this Agreement, is for any reason held illegal, invalid or unconstitutional by any court of competent jurisdiction or by any state or federal regulatory agency having jurisdiction, such portion shall be deemed a separate, distinct or independent provision and such holding shall not affect the validity of the remaining portions of this Agreement.

SECTION 14. ASSIGNMENT. The franchise or privilege granted hereunder shall only be assignable with the prior written consent of the Township, which consent shall not be unreasonably withheld; provided, however, that the Company may assign this franchise to its lenders as collateral security in connection with its financing activities, or to any business entity related to the Company, without the Township's prior written consent.

SECTION 15. FORCE MAJEURE. Company's performance hereunder shall be excused where such non-performance occurred or is caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, governmental, administrative or judicial order or regulation or other circumstances reasonably beyond the Company's ability to anticipate and control.

§102. Effective Date of Agreement. This Agreement shall become effective immediately following its adoption by the East Union Township Supervisors the same being November 6, 2013.

CHAPTER 9

HEALTH AND SAFETY

Part 1

Low Level Radioactive Waste

§101. Title. This Part shall be known as the “East Union Township Low Level Radioactive Waste (LLRW) Ordinance”

§102. Purposes. This Part has been adopted for the following purposes:

- (a) To protect the health, safety and general welfare of all citizens of East Union Township by preventing exposure to airborne radioactive substances in all media;
- (b) To preserve the natural environment qualities of all land and its flora and fauna within East Union Township;
- (c) To promote the sustainable economic well-being of East Union Township by preservation of camping, hunting, fishing and other recreational opportunities for the residents of East Union Township and tourists to East Union Township;
- (d) To protect against the infliction of psychological or emotional stress on East Union Township residents from the reasonable fear of exposure to radiation;
- (e) To preserve the values of a healthy environment for future generations; and
- (f) To preserve and protect agriculture and agriculture-related activities.

§103. Interpretation. This Part shall be liberally interpreted to give priority to the purposes stated in Section 102 over such consideration as economic, efficiency and scheduling factors.

§104. Authority. This Part is adopted pursuant to the authority granted to East Union Township by all relevant state and federal laws, including, but not limited to, the following:

- (a) The Pennsylvania Constitution, Articles I, Section 27;
- (b) The County Code;
- (c) The Low Level Radioactive Waste Disposal Act, Act of February 9, 1988, P.L. 31, Act No. 12, 35 P.S. Section 7130.101, as from time to time amended (LLRW Act);
- (d) Pennsylvania Air Pollution Control Act, Act of January 8, 1960, P.L. (1959) 2119, 35 P.S. Section 4001, as amended;
- (e) Appalachian States Low Level Radioactive Waste Compact Law of 1985, 35 P.S. Section 7125, et seq;
- (f) Clean Air Amendments of 1977, 42 U.S.C. Sections 7416, 7422;
- (g) Pennsylvania Low Level Radioactive Waste Disposal Regional Facility Act, Act of July 11, 1990, P.L. 436, Act No. 107, 35 P.S. Section 7131.101 et seq; or
- (h) Any other state or federal laws which explicitly or implicitly give jurisdiction over this matter to the East Union Township.

§105. Definitions. The following terms shall have the meanings defined in this Section wherever they are used in this Part:

“Above Ground Facility” is a facility above grade level constructed with triple dedicated engineered barriers isolating the contents from the environment.

“Buffer Zone” is the portion of the waste site that is controlled by the licensee and that lies (1) under the wastes units, and (2) between the waste units and the site boundary.

“Compact States” are Pennsylvania, Delaware, Maryland, and West Virginia.

“Container” is the first sealed leak-proof solid enclosure which encompasses the radioactive waste and which may include a means for controlled bleeding of gaseous decay products into another container.

“Containment” means the isolation of radioactive waste substances and radiation from biosphere by means of engineered barriers and waste site design.

“Township” means the Township of East Union.

“Department” means the Pennsylvania Department of Environmental Protection, or its successor agency.

“Environmental Control Officer” means an individual who is or shall become a permanent resident of East Union Township and whose minimum qualifications for employment shall include a 4-year college degree in environmental toxicology; environmental, chemical, or sanitary engineering; hydrology; chemistry; physics; biology; environmental science (but not environmental studies); all with certification as a “Certified industrial hygienist or “Certified occupational health and safety technologist” or successor titles by the American Board of Industrial Hygiene, 4600 W. Saginaw, Suite 101, Lansing, MI 48917-2737. This individual will be required to remain current and abreast of issues and information affecting the disposal of radioactive waste, plus mixed waste as specified in the United States Resource Conservation and Recovery Act (RCRA), any rules and regulations carrying out the mandates of the United States Nuclear Regulatory Commission, RCRA and of any Pennsylvania laws, rules and regulations concerning radioactive waste. The operator shall reimburse East Union Township for this individual’s full compensation including benefits and continued training.

“Facility Records” means all information regarding origin, contents, transport, and other relevant data for all low level radioactive waste.

“Fill” means (ill, grout, or other material which is placed in void spaces between radioactive waste containers or waste modules within the waste unit to provide structural strength against subsidence and collapse.

“Hazardous Life” means the amount of time that it takes for the LLRW to decay to levels so that unrestricted use of the site could not result in exposure to total radioactive levels higher than the radioactive levels measured at the site prior to the site being used for storage. It is understood that the half-life of a radioisotope may be as long as 1400 years.

“Inspector” means an individual appointed by and reporting to East Union Township to perform inspections of all activities at the waste facility, as provided under Section 318 of the LLRW Act.

“Institutional Control Period” is the time of the continued observation, monitoring and care of the facility following transfer of control from the operator to the custodial agency which shall continue for the hazardous life of the waste.

“Leak Proof” means the engineered design feature which eliminates the inflow or outflow of solid, liquid, or gas by any means, including selective absorption and adsorption, or ion exchange, except into a container through a control valve.

“Low-Level Radioactive Waste” of “LLRW” means radioactive waste as defined in Section 11(e) (2) of the Atomic Energy Act of 1954, codified as amended at 42 U.S.C. Section 2014 (e) (2), or in the LLRW Act, or the Low-Level Radioactive Waste Disposal Regional Facility Act, Act No. 1990-107, whichever is more inclusive.

“LLRW Act” means the Pennsylvania Low Level Radioactive Waste Disposal Act, Act of February 9, 1988, P.L. 31, Act No. 12, 35 P.S. Section 7130.101 et seq., as from time to time amended.

“Mixed Waste” means Low Level Radioactive Waste that either (1) contains hazardous waste listed in the Code of Federal Regulations, 40 CFR Part 261, Subpart C; or (3) is regulated by the United States Resource Conservation and Recovery Act (RCRA).

“Monitoring Zone” means a ten (10) mile radius from the center of the waste site.

“Public Access to Information” means a public library which is stocked with historical and current information related to low-level radioactive waste, preservation of the environment, protection of the people, flora and fauna, and all matters related to the health, safety, and welfare of East Union Township. All expenses related to the establishment, operation, and/or maintenance shall be determined by East Union Township and shall be at the sole expense of the operator.

“Required Records” means independent daily water well, surface water, soil, gas, oil well, plant, and continuous air sampling, as well as human and animal health surveys or test as shall be recommended or requested by the Environmental Control Officer, Environmental Advising Council or recognized health practitioner. Such required records shall be kept regarding the waste facility, waste site, and the area within East Union Township as well as affected municipalities. Such data collection shall commence with the issuance of the siting permit and be required and directed by East Union Township. A copy of these records shall be made available through the Public Access to Information Act. Any costs associated with such required records shall be borne by the operator.

“Required Service” means fully funded and appropriately trained fire, emergency, medical, support, transportation, development, maintenance, and environmental resources personnel, along with necessary staff, facilities and equipment and other benefits deemed

necessary which shall be provided at the sole expense of the operator for the welfare of East Union Township residents. Such benefits shall be fully in place and functioning prior to the operation of the waste facility, free to the recipients, and shall continue through the Institutional Control Period.

“Significant Threat” means a threat of causing injury by the following conduct: violating any Federal or Pennsylvania environment quality standard; contaminating groundwater, surface water, flora, fauna, or air so as to pose an immediate hazard to human health by exposure to substances that cause human life-shortening injuries, e.g., a long-latency cancer, or genetic or other disability, or that cause kills of fish or wildlife; threatening the viability of an endangered species or any species placed on a “threatened” or “special concern” list; contributing to an accumulation of radioactive or hazardous toxic substances in fish or wildlife, so that such fish or wildlife are rendered unfit for human consumption, or disrupting a food chain in an ecosystem.

“Triple Dedicated Engineered Barrier” means the three leakproof structures, referred to in this ordinance as a container waste module and waste unit, each of which is independently required to ensure the containment of radioactive waste from the environment for the hazardous life of the waste.

“Waste Facility” means the container, waste units, administrative and support facilities, other buildings, equipment, and engineered features on a site where radioactive waste is stored, including all improvements thereon.

“Waste Site” means the property on which the waste facility is located, including the buffer zone and, where used in this Ordinance, shall include the term “waste facility”.

“Waste Unit” means a third leakproof engineered structure which contains waste modules.

“Well Sampling” means the test wells to be drilled at appropriate depths around the perimeter of the waste facility, as well as the testing of all public and private wells within three miles of the boundary of the waste site.

§106. Environmental Control Officer. East Union Township shall appoint an Environmental Control Officer who shall have the authority and whose duties shall be as follows:

(a) To receive and review all applications required under this Part and make recommendations to East Union Township regarding the action to be taken thereon;

(b) To assure that the operator of each waste site fully complies with all of the provisions of this Part;

(c) To initiate and prosecute through the Office of the East Union Township Solicitor all legal actions required to enforce this Part;

(d) To regularly review any report under the public Access to Information Act to assure that the information contained therein is current and relevant to the needs of East Union Township;

(e) To conduct regular and periodic inspections of the waste site to assure continued compliance with the provisions of this Part;

(f) To enter un-restrictively and immediately onto the waste site, and to access any areas of said site in order to assure compliance with the provisions of this Part;

(g) To receive, compile, and arrange permanent storage of reports from the site operator detailing the date, source, type of stored material, radioisotope(s) of stored material, and type of weight of storage container of each deposit of LLRW made at the facility;

(h) To receive and review all reports relating to fees and surcharges payable by the operator of a waste site for the benefit of East Union Township, as well as the power to collect all delinquent fees and surcharges and any penalties assessed by East Union Township;

(i) To assure that all studies required under the LLRW Act for the benefit of East Union Township are performed in a timely, thorough and professional manner and in the best interests of the residents of East Union Township;

(j) To protect the health and safety of the residents of East Union Township pursuant to this Part; and

(k) To have such other powers and perform such other duties as may from time to time be imposed by East Union Township.

The Environmental Control Officer may also serve as an Inspector.

§107. Inspectors. East Union Township shall appoint two Inspectors, who shall be or become residents of East Union Township within one year of appointment and who shall have the duty to perform inspections of all activities at the waste site under a written agreement with the Department, or in the absence of a DER approved agreement, under the direction of the Environmental Control Officer. These Inspectors shall have the rights to independently and immediately assess at will and inspect any and all records and activities at the site and to carry out joint inspections with the Department and the Environmental Control Officer. The Inspectors shall also have such additional powers as are granted under the LLRW Act, and particularly Section 502 thereunder.

§108. Environmental Advisory Council. There is hereby created an Environmental Advisory Council, consisting of not more than seven residents of East Union Township, who shall be appointed at a regular meeting by the East Union Township Board of Supervisors, who shall represent a cross-section of Township residents (e.g. resident of host municipality, physician, engineer), who shall serve for sequential terms of three years with at least one resident of the initial board serving for one year and one resident of the initial board serving for two years, and who shall have the following powers and duties:

- (a) To recommend a person to be appointed as Environmental Control Officer.
- (b) To review all site and operating applications required under this Ordinance and make recommendations thereon to East Union Township.
- (c) To conduct an evaluation of each license application, to make application for funds to conduct such evaluation, to hire the necessary technical support to properly evaluate such applications (subject to prior or subsequent approval by East Union Township), and to prepare and propose to East Union Township findings regarding the application to be submitted to the Department for inclusion in the licensing proceedings as provided in Section 318 (b) of the LLRW Act.
- (d) To conduct an evaluation of each license application, to make application for funds to conduct such evaluation, to hire the necessary technical support to properly evaluate such applications (subject to prior or subsequent approval by East Union Township), and to prepare and propose to East Union Township findings regarding the application to be submitted to the Department for inclusion in the licensing proceedings, as provided in Section 318 (b) of the LLRW Act.
- (e) To provide counsel and assistance to the Environmental Control Officer and the Inspectors in the performance of their duties.
- (f) To study and make recommendations to East Union Township for the adoption of regulations and ordinances necessary for the protection of the environment of East Union Township and the health of its residents.
- (g) To exercise such powers as would otherwise be granted to an environmental advisory council established pursuant to the Act of December 21, 1973, P.L. 425, Act No. 148, 53 P.S. Section 11501 et seq; as from time to time amended.

§109. Surcharge.

- (a) For all waste disposed on the waste site, the operator of a waste facility shall establish and levy a surcharge, at a rate to be determined at the time of granting an operating permit and from time to time thereafter, by resolution of East Union Township.
- (b) The operator shall, on or before the tenth (10th) day of each month, pay to East Union Township all of the surcharges collected during the preceding calendar month. Each payment shall be accompanied by a report, in a form approved by East Union Township, detailing the date, source, type of stored material, radioisotope(s) of stored material, and type and weight of storage container of each deposit of LLRW made at facility, as well as the surcharge made for each such deposit.
- (c) East Union Township shall have the right to audit the records of the operator on a semi-annual basis (in August for the first 6 months of the calendar year and in February for the second 6 months of the previous calendar year) to determine that there have been proper collection and remittance of the surcharge.

- (d) The operator shall be responsible for the payment of all uncollected surcharges.
- (e) East Union Township shall have the right at any time to amend the rate of surcharge to meet all of the expenses permitted under Section 3189F of the LLRW Act.
- (f) All of the monies collected for surcharges shall be placed in the special account provided under Section 110 below.

§110. Special Account.

(a) All fees collected pursuant to Section 109(f) above shall be deposited into a special account, designated as the “LLRW Special Account”, and shall be used for the following purposes:

- (i) all fees, expenses, and other costs of East Union Township administration and enforcement of this Ordinance;
- (ii) payment of compensation, benefits, training, and overhead expenses for the Environmental Control Officer and other County employees involved in the administration and enforcement of this Part;
- (iii) a reasonable fee payable to East Union Township for the administration of the LLRW Special Account; and
- (iv) a contingency fund to pay clean-up costs to the extent of the monies in the special account in the event that an operator becomes bankrupt or fails to fulfill its responsibilities under the LLRW Act or other federal or state law to clean-up stabilize the waste site during its hazardous life and funds for clean-up under the LLRW Act and other federal and state laws are insufficient to effect the required clean-up.

(b) The funds held in the LLRW Special Account shall not be available for payment of any costs or penalties associated with abatement of any public nuisances created by operation of the LLRW facility or site.

(c) The LLRW Special Account shall be under the management and control of the East Union Township Board of Supervisors. The funds in the Account shall be used solely for the county expenses related to the LLRW facility that are not otherwise reimbursed to East Union Township. The funds shall not be used for General Fund purposes.

§111. Prohibition. No waste facility shall be constructed within East Union Township without first obtaining a Siting Permit under this Part.

§112. Siting Permit Application. An application for a Siting Permit shall be made on a form provided by East Union Township. The application shall be submitted to the East Union Township Environmental Control Officer at the same time as the applicant submits its Potentially Suitable Sites Application to the Environmental Quality Board under Section 307 of the LLRW Act. The application shall also be accompanied by nonrefundable siting permit application fee of \$1,000,000.00. The application fee shall be deposited by East Union Township into the special account under Section 110 above and shall be used solely for the

purposes of administration of this Part and enforcement which is not recoverable from a violator of federal, state or local law. An application for a Siting Permit under this Part shall contain the following documentation:

(a) A site plan identifying the location and function of all structures on the waste site;

(b) Proof of ownership of the site, or a contract conveying lease rights to the site by the owner;

(c) A property survey of the site by a registered licensed surveyor showing land contours at five-foot intervals, description of perimeter land use, zoning restriction within a two mile radius of the site and proximity to any structure or other feature such as stream or well, within one thousand (1,000) feet of the waste site;

(d) All necessary licenses and permits from local, state and federal agencies, along with the associated application materials submitted to those agencies;

(e) A proposed emergency control and evacuation procedure plan, subject to such amendments and additions as East Union Township may designate after public hearing;

(f) An environmental impact study as defined in N.E.P.A., Section 102 (2) (c), 42 U.S.C. Section 4332, which shall also include, but not be limited to, consideration of the following: site-specific soil analysis of 50' grid, core sample to bedrock; leachate analysis; titles, easements and dedications; oil, gas and mineral rights; hydrology of the site, ground water, aquifers, fauna habitat and migratory survey; storage of fuel; security police, fire and medical qualifications; a radiation background study based on monthly sampling data for three years prior to the date of siting application; meteorology, topology and predicted deposition patterns of airborne pollution; an assessment of risk of experiencing one fatality per one million population, which must include calculations of maximum concentrations of contamination under emergency conditions, such as worst-case accident scenario or the failure of an air pollution control unit; and such other factors as the East Union Township Board of Supervisors may from time to time determine;

(g) Baseline health studies of the entire population of East Union Township and of the affected municipalities within a ten (10) mile radius of the waste site shall be conducted for three (3) years prior to the date of siting permit application. All data shall be made available free of charge, to the East Union Township Board of Supervisors and any member of the public upon request;

(h) An evaluation of the quantity and nature of all wastes to be stored at the waste facility, including the chemical and physical forms, specific isotopes, number of curies, and half lives;

(i) An evaluation of the financial qualifications of the applicant, operator and any major subcontractors or participants whose activities will impact preparation, construction or operation of the site;

(j) A compliance history for the siting permit applicant and operator of the site performed by an independent agency acceptable to East Union Township but at the sole cost of the applicant; and

(k) The site characterization documents prepared by DEP and Chem Nuclear, showing specifically how the site satisfies all criteria in 25 Pa. Code, Chapter 236.

§113. Siting Permit Application Processing.

(a) The siting permit application shall be submitted to the Environmental Control Officer, who shall review the same to determine whether the application contains all of the necessary documents and the application fee. If the application is not complete, the Environmental Control Officer shall return the application to the applicant with a written notification of its deficiencies. If the application is complete, the Environmental Control Officer shall refer the application to the Environmental Advisory Council, with copies to the East Union Township Board of Supervisors, the East Union Township Planner, East Union Township Solid Waste Coordinator, East Union Township Solid Waste Authority, East Union Township Conservation District, the Director of East Union Township Emergency Management Agency, and the Director of the Emergency Communications Network. When the application is deemed complete, the applicant shall also file a complete copy thereof in each public library and in the East Union Township Law Library for public inspection. No hearing on siting permit application shall be held until the application has been so filed for a period of at least sixty (60) days.

(b) After review and study of the application, the Environment Advisory Council shall submit its findings and recommendations to the East Union Township Board of Supervisors.

(c) The East Union Township Board of Supervisors shall give due consideration to the findings and recommendations of the Environmental Advisory Council but shall not be bound thereby.

(d) The Environmental Advisory Council and the East Union Township Board of Supervisors may hold public hearings on each application. The applicant shall appear at all such public hearings and shall provide such documentation and such persons with technical expertise, at the applicant's expense, as may be necessary to answer all reasonable inquiries made by the Environmental Advisory Council, East Union Township or members of the public present at the public hearings.

(e) The Environmental Advisory Council and the East Union Township Board of Supervisors may engage the services of whatever expert consultant is deemed necessary to properly and fully evaluate the application. The reasonable fees and expenses of these consultants shall be paid by the applicant.

(f) The East Union Township Board of Supervisors shall take action on the application within ninety (90) days after the decision on the Potentially Suitable Sites Application is made by the Pennsylvania Environmental Quality Board. Notwithstanding the

foregoing, the East Union Township Board of Supervisors shall not be required to take action on a siting permit application until the applicant has fully complied with Section 318 (F) of the LLRW Act and the funding scheme has been approved by the designated host municipalities.

§114. Minimum Site Requirements. The minimum requirements for the waste site shall be:

(a) The site shall have geological characteristics such that all applicable state and federal emission requirements may be met without the use of dedicated engineered barriers, other than the entrance described in Section 118 (b) below.

(b) There shall be no active, inactive or other water wells, gas or oil wells, brine wells, or other underground storage areas on the waste site.

(c) Surface features of the waste site shall be designated to direct water drainage away from waste units at velocities and gradients which will not result in erosion. No waste shall drain from the waste site to any off site location or into any aquifer without the permission of the Environmental Control Officer. Water shall be collected into an appropriate holding facility until tested as safe for drinking purposes.

(d) No waste site (including the buffer zone) shall be located in recharge zones for sources of local public or private drinking water; headwaters or any waterway, wetland, flood plain; or habitat of endangered, threatened or special concern species.

(e) No waste site shall be located within an agricultural security area as designated pursuant to the Agricultural Area Security Law, Act of June 30, 1981, P.L. 128 Act, No. 43, as from time to time amended.

(f) The waste site shall meet all requirements of federal and state laws and regulations and the qualifications contained in the Evaluation Screening Manual.

(g) The site shall not contain any limestone or similar formation. Such formation cannot be removed to meet the requirements that make a site suitable for a LLRW facility.

§115. Prohibition. No waste facility shall be constructed or operated within East Union Township unless an Operating Permit is first obtained pursuant to this Part and all required fees have been paid.

§116. Operating Permit Application. When an operator submits a operating license application to the Department, the operator shall simultaneously make application to East Union Township for an Operating Permit under this Ordinance. The operating permit application shall be on a form provided by East Union Township and shall be accompanied by a nonrefundable application fee of \$3,000,000.00. The Application shall be accompanied by a complete copy of the operating license application filed with the Department. The application shall state the chemical and physical forms, specific isotopes, half life and number of curies of each substance expected in any radioactive air emissions, along with the appropriate formulas for calculating the weight equivalent to one curie, and the number of millirems associated with potential exposures to one curie of each substance. The operating permit application fee shall

be deposited by East Union Township into the separate account under Section 110 above and shall be used solely for purposes of administration and enforcement of this Part.

§117. Operating Permit Processing Procedure.

(a) The application for an Operating Permit shall be filed with the Environmental Control Officer. The Environmental Control Officer shall review the application to determine whether it is complete and in full compliance with this Ordinance. If it is not complete, the officer shall return the application to the operator with written notification of its deficiencies. If the application is complete, the Environmental Control Officer shall refer the application to the Environmental Advisory Council, with copies to the East Union Township Board of Supervisors, the East Union Township Planner, East Union Solid Waste Coordinator, East Union Township Solid Waste Authority, East Union Township Conservation District, the Director of East Union Township Emergency Management Agency, and the Director of the Emergency Communications Network. The applicant shall provide all necessary copies and shall file complete copies of the application in the East Union Township Law Library and each public library in East Union Township.

(b) The Environmental Advisory Council shall evaluate the application and prepare and submit to the East Union Township Supervisors its findings and recommendations thereon.

(c) Upon receipt of the findings and recommendations of the Environmental Advisory Council and the Environmental Control Officer, the East Union Township Board of Supervisors shall further review the application and prepare and submit findings and recommendations to the Department for inclusion in the licensing proceeding.

(d) The Environmental Advisory Council and the East Union Township Board of Supervisors shall each hold at least one public hearing on the application. The operator shall attend all such public hearings and shall provide such documentation and technical expertise as the hearing body may deem necessary to fully answer all the reasonable inquires of the Environmental Advisory Council, East Union Township or any members of the public who attend the hearing.

(e) The operator shall maintain a currently valid operating permit in the name of the operator at all times until such time as the waste site becomes non- operational according to the specifications of the LLRW Act.

(f) The operating permit shall not be assignable except according to the specification of the LLRW Act and Sections 115, 116, and 117 of this Part. An operator assignee shall be bound by all the requirements of this Part applicable to the original siting permit and operating permit operator.

§118. Operating Design Standards. Every waste facility subject to this Part shall meet the following minimum design requirements:

(a) The waste facility shall be designed for zero release of radioactive waste in the form of effluents and shall not permit liquid or gaseous infiltration or emissions through any engineered cover, bottom, side or entrance.

(b) The waste facility shall be an above-ground facility mounded with earth and capped for tornado protection with a sealed entrance permitting access so that leaking containers can be easily and safely located and removed.

(c) Neither the container nor the waste modules are to be covered by any type of fill that would cause loss of integrity of the containers or the waste modules if recovery of the waste is undertaken.

§119. Minimum Operating Standards. Every waste facility subject to this Part shall be operated in conformance with all of the following standards:

(a) No radioactive emissions into the outdoor atmosphere from a waste site shall exceed, or cause exposures which exceed applicable federal and state laws or regulations established by the East Union Township Board of Supervisors or by this Ordinance.

(b) The waste facility must be designed and operated to achieve containment for the hazardous life of the waste. Prior to construction, the waste facility design shall be modeled and analyzed to demonstrate that its performance and its interaction with the environment at the waste site are consistent with this Part. The facility design shall demonstrate that radioactive waste containment can be maintained for any maximum disruptive external event.

(c) The waste facility design and operation must be upgraded from time to time as safer technologies are devised and satisfactory demonstrated, as determined by the East Union Township Board of Supervisors upon advice of the East Union Township Environmental Control Officer.

(d) The operator shall perform active and passive monitoring which shall detect any releases of radioactive substances into the buffer zone or monitoring zone, as well as releases from waste modules, waste units and from the waste site for the Institutional Control Period. The operator shall provide the Environmental Control Officer with continuous verification of its performance with these monitoring requirements and permit the Environmental Control Officer access to the monitoring equipment without prior notice. East Union Township may require the operator to install a parallel monitoring system to be operated by the East Union Township Environmental Control Officer or Inspectors at the operator's expense.

(e) The waste facility shall accept only waste with those physical and chemical properties for which it is designed and licensed and which it is capable of containing for the hazardous life of the waste. All facility records shall be retained for the Institutional Control Period. Complete copies of all facility records shall be forwarded to the Environmental Control Officer no later than the tenth (10) day of each month, for the prior month, or as requested. Where the facility encounters radiation readings in excess of allowable limits, the Environmental Control Officer shall be notified within seventy-two (72) hours.

(f) All classes of waste shall be segregated from each other unless they were mixed as they were generated. Classes of wastes A, B, and C, and mixed wastes, as defined in 10 CFR, section 61.55 (1989), shall be contained for their hazardous lives. No waste greater than Class C shall be accepted even though it may have been diluted to a lower level of radioactivity.

(g) No radioactive materials generated outside the Appalachian Compact States and not designated as waste prior to shipment into Pennsylvania or other compact states, but thereafter declared to be waste, shall be disposed of or stored in East Union Township. No waste generated outside the United States shall be disposed of or stored in East Union Township, even if the company generating the waste has its corporate headquarters, is incorporated, has offices, or receives such waste at its facilities or through a port of entry in one of the Appalachian Compact States.

(h) In the event that radioactive substances from the waste facility contaminate any area outside the waste site, the operator shall promptly clean up all contamination and shall restore all such contaminated areas to their preexisting and non-contaminated state.

(i) No LLRW facility shall accept waste for more than thirty (30) years. No additional radioactive waste shall be stored, disposed or treated anywhere in East Union Township after that thirty (30) year period.

(j) Routine operations of the waste site shall be conducted solely between the hours of 9:00 a.m. and 5:00 p.m., Mondays through Fridays, excluding any legal holidays.

(k) No waste shall be accepted on the waste site except between the hours of 9:00 a.m. and 5:00 p.m., Mondays through Fridays, excluding any legal holidays. The waste site shall be made secure from any possibility of illegal dumping after hours of routine operations.

(l) The waste site shall at all time be operated in strict compliance with all applicable laws and regulations of all federal, state, and local government agencies having jurisdiction over the site.

§120. Air Pollution Control Standards. Every waste facility shall comply with the following minimum air pollution control standards:

(a) No radioactive substance or waste generated by any government agency or pursuant to a Federal or State government contract or license or as defined in the Nuclear Regulatory Commission (NRC) Section 11 (e) (2) of the Atomic Energy Act of 1954, codified as amended in 42 U.S.C. Section 2114 (E) (2) as the Low-Level Radioactive Waste Policy Act Amendment of 1985 and in effect as of January 1, 1986, or in the LLRW Act that may be redefined as an expanded exemption, below regulatory concern (BRC) or otherwise deregulated by the NRC or any other federal agency shall be received for treatment recycled, incinerated, deposited in sewers or accepted at any solid, liquefied or hazardous waste facility in East Union Township All LLRW as specified above shall be deposited at a LLRW site holding a Siting Permit under this Part.

(b) No operator shall cause or permit the direct or indirect release of radioactive substances into the air whether in gaseous, particulate, mist, vapor or other form, or through any pathway, except in compliance with air pollution control standards included in the Operating Permit obtained under this Part.

(c) No Operating Permit shall be granted under this Part where the Environmental Advisory Council determines that the expected radioactive air emissions stated in the application will exceed zero.

§121. Emergency Management Plan. The operator shall develop, maintain and regularly upgrade a plan for responding to all reasonably-anticipated emergency events which might occur at the waste site or outside the waste site due to an event occurring within the site or enroute to or from the site. The operator shall provide the Environmental Control Officer and the Director of East Union Township Emergency Management Agency and the Director of the Emergency Communications Network with a copy of the plan, as well as all amendments and updates. The operator shall provide the Environmental Control Officer with evidence satisfactory to the Officer that the operator has reviewed its emergency management plan on at least a quarter-annual basis. The plan shall also coordinate services of those fire, police and ambulance services as are likely to first respond to the emergency, as well as East Union Township Emergency Management planning, training and central dispatch facilities as may be required to support the handling of any anticipated emergency events at the site.

§122. Disclosure of Transporters. No later than the tenth day of each month for the prior month, the operator shall provide the Environmental Control Officer with a list of names and business addresses of all persons, companies, entities, or corporations which provide transportation of waste to the waste site, including a copy of all manifests. The Environmental Control Officer may request, and the operator shall provide, such information on a more frequent basis if the Officer deems it necessary. Copies of all monthly reports shall also be provided to the Director of East Union Emergency Management Agency and the Director of the Emergency Communications Network, East Union Township Solid Waste Coordinator, the East Union Solid Waste Authority, and the East Union County Planner.

§123. Access to Records. All required records and facility records shall be available for inspection by the Environmental Control Officer and the Inspectors at all times. The operator shall provide the Environmental Control Officer and the Inspectors with reasonable assistance in locating, identifying and reviewing all information contained in all such records.

§124. Liability Insurance. The operator shall provide, and maintain continuously in effect, a policy of general liability insurance, including liability for personal injury or property damage resulting from any release of LLRW into any part of the environment, in the minimum amount of Ten Million Dollars (\$10,000,000.00) per occurrence. The operator shall provide the Environmental Control Officer with certificates showing regular renewal of such insurance at least thirty (30) days prior to the renewal date. East Union Township shall be identified in all such policies as a party to be notified of any cancellation, expiration or change in such policies.

§125. Bonding.

(a) At the time of making a Siting Permit application under this Ordinance, the applicant shall submit a bond, in a form and with security approved by East Union Township, in the principal sum of \$100,000.00 to guarantee reimbursement from the applicant of all reasonable expenses incurred by East Union Township to evaluate the Potentially Suitable Sites Application and the application of the Siting Permit as provided under Section 318(a) of the LLRW Act, to the extent that such expense are not funded by the Department.

(b) At the time of submission of an Operating Permit application, the applicant shall submit a bond, in a form and with security approved by East Union Township, in the principal sum of \$150,000.00 to guarantee reimbursement of all reasonable expenses incurred by East Union Township to conduct an independent evaluation of the license application under Section 318 (b) of the LLRW Act and the Operating Permit application under this Ordinance, to the extent that such expenses are not funded by the Department.

§126. Reimbursement. Within thirty (30) days after submission of a requisition for reimbursement, the operator shall reimburse East Union Township in full for all reasonable expenses, including but not limited to, engineering and expert fees, reasonable attorney fees, and all out-of-pocket expenses incurred by East Union Township to perform the studies and evaluations provided under this Part and under Section 318 of the LLRW Act.

§127. Nonpayment of Requisitions. No permit required under this Ordinance shall be issued by East Union Township until all requisitions for reimbursement submitted under Section 126 of this Part have been paid in full by the operator.

§128. Criminal Penalties. Any person who violates any of the provisions of this Part or who owns or operates a waste site in which any violation of this Part is committed shall upon conviction in a summary proceeding, be liable for a penalty of not more than One Thousand Dollars (\$1,000.00) per each separate offense and in default thereof shall be imprisoned for a term of not more than ninety (90) days. Each day that a violation continues shall constitute a separate offense. Each type of violation shall also be considered a separate violation.

§129. Civil Penalties. Whenever an operator has been notified in writing of a violation of this Ordinance which involves a significant threat of harm to human life, the operator shall immediately cease and desist in such violation. If the operator does not immediately cease and desist, the operator shall be liable to East Union Township for a civil penalty not exceeding One Hundred Thousand Dollars (\$100,000.00) for each offense and for each day that such offense continues. This provision is not intended to affect the operator's liability for consequential or punitive damages for any violation.

§130. Abatement. The violation of any of the provisions of this Part relating to the emission of pollutants into the environment surrounding the waste site shall be considered a public nuisance and a nuisance per se. The operator shall abate such nuisance immediately upon notice from the Environmental Control Officer. In addition to the other remedies provided in this Ordinance, the Environmental Control Officer and East Union Township shall have the right to pursue injunctive relief to abate any such nuisance.

§131. Reimbursement of Litigation Costs. By applying for a permit under this Part, the operator agrees to reimburse East Union Township in full for all reasonable attorney fees, expert fees, investigative and litigation costs incurred by East Union Township in the successful prosecution of any violation of this Part or the successful pursuit of any other legal remedy provided under this Part.

§132. Termination of Permits. If the operator is delinquent in the payment of any surcharge collections for a period of thirty (30) days, or if the operator is in default of any of the provisions of this Part after the notice and an opportunity to cure such default with commencement of cure within seventy-two (72) hours of notification, the Environmental Control Officer of the East Union Township shall have the right to revoke the permit.

§133. Citizen Suits. Nothing in this Part shall be constructed to limit the right of private citizens of the Commonwealth to pursue any civil action against the operator in the manner provided by law.

§134. Joint Agreements. By resolution of the East Union Township Board of Supervisors East Union Township may enter into an agreement of joint cooperation with any municipality within East Union Township or any other township or any municipality within another township to effectuate the purposes of this Part pursuant to 53 P.S. Section 483.

§135. Severability. If any section or provision of this Part is held to be invalid, such ruling shall not affect the validity of the remaining provisions of the part.

§136. Repealer. All other ordinances or parts of Ordinances inconsistent herewith be and the same are hereby repealed.

EDITOR'S NOTE: This unnumbered Ordinance was adopted by the East Union Township Supervisors on June 3, 1996.

Part 2
Hazardous Waste

§201. Purpose. The Board of Supervisors of East Union Township determines, declares, and finds that the transportation, processing, treatment, incineration, stabilization, storage and disposal of hazardous waste may create public health hazards, environmental pollution, economic loss, and cause irreparable harm to the public health, safety and welfare and is desirous of protecting the health, safety, and welfare of its residents from the short and long term dangers of the effects of all hazardous waste.

§202. Definitions. For the purpose of this Part, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, and the word “shall” is always mandatory and not merely directory.

“Township” is the Township of East Union, Schuylkill County, Pennsylvania.

“Board of Supervisors” is the Board of Supervisors of East Union Township, Schuylkill County, Pennsylvania.

“Person” is any natural person, firm, partnership, association, corporation, company or organization or entity of any kind.

“Hazardous Waste” is waste that poses substantial or potential threats to public health or the environment includes material that meets one or more of the following definitions or is otherwise dangerous to human health and/or the environment:

- Ignitability- Flash point < 60 °C (140 °F), spontaneously combustible, or oxidizer-40 CFR 261.21
- Toxicity- 40 CFR 261.24
- Reactivity- Unstable, water reactive, or explosive- 40 CFR 261.23
- Corrosivity- pH ≤ 2 or ≥ 12.5 -40 CFR 261.22
- Specifically listed (F, K, P, or U lists) 40 CFR 261.31, 32 and 33 ;(Acutely hazardous wastes are designated by an H listed hazard code & all P listed waste.)

§203. Offense Defined. No person shall process, treat, store, spill, manage, or dispose of any Hazardous Waste within the limits of the Township.

§204. Penalty. A person who violates the provisions of this Ordinance shall upon conviction thereof pay a fine of not more than One Thousand (\$1,00.00) Dollars plus the costs of prosecution, and in default of payment of such fine and costs of prosecution, shall be imprisoned for not more than ten (10) days. Each day's continuance of a violation shall constitute a separate offense. In addition thereto, any person convicted under this Section of the Ordinance, as further penalty for violation, shall be required to pay and/or reimburse the Township for payment of any cost to eliminate or otherwise dispose of the hazardous waste which is the subject matter of such violation, including, but not limited to, all reasonably incurred fees and costs necessary for the elimination and/or disposition of said hazardous waste. In default of payment of such fees and costs, the violator shall be imprisoned for not more than ten (10) days.

§205. Effective Date. This Ordinance shall become effective five (5) days after the adoption hereof.

Part 3
Grass, Weeds and Other Vegetation

§301. Unlawful Growths: Declaration as Nuisance; Exemption.

(a) No person, firm or corporation, or any agent, servant, representative or employee of any such person, firm or corporation owning or occupying any property within the Township of East Union shall permit any grass, weeds or any other vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to:

- (1) Exceed a height of six (6) inches.
- (2) Throw off any unpleasant or noxious odor.
- (3) Conceal any filthy deposit.
- (4) Create or produce pollen.

(b) No person, firm or corporation, or any agent, servant, representative or employee of any such person, firm or corporation owning or occupying any property within the Township of East Union shall permit any poison ivy, ragweed or other poisonous plants, or plants detrimental to health, to grow or remain upon such premises in such manner that they shall extend or border upon, or overhang any street, sidewalk, or other public place.

(c) Any grass, weeds or other vegetation, poison ivy, ragweed or other poisonous plants growing upon any premises in the Township in violation of any of the provisions of subsection (a) or (b) above are hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Township.

(d) Excluded from this Part are wooded areas and open fields or acreage to within one hundred (100) feet of any building or structure.

§302. Cutting and Removal Required By Owner or Occupant. The owner of any premises, as to vacant premises or premises occupied by the owner, or the occupant thereof, in the case of premises occupied by other than the owner thereof, shall trim, cut or remove all grass, weeds or other vegetation growing or remaining upon such premises as often as may be necessary to bring such premises into compliance with the provisions of Section 301 above; provided, however, that cutting, trimming, or removing such weeds, grass or other vegetation at least twice a month in the months of May, June, July, August, and the removal of the weeds, grass and other vegetation so cut shall be deemed evidence that no violation of this Section shall have been created.

§303. Duties of Owner of Occupant. The Owner of any vacant premises or premises occupied by the owner and the occupant thereof, in the case of premises occupied by other than the owner thereof, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of any of the provisions of Section 301 of this Part.

§304. Notice to Comply; Noncompliance. The Code Enforcement Officer of the Township is hereby authorized to give notice, by personal service, posting of property or by United States

mail, to the owner or occupant, as the case may be, of any premises whereof grass, weeds or other vegetation is growing or remaining in violation of any of the provisions of this Chapter, directing and requiring such owner or occupant to remove, trim or cut such grass, weeds or other vegetation so as to conform to the requirements of this Ordinance within five (5) days after the issuance of such notice. In case any person shall neglect, fail or refuse to comply with such notice within the period of time state therein, the Township may cause such grass, weeds or other vegetation to be removed, trimmed or cut, and the cost thereof, with an additional charge of ten percent (10%), shall be collected by the Township from such person in default, in the manner provided by law.

Any notice issued for a violation of this Part shall be sufficient to constitute notice of any subsequent violation provided that the violation occurs within the same calendar year for the same premises and owner.

§305. Violations and Penalties. Any person who shall violate any provisions of this Chapter shall, upon conviction thereof for each violation, be subject to a fine of up to one hundred (\$100.00) dollars, plus costs of prosecution. In default of payment of said fines and costs, such person shall be sentenced to the county jail for a period not exceeding ninety (90) days. Each day shall be a separate offense.

§306. Effective Date. This Part shall become effective thirty (30) days after final enactment or adoption and shall remain in full force and effect until amended revoked.

Part 4 **Public Health Nuisance Code**

§401. Title: This Part shall be referred to as “The East Union Township Public Health Law.”

§402. Purpose; Statement. The purpose of this Part is to protect and promote the public health through the control, abatement and prevention of nuisances of a public health concern. Alleged infractions of the provisions and standards set forth will be investigated by an enforcing official in each case presented. Wherever there is a question as to the significance of an alleged infraction or the factual existence of an alleged infraction, the prudent judgment of the health officer or other enforcing official will prevail in the determination of a violation.

§403. Definitions.

Abandon shall mean to desert, ignore, and fail to maintain a property in a safe, habitable condition.

Accumulation shall mean the gathering together and increasing in amount over a period of time.

Ashes shall mean the residue from the burning wood, coal, or other combustible materials.

Attractive nuisance shall mean a potentially harmful object on or condition of the land that, by its features, tends to lure children or others.

Building shall mean any walled, roofed structure.

Commercial Activity shall mean any activity which is not a residential use or activity and includes, but is not limited to, gasoline stations, retail sales, professional activities including but not limited to medical, dental, legal, architectural, accounting, etc., personal services including real estate, insurance, barbershops, hairdressers, nail salons, etc., nurseries, landscaping businesses, farm stands, repair shops of all kinds, and amusements including but not limited to movies, skating rinks, bowling alleys etc., whether part of a shopping area or not and any other nonresidential use or activity.

Commercial Premises are defined in the Township Zoning Ordinance or is any tract of land on which or no part of which commercial activity of any kind takes place.

Contractor shall mean a person engaged in any business or service, including construction, repairing, refurbishing, remodeling or the demolition of building or grounds within the Township.

Developed property shall mean any premises on which a structure has been erected or other improvements have been made.

Dwelling shall mean a home, house or other building in which somebody lives to also include a dwelling unit which is a room or rooms containing a kitchen and used by the occupants as a place to live.

Enforcing officials shall mean and include the health officer, registered environmental health specialist, animal control officer, zoning officer, construction official, fire official or other official authorized by the township to enforce this section.

Exterior property shall mean any space located between property boundary lines of the tax lot in question or other boundaries of any contiguous tax lots and any structure on the property.

Extermination shall mean the control and elimination of insects, mice, rats and other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, and trapping or by any other approved pest elimination methods.

Good repair shall mean the structure is maintained in such a manner that there is no evidence of deterioration, or damaged or loose elements, and where appropriate, is capable of preventing the elements (rain, snow, wind) and rodents from entering the interior areas.

Hazardous materials shall mean wastes presenting a danger to health and safety by reason of their pathological, explosive, radiological or toxic characteristics.

Health Officer means “Health Officer” of East Union Township.

Infestation shall mean the presence, within or contiguous to, a structure or premises of insects, mice, rats, vermin or other pests in a quantity determined by the Health Officer in his/her discretion to constitute health threat.

Insects shall mean those insects that have public health significance for disease transmission, property damage, such as flies, cockroaches, ticks, mosquitoes, lice, bedbugs, and termites etc., to include the larvae stage of any of these insects.

Noise shall mean any sound or combination of sounds from any source whatsoever including, but not limited to, any loud, surprising, irritating, unwanted, unexpected, undesired or unpleasant sounds.

Nonresidential user shall mean any type of commercial, industrial or similar activity, whether or not operating for a profit, occupying premises within the township and creating solid waste in any form.

Noxious weeds shall mean any plant designated by a Federal, State or County government as injurious to public health, agriculture, recreation, wildlife or property. A noxious weed may be native or non-native, invasive or noninvasive and may also be commonly defined as a plant that grows out of place and is competitive, persistent, and pernicious. Examples include, but are not limited to ragweed, poison ivy or oak, thistle, and multiflora rose.

Occupant shall mean someone living in a residence or structure or using premises, including a commercial property as tenant or owner.

Owner shall mean a person recognized by law as having the ultimate control over and right to use the property.

Person shall mean and included an individual, firm, corporation, association, society, partnership, and their agents or employees.

Premises shall mean a house or building, together with its land and outbuilding.

Public health concern shall mean any matters, conditions or things that cause worry, solicitude, or anxiety for the health, safety of the public due to their dangerous or unsanitary nature.

Public restroom shall mean a room equipped with toilet facilities unarguable intended for public to use in all public facilities and in establishments where commercial activity takes place.

Resident shall mean any person occupying or maintain a place of residence within the township.

Residential use shall mean a dwelling unit, such as a single family home, condominium, trailer or a multifamily dwelling of two or more units.

Rodents shall mean those rodents that have public health significance for disease transmission, property damage such as mice, rats, bats, and other burrowing rodents, etc.

Solid waste shall mean any trash, garbage, junk, rubbish, refuse, litter, debris and other materials that when dumped, deposited, accumulated or abandoned create conditions of public health concern. This term shall include, but is not limited to, any animal feces, animal or vegetable waste solids resulting from the handling preparation, cooking or consumption of foods; discarded material such as; glass, wood, yard debris, grass/brush clippings, stone, concrete, plastic, ashes, cloth, rags, paper, metal, tires, street cleanings, dead animals, manure, appliances, furniture, equipment, automobiles, solid market wastes, construction materials, industrial wastes, chemical wasters, recyclable materials and containers, and all discarded appliances.

Township shall mean East Union Township, Schuylkill County, State of Pennsylvania.

Usable materials properly stored are nonperishable materials stored for new construction or other items intended to be used within 30 days and are stored off the ground and maintained in such a matter that they do not provide habitat for insects or rodents.

Water drainage and accumulation shall mean runoff, discharge or drainage of water from any premises or building which results in the accumulation of stagnant water. The subsections shall not apply to water retention areas and/or reservoirs approved by the municipal engineer.

Weeds shall mean the growth, existence or presence of any noxious weeds of any height or the growth, existence or presence of any weeds or plant growth in excess of ten inches. Weeds shall be defined as all greases, annual plants and vegetation, other than trees or shrubs; provided, however, this term shall not include cultivated flowers, landscaped areas and gardens.

§404. Nuisances Defined and Prohibited.

(a) Any matter, thing, condition or act which after investigation by the health officer or other enforcing official is deemed to be injurious, detrimental or a menace to the public health or environment or is deemed to be any annoyance or interfere with the comfort or well-being of the inhabitants of the township is hereby declared to be a nuisance and shall include but not limited to the following:

- (1) Pollution or the existence of a condition or discharge or release which causes or threatens pollution of any surface water or subsurface water of the township.
- (2) The escape or entrance into open air/outdoor environment from any stack, vent, chimney, process or from any fire of such quantities and duration of smoke, fly ash, dust, fumes, vapors, mists, or gases that tend to be injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property throughout the township.
- (3) The growth, existence or presence of ragweed, of ten inches in height or greater, or in such a quantity so as to cause injury to adjacent properties or to be a public health concern, on any plot of land, lot, highway, street, sidewalk, right-of-way or any other public or private place within 200 feet of an occupied dwelling.
- (4) The growth, existence or presence of poison ivy, of ten inches in height or greater, or in such a quantity so as to cause damage or injury to adjacent properties or be a public health concern within 20 feet of an adjoining property line of an occupied residential or commercial property, sidewalk or right-of-way.
- (5) The growth, existence or presence of any weeds or noxious weeds, of ten inches in height or greater, or in such a quantity so as to cause damage or injury to adjacent properties or be a public health concern, on any approved residential or commercial property with the exception of approved State, County or local designated conservation areas or other restricted use areas. Subdivision lots approved but not issued final certificate of occupancy are included.
- (6) All residential and commercial lawn areas are to be maintained and mowed and may not exceed ten inches in height.
- (7) The existence or presence of dead and dying trees or limbs on any land within 50 feet of an adjoining dwelling or within 20 feet of an adjoining residential property line.
- (8) Any dead or dying tree that harbors insects or rodents.
- (9) The presence on any plot of land, highway, street, right-of-way or any other public or private place of any solid waste, but excluding usable material properly stored. The practice of composting shall not fall within the meaning of this subsection, provided that such compost pile, mound, or area is maintained on one's own private property and is properly maintained so as to prevent offensive odors, the breeding or harborage of flies or other insects, rodents, vermin or any other public health nuisance.

(10) Depositing, dumping, accumulating, maintain or otherwise allowing any matter or thing which serves as food for insects or rodents and to which they may have access or which serves or constitutes a breeding place or harborage for insects, rodents or pigeons of a public health significance in or on any land premises, building or other place.

(11) The existence or presence of any accumulation of solid waste which may attract insects, rodents or other vermin and to which insects, rodents or other vermin may have access, or in which they may breed or dwell.

(12) The existence or presence of any water or other liquid in which mosquito eggs, larvae or pupae exist or of any condition which allows water to lie, pond, stand or otherwise accumulate so as to provide a breeding environment for mosquitoes. The meaning of this subsection shall not apply to ponds where fish are adequately maintained so as to preclude the breeding of mosquitoes. This section shall not apply to fountains or swimming pools which maintain adequate circulation to preclude the breeding of mosquitoes.

(13) The keeping of any animal or animals in such a manner as to cause or present a source of foulness, odors or presence or breeding of insects, rodents or other vermin.

(14) The existence of maintenance of any condition which may reasonably constitute a safety hazard, an attractive nuisance or otherwise present a threat to the safety and well-being of the inhabitants of the township or of the public at large, including but not limited to the following:

(a) Any vacant building which is not adequately sealed, boarded up or otherwise secured so as to preclude the entry of inquisitive minors or others.

(b) Any excavation, depression, hole, shaft, abandoned or unused well which is such depth or dimension so as to present a hazard in terms of one falling into or being entrapped therein and which has not been adequately fenced or sealed so as to prevent injury or harm.

(c) Any discarded refrigerator, cabinet, automobile or other piece of equipment, machinery, device or material which may offer or present an enclosure and a hazardous attraction to children or to others which has not been properly sealed or discarded.

(d) Any dead or dying trees or limbs in such proximity to a dwelling, building, street, sidewalk, pathway, right-of-way, thoroughfare, driveway, park, playground or other frequented area where the falling of the tree or part thereof would endanger life, threaten injury or damage property.

(15) The willful abandonment of any domestic animal within the boundaries of the township.

(16) Accumulation and storage of solid waste on any private or commercial property.

(17) Placement of solid waste at curb for more than five days prior to the scheduled pick up date. All items must be removed after the fifth day if not collected due to weather or the fault of the hauler. Nonpayment of contractor for these services is not an acceptable reason for allowing items to remain.

(18) Any sidewalk, walkways, driveways, parking spaces or similar area containing cracks, potholes, or other defects which create a hazardous condition or which is obstructed by plant growth or other natural or artificial barrier.

(19) The runoff, sump pump discharge or drainage of water from any premises or building which results in the accumulation of ice, stagnant water or discharge on public walkways or roadways or onto an adjoining property in an uncontrolled (via pipe or swale) manner without permission of adjoining property owner or township. This subsection shall not apply to water retention areas when properly maintained and cleaned of silt and debris and or reservoirs approved by the Township officials.

(20) Public restrooms shall be kept in good repair; all surfaces of fixtures, walls and floors are cleaned on a regular schedule and must be provided with running hot and cold water of adequate pressure per plumbing code. A supply of toilet paper, soap, and hand drying supplies or equipment shall be provided at all times. Hand washing signs shall be posted.

(21) Animal waste. Accumulations of the bodily waste of all domestic animals and fowl which at the discretion of the Health Officer creates or will tend to create a Health Hazard.

(b) It shall be unlawful for any person or persons to commit, maintain or allow any nuisance, as declared and described in this Section.

§405. Return of Land to Its Natural Condition Due to Large Residential Lot Zoning.

(a) In residential large lot subdivisions, of two acres or greater, tenant or occupant of lands may make an application to the health officer to allow land to revert back to its natural condition, but in such a manner that will not allow for the establishment of noxious weeds or rodent harborage. Reforesting with one and one-half inch diameter or larger assorted pines and hardwood trees is recommended. Wildflower areas are to be maintained and mowed annually.

(b) The application will require submission of a survey of the subject land.

§406. Housing Standards of Habitability.

(a) It shall be unlawful for the owner of any building to allow occupancy as a residence which is not in compliance the herein.

(b) It shall be unlawful for the owner of any building to allow occupancy as a business, commercial or industrial establishment which is not in compliance herein.

§407. Inspection of Premises for Violations; Denial of Entry; Warrant.

(a) All places and premises in this Township shall be subject to inspection by the health officer of other enforcing official if that official has reason to believe that any subsection of this section is being violated.

(b) It shall be unlawful for any person to hinder, obstruct, delay, resist or prevent the health officer or other enforcing official upon presentation of identification from having full access to any place or premises upon which a violation of this Code is believed to exist. In the event that entry to any place or premises is denied by any owner or tenant, the enforcing official shall obtain the appropriate warrant for entry through the municipal court.

§408. Abatement of Nuisance.

(a) Whenever a nuisance as declared pursuant to this ordinance is found on any plot of land, right-of-way or any other premises or place, a violation notice shall be given to the owner, in writing, to remove or abate the same within such time as shall be specified therein but not less than five days from the date of service thereof. Notice to the owner, of the violation and time to abate, shall be deemed complete as of the date of the violation notice if served personally or via certified mail, restricted delivery to the property owner. Notice to the owner, of the violation and the time to abate, shall be deemed complete three days after the date on the violation notice, if served by regular first class mail, or posted at or on the subject premises.

If the owner resides out of state or cannot be notified speedily, such notices shall be left at the place or premises with the tenant or occupant or posted on the premises, and such action shall be considered proper notification to owner, tenant or occupant. Notice to the owner, tenant or occupant, of the violation and the time to abate, shall be deemed complete three days after the date on the violation notice, if served by regular first class mail, or posted at or on the subject premises.

(b) Whenever a nuisance as declared by this Ordinance is found any public property or on any highway or any other public premises or place, notice in writing shall be given to the person in charge to remove or abate the same within such time as shall be specified therein.

(c) The cost of abatement shall be borne by the property owner.

(d) If such person fails to comply with such notice within the time specified therein, the health officer or other enforcing official may remove, abate or cause the cleanup of the nuisance in the manner as hereinafter provided.

§409. Recovery of Cost by Township. Whenever the owner, tenant or occupant notified has not complied with the notice as specified and the nuisance has not been abated or removed under the direction of the health officer or other enforcing official, any cost or expense incurred for abating or removing or causing to be abated or removed the nuisance or condition, may be recovered in the following manner:

(a) Such costs and expenses shall be certified to the tax assessor and shall become part of the taxes next assessed against the premises upon which the nuisance or condition was located;

(b) Where it is not possible or practical to proceed under paragraph (a) the cost or expense shall be recovered in an action at law in any court of competent jurisdiction; and

(c) Regardless of how costs are actually recovered, they shall be in addition to and shall not affect the imposition of any penalties for the violation of this section.

§410. Enforcement. The East Union Township Board of Supervisors shall appoint a Health Officer by Resolution. The provisions of this section shall be enforced with the filing of a citation by the health officer or other enforcing officials as herein designated. Enforcement shall be in the municipal court having jurisdiction over proceedings to enforce and collect any penalty imposed because of a violation of any provision of this ordinance. The proceedings shall be summary.

§411. Violations and Penalties.

(a) Penalties for violation of this section shall include a fine not to exceed One Thousand Dollars (\$1,000.00) per violation, which shall not be less than One Hundred Dollars (\$100.00) per violation and/or a period of incarceration not to exceed thirty (30) days.

(b) Multiple violations under separate subsections and sections herein shall be deemed separate and independent of any other violations.

(c) Except as otherwise provided, each and every day in which a violation of any provision of this sections continues shall constitute a separate violation.

§412. Effective Date. This Part shall take effect five (5) days after adoption.

§413. Interpretation. The provisions of this Part shall be interpreted to be the minimum requirements and shall be liberally interpreted and translated in favor of East Union Township and shall not be deemed a limitation of any power granted by the State of Pennsylvania or Schuylkill County.

EDITOR'S NOTE: This Ordinance No. 02 of 2010 was adopted by the East Union Township Board of Supervisors on May 3, 2010.

Part 5
Motor Vehicle Nuisances

§501. Purpose. The seriousness of the matter of outdoor storage of abandoned, junked, discarded, unlicensed and/or unregistered motor vehicles upon privately-owned properties within the Township has increased with the passage of time. The Board of Supervisors recognizes that it is a source of vexation and annoyance, not only to the members of the traveling public, but likewise to the owners and occupants of adjoining lands. The Board of Supervisors believes that the outdoor storage of such vehicles upon residential lands constitute an immediate and imminent danger to the general public health, safety and general welfare; presents an attractive nuisance to children and a peril to their safety; presents a hindrance in the preservation of the peace and good order within the East Union Township; and, accordingly, the Board of Supervisors believes that it is imperative that they legislate upon the issue.

§502. Definitions. As used in this Part, the following terms have the meanings indicated, unless a different meaning clearly appears from the context:

Abandoned, Junked, Unlicensed, Discarded and/or Unregistered Vehicles: A motor vehicle that is so worn, deteriorated, obsolete, dismantled and/or disassembled as to make it inoperable or unusable in its existing condition due to mechanical defects and or because it is not licensed and/or registered and/or does not have a current valid Pennsylvania inspection sticker. This definition also includes a motor vehicle which is a nuisance.

Lessee: Owner, for purposes of this Ordinance, when the lessor holds the lessee responsible for maintenance and repairs of the leasehold.

Motor Vehicle: Any type of mechanical device propelled by a motor in which persons or property may be transported on public streets or highways. This definition shall include trailers, semi-trailers, boats, campers, motorcycles and quads.

Motor Vehicle Nuisance: A motor vehicle nuisance shall include any motor vehicle which is unable to move under its own power and has any of the following physical defects: (1) broken windshields, mirrors or other glass with sharp edges; (2) One or more flat or open tires or tubes which would permit vermin harborage; (3) missing doors; windows, wood, trunk or other body parts which would permit animal harborage or would permit access by minor

children; (4) any body part with sharp edges, including holes resulting from rust; (5) missing tires, resulting in unsafe suspension of a motor vehicle; (6) upholstery which is torn or open which could permit animal and/or vermin harborage; (7) broken headlamps or tail lamps with sharp edges; (8) disassembled chassis apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle; (9) protruding a sharp objects from the chassis; (10) broken vehicle frames suspended from the ground in an unstable manner; (11) leaking or damaged oil pan or gas tank which could cause a fire or explosion; (12) exposed battery containing acid; (13) inoperable locking mechanism for doors or trunks; (14) open or damaged floorboards, including trunk and firewall; (15) damaged bumpers pulled away from the perimeter of the vehicle; (16) broken grill with protruding edges; (17) loose or damaged metal trim and clips; (18) broken communication equipment antenna; (19) suspended and unstable support; and (20) such other defects which could otherwise threaten the general health, safety and welfare of the citizens of East Union Township.

Nuisance: Any condition which shall constitute a danger or a potential danger to the health, safety or welfare of the citizens of East Union Township.

Owner: The actual owner, agent or custodian of the property on which motor vehicles are stored, whether an individual, partnership, association or corporation.

Person: A natural person, firm, partnership, association, corporation., or other legal entity.

Private Property: Any real property not owned by the federal government, state, county, school district or other political subdivision.

In this Part, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

§503. Storage or Deposit on Residential Land Prohibited. It shall be unlawful for any person, either an owner, occupant, lessee, agent or otherwise, to store or deposit or cause or permit to be stored or deposited, any abandoned, junked, discarded, unlicensed and/or unregistered motor vehicle upon any open private grounds or land within the Township of East Union, and such storage shall be considered a motor vehicle nuisance. It shall also be unlawful for any person, an owner, occupant, lessee, agent or otherwise, to maintain a motor vehicle nuisance, as that term is defined herein, upon any open private ground or land within the limits of East Union Township.

§504. Notice to Violators. If the provisions of this Part are violated, the Police or Code Enforcement Officer with jurisdiction in East Union Township shall serve written notice, either personally or by certified mail, upon the owner, occupant or person having charge of such land, to comply with provisions of this Part. This notice shall be substantially in the following form:

Notice of Violation

Ordinance No. _____
Abandoned Vehicle Ordinance

To the owner, occupant or person having charge of land known in East Union Township designated as _____

NOTICE IS HEREBY GIVEN that an abandoned, junked, discarded, unlicensed and/or unregistered motor vehicle has been found stored or deposited upon the above described property in East Union Township. This vehicle constitutes a motor vehicle nuisance under the terms and provisions of the referenced Ordinance. A copy of the Ordinance is available for review at the East Union Township Municipal Building.

You are hereby advised that this motor vehicle must be removed within five (5) calendar days from the date of this Notice.

If you fail or refuse to comply with this Notice on or before the expiration of the five (5) days from the date of this Notice, East Union Township, acting through its authorized agents, servants, officers and/or employees, may enter upon your land and remove or cause the motor vehicle nuisance to be destroyed. The expense incurred by the Township may be assessed against the above described land as a municipal lien and shall thereafter constitute a lien and then collected as provided by law.

You are further advised that the Township has no obligation to enter your land and remove the above described motor vehicle nuisance. The Township may proceed in the filing of an enforcement action and the imposition of a penalty of Three Hundred Dollars (\$300.00) for each violation thereof.

§505. Violation and Penalty. Any owner, occupant, lessee, agent or tenant who shall neglect and refuse to remove the abandoned, junked, discarded, unlicensed or unregistered motor vehicle as described by this Part, or who shall fail or refuse to comply with the provisions of any notice herein provided for, or shall violate any provisions of this Part, or shall resist or obstruct the duly authorized agents, servants, officers or employees of the Township in the removal and destruction thereof, shall, upon conviction thereof, be fined a sum of Three Hundred Dollars (\$300.00) for each violation thereof or undergo imprisonment for a term not to exceed thirty (30) days. Each day the violation continues beyond the date fixed for compliance with the Notice established herein shall constitute a separate offense.

§506. Remedies Not Mutually Exclusive. The remedies provided herein for the enforcement of this Part or any remedy provided by law shall not be deemed mutually exclusive; rather, they may be employed simultaneously or consecutively at the option of the Township by and through the appropriate police agency, which shall be the designated the enforcement office.

§507. Severability. If any section or provision of this Part is held to be invalid, such ruling shall not affect the validity of the remaining provisions of the part.

EDITOR'S NOTE: This Ordinance No. 2007-4 was adopted by the East Union Township Board of Supervisors on September 24, 2007.

Part 6

Nuisances Prohibited

§601. Definitions. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

“Nuisance”- means any condition or use of premises or of building exteriors which endangers the safety of others and/or is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the existence, keeping, or maintenance upon private property of any of the following: (a) lumber, junk, trash, garbage, rubbish, or debris; (b) Abandoned, discarded, or unused objects or equipment such as automobiles, appliances, or containers; or (c) Dilapidated buildings or structures.

§602. Duty to Maintain Private Property. No person owning, leasing, occupying, or in-charge of any premises shall maintain or keep or allow to exist any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located or in a manner endangering the safety of others.

§603. Exterior Storage of Non-Operating Vehicles Prohibited. No person in charge of or in control of any premises, whether as owner, lessee, tenant, occupant or otherwise shall allow any partially dismantled, wrecked, junked, discarded, or otherwise non-operating motor vehicle to remain on such property longer than ten (10) days; and no person shall leave any such vehicle on any property within the Township for a longer time than ten days; except that this section shall not apply with regard to any vehicle in an enclosed building or so located upon the premises as not to be readily visible from any public place or from any surrounding private property.

§604. Nuisances to be Abated Following Notice. It shall be the duty of any person creating a nuisance or responsible for the creation of a nuisance, or any owner of land upon which a nuisance exists to remove such nuisance, including, but not limited to, a dangerous structure, upon notice by the Township to do so.

§605. Penalty for Failure to Remove Nuisances within the Time Limit. A person having the duty to remove a nuisance under the provisions of this Part, shall, upon failure to do so within a reasonable time after notice has been given by the Township, be liable to the Township for the costs of the removal of such nuisance, together with a fine of not more than Three Hundred Dollars (\$300.00) and costs of prosecution, and in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. Provided: each day's continuance of a violation of this ordinance shall constitute a separate offense.

§606. Enforcement. Any Police officer or the East Union Township Code Enforcement Officer shall be authorized to enforce this Part.

EDITOR'S NOTE: This Ordinance No. 6-14-99 was adopted by the East Union Township Board of Supervisors on June 14, 1999. The Enforcement provision was changed to permit a Code Enforcement Officer of the Township to enforce this Part

Part 7
Dogs and Cats

§701. Definitions. As used in this Part the following terms mean:

Animal- For the purpose of this ordinance, animal shall mean dog or cat.

Animal control authority- The East Union Township Board of Supervisors.

Animal establishment- Any pet shop, grooming shop, animal auction, performing animal exhibition, kennel or animal shelter, except this term shall not include veterinary medical facilities, licensed research facilities, facilities operated by government agencies, or licensed animal dealers regulated by the USDA under the provisions of US Public Laws 89-544, 91-579, 94-279, 99-198, and 101-624.

Animal shelter- Facility designated or recognized by the East Union Township Board of Supervisors for the purpose of impounding and caring for animals.

At large- A dog or cat shall be deemed to be at large when off the property of the owner and not under restraint.

Humane manner- Care of an animal to include, but not be limited to, adequate heat, ventilation and sanitary shelter, wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species, and breed.

Kennel- An establishment kept of the purpose of breeding, selling, or boarding dogs or cats or engaged in training dogs or cats.

Licensing Authority- The agency or department of The East Union Township Board of Supervisors or any designated representative thereof charged with administering the issuance and/or revocation of permits and licenses under the provisions of this ordinance.

Livestock guarding dogs- Dogs kept for the primary purpose of protecting livestock from predatory animals.

Neutered- Rendered permanently incapable of reproduction.

Nuisance- A dog or cat shall be considered a nuisance if it: Damages, soils, defiles, or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, dangerous, or offensive conditions; causes a disturbance by excessive barking or other noise making; or chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public property.

Owner- A person having the right of property or custody of a dog or cat or who keeps or harbors a dog or cat or knowingly permits a dog or cat to remain on or about any premises occupied by that person.

Person- Any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

Pet shop- An establishment engaged in the business of buying or selling, at retail, dogs or cats or other animals for profit-making purposes.

Restraint- A dog or cat shall be considered under restraint if it is within the real property limits of its owner or secured by a leash or lead or under the control of a responsible person.

"Dangerous" dog or cat- A dog or cat that without justification attacks a person or domestic animal causing physical injury or death, or behaves in a manner that a reasonable person would believe poses an unjustified imminent threat or serious injury or death to one or more persons or domestic animals.

§702. Licensing and Rabies Vaccination.

(a) Except as provided in Section 703, no person shall own, keep, or harbor any dog or cat over four months of age within the Township of East Union unless such dog or cat is vaccinated and licensed. The provisions of this section do not apply to animals owned by a li-

censed research facility or held in a veterinary medical facility or government operated or licensed animal shelter.

(b) All dogs and cats shall be vaccinated against rabies by a licensed veterinarian, in accordance with the latest "Compendium of Animal Rabies Prevention and Control" authored by the National Association of State Public Health Veterinarians and published annually in the Journal of the American Veterinary Medical Association.

(c) A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the Compendium. Each owner shall also receive a durable vaccination tag indicating the year in which it was issued.

(d) Application for a license must be made within 30 days after obtaining a dog or cat over four months of age, except that this requirement will not apply to a nonresident keeping a dog or cat within the Township of East Union for no longer than 60 days.

(e) Certain areas of the Township which the East Union Township Board of Supervisors' deem Farmlands will be exempt from the licensing of cats.

(f) Application for a dog license shall be made to the Schuylkill County Treasurer's Office or any authorized agent of the Schuylkill County Treasurer's Office and shall include the name and address of the owner and the name, breed, color, age, and sex of the dog or cat. Applicants also shall pay the prescribed licensing fee and provide proof of current rabies vaccination.

(g) Application for a cat license shall be made to the Secretary of the East Union Township Board of Supervisors and shall include the name and address of the owner and the name, breed, color, age, and sex of the dog or cat. Applicants also shall pay the prescribed licensing fee and provide proof of current rabies vaccination.

(h) The licensing period shall be for one year. License renewal may be applied for within 60 days prior to the expiration date. New residents must apply for a license within 30 days of establishing residence.

(i) A license for a dog shall be issued at fees set by the Schuylkill County Treasurers Office.

(j) A license for a cat shall be issued after payment of a fee of \$8.00 for each unneutered cat and \$6.00 for each neutered cat. Persons who fail to obtain a license as required within the time period specified in this section will be subjected to a delinquent fee of \$5.00.

(k) Upon acceptance of the license application and fee, the secretary shall issue a durable license tag including an identifying number, year of issuance, city, county, and state. Both rabies and license tags must be attached to the collar of the cat. Tags must be worn at all times and are not transferable. The Secretary of the East Union Township Supervisors shall maintain a record of all licenses issued, and such records shall be available to the East Union Township Municipal Building.

(l) Upon acceptance of the license and application and fee. The Schuylkill County Treasurer's Office or any authorized agent of the Schuylkill County Treasurers Office shall issue a durable license tag including an identifying number, year of issuance, city, county, and state. Both rabies and license tags must be attached to the collar of the dog and tags must be worn at all times and are not transferable.

§703. Permits.

(a) No person shall operate an animal establishment without first obtaining a permit in compliance with this section.

(b) The permit period shall begin with the first day of the fiscal year and shall run for one year. Renewal applications for permits may be made within 60 days prior to the expiration date. Application for a permit to establish a new breeding animal establishment under the provisions of this ordinance may be made at any time.

(c) Annual permits shall be issued upon payment of the applicable fee:

<For each kennel authorized to house less than six (6) dogs or cats \$75.

<For each kennel authorized to house six (6) but not more than forty-nine (49) dogs or cats \$100

<For each kennel authorized to house fifty (50) or more dogs and cats \$125

<For each pet shop \$75

<For other animal establishment \$75

(d) A person who maintains a kennel of six (6) or more dogs or cats for breeding purposes may pay an annual permit fee or may elect to license individual dogs or cats as provided under Section 701. Every facility regulated by this ordinance shall be considered a separate enterprise, requiring an individual permit.

(e) Under the provisions of this ordinance, no permit fee shall be required of any animal shelter. All other provisions shall apply. Any change in the category under which a permit is issued shall be reported to The East Union Township Board of Supervisors within 60 days, whereupon reclassification and appropriate adjustment of the permit fee shall be made.

(f) Failure to comply with the provisions of this section is subject to a fine of \$100.00.

§704. Issuance and Revocation of Permits and Licenses.

(a) The East Union Township Board of Supervisors may revoke any permit or license if the person holding the permit or license refuses or fails to comply with this ordinance, the regulations promulgated by the East Union Township Board of Supervisors or any other law governing the protection and keeping of animals.

(b) If an applicant is shown to have withheld or falsified any material information on the application, the East Union Township Board of Supervisors may refuse to issue or may revoke a permit or license.

(c) It shall be a condition of issuance or any permit for an animal establishment that the East Union Township Board of Supervisors shall be permitted to inspect any and all animals and the premises where such animals are kept at any reasonable time during normal business hours. Where a permit is revoked for any cause, or pending appeal of any such action, the East Union Township Board of Supervisors shall have power of entry on the premises and into all areas where animals are being kept. A person denied a permit may not reapply for a period of at least 30 days. Each reapplication shall disclose any previous denial or revocation and shall be accompanied by a \$25.00 fee.

§705. Owner Responsibility.

(a) All dogs and cats shall be kept under restraint.

(b) Every “dangerous” dog or cat, as determined by the East Union Township Board of Supervisors shall be confined by its owner within a building or secure enclosure and shall be securely muzzled or caged whenever off the premises of its owner.

(c) No dog or cat shall be allowed to cause a nuisance. The owner of every dog or cat shall be held responsible for every behavior of such dog or cat under the provisions of this ordinance.

(d) Failure to comply with the provisions of this section shall be subject to a fine of \$50.00.

(e) Dog and cat owners shall ensure that their dog or cat carries identification at all times in the form of microchip, tag, or other means to allow easy determination of the owners.

(f) Livestock guarding dogs shall be exempt from nuisance regulations when performing duties protecting livestock on premises owned or controlled by the owner.

§706. Impoundment.

(a) Any dog or cat found running at large shall be impounded by the East Union Township Board of Supervisors in an animal shelter and confined in a humane manner. Immediately upon impounding a dog or cat, the East Union Township Board of Supervisors shall make every reasonable effort to notify the owner and inform such owner of the conditions whereby custody of the animal may be regained. Dogs and cats not claimed by their owners within a period of ten (10) full days in which the shelter is open to the public shall become the property of the East Union Township Board of Supervisors.

(b) When a dog or cat is found running at large and its ownership is verified by The East Union Township Board of Supervisors, the authority may exercise the option of serving the owner with a notice of violation in lieu of impounding the animal.

(c) In the event that the East Union Township Board of Supervisors finds dogs or cats to be suffering, it shall have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner's expense or to euthanize them when necessary to prevent further suffering. Return to the owner may be withheld until the owner shall have made full payment for all expenses so incurred.

(d) Disposal of an animal by any method specified herein does not relieve the owner of liability for violations and any accrued charges.

§707. Redemption.

(a) Any animal impounded may be redeemed by the owner thereof within five (5) days upon a payment of an impoundment fee of \$50.00, provided that if any such animal has been previously impounded, the impoundment fee shall be \$100.00. Payment of impoundment fees is not considered to be in lieu of any fine, penalty, or license fees.

(b) Any animal confined for rabies, quarantine, evidence, or other purpose may be redeemed by the owner thereof upon payment of a fee of \$50.00.

(c) No animal required to be licensed or vaccinated under this Part may be redeemed until provisions for such licensing have been fulfilled.

§708. Adoption. An adoption fee of \$15.00 shall be assessed at the time of adoption. No dog or cat shall be released for adoption as a pet without being neutered or without a written agreement from the adopter guaranteeing that the animal will be neutered. Vaccination fees, licensing fees, and veterinary costs may be assessed above and beyond the adoption fee.

§709. Interference. No person shall interfere with, hinder, or molest any agent of the East Union Township Board of Supervisors in the performance of any duty as herein provided. Any person violating this section shall be deemed guilty of a misdemeanor and shall be subject to a fine or not less than \$100.00 or more than \$200.00.

§710. Repealer. All other ordinances of East Union Township that are in conflict with this Part are hereby repealed to the extent of such conflict.

§711. Severability. If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

§712. Applicability. This Part shall be in full force and effect upon the expiration of five (5) days after its passage and publication.

§713. Safety Clause. The East Union Board of Supervisors hereby finds, determines, and declares that this Part is necessary for the immediate preservation of the public health, safety, and welfare of the Township of East Union and the inhabitants thereof.

EDITOR'S NOTE: This Ordinance No. 2008-8 was enacted by the East Union Township Board of Supervisors on July 7, 2008.

Part 8
Animal Control

§801. Definitions. As used in this ordinance the following terms mean:

Animals – Wild or domesticated animals of all species.

Animal control authority – the East Union Township Board of Supervisors.

Animal establishment – Any pet shop, grooming shop, animal auction, performing animal exhibition, kennel, rescue operation or animal shelter, except this term shall not include veterinary medical facilities, licensed research facilities, facilities operated by government agencies, or licensed animal dealers regulated by the USDA under the provisions of US Public Laws 89-544, 91-579, 94-279, 99-198, and 101-624.

Animal shelter – Facility designated or recognized by the East Union Township Board of Supervisors for the purpose of impounding and caring for animals, to exclude rescue operations.

At large – An animal shall be deemed to be at large when off the property of the owner and not under restraint.

Humane Manner – Care of an animal to include, but not be limited to, adequate heat, ventilation and sanitary shelter, wholesome food and water, consistent with the normal requirements and feeding habits of the animal's size, species and breed.

Kennel – An establishment kept for the purpose of breeding, selling, or boarding dogs or cats or engaged in training dogs or cats, excluding animal rescue operations.

Licensing authority – The agency or department of the East Union Township Board of Supervisors or any designated representative thereof charged with administering the issuance and/or revocation of permits and licenses under the provisions of this ordinance.

Livestock guarding dogs – Dogs kept for the primary purpose of protecting livestock from predatory attacks.

Neutered – Rendered permanently incapable of reproduction.

Nuisance – An animal shall be considered a nuisance if it; Damages, soils, defiles, or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner; causes unsanitary, dangerous or offensive conditions; causes a disturbance by excessive barking or other noise making; or chases vehicles, or molests, attacks, or interferes with persons or other domestic animals on public property.

Owner – A person having the right of property or custody (including temporary custody) of an animal or who possesses, controls, keeps, harbors or provides food and water to any animal or knowingly permits and animal to remain on or about any premises occupied by that person.

Person – Any individual, corporation, partnership, organization, or institution commonly recognized by a law as a unit.

Pet Shop – An establishment engaged in the business of buying or selling, at retail, dogs or cats or other animals for profit-making purposes.

Rescue operation – Any person or animal establishment who possesses any animal, temporarily or permanently, in order to provide shelter, food, comfort or medical attention for the purpose of keeping said animal(s) or restoring them to their owners or seeking new homes for them.

Restraint – A dog or cat shall be considered under restraint if it is within the real property limits of its owner or secured by a leash or lead or under the control of a responsible person.

Wild/Exotic Animal – a wild, dangerous, or undomesticated animal or venomous reptile which is not of a species customarily used as an ordinary house pet or livestock and which

would ordinarily be confined to a zoo or which would ordinarily be found in the wilderness of this or any other country or which otherwise causes a reasonable person to be fearful of bodily harm or property damage, irrespective of its actual or asserted state of tameness or domestication. This definition includes animals bred or raised in captivity and hybrids of wild/exotic animals, but not fish or birds.

Dangerous Animals – Any animal that without justification attacks a person or domestic animal, causing physical injury or death, or behaves in a manner that a reasonable person would believe poses an unjustified threat of serious injury or death to one or more persons or domestic animals. A dog may be determined to be dangerous under this section or Section 502A of the Pennsylvania Dog Law, 3 P.S. Section 459-502A.

§802. Confinement Requirements for Multiple Domesticated Animals.

Any person possessing six (6) or more dogs anywhere on their property shall meet the confinement requirements set forth below. Said requirements apply regardless of where the animals are being kept on the property. The confinement facility shall be inspected and approved by the Animal Control Officer or any East Union Township Police Officer:

(a) A pen or structure with sides and a secure top. Pens must have bottoms secured to the sides or the sides must be imbedded in the ground no less than two (2) feet. Use of this Option is subject to all other applicable laws.

(b) A fence at least six (6) feet high above the ground and imbedded in the ground no less than two (2) feet. This fence must prevent any possibility of the animals escape and must have signs conspicuously placed around the entire perimeter of the fence. The use of this option is subject to all other applicable laws.

§803. Licensing and Vaccination.

(a) Licensing and vaccination required – No person shall own, keep, or harbor any animal over four months of age within the Township of East Union unless such animal is licensed and fully vaccinated. The provisions of this section do not apply to animals owned by a licensed research facility or held in a veterinary medical facility or government operated or licensed animal shelter.

(b) Application for a license must be made within 30 days after obtaining any animal over four months of age or when a previously held animal reaches four (4) months.

(c) Application for a dog license shall be made to the Schuylkill County Treasurers Office or any authorized agent of the Schuylkill County Treasurers Office and shall include the name and address of the owner and the name, breed, color, age, and sex of the dog or cat. Applicants also shall pay the prescribed licensing fee and provide proof of current rabies vaccination.

(d) Application for a cat license shall be made to the Secretary of the East Union Township Board of Supervisors and shall include the name and address of the owner and the

name, breed, color, age, and sex of the dog or cat. Applicants also shall pay the prescribed licensing fee, which shall be set by resolution, and provide proof of current rabies vaccination.

(e) Term of Licensing/Renewals – The licensing periods set forth in this section shall be for one year. License renewal may be applied for within 60 days prior to the expiration date. New residents must apply for a license within 30 days of establishing residence.

(f) A license for a dog shall be issued at fees set by the Schuylkill County Treasurers Office.

(g) A license for a cat shall be issued after payment of a fee of \$8.00 for each unneutered cat and \$6.00 for each neutered cat. Persons who fail to obtain a license as required within the time period specified in this section will be subjected to a delinquent fee of \$5.00. Said fees may be changed from time to time by way of resolution. The Secretary of The East Union Township Supervisor shall maintain a record of all licenses issued, and such records shall be available at the East Union Township Municipal Building.

(h) Cat identification Cards – Upon acceptance of a cat license application and fee by the East Union Township Board of Supervisors, the secretary shall issue an identification card including an identifying number, year of issuance, city, county, and state. Proof of current rabies vaccination and identification card shall be maintained by the owner of any cat. Identification cards and current rabies vaccination shall be produced upon request of the Animal Control Officer or any East Union Township Police Officer. Identification cards are not transferable.

(i) Dog Tags – Upon acceptance of a dog license application and fee, the Schuylkill County Treasurers Office or any authorized agent of the Schuylkill County Treasurers Office shall issue a durable license tag including an identifying number, year of issuance, city, county, and state. Both rabies and license tags must be attached to the collar of the dog and Tags must be worn at all times and are not transferable.

(j) All animals shall be vaccinated against rabies by a licensed veterinarian, in accordance with the latest “Compendium of Animal Rabies Prevention and Control” authored by the National Association of State Public Health Veterinarians and published annually in the Journal of the American Veterinary Medical Association.

(k) A certificate of vaccination shall be issued to the owner of each animal vaccinated on a form recommended by the Compendium. Each owner shall also receive a durable vaccination tag indicating the year in which it was issued and attach the same to the animal.

(l) Proof required – It shall be the sole responsibility of the owner of any animal to keep and maintain all records regarding the licensing and vaccination of any animal in accordance with this section and to produce the same records immediately upon the request of the Animal Control Officer, any East Union Township Police Officer or current Board Member of the East Union Township Board of Supervisors.

(m) Tags – It shall be the sole responsibility of the owner of any animal to attach any licensing, vaccination or other tag as required under this ordinance and to ensure that the tag

is, at all times, secured to the animal in a way that it cannot fall off. If any tag shall become lost, the owner shall immediately notify the Animal Control Officer and/or the Licensing Authority of the situation and take measures to have new tags secured to the animal.

(n) Certain areas of the Township which the East Union Township Board of Supervisor deem Farmlands will be exempt from the licensing of cats.

§804. Issuance and Revocation of Permits and Licenses.

(a) The licensing authority may, at its discretion, accept, deny, revoke or renew any permit or license required in accordance with the terms of this ordinance.

(b) Any person holding a permit or license or who files an application or re-application for a permit or license shall be denied if said person fails to comply with this ordinance, the regulations promulgated by The East Union Township Board of Supervisors or any other law governing the protection and keeping of animals.

(c) If an applicant is shown to have withheld or falsified any material information on the application, the East Union Township Board of Supervisors shall refuse to issue or may revoke any permit or license.

§805. Nuisance/Sanitary Conditions.

(a) It shall be unlawful for any person(s) to own, control, possess, harbor, care for, shelter or maintain any animal (even temporarily) in such a manner as to disturb or annoy the public through the animal's noise, barking, smell, mischief or other harmful propensities. All animal pens or other areas in which animals are kept shall be maintained in a sanitary condition free of offensive, obnoxious or foul odors.

(b) It shall be unlawful to own, possess, harbor, control or keep any animal which, without justification, makes noise repeatedly for a period of ten (10) minutes during the hours of 7AM to 10PM or repeatedly for a period of five (5) minutes during the hours of 10PM to 7AM regardless of whether the animal is physically situated in or upon private property. Said noise shall constitute a nuisance. Justification shall be an affirmative defense and shall only be a defense to a violation of this section where the owner establishes proof, by a preponderance of the evidence, that at the time the animal was making such noise, a person was trespassing or threatening to trespass onto the owners private property, if the animal is legitimately situated on that property, or that, the animal was provoked or teased by a person.

(c) No owner, custodian or keeper of any animal shall allow or permit any such animal to deposit excrement (defecate) upon any property not owned or leased by the owner, custodian or keeper of such animal, without immediately picking up such excrement.

(d) Any animal not properly restrained shall be deemed a nuisance.

§806. Dangerous or Vicious Animals.

(a) Upon report of a vicious animal, the Animal Control Officer will report to the scene immediately. If the owner of the animal is unavailable or unknown, the Animal Control Officer may utilize a tranquilizer gun or other approved method to subdue the animal and/or take appropriate action to insure the safety of the East Union Township residents. A dog determined to be dangerous under Section 502A of the Pennsylvania Dog Law, 3 P.S. Section 450-502A, shall be restrained or otherwise kept in accordance with Article VI-A of the Pennsylvania Dog Law, 3 P.S. Section 459-501-A et seq. Dogs may be killed only in accordance with the requirements of Section 501 of the Pennsylvania Dog Law, 3 P.S. Section 459-501, and otherwise, said dogs must be retained and delivered to the police or State dog warden. While detained, said dog must be treated in a humane manner.

(b) The Animal Control Officer or any East Union Township Police Officer, shall send written notice either sent by regular, first class mail, or posting of the property of the owners last known address, notifying the owner of any animal deemed dangerous and of the requirements to register that animal as a dangerous animal with the East Union Township Police Department within ten (10) days of such notice. The animal may be detained by the Animal Control Officer or East Union Township Police Department until such time that the dog has been registered.

(c) Any person who owns or who has custody of any animal deemed to be a dangerous animal shall register the animal with the East Union Township Police Department on a form provided by the Police Department and pay a fee of \$100.00 for such registration. Upon registering a dangerous animal the owner or custodian shall display, in a conspicuous manner, a sign on his premises warning that there is a dangerous animal on the premises. The sign shall be visible and legible from the sidewalk and street and shall comply with all other applicable laws, including but not limited to the East Union Township Sign Ordinance.

(d) Proof required at registration – The owner of an animal deemed to be dangerous must provide proof at the time of registration that:

(1) The home-owner's insurance policy for the residence in which the dangerous animal is housed contains a rider or a liability clause for the dangerous animal;

(2) The animal's rabies vaccination status is current;

(3) The animal is licensed for the current year;

(4) The animal is micro-chipped with a permanent ID;

(5) The animal is neutered or spayed in accordance with the owner has complied with sub-section (g) of this section; and

(6) The owner has complied with sub-section (e) of this section.

(e) The owner or person having custody of a dangerous animal shall confine such animal by one of the following methods if outside, which shall be inspected and approved by the Animal Control Officer or any East Union Township Police Officer.

(1) A pen or structure with sides and a secure top. Pens must have bottoms secured to the sides or the sides must be imbedded in the ground no less than two (2) feet. Use of this option is subject to all other applicable laws.

(2) A fence at least six (6) feet high above the ground and imbedded in the ground no less than two (2) feet. This fence must prevent any possibility of the animals escape and must have signs conspicuously placed around the entire perimeter of the fence. The use of this option is subject to all other applicable laws.

(f) The owner or person having custody of a dangerous animal shall not permit such animal to go beyond confined bounds of the owner's premises unless the animal is securely leashed and muzzled. This leash shall be no more than four (4') feet in length. Dangerous animals shall have a tag on their collar that will be issued to the owner at the time of registration. No dangerous animal shall be permitted to go beyond the confined bounds of the owner's premises or the premises of the person having custody without wearing this tag.

(g) Any owner of a dangerous animal that transfers ownership of such animal shall notify the East Union Township Police of the transfer and the new location of the animal. If the new owner resides in East Union Township, he/she shall register the dangerous dog with the East Union Township Police. The designation of dangerous animal shall transfer with ownership of such animal.

(h) Once an animal is deemed to be dangerous, it shall be neutered or spayed so as not to propagate vicious characteristics inherent in the progeny of the dangerous animal.

(i) Any animal which is deemed a dangerous animal that has not been registered with the East Union Township Police as a dangerous animal may be immediately seized and detained as provided in Section 8 by the Animal Control Office or the East Union Township Police who shall turn the dangerous animal over to an approved animal shelter, if one is available, or shall hold, in a humane manner, the said dangerous animal until the dangerous animal is registered and the owner complies with the other applicable provisions of this ordinance. Upon such seizure, the Animal Control Officer or Police Officer shall provide notice to the owner of such seizure and detention and the requirements to register the dog within ten (10) days of the date of the seizure. Notice shall be by either sending a letter by regular, first class mail to the last known address of the owner or by attaching a copy of the letter to any entrance of the owners last known address. The animal shall continue to be detained until such time as the animal is registered and all requirements under this ordinance are complied with. All animal shelter fees for seized and detained dangerous dogs shall be paid by the owner. Nothing in this section shall impact a prosecution under the PA Dog Law.

(j) It shall be an affirmative defense to any determination of dangerous animal status if the owner establishes, by a preponderance of the evidence, that the inflicting injury or damage on any person was committed on a willful trespasser or other tort upon premises occupied by the owner of the animal, or teasing, tormenting or abusing or assaulting the animal, or

committing or attempting to commit a crime. No animal may be declared dangerous for taking any action to defend or protect a human being within the immediate vicinity of the animal from an attack or assault.

§807. Quarantine of Animals. In the event an animal bites any person or other animal:

- (a) The owner or custodian of the animal shall:
 - (1) Immediately notify the East Union Township Animal Control Office and Police Dept. of the incident and complete an animal bite report on such form as the Animal Control Officer or Police Officer shall prescribe;
 - (2) Quarantine the animal for a period of ten (10) days to observe for signs of rabies at such location and under such conditions as are imposed or required by the Animal Control Officer, Police Department or Issuing Authority;
 - (3) At the expiration of ten (10) days following the day of the biting incident, have the Animal examined by a veterinarian. A certificate of examination shall be filed with the Animal Control Officer on such form as the Animal Control Officer shall prescribe, completed and signed by the veterinarian. The certificate of examination shall be filed not more than fourteen (14) days following the bite incident; and
 - (4) If the animal dies within the ten (10) day quarantine period, the animal's head shall be removed by a veterinarian and tested for rabies by the appropriate state laboratory or a laboratory designated by the Commonwealth for that purpose; and
 - (5) All costs, including laboratory preparation, laboratory examination, quarantine and veterinary examination of the animal shall be borne by the owner or custodian of the Animal.
- (b) The Animal Control Officer or Police Officer shall have the right and duty to seize any Animal that bites a human or animal if he determines such seizure is necessary to insure that the animal shall be quarantined. If any owner or custodian shall refuse any order of the Animal Control Officer or Police Officer to quarantine the animal and to have it examined by a veterinarian, the Animal Control Officer or Police Officer shall take the action necessary to comply with subsection (a) (2) and (3) hereof and the owner or custodian of the animal shall be liable to the Township for all costs thereof which may be collected as an additional penalty for violation of this section.
- (c) The owner of any animal placed under quarantine shall not sell, exchange, lease, lend, give away, allow to stray, remove or allow to be removed, such animal until the quarantine has been revoked.
- (d) Any animal under quarantine shall be muzzled while outside the confines or structure specified by the Animal Control Officer or Police Officer for the quarantine.

(e) If a biting incident occurs that involves an unclaimed or stray animal, the owner of which cannot be identified, the Animal Control Officer or Police Officer shall attempt to capture the animal or destroy it if necessary. The same procedures as outlined in this section concerning quarantine and veterinary examination of the offending animal shall be followed with the costs borne by the Township.

§808. Animals At Large.

(a) It shall be unlawful for the owner or person having custody of any animal or the parent or guardian of any minor owning or having custody of any animal to allow the animal to go beyond the boundaries of their premises or to run at large over the streets or public grounds or upon the property of anyone other than the owner or person having custody of such animal. It shall also be unlawful for the owner or person having custody of such animal to permit such animal to pose a danger to pedestrians using adjacent sidewalks and streets.

(b) It shall be the duty of the owner, custodian or keeper of any dog traveling on the streets or public grounds to have the animal on a leash at all times.

(c) Any animal found to be at large may be seized and detained in accordance with Section 808 and then impounded and confined in a humane manner. Notice to the owner of the impounded animal shall be given in accordance with Section 809 of this Part.

(d) The owner of any animal that has been seized, detained or impounded under this section shall have three (3) days from the date notice is given to claim the animal.

(e) Notwithstanding subsection (d) above, if any owner of any animal that has been seized, detained or impounded under this section intends to claim an animal it must, upon receiving notice, immediately notify the Animal Control Officer or EUT Police Department of its intention to claim the animal.

(f) No animal will be released unless lawful ownership and complete compliance with all terms and conditions of this ordinance is established. Despite any intention to claim an animal, if a purported owner cannot establish ownership or compliance with this ordinance within three (3) days of receiving notice then the animal shall become the property of East Union Township.

(g) When an animal is found at large and its ownership is verified the appropriate authority may, at its discretion, exercise the option of serving the owner with a notice of violation in lieu of impounding the animal.

(h) If an animal that is found at large is seized and its owner can be immediately identified and located, then the Animal Control Officer or Police Officer or other authorized person may, at his discretion, choose not to detain and impound the animal and instead may choose to turn the animal over to the owner immediately.

(i) The owner, whose animal is seized without detention and impoundment, shall be subject to pay a Redemption fee as set forth in Section 812. Use of the procedure set forth

in this section shall not bar a prosecution for any violation of law, including imposition of a fine under this ordinance.

§809. Seizure and Detention. The Animal Control Officer or any police officer of East Union Township, may, at their discretion, seize and impound any animal violating any section of this ordinance. The officers shall use any and all means reasonably necessary to carry out the detention and impounding of said animal, keeping in mind, first and foremost the safety and security of the officer and the public balanced against the most humane treatment of the animal as possible to carry out the duty.

§810. Notice of Detention. If the owner of a detained animal can be identified by license, tag or other means, the owner shall be given immediate notice, either in person or by phone or by regular, first class mail to the last known address of the owner, or posting of said address of the detention and impoundment of the animal. If the owner is unknown, written notice of the impoundment shall be posted at the East Union Township Municipal Building and at Post Offices located in the township for a period of Three (3) days from the date of seizure. Said posting shall describe the animal, the place and time of seizure and the location of impoundment. Any seized animal shall not be released until lawful ownership is established and until all requirements set forth in this ordinance are complied with.

§811. Impoundment.

(a) In addition to all other terms as set forth in this Part, in the event that the appropriate authority as prescribed herein finds any animal to be suffering, it shall have the right forthwith to remove or cause to have removed any such animals to a safe place for care at the owner's expense or to euthanize them when necessary to prevent further suffering. Return to the owner may be withheld until the owner shall have made full payment for all expenses so incurred and upon establishing proof that the terms and conditions of this Part have been complied with.

(b) Disposal of an animal by any method specified herein does not relieve the owner of liability for violations and any accrued charges.

§812. Redemption.

(a) Any animal seized, detained or impounded for a violation of this ordinance or any applicable law may be redeemed by the owner thereof within five (5) days upon payment of an impoundment fee of \$50.00 plus costs related to providing food, water, shelter or any necessary medical attention, provided that if any such animal has been previously impounded, the impoundment fee shall be \$100.00 plus costs as set forth above. Payment of impoundment fees is not considered to be in lieu of any fine, penalty, or license fees.

(b) No animal required to be licensed or vaccinated under this ordinance may be redeemed until proof that the terms and conditions of this ordinance have been complied with.

§813. Destruction of Unclaimed Animals. It shall be the duty of the Animal Control Officer, East Union Township Police or other authorized person to keep detained and impounded an-

imals for a period of at least three (3) days. If, after three (3) days have elapsed from the giving or posting of notice as required in Section 810, a detained and impounded animal has not been claimed, the Animal Control Officer, East Union Township Police or other authorized person may either euthanize the animal in a humane way, sell the animal, provided that no animal shall be sold for vivisection or put the animal up for adoption. The proceeds derived from the sale of an animal, after deduction of the seizure fee and the reasonable expenses and costs incurred because of its detention, shall be paid to the Township as it applies to all animals and to the County Treasurer as required by the Dog Law.

§814. Wild/Exotic Animals. No person shall own, harbor, maintain or control any wild or exotic animal or hybrids of wild or exotic animals within East Union Township.

§815. Animal Establishment Permits.

(a) No person shall operate an animal establishment without first obtaining a permit in compliance with this section.

(b) No permit shall be issued until a completed application, on a form prescribed by the East Union Township Board of Supervisors and/or animal control officer is submitted to and approved by the animal control officer. Said application shall require information regarding a complete history of the animal including, but not limited to the following; when and where the animal came from, the purpose for which the animal was acquired, the duration upon which the animal will be held, a complete history of the animal, whether the animal had been involved in any prior incidents which would cause it to be deemed a Dangerous Animal under this ordinance and whether there was any agreement between any adoption or rescue operation (a copy of which shall be provided to the Township) regarding the animal (s).

(c) The permit period shall begin with the first day of the fiscal year and shall run for one year. Renewal applications for permits may be made within 60 days prior to the expiration date. Application for a permit to establish a new breeding animal establishment under the provisions of this ordinance may be made at any time.

(d) Annual permits shall be issued upon payment of the following applicable fee (said fees may be changed from time to time by resolution):

- < For each kennel authorized to house less than six (6) dogs or cats \$75.
- <For each kennel authorized to house six (6) but not more than forty-nine (49) dogs or cats. \$100
- < For each kennel authorized to house fifth (50) or more dogs and cats \$125.
- < For each pet shop \$75.
- < For other animal establishments \$75.

(e) A person who maintains a kennel of six (6) or more dogs or cats for breeding purposes may pay an annual permit fee or may elect to license individual dogs or cats as pro-

vided under Section 802. Every facility regulated by this ordinance shall be considered a separate enterprise, requiring an individual permit.

(f) Under the provisions of this ordinance, no permit fee shall be required of any animal shelter. All other provisions shall apply. Any change in the category under which a permit is issued shall be reported to The East Union Township Board of Supervisors within 60 days, whereupon reclassification and appropriate adjustment of the permit fee shall be made.

(g) It shall be a condition of issuance of any permit for an animal establishment that The East Union Township Board of Supervisors and/or animal control officer shall be permitted to inspect any and all animals and the premises where such animals are kept at any reasonable time during normal business hours. Where a permit is revoked for any cause, or pending appeal of any such action, The East Union Township Board of Supervisors and/or animal control officer shall have power of entry on the premises and into all areas where animals are being kept. A person denied a permit may not reapply for a period of at least 30 days. Each reapplication shall disclose any previous denial or revocation and shall be accompanied by a \$25.00 fee.

(h) Failure to comply with the provisions of this section is subject to a fine under Section 822.

§816. Animal Establishment Regulations. Any person or entity deemed by the East Union Township Board of Supervisors or the animal control officer to constitute an animal establishment shall be required to follow the confinement requirements as set forth in Section 806(e) of this Ordinance prior to any permit being issued.

§817. Owner Responsibility.

(a) To comply with any and all requirements and regulations as set forth herein.

(b) All animals shall be kept under restraint.

(c) The owner of every animal deemed to be a dangerous animal, shall be confine said animal within a building or secure enclosure as prescribed herein and shall at all times securely muzzle and leash or cage the animal whenever off the owners premises.

(d) No animal shall be allowed to cause a nuisance. The owner of every animal shall be held responsible for every behavior of such animal under the provisions of this ordinance.

(e) Animal owners shall, at all times, ensure that their animals carry the proper identification as prescribed herein.

(f) Animal owners shall, ensure that all requirements under this ordinance are complied with.

§818. Adoption. An adoption fee of \$15.00, plus all costs, shall be assessed at the time of adoption. No animal shall be released for adoption as a pet without being neutered or without a written agreement from the adopter guaranteeing that the animal will be neutered within 15 days of the date of adoption. Vaccination fees, licensing fees, and veterinary costs may be assessed above and beyond the adoption fee. If terms are not complied with then ownership of the animal shall revert back to East Union Township and the Township may, at its discretion and without order of court, enter onto the property of the adopting party and retrieve the animal.

§819. Interference. No person shall interfere with, hinder, or molest any agent authorized to perform any duty as herein provided.

§820. Appointment of Animal Control Officer. The Supervisors of East Union Township may, by resolution, appoint and Animal Control Officer(s) who shall have the duty of enforcing the provisions of this Ordinance and the Dog Law. The term of the appointment shall be indefinite and subject to termination by the Supervisors on ten (10) days written notice. The Animal Control Officer(s) in the performance of the duties under the provisions of this chapter shall be subject to control by the Officer in Charge of Police of East Union Township. Nothing in this chapter shall be construed so as to limit any police officer of East Union Township in enforcing any of the provisions of this ordinance or the Dog Law.

§821. Compensation of Animal Control Officer. Compensation of the Animal Control Officer(s) shall be established by resolution.

§822. Penalties.

(a) Except as provided below, any person who violates any provision of this ordinance shall, for every such violation, upon conviction of a summary offense thereof before a District Justice, be subject to a fine or penalty payable to the Township of not less than \$50.00 or more than \$600.00 plus costs, and in default of payment thereof shall be subject to imprisonment of not more than thirty (30) days.

(b) The owner of a dangerous animal who fails to comply with the provisions of this ordinance shall, upon conviction thereof before a District Justice, be subject to a fine or penalty of not less than \$500.00 or more than \$1,000.00 plus costs for the first offense and not less than \$500.00 or more than \$1,500.00 plus costs for a second or subsequent offenses, and in default of payment thereof shall be subject of imprisonment for not more than thirty (30) days.

(c) Each day of continuing violation under any section of this Ordinance shall constitute a separate and distinct offense.

§823. Repealer. All other ordinances of East Union Township that are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

§824. Severability. If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts of this Ordinance.

§825. Applicability. This ordinance shall be in full force and effect upon the expiration of (5) days after its passage and publication.

§826. Safety Clause. The East Union Township Board of Supervisors hereby finds, determines, and declares that this Ordinance is necessary for the immediate preservation of the public health, safety, and welfare of the Township of East Union and the inhabitants thereof.

EDITOR'S NOTE: This Ordinance was not dated or numbered, but was adopted in 2011 to repeal ordinance No. 4-2010.

Part 9 **Quality of Life**

§901. Title. This Ordinance shall be known as the "East Union Township Quality of Life Ordinance".

§902. Purpose. The East Union Township Supervisors find that regulating the activities described in this Ordinance are necessary to: (a) prevent the deterioration of property values; (b) promote the general order and development within the Township; (c) promote the overall physical appearance of the Township; (d) prohibit the interference with residents' quality of life; (e) allow for the residents' quiet use and enjoyment of their properties; (f) promote the health, safety and general welfare of the Township; and (g) create a safe and clean environment.

§903. Definitions. The following words, terms, and phrases, when used in this Ordinance, shall be defined as follows, unless the context clearly indicates otherwise:

CODE ENFORCEMENT OFFICER - any police officer, authorized inspector, or public official designated by the Township to enforce the ordinances of the Township.

DEBRIS - any material upon the premises that is a residue of structural demolition, or any other material that is not neatly stored, stacked, or piled in such a manner so as not to create a nuisance or become a harboring place or food supply for insects and rodents.

DUMPING - includes, but is not limited to, depositing of litter, depositing durable goods (refrigerators, washers, dryers, etc.) small appliances, furniture, carpets, tires, vehicles, vehicle parts and automotive products, and other such municipal waste, hazardous waste, residual waste and construction or demolition debris on public or private property, except as authorized by law.

GARBAGE - the animal or vegetable waste resulting from the handling, preparation, cooking, and consumption of food.

HAZARDOUS WASTE - any waste material or a combination of solid, liquid, semi-solid, or contained gaseous material that because of its quantity, concentration, physical, chemical, or infectious characteristics may:

(a) Cause, or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating illness.

(b) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed.

HOUSEHOLD HAZARDOUS WASTE (HHW) - waste which would be chemically or physically classified as a hazardous waste, but is excluded from regulation as a hazardous waste because it is produced in quantities smaller than those regulated by the Pennsylvania Department of Environmental Protection, and because it is generated by persons not otherwise covered as hazardous waste generators by those regulations. Such HHW materials meet one of the following four classifications: toxic, flammable, reactive, or corrosive. HHW consists of numerous products that are common to the average household such as: pesticides and herbicides, cleaners, automotive products, paints, and acids.

INDOOR FURNITURE - any and all pieces of furniture which are made for only inside use including, but not limited to, upholstered chairs and sofas, etc.

JUNKED VEHICLE - any vehicle which presents a hazard or danger to the public or is a public nuisance by virtue of its state or condition of disrepair.

The following conditions, if present, are examples of a state or condition of disrepair:

- (a) Rusted and /or jagged metal on or protruding from the body of the vehicle.
- (b) Broken glass or windows on or in the vehicle.
- (c) Leaking of any fluids from the vehicle or deflated or flat tire(s).
- (d) Unsecured and /or unlocked doors, hood, or trunk.
- (e) Storage or placement of the vehicle in an unbalanced condition, on concrete blocks, or other similar apparatus.
- (f) Harboring of rodents, insects, or other pests.

The foregoing examples are not inclusive of all conditions which may constitute a state or condition of disrepair. See also "motor vehicle nuisance."

LITTER - includes, but is not limited to, all waste material, garbage, trash, i.e. waste paper, tobacco products, wrappers, food or beverage containers, newspapers, etc., municipal waste, human waste, domestic animal waste, furniture or motor vehicle seats, vehicle parts, automotive products, shopping carts, construction or demolition material, recyclable material, and dirt, mud and yard waste that has been abandoned or improperly discarded, deposited, or disposed.

MOTOR VEHICLE - any type of mechanical device, capable or at one time capable of being propelled by a motor, in which persons or property may be transported upon public streets or highways, and including trailers or semitrailers pulled thereby.

MOTOR VEHICLE NUISANCE - a motor vehicle with one or more of the following defects:

- (a) Broken windshields, mirrors, or other glass, with sharp edges.
- (b) Broken headlamps, tail lamps, bumpers, or grills with sharp edges.
- (c) Any body parts, truck, firewall, or floorboards with sharp edges or large holes resulting from rust.
- (d) Protruding sharp objects from the chassis.
- (e) Missing doors, windows, hood, trunks, or other body parts that could permit animal harborage.
- (f) One or more open tires or tubes which could permit animal harborage.
- (g) Any vehicle suspended by blocks, jacks, or other such materials in a location which may pose a danger to the public, property owners, visitors, or residents of the property on which said vehicle is found.
- (h) Any excessive fluids leaking from vehicle which may be harmful to the public or the environment.
- (i) Disassembled body or chassis parts stored in on or about the vehicle.
- (j) Vehicles that do not display a current valid license and registration.
- (k) Such other defects which the Fire Department determines to be a danger to the general public or property. (12) Motor vehicles parked, drifted, or otherwise located which may interfere with flow of pedestrian or automobile traffic or impede emergency efforts.

NUISANCE - any condition, structure, or improvement which constitutes a danger or potential danger to the health, safety, or welfare of residents of the Township, or causes a blighting effect in the Township. See also "public nuisance."

PERSON - every natural person, firm, corporation, partnership, association, institution, business, group, organization, or legal entity.

PRIVATE PROPERTY - any land and the improvements thereon owned by any person and includes front, side, and rear yards; vacant lots, buildings, and other structural improvements; walkways and alleyways; and parking areas, designed or used either wholly or in part for private residential, industrial, or commercial purposes, whether inhabited, temporary, continuously uninhabited, or vacant, including any yard, grounds, walk, driveway, porch, steps, vestibule, or mailbox belonging to or appurtenant to such dwelling, house, building, or other structure.

PUBLIC NUISANCE - any conditions or premises which are unsafe or unsanitary.

PUBLIC RIGHT-OF-WAY - the total width of any land used, reserved, or dedicated as a street, alley, driveway, sidewalk, or utility easement, including curb and gutter areas.

RECREATIONAL VEHICLE- any motorized wheeled or belt-driven vehicle powered by an internal combustion engine intended for off-road recreational use capable of cross-country travel on land, snow, ice, or other natural terrain. The term includes dirt bikes, motor-bikes, trail bikes, mini-bikes, go-carts, motor scooters, snow mobiles, all-terrain vehicles (ATVs) etc. The term excludes properly licensed motor vehicles operated upon public highways, streets and roads in accordance with law; agricultural equipment used in the course of farming operations; commercial equipment used in a trade or business such as construction machines and utility vehicles; equipment used for yard work, landscaping, snow removal or

otherwise being used in the reasonable maintenance of a person's private property, or motorized vehicles being used for law enforcement, fire, emergency, military or other authorized governmental purposes.

RECYCLABLE MATERIAL - material which would otherwise become municipal waste, which can be collected, separated, or processed, and returned to the economic main-stream in the form of raw materials or products. These materials may include, but not be limited to, aluminum cans, ferrous and bi-metal cans, glass containers, plastic bottles and containers, mixed paper, white goods, major appliances, televisions, tires, and large auto parts.

RUBBISH - combustible and non-combustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke, and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery, and dust and other similar materials.

SIDEWALK - the public right-of-way between the property line and the curb line or the established edge of the roadway.

SOLID WASTE - any waste including, but not limited to, municipal, residual, or hazardous wastes, including solid, liquid, semisolid, or contained gaseous materials.

STORAGE - the containment of any waste on a temporary basis in such a manner as not to constitute disposal as such waste, and it shall be presumed that the containment of any waste in excess of one month constitutes disposal.

TRAILER- a mobile home, trailer, open cart or platform that is towed by another vehicle for use of storing or transporting persons or property boat; part of truck.

VEGETATION - any planting that is cultivated and managed for edible or ornamental purposes such as vegetable gardens, trees, shrubs, hedges, flowers, etc.

VIOLATION TICKET - a form issued by a police officer or code enforcement officer to a person who violates a provision of this Ordinance. The violation ticket is an offer by the Township extended to a person to settle a violation by paying the fine in lieu of a citation being issued or civil complaint being filed against the violator.

WEEDS - shall be defined as all grasses, annual plants, and vegetation, which meet any of the following criteria: (1) Exceed six (6) inches in height. (2) Exhale unpleasant noxious odors or pollen such as ragweed, dandelion, and miscellaneous other vegetation commonly referred to as weeds or brush. (3) May conceal filthy deposits or serve as breeding places for mosquitoes, other insects, or vermin. (4) Encroaches onto neighboring properties by way of leaders or roots without property owners consent. (5) May cause a public nuisance. Weeds shall not include cultivated and managed vegetation planted for edible or ornamental purposes such as vegetable gardens, trees, shrubs, flowers, etc.

YARD - an open space on the same lot with a structure.

§904. Violations. The following activities shall constitute a violation of this Ordinance:

(a) Solicitation. It shall be unlawful for any person to solicit business or sell merchandise door to door; from a truck or motor vehicle; or by use of a vending or food cart without first obtaining a permit.

(b) Storing of Hazardous Material. It shall be unlawful for any person to store combustible, flammable, explosive, or other hazardous materials including, but not limited to, paints, volatile oils and cleaning fluids, or combustible rubbish including, but not limited to, wastepaper, boxes, or rags unless the storage of the materials is in compliance with the local, state and federal laws, rules and regulations including, but not limited to all applicable Building and Property Maintenance Ordinances.

(c) Placement or Use of Waste Container. No person shall use or store a waste container, receptacle, or dumpster on any public property or within a public right-of-way unless approval has first been obtained by the Township Supervisors.

(d) Accumulation of Garbage, Refuse and Junk. All exterior property and the interior of every structure shall be free from any accumulation of garbage, refuse, junk, waste, trash, or rubbish.

(e) Animal Maintenance, Control, and Clean-up. Any person owning, harboring or keeping any animal within Township may not permit any animal waste or feces to remain on the person's property so as to cause or create an unhealthy, unsanitary, dangerous, or offensive living condition. All animal waste shall be cleaned up regularly. A person owning, harboring, keeping, caring for, or feeding any animal must keep the animal under the person's control and supervision at all times and shall not permit the animal to leave the property of the person owning, harboring, keeping, caring for, or feeding the animal unless securely leashed.

(f) Dumping or Littering. No person shall dispose of garbage, refuse, junk, rubbish, garbage, or debris on vacant, unoccupied, or public or private property of another. No person shall throw, dump, place, litter, scatter, sweep, or dispose of any waste, trash, garbage, or rubbish upon any private property of another or upon any public property, including, but not limited to any sidewalk, alley, road, street, bridge, passageway, recreational park, or public parking area.

(g) High Weeds, Grass or Plant Growth. All premises and exterior property shall be maintained free from weeds or plant growth in excess of six (6) inches. All noxious weeds shall be prohibited.

(h) Motor Vehicles. It shall be unlawful to store, park, or place any unregistered, un-inspected, inoperative, unlicensed, or nuisance motor vehicle on any premises. No vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth

(i) Storage of Trailers. No person shall store a trailer or other vehicle upon any public property or within any public right-of-way unless temporarily parked and attached to a licensed, inspected and registered vehicle capable of towing the trailer.

(j) Outside Placement of Indoor Appliances/Furniture. No person shall store or place any appliances or furniture including, but not limited to ranges, refrigerators, air conditioners, ovens, washers, dryers, microwaves, dishwashers, mattresses, recliners, sofas, interior chairs, or interior tables on the exterior of any property for the purpose of sale or any other reason, except when being sold as part of a temporary yard sale or for the temporary purpose to perform maintenance on the item of property. The appliance or furniture shall not be left unattended during the yard sale or while being maintained or repaired.

(k) Ownership Presumption of Waste, Trash, and/or Recyclables for Illegal Dumping and Illegal Hauling. It shall be the responsibility of every owner and/or occupant to dispose of their waste, trash, or recyclables in a proper manner. Any business or person who is unable to show proof that they have legally disposed of any waste, trash, or recyclables will be in violation of this Part. Should any person or business use an unlicensed hauler to dispose of their waste, trash, or recyclables, said person or business shall be in violation of this Part. Upon request of the Code Enforcement Officer, any owner or occupant must show proof of their appropriate trash and/or recyclable hauler. Any parts found within a municipal waste container, recycling container, garbage bag, or loose trash/waste displaying the name and/or address of a person and/or persons, that trash or waste shall be presumed to be the property of such person and/or persons. It shall be unlawful for any person, business, partnership, or entity to remove or haul waste, trash, or recyclables without the proper approval or license. Any waste, trash, or recyclables found not to be disposed of in accordance with this Part will be a violation of this Part.

(l) Placement of Private Advertising Signs. No person shall hang, place, display, or advertise on any public property in any manner. No person shall hang, place, or advertise on any private property that they do not have any ownership rights to without the written approval of the owner and then only in accordance with all Township Codes, including the applicable Building Code and Zoning Ordinance.

(m) Snow and Ice Removal from Sidewalks. Every owner, tenant, occupant, lessee, property agent, or any other person who is responsible for any property within the Township, is required to remove any snow or ice from their sidewalk within twenty-four (24) hours of the cessation of the snow and ice falling. Furthermore, all persons must create a path, free from any snow or ice, of three (3) feet on the sidewalk. Should any property be a place of business within the Township, all snow and ice must be removed within four (4) hours of the cessation of the snow and ice falling. Any property that is deemed a business must have the entire sidewalk free from any snow and ice. When the snow or ice cessation happens during the hours of darkness, the time limit of removal of all snow and ice begins at daybreak.

(n) Storage Containers for Waste or Trash. The owner of every premises shall supply approved containers for waste /trash, as well as be responsible for the removal of rubbish. All containers that store waste or trash shall be durable, water tight, and made of metal or plastic. Containers must have tight fitting covers, and must be kept clean and odor free at all times. All containers must be stored in the rear of every property so the containers are not visible from the public right-of-way. Waste/trash containers may only be placed in front of any property when darkness occurs the night before the day of the scheduled waste/trash pick -up. Once the li-

censed hauler removes the waste/trash from any property, all containers must be returned to the rear of any property before daybreak on the day following pick-up.

(o) Storing of Recyclables. It shall be the responsibility of every owner of property to ensure storage, collection, and disposal of all recyclables from their property in such a manner not to create a public nuisance. Storage of recyclables is only allowed in approved containers, which must be kept clean and sanitary at all times.

(p) Maintenance of Above-Ground Swimming Pools Not Covered by the Building Code or Zoning Ordinance. Above-ground swimming pools not deep enough to be covered by the Zoning Ordinance or Building Code shall be maintained in good repair in a clean, safe, and sanitary condition. They shall be covered when not in use.

(q) Operation of Recreational Vehicles. No person shall operate a Recreational Vehicle on or over the private property of another without the written permission of the property owner, which written permission shall be carried on the operator. No person shall operate, cause to be operated or to participate in the operation of any Recreational Vehicle upon any public roads, streets, highways, sidewalks or alleys within the Township, except on highways, roads or streets: (1) for a short distance when necessary to cross a bridge or culvert; (2) during periods of emergency when so declared by the Township; (3) for special motorized vehicle events of limited duration that are conducted according to a prearranged schedule under permit from the Township; (4) at an angle of approximately 90° to the direction and at a place where no obstruction prevents a quick and safe crossing; provided that the Recreational Vehicle is brought to a complete stop before crossing the highway, road or street, and the operator yields the right-of-way to all oncoming traffic that constitutes an immediate hazard.

§905. Enforcement. A violation of this Ordinance may be enforced by the East Union Township Code Enforcement Officer or a police officer by the issuance of a violation ticket to the owner a property; the occupant of a property; or the person found to be violating any provision of this Ordinance.

§906. Service. A violation ticket shall be served upon a violator by any of the following means or methods: (a) personally handing it to the violator, or an adult individual at the residence or place of business of the person to be served; (b) by posting the violation ticket on the property where the violation exists; or (c) by mailing the notice by regular U.S. Mail postage prepaid to the violator's address as listed in the public records of the Township.

§907. Fines and Penalties.

(a) Any person who violates this Ordinance shall pay a fine of Fifty (\$50.00) Dollars for a first offense; One Hundred (\$100.00) Dollars for a second offense; and Two Hundred (\$200.00) Dollars for a third and subsequent offense.

(b) Failure of the person to make payment within twenty (20) days of the date of a violation ticket shall result in the filing of a citation with the Magisterial District Judge. In the event that a citation is issued for a violation of this Ordinance, any person who is found by the Magisterial District Judge to have violated this Ordinance, shall, upon conviction before the

Magisterial District Judge, be ordered to pay a fine of not less than three hundred (\$300.00) dollars, and not more than one thousand (\$1,000.00) dollars on each offense, or imprisonment for a term of not more than ninety (90) days, or both.

(c) Each day a violation continues under this Ordinance shall constitute a separate offense for which a separate fine or citation may be imposed. If violations are continuous, a police officer or code enforcement officer shall have the right to issue citations without first issuing a violation ticket.

(d) The Magisterial District Judge may order the violator to make restitution where appropriate.

(e) A violator shall also be responsible for court costs, reasonable attorney fees and any costs incurred by the Township with clean-up or abatement of the violation.

§908. Abatement of Violation. The Township reserves the right to perform any necessary work to abate any violation seventy-two (72) hours from the date of issuance of the quality of life ticket. Should the violation at the discretion of the Code Enforcement Officer present imminent danger or pose a health or safety hazard, the Township reserves the right to perform the abatement work immediately. The Township will perform this work at its prevailing labor wage costs together with the costs of any material necessary for the abatement. In the event that the Township hires a contractor or third party to perform the abatement work, the violator shall be responsible for the contractor's costs together with a thirty (30%) percent processing or administration fee to the Township. This fee shall be in addition to the cost of the contractor.

§909. Appeals. Any violator issued a violation ticket shall have the right to appeal that violation ticket to the East Union Township Board of Supervisors or anyone of the Supervisors designated by a majority of the Board to hear the appeal provided that the violator first completes the appeal form; pays the fines imposed; and does so within ten (10) days from the date the violation ticket is issued. In the event that the appeal is decided in favor of the person appealing, the Township shall refund the fine paid. If the appeal is decided in favor of the Code Enforcement Officer, then the violator shall have the right to appeal to the Court of Common Pleas of Schuylkill County within 30 days from the date of receipt of the decision.

§910. Severability. If any provision, paragraph, word, section, or subsection of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsection shall not be affected and shall remain in full force and effect.

§911. Conflict. All relevant ordinances, regulations, and policies of the Township not amended shall remain in full force and effect. Any ordinance or part of an ordinance conflicting with the provisions of this Ordinance shall be and the same is hereby repealed to the extent of such conflict.

§912. Effective Date. This Ordinance shall be effective immediately upon its adoption.

EAST UNION TOWNSHIP CODE ENFORCEMENT OFFICE

EAST UNION TOWNSHIP QUALITY OF LIFE APPEAL FORM

NAME: _____

MAILING ADDRESS:

PHONE NUMBER: (_____) _____ - _____

VIOLATION TICKET NUMBER: _____

VIOLATION TICKET ISSUANCE DATE: _____

PROPERTY SUBJECT TO VIOLATION TICKET:

GROUNDS FOR APPEAL:

DATE: _____ SIGNATURE: _____

ALL APPEALS MUST BE FILED IN WRITING ON THIS FORM WITHIN TEN (10) CALENDAR DAYS OF THE DATE THE VIOLATION TICKET WAS ISSUED. ALL FINES MUST BE PAID AT THE TIME THE APPEAL IS FILED. FAILURE TO FILE THE APPEAL IN TIME AND PAY THE FINE WILL RESULT IN YOUR APPEAL BEING DENIED WITHOUT A HEARING. IF TIMELY FILED AND THE FINE PAID AT THE TIME OF FILING, THE TOWNSHIP WILL SEND YOU NOTICE OF THE SCHEDULED APPEAL HEARING DATE AND TIME.

THE DENIAL OF AN APPEAL ENTITLES YOU TO FILE AN APPEAL WITH THE COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY, PENNSYLVANIA WITHIN THIRTY (30) DAYS FROM THE MAILING DATE OF THE WRITTEN DECISION DENYING YOUR APPEAL.

CHAPTER 10

LICENSES

Part 1 **Contractor Registration**

§101. Purpose and Intent. The purpose and intent of this Part is to register Contractors constructing new residential dwelling units and commercial structures; and to ensure that contractors who perform Home Improvement Contracts in the Township of East Union are registered with the Commonwealth of Pennsylvania as required by State Law, and, therefore, maintain liability insurance as required by the Commonwealth of Pennsylvania.

§102. Definitions.

“Accessory Structure” means a building or structure or portion of a building or structure customarily incidental or subordinate to the principal building or structure located on the same lot with such building or structure used as an accessory structures such as a residential garage or carport.

“Contractor” includes any person, other than a bona fide employee of the owner, who undertakes or offers to perform construction, repair, remodeling, or demolition, whether as a general contractor, subcontractor, specialty contractor.

“Dwelling Unit” means the construction of a building comprised of a room or group of rooms forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating, and which is occupied by a one or more families living.

“Home Improvement Contract” as used in this Part shall have the same definition as those terms have in the Pennsylvania Home Improvement Consumer Protection Act, Act of October 17, 2008, P.L., 1645 No. 132, as amended.

§103. Contractor Registration Required. Any Contractor working with the Township shall first register with the Code Enforcement or Zoning Officer before performing construction of a new residential dwelling unit, an accessory structure such as a garage, any commercial structure, or any construction that is not being performed under a Home Improvement Contract. Every such Contractor shall provide to the Township at the time of registering:

(a) Proof of Insurance including Pennsylvania Worker’s Compensation Insurance. Any Contractor working within the Township that does not have any employees shall submit an affidavit to the Township at the time of registering of that fact. The insurance policy maintained by the applicant shall also provide for a minimum of \$300,000.00 payable for each claim or occurrence under the policy.

(b) All Contractors who are not performing a Home Improvement Contracts shall be required to register with the Township, obtain a Registration from the Township, and pay a fee

to the Township to meet the requirements of this Part. The cost of registration is an annual fee set by resolution.

(c) The registration shall be effective until January 1 of the year following the year of issuance of the registration, and it shall be renewed on an annual basis each January. The registration shall become null and void if the insurance policy expires during the one-year term.

(d) The registration must be presented at the time of requesting a building permit. Further, the Code officer or Zoning Officer reserves the right to request a visual inspection of the registration at the time of an inspection of the building site. Persons performing services at their own home shall be exempted from the registration requirement. If a proposed project has estimated costs of less than \$100,000.00 then the registration, along with a minimum insurance policy of \$300,000.00, shall be sufficient to meet the insurance requirements for a building permit. Any project with a cost in excess of \$100,000.00 shall require a review of the insurance requirements on a case-by- case basis by the Code Officer or Zoning Officer to determine the required amount of insurance beyond the minimum insurance policy amount of \$300,000.00.

(e) The falsification of a registration or the failure to have a valid registration shall result in the imposition of a fine as set forth in this Part. Violations shall be considered ongoing from the date of notification of a violation, and a violator will be fined for each day that the violation remains unresolved after notification thereof. A stop-work order will be issued to each contractor and/or owner with respect to any ongoing project until such time as the required registration is obtained.

§104. Requirements for Contractors Performing Home Improvement Contracts. All Contractors who seek to perform Home Improvement Contracts in the Township shall, prior to receiving a building or other permit from the Township for any Home Improvement Contracts in the Township, provide proof to the Code Enforcement or Zoning Officer that said contractor is registered with the Commonwealth of Pennsylvania, as required by the Act of October 17, 2008, P.L. 1645, No. 132, as amended, known as the Home Improvement Consumer Protection Act. No Home Improvement Contractor performing a Home Improvement Contract in the Township shall be required to register with the Township, obtain a license from the Township, or pay a fee to the Township to meet the requirements of this Part.

§105. Violations and Penalties. Any person, firm or corporation violating this Part, shall upon conviction in a summary proceeding by a Magistrate, be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), plus costs of prosecution.

§106. Severability. The provisions of this Part are declared to be severable. If this Part or any section is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this Part.

§107. Repealer. All ordinances and resolutions or parts of ordinances or resolutions inconsistent with this Part are repealed.

§108. Effective Date. This Ordinance shall take effect immediately upon its adoption.

EDITOR'S NOTE: The Contractor License Ordinance No. 2008-5 adopted by the East Union Township Board of Supervisors on March 18, 2008 has been amended in this Part as a result of the Pennsylvania Home Improvement Consumer Protection Act, Act of October 17, 2008, P.L., 1645 No. 132, as amended.

Part 2
Transient Retail Business

§201. Definitions. The term “transient retail business”, as used in this Part, shall mean and include the following:

(a) Engaging in peddling, selling, canvassing, soliciting or taking orders, either by sample or otherwise, for any goods, wares or merchandise, upon any street, alley, sidewalk or public place, or from house to house, within the Township; and

(b) Selling, soliciting or taking orders for any goods, wares, or merchandise, from a fixed location within the Township, on a temporary basis, which shall include, but shall not be limited to, any activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of particular yearly holidays.

§202. License required to engage in Transient Retail Business. No person shall engage in any transient retail business within the Township without first having obtained from the Code Enforcement Officer a license for which a fee of Fifty Dollars (\$50.00) for one (1) calendar year or Twenty Five Dollars (\$25.00) for one (1) calendar month, which shall be for the use of the Township, shall be paid. Provided: no license fee shall be required under this section;

- (a) From farmers selling their own produce;
- (b) For the sale of goods, wares and merchandise, donated by their owners, the proceeds of which are to be applied to any charitable or philanthropic purpose; or
- (c) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products.

Provided further: any person dealing in one or more of the above-mentioned exempted categories, and selling other goods, wares and merchandise not so exempted, shall be subject to payment of the license fee fixed by this section for his or her activities in connection with the sale of goods, wares and merchandise not so exempted. Provided further: the Township may similarly exempt from payment of the license fee persons working without compensation and selling goods, wares or merchandise for the sole benefit of any non-profit corporation. Provided further: every license issued under the provisions of this Part shall be issued on an individual basis to persons engaging in a transient retail business; every individual shall obtain a separate license, issued to him in his name, and the license fee imposed by this section shall be applicable to every individual license.

§203. Application for License. Every person desiring a license under this Part shall first make application to the Code Enforcement Officer for the license. If the person shall also be required to obtain a license from any state or county officer, he or she shall, when making the application, exhibit

a valid state license. The applicant shall give his or her name and address; the name of the person by whom he or she is employed; the type of goods, wares and merchandise he or she wishes to deal with in the transient retail business; the number of persons to be employed by him or her in the Township; and the type and license numbers of all vehicles to be used, if any. The application shall be accompanied by the license fee required by Section 202, and shall include a photograph of the applicant and a police background check performed by the Pennsylvania State Police or the Township Police, if such a department exists at the time of the application.

§204. Investigation; Issuance or Refusal of License. Following the making of the application by the applicant, no license shall be issued until the Code Enforcement Officer has investigated the application, but the waiting period for the purpose of the investigation shall not exceed 24 hours. Following the investigation, the Code Enforcement Officer may refuse the license where the investigation discloses a criminal record or any false or misleading statement on the application. When a license is refused, the Township shall return to the applicant the license fee that had been paid to the Township at the time of making the application, less the costs of the investigation.

§205. Custody, Display and Exhibit of License. Every license holder shall carry the license upon his or her person or shall display it upon his or her vehicle, if he or she is engaged in a transient retail business from house to house or upon any street, alley, sidewalk or public ground, or he or she shall display the license at the fixed location where he or she shall engage in business if doing so from a fixed location. The license holder shall exhibit the license, upon request, to all police officers, Township officials and citizens or residents of the Township.

§206. Prohibited Acts. No person engaged in any transient retail business shall:

- (a) Sell any product or type of product not mentioned in the license.
- (b) Hawk or cry his or her wares upon any street, alley, sidewalk or public ground in the Township, or use any loud speaker or horn or other device for announcing his or her presence by which the public may be annoyed.
- (c) When selling from a vehicle, stop or park the vehicle upon any street or alley in the Township for longer than necessary in order to sell from the vehicle to persons residing or working in the immediate vicinity.
- (d) Engage in any house-to-house activity, except by prior appointment, before 9:00 a.m. or after 5:00 p.m., or in the summer months after 7:00 p.m.

§207. Certain Practices constitutes Nuisances. The practice or custom of going in and upon private residences in the Township by solicitors, peddlers, itinerant merchants or transient retail merchants, regardless of whether they hold a valid license under this Part, not having been requested or invited to do so by the owner or occupant of that private residence, for the purpose of soliciting orders for the sale of goods, wares, or merchandise, or of disposing of, peddling or hawking goods, wares or merchandise is declared to be a nuisance and punishable as such and is also a violation of this Part.

§208. Suspension or Revocation of License. The Code of Enforcement Officer is authorized to suspend or revoke any license issued under this Part when the suspension or revocation to is the in-

terest of the public health, safety, or morals, or for violation of any provision of this Part, or for giving false information upon any application for a license under this Part. Appeals from any suspension or revocation may be made to the Township Supervisors at any time within ten (10) days after suspension or revocation. No part of a license fee shall be refunded to any person whose license has been suspended or revoked.

§209. Penalties. In addition to the penalties set forth in Section 208 above, any person who shall violate provision of this Part shall, upon conviction thereof, be subject to a fine of not less than Three Hundred (\$300.00) Dollars nor more than One Thousand (\$1,000.00) Dollars or imprisonment for a term not to exceed thirty (30) days, or both, at the discretion of the District Justice. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

CHAPTER 11

SEWER AND WATER

Part 1

Public Sewer Connections

§101. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms and phrases used in this Ordinance shall be as follows:

“Authority” shall mean East Union Township Sewer Authority a municipality authority of the Commonwealth;

“Building Sewer” shall mean the extension from the sewage drainage system of any structure to the Lateral of a Sewer;

“Commonwealth” shall mean the Commonwealth of Pennsylvania;

“Improved Property” shall mean any property within this Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure Sanitary Sewage and/or Industrial Wastes shall be or may be discharged;

“Industrial Establishment” shall mean any Improved Property located in this Township used or intended for use, wholly or in part, for the manufacturing, processing, cleaning, laundering or assembling of any product, commodity or article, or any other Improved Property located in this Township from which wastes, in addition to or other than Sanitary Sewage, shall be discharged;

“Industrial Wastes” shall mean any and all wastes discharged from an Industrial Establishment, other than Sanitary Sewage;

“Lateral” shall mean that part of the Sewer System extending from a Sewer to the curb line or, if there shall be no curb line, to the property line or, if no such Lateral shall be provided, then “Lateral” shall mean that portion of, or place in, a Sewer which is provided for connection of any Building Sewer;

“Owner” shall mean any Person vested with ownership, legal or equitable, sole or partial, of any Improved Property;

“Person” shall mean any individual, partnership, company, association, society, trust, corporation, municipality, municipality authority of other group or entity;

“Sanitary Sewage” shall mean normal water carried household and toilet wastes from any Improved Property;

“Sewer” shall mean any pipe or conduit constituting a part of the Sewer System used or usable for sewage collection purposes;

“Sewer System” shall mean all facilities, as of any particular time, for collecting, transmitting, treating or disposing of Sanitary Sewage and/or Industrial Wastes, situate in or adjacent to this Township, and owned by the Authority;

“Street” shall mean and shall include any street, road, lane, court, cul-de-sac, alley, public way or public squares; and

“Township” shall mean the Township of East Union, Schuylkill County, Pennsylvania, a political subdivision of the Commonwealth, acting by and through its Board of Supervisors, or, in appropriate cases, acting by and through its authorized representatives.

§102. Use of Public Sewers Required. The Owner of any Improved Property accessible to and whose principal building is within 150 feet from the Sewer System, shall connect such Improved Property with and use such Sewer System, in such manner as this Township may require, within 60 days after notice to such Owner from this Township to make such connection, for the purpose of discharging all Sanitary Sewage and Industrial Wastes from such Improved Property; Subject, however, to such limitations and restrictions as shall be established herein or otherwise shall be established by this Township, from time to time.

§103. Limitations and Restrictions. All Sanitary Sewage and Industrial Wastes from any Improved Property, after connection of such Improved Property with a Sewer as required under Section 102, shall be connected into such Sewer; subject, however, to such limitations and restrictions as shall be established herein or otherwise shall be established by this Township or the Authority, from time to time.

(a) No Person shall place, shall deposit or shall permit to be placed or to be deposited upon public or private property within this Township any Sanitary Sewage or Industrial Wastes in violation of Section 102.

(b) No Person shall discharge or shall permit to be discharged to any natural outlet within this Township any Sanitary Sewage or Industrial Wastes in violation of Section 102, except where suitable treatment has been provided that is satisfactory to this Township and the Authority.

(c) No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be used or shall be maintained at any time upon any Improved Property that has been connected to a Sewer or that shall be required under Section 102 to be connected to a sewer. Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned and, at the discretion of this Township, shall be cleansed and shall be filled, at the expense of the Owner of such Improved Property, unless otherwise provided for by the Authority, under the discretion and supervision of this Township; and any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned and, if required by this Township, not cleansed and filled, shall constitute a nuisance, and such nuisance may be abated, as provided by law, at the expense of the Owner of such Improved Property.

(d) No privy vault, cesspool, sinkhole, septic tank or similar receptacle at any time shall be connected with a Sewer.

§104. Notice. The notice by this Township to make a connection to a Sewer, referred to in Section 102, shall include a reference to this Ordinance, including any amendments and/or supplements at the time in effect, or a summary of each Section thereof, and a written or printed document requiring the connection in accordance with the provisions of this Ordinance and specifying that such connection shall be made within 60 days from the date such notice is given or served. Such notice may be given or served at any time after a Sewer is in place that can receive and can convey Sanitary Sewage and Industrial Wastes for treatment and disposal from the particular Improved Property. Such notice shall be given or served to the Owner in accordance with law.

§105. Building Sewers and Connections.

(a) No Person shall uncover, shall connect with, shall make any opening into or shall use, shall alter or shall disturb, in any manner, any sewer or any part of the Sewer System without first obtaining a permit, in writing, from the Authority.

(b) Application for a permit required under Section 108(a) shall be made by the Owner of the Improved Property served or to be served or by the duly authorized agent of such Owner.

(c) No person shall make or shall cause to be made a connection of any Improved Property with a Sewer until such Person shall have fulfilled each of the following conditions:

(1) Such Person shall have notified the Authority of the desire and intention to connect such Improved Property to a Sewer;

(2) Such Person shall have applied for and shall have obtained a permit as required by Section 108(a);

(3) Such Person shall have given the Authority at least 24 hours' notice of the time when such connection will be made so that the Authority may supervise and inspect or may cause to be supervised and inspected the work of connection and necessary testing; and

(4) If applicable, such Person shall have furnished satisfactory evidence to the Authority that any tapping (or connection) fee that may be charged and imposed by the Authority against the Owner of each Improved Property who connects such Improved Property to a Sewer has been paid.

(d) Except as otherwise provided in this sub-section, each Improved Property shall be connected separately and independently with a Sewer through a Building Sewer. Grouping of more than one Improved Property on one Building Sewer shall not be permitted, except under special circumstances and for good sanitary reasons or other good cause shown, but then

only after special permission for the Authority, in writing, shall have been secured and only subject to such rules, regulations and conditions as may be prescribed by the Authority.

(e) All costs and expenses of construction of a Building Sewer and all costs and expenses of connection of a Building Sewer to a Sewer shall be borne by the Owner of the Improved Property to be connected; and such Owner shall indemnify and shall save harmless this Township and the Authority from all loss or damage that may be occasioned, directly or indirectly, as a result of construction of a Building Sewer or of connection of a Building Sewer to a Sewer.

(f) A Building Sewer shall be connected to a Sewer at the place designated by the Authority and where, if applicable, the Lateral is provided. The invert of a Building Sewer at the point of connection shall be at the same or a higher elevation than the invert of the Sewer. A smooth, neat joint shall be made and the connection of a Building Sewer to the Lateral shall be made secure and watertight.

(g) If the Owner of any Improved Property located within this Township and accessible to and whose principal building is within 150 feet from the Sewer System, after 60 days notice from this Township, requiring the connection of such Improved Property with a Sewer, in accordance with Section 102, shall fail to connect such Improved Property and use the Sewer System, as required, this Township may enter upon such Improved Property and construct such connection and may collect from such Owner the costs and expenses thereof in the manner permitted by law.

§106. Rules and Regulations Governing Building Sewers and Connections to Sewers.

(a) Where an Improved Property, at the time connection to a Sewer is required, shall be served by its own sewage disposal system or sewage disposal device, the existing house sewer line shall be broken on the structure side of such sewage disposal system or sewage disposal device and attachment shall be made, with proper fittings, to continue such house sewer line as a Building Sewer.

(b) No Building Sewer shall be covered until it has been inspected and approved by the Authority. If any part of a Building Sewer is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the Owner of the Improved Property to be connected to a Sewer.

(c) Every Building Sewer of any Improved Property shall be maintained in a sanitary and safe operating condition by the Owner of such Improved Property.

(d) Every excavation for a Building Sewer shall be guarded adequately with barricades and lights to protect all Persons from damage and injury. Any street, sidewalk and other property disturbed in the course of installation of a Building Sewer shall be restored, at the cost and expense of the Owner of the Improved Property being connected, in a manner satisfactory to this Township and the Authority.

(e) If any Person shall fail or shall refuse, upon receipt of a written notice of this Township or the Authority, to remedy any unsatisfactory condition with respect to a Building Sewer within 60 days of receipt of such notice, this Township or the Authority may refuse to permit such Person to discharge Sanitary Sewage and Industrial Wastes into the Sewer System until such unsatisfactory condition shall have been remedied to the satisfaction of this Township and the Authority.

(f) This Township reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a Sewer and with the Sewer System, which additional rules and regulations, to the extent appropriate, shall be and shall be construed as part of this Ordinance.

§107. Enforcement. Any Person who shall violate this Ordinance shall be subject, upon summary conviction for a first offense and upon summary conviction for each subsequent offense, to a fine of not more than One Thousand Dollars (\$1,000), together with costs of prosecution in each case. Each day that a violation shall continue shall be deemed and shall be taken to be a separate offense and shall be punishable as such. Fines and costs imposed under provisions of this Ordinance shall be enforceable and recoverable in the manner at the time provided by applicable law.

§108. Effective Date. This Ordinance shall become effective in accordance with law.

§109. Severability. In the event any provision, section, sentence, clause or part of this Ordinance, it being the intent of this Township that such remainder shall be and shall remain in full force and effect.

§110. Declaration of Purpose. It is declared that enactment of this Ordinance is necessary for the protection, benefit and preservation of the health, safety and welfare of inhabitants of this Township.

§111. Repealer. All ordinances or parts of ordinances and all resolutions or parts of resolutions that are inconsistent with this Ordinance shall be and the same expressly are repealed.

EDITOR'S NOTE: This is Ordinance No. 3-1991 adopted by the Board of Supervisors of the Township of East Union on January 7, 1991.

Part 2
Sewer Authority

§201. Articles of Incorporation. In compliance with the requirements of the Act of Assembly approved May 2, 1945, P.S. 382, known as the “Municipality Authorities Act of 1945”, as amended and supplemented, and pursuant to an Ordinance enacted by the Board of Supervisors of East Union Township, Schuylkill County, Pennsylvania, to organize an Authority under the provisions of said Act known as the “East Union Township Sewer Authority”, Articles of Incorporation were filed with the Pennsylvania Corporation Bureau on April 5, 1988.

§202. Members of Authority. There shall be five (5) members on the Authority appointed by the Board of Supervisors of East Union Township, Schuylkill County, Pennsylvania.

§203. Purpose of the Authority. The purpose and scope of this Authority shall be to provide sewage collection and sewage treatment services within East Union Township. The Authority is also authorized to conduct such other business as is reasonable and practical. The Authority is also authorized to conduct such other business as is reasonably related to and in the furtherance of its sewerage collection and treatment purposes.

Part 3
Holding Tanks

§301. Purpose. The purpose of this Ordinance is to establish procedures for the use and maintenance of existing and new holding tanks designed to receive and retain sewage whether

from residential, commercial or recreational uses. It is further ordained to be the policy of East Union Township that holding tanks be implemented on as temporary a basis as possible. It is the declared policy of East Union Township that the installation of holding tanks be on interim basis on those premises which are to be ultimately to be served by other sewage systems and that said holding tanks be removed upon installation of the alternative sewage systems.

§302. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

Holding Tank: means a receptacle intended to be watertight, whether permanent or temporary which receives and retains sewage conveyed by a water carrying system and is designed and constructed to facilitate the ultimate disposal of the sewage at another site.

Township: shall mean East Union Township, Schuylkill County, Pennsylvania.

Owner: shall mean any person vested with ownership, legal or equitable, sole or partial, or possession of any real property located in the township.

Person: shall mean any individual, partnership, company, association, corporation, or other group or entity.

Sewage: shall mean any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings and any noxious or deleterious substance being harmful or inimical to the public health, or to animal or aquatic life or to the use of domestic water supply or for recreation.

§303. Rules and Regulations. The installation and operation of holding tanks within the Township shall hereafter be governed by the term of this Ordinance together with rules and regulations, which may be adopted, from time to time, by resolution of the Township.

§304. Permits. Upon and after the enactment of this Ordinance, no holding tank shall be installed nor shall any existing holding tank which has not been pumped of its contents during the six months preceding the enactment of this Ordinance be utilized or otherwise placed in service, by any Owner of the premises upon which said tank is or to be located until said Owner has obtained a permit from the Township. Application for the permit shall be made upon a form and shall be accompanied by a fee, as designated by resolution or ordinance of the Township or shall be made upon a form as designated the applicable State Agency. The minimum application fee shall be One Hundred Dollars (\$100.00), and this amount may be increased or decreased by the Supervisors by Resolution.

§305. Plan. The permit application shall be accompanied by a plan setting forth the proposed construction design of the holding tank. Specifications required to be set forth in said plan shall be issued by the Township's Sewage Enforcement Officer or by another person designated by the Township. Failure to construct in accordance with any plan approved by the Township or its agent shall be deemed a violation of this Ordinance.

§306. Duties of Owner. Owners of property upon which there is installed a holding tank shall:

(a) Permit the inspection of the holding tank as required by the Township. Application for a holding tank permit shall be deemed consent by the owner and all subsequent owners of said holding tank for the Township, its agents or employees to go upon the premises upon which the holding tank is located and to make all necessary inspections thereof.

(b) Maintain and operate the holding tank in conformance with this and all other Ordinances and Resolutions of the Township, the provisions of any applicable law, rule or regulation of the Commonwealth or Pennsylvania, its subdivisions, and administrative agencies.

(c) Deliver to the Township a copy of the pumping receipt or a pumping report, within thirty (30) days of any pumping of the holding tank. At a minimum, said receipt or report shall set forth the following:

- (1) Date of pumping.
- (2) Identity of pumper.
- (3) Gallons pumped.
- (4) Destination of contents' disposal.

(d) Maintain copies of all pumping receipts and pumping records for a period of five years from date of pumping.

(e) Not permit the discharge of sewage onto the surface, into the ground, or into the waters of the Commonwealth of Pennsylvania.

§307. Charges. The owner shall pay to the Township all amounts which shall be assessed or charged to the Owner and incurred by the Township in association with the enforcement of this Ordinance. It is intended that said charges will include, but not necessarily or be limited to, the hourly or other fees as charged by the Township's Sewage Enforcement Officer for inspection, enforcement, or other tasks necessary for the maintenance of the holding tank pursuant to this Ordinance. In addition, the Township shall have the right and power to fix, alter, charge and collect rates, assessments and other charges as it shall, from time to time, adopt by Resolution or Ordinance or as the same may be authorized by other applicable law. Payment of all said charges shall be required within thirty (30) days of the mailing of said charges to the owner or the posting or notice of said charges upon the premises upon which the holding tank is located and may be collected from one or more or all of the Owners of said premises. Any charges imposed hereunder may also be charged and collected as municipal liens in accordance with law are incorporated herein as though set forth at length. Each day upon which a violation of this Ordinance shall continue shall be deemed a separate violation subject to separate conviction hereunder.

§308. Repeal. All Ordinances or resolutions or part of Ordinances or resolutions, in so far as they are inconsistent herewith, be and the same are hereby repealed.

§309. Abatement of Nuisance. In addition to any other remedy provided in this Ordinance or available under law, any violation of this Ordinance shall be reviewed by the Township and if said review shall warrant, be deemed to be a nuisance to be abated by the Township by either seeking mitigation of the nuisance or appropriate equitable or legal relief from a court of competent jurisdiction. The Township may access to the Owner of any and all charges or other costs incurred in the abatement of said nuisance in accordance with Section 307 hereof.

§310. Severability. If any sentence, clause, section or part of this Ordinance as for any reason found to be unconstitutional, illegal or invalid, such provisions, sentences, clauses, sections, or parts of the Ordinance, it is hereby declared as the intent of the Township Supervisors, that this Ordinance would have been adopted such constitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

EDITOR'S NOTE: This Ordinance No. 10-11-99 was adopted by the East Union Township Board of Supervisors on October 11, 1999.

Part 4
Collection, Transportation, Storage, Processing and Disposal
of
Sewage Sludge

§401. Title. This Ordinance shall be known and may be cited as the "East Union Township Ordinance for the Regulation of Collection, Transportation, Storage, Processing, and Disposal of Sewage Sludge."

§402. Purpose. The Board of Supervisors of East Union Township, Schuylkill County, Pennsylvania, hereinafter referred to as "BOARD", deems it to be in the best interest of the Township to regulate the collection, transportation, storage, processing, and disposal of sewage sludge which is generated or present within its boundaries; such regulations are intended to promote, protect, and facilitate the public health, safety, and general welfare of East Union Township; and the Board believes such regulations are authorized by and necessary to carry out its responsibilities under the Solid Waste Management Act of 1980, as amended, and the Second Class Township Code.

§403. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

(a) APPLICANT - any person, association, entity, company, municipality, state agency, or authority desirous of using or continuing to use their lands or any other land within East Union Township as a sewage sludge storage, collection or disposal area and who is otherwise required to obtain a permit from the Department of Environmental Resources, according to the provision of the Solid Waste Management Act of 1980, as amended.

(b) BOARD- Board of Supervisors of East Union Township.

(c) COLLECTION- all gathering and accumulating of sewage sludge once the same is generated or present within the Township boundaries and shall specifically include the sewage sludge being disposed of in the Township under a Department permit.

(d) DEPARTMENT- the Department of Environmental Resources of the Commonwealth of Pennsylvania and its authorized representatives.

(e) DISPOSAL- the depositing, application, dumping, injection, spraying, piling, or plowing of sewage sludge on or into the land in such a manner that the sewage sludge, or a constituent thereof enters the environment.

(f) PERMITEE- any person, association, entity, company, municipality, state agency or authority who has applied and received a permit pursuant to the Solid Waste Management Act of 1980, as amended, from the Department of Environmental Resources.

(g) PROCESSING- any technology used for the purpose of reducing volume or bulk of sewage sludge or any technology used to convert part or all of the sewage sludge for off-site facilities or off-site reuse.

(h) SEWAGE SLUDGE- any material whether solid, liquid, semisolid, containing gaseous substances or resulting from the operation of residential, a municipal, commercial or institutional water supply treatment plant, waste water treatment plant, or which falls within the definition of "Municipal Waste" under the Solid Waste Management Act of 1980, as amended and the accompanying DEPARTMENT Rules and Regulations, as amended.

(i) STORAGE- the containment of any sewage sludge of a temporary basis in such a manner as not to constitute disposal of said sewage sludge. It will be presumed that the containment of any sewage sludge in excess of one year constitutes disposal. This presumption can be overcome by clear and convincing evidence to the contrary.

(j) TOWNSHIP- shall mean East Union Township, Schuylkill County, Pennsylvania.

(k) TRANSPORTATION- any movement of sewage sludge within the TOWNSHIP any time after generation of the same within the TOWNSHIP or generation elsewhere which subsequently enters the boundaries of the TOWNSHIP.

§404. Procedures. Any person, association, company, municipality, authority, state agency or other entity wishing to apply, dispose, collect, spread or deposit sewage sludge on any lands or property within the Township shall first provide to the BOARD the following information:

- (a) a copy of its application to the Department for a permit;
- (b) topographical drawings or maps prepared by a registered engineer, so a scale no greater than one inch (1") to two hundred (200) feet showing:
 - (i) location of the site relative to public roads;
 - (ii) identity of owners of adjacent properties;
 - (iii) boundaries of the area to be used for land application;
 - (iv) locations of public and private water supplies, wells, springs, swamps, or other bodies of water within one-half (1/2) of one (1) mile of boundaries of the proposed land application site;
 - (v) soil classification of the land application area;
 - (vi) vegetation in the area;
- (c) a descriptive narrative denoting the source of the sewage sludge and the proposed application rate per acre, the total amount to be applied during the reclamation or disposal project, the duration of the project, the complete vegetation plans, and the method of applying sewage sludge;
- (d) a chemical analysis of the sewage sludge to include, but not be limited to, the ranges of the following: moisture content, percent total nitrogen (moist and dried), percent ammonium (NH₄-N)(moist and dried), percent organic nitrogen (moist and dried), percent phosphorus (P)(dried), percent potassium (K)(dried), pH and the following reported on a dry weight basis: cyanide, sodium, cadmium, zinc, copper, nickel, lead, chromium, mercury, arsenic, molybdenum, and other toxic substances and enteric pathogens, as required by Department. Also, chemical analysis are required according to the following schedule:
 - (i) three (3) composite samples of the sludge to be disposed of must be analyzed three (3) times per year. Tests must be taken at least three (3) months apart;

(ii) additional analysis may be required by the BOARD when significant changes in the treatment plant's volume or quality of effluent is evident.

(iii) the BOARD will test a composite sample of the sewage sludge taken from the job site.

(iv) The BOARD will analyze the soil of the permitted site prior to application and disposal.

(e) APPLICANT shall maintain records of quantities, dates, and locations of sludge applications, collections, and disposals and shall furnish copies of such records to the BOARD upon request.

(f) A soils and geologic report indicating the physical characteristics of the site with respect to its suitability for application of sludge. The report shall be based on available soil survey and geologic data, and accompanied by field test analysis. Field tests shall include:

(i) soil borings by a soil scientist to confirm actual soil profile characteristics are consistent with published soil survey data.

(ii) Groundwater monitoring well shall be established to test water quality prior to, during and after the application program. Groundwater composition shall be included in the application, along with subsequent quarterly monitoring during the application program. The location of the monitoring well shall be approved by the BOARD prior to drilling. In the event that groundwater is found to flow in several directions, a monitor well for each direction shall be required.

(g) a copy of the agreement between the generator of the sludge or the hauler and applicator and the landowner showing provisions as to the term of the Agreement, the operations to be carried out in spreading sludge, and the keeping of records.

(h) Where the proposed applications of sludge involves a leasehold arrangement between the owner of the property and the party applying the sludge, a land development plan shall be prepared and filed in accordance with the provisions of the Pennsylvania Municipalities Planning Code.

(i) A tipping fee of \$100.00 per dry ton of sewage sludge, shall be paid by the hauler or the Applicant, to the BOARD for each dry ton of sewage sludge which is either generated within the TOWNSHIP or is present within its boundaries, and is being stored or otherwise held for disposal. Said tipping fee shall be used to defray all TOWNSHIP costs in having the BOARD review all permit applications, inspect and monitor all permitted sites, and otherwise enforce the terms of this Ordinance.

§405. Responsibility for Management of Sewage Sludge. The BOARD shall have the following duties and responsibilities:

(a) The BOARD shall review all permits and related documentation for the land applications of sewage sludge in the TOWNSHIP to see that all applicable regulations and standards are being met.

(b) The BOARD shall make recommendations, in writing, to DEPARTMENT for the approval or disapproval of the permit. Such recommendations will be based on all related criteria and may include suggestions for modifications by the APPLICANT prior to the BOARD making their recommendation to DEPARTMENT that a permit be issued.

(c) Monitor the development and management of the sewage sludge application sites for compliance with the requirements of the permit.

(d) Monitor site soil sampling ,water sampling, and the sampling of sewage sludge at the application site. Timing of and of samples will be at the discretion of the BOARD on a per site basis.

(e) Review and maintain a record of the independent laboratory test results of the soil, water, and sludge samples indicated in (d) above. Said sampling and testing will be at the expense of the PERMITEE, up to ten (10) samples per site per year, in any combination of soil, water, and sludge as determined by the BOARD.

(f) Stop the application of sewage sludge, if, in the judgment of the BOARD, or its duly authorized representative, the application and site management procedures are not in compliance with the permit.

(g) Notify DEPARTMENT, in the most immediate and practical manner, within twenty-four (24) hours, that the “stop action” has been taken.

(h) Discuss the work with DEPARTMENT and the PERMITEE, at the site, in an attempt to bring about a resolution of the problem causing the “stop action”.

(i) Authorize the application of sewage sludge to continue once the reason for stopping such application has been corrected.

(j) Do all other acts consistent with the authority delegated to local municipalities by the Solid Waste Management Act of 1980, as amended, the Clean Streams Law (35 P.S. Section 691.1 et seq.) the Second Class Township Code.

§406. Standards. The standards for application or disposal of sewage sludge to the land shall be in accordance with the currently adopted standards of the DEPARTMENT as set forth in Chapter 75, Title 25, Rules and Regulations, Department of Environmental Resources, except the following additional requirements shall be imposed:

(a) Area- No site shall be approved which contains less than ten (10) contiguous acres.

(b) Sewage sludge is to be applied to the surface of the soil or other material by spreading, spraying, or injection to prevent ponding or standing accumulations of liquids or sludge.

(c) Sewage sludge is to be incorporated to an average of six (6) inches within twenty-four (24) hours after application.

(d) Sewage sludge is not to be applied in quantities which will result in Runoff, spreading, vector or odor problems. In addition, sewage sludge is not to be applied in quantities which will result in surface or groundwater pollution.

(e) Sewage sludge is not to be applied when the ground is saturated, snow covered, frozen, or during periods of rain. During inclement weather, temporary storage areas may be utilized if runoff is prevented by adequate furrows or trenches around the perimeter of the area and sewage sludge is applied immediately when weather conditions permit surface application. Temporary storage areas will be inspected by a representative of the BOARD prior to sewage sludge storage to determine suitability. Winter storage will not be permitted.

(f) Sewage sludge is not to be applied within one hundred (100) feet of streams, three hundred (300) feet of water supplies, twenty-five (25) feet of bedrock outcrops, fifty (50) feet of property lines, or three hundred (300) feet of occupied dwellings. Distances may be greater by site as determined by the BOARD.

(g) Sewage sludge utilized for re-vegetation of active mines or active coal refuse piles is to be applied in conjunction with final cover methods and operations.

(h) Sewage sludge utilized for re-vegetation is not to be applied to any slopes exceeding fifteen (15) percent. Slopes exceeding this limitation may be approved by the BOARD if the

APPLICANT can insure that growth can be established and runoff problems can be prevented. Adequate surface water controls must be established.

(i) A satisfactory groundwater monitoring program approved by the BOARD must be established for land reclamation sites. Monitoring programs must be equivalent to standards acceptable to DEPARTMENT.

(j) Crops grown on land reclaimed by sewage sludge shall not be harvested during the year that sewage sludge was applied to facilitate self seeding.

(k) Soil pH must be 6.0 or greater prior to sewage sludge application and 6.5 within the first year of initial sewage sludge application. A minimum pH of 6.5 is to be maintained for five (5) years. pH must be adjacent through addition of liming materials directly to the land.

(l) A complete soil or soil analysis shall be completed prior to the application for every ten acres to include but not be limited to the range of the following reported on a dry weight basis: sodium, cadmium, zinc, copper, nickel, lead, chromium, and other toxic metals prior to sewage sludge application. A minimum of fifteen (15) subsamples representing the surface to a depth of six (6') feet shall be taken from every ten (10) acres. These subsamples shall be thoroughly mixed and the soil or soil analysis taken from this mixture.

(m) A complete soil analysis is required five (5) years after the final sewage sludge application to determine build-up of heavy metals and trace elements.

(n) Maximum applications- the rate of application of sludge for land reclamation purposes shall be controlled by the following factors:

(i) Due to the high permeability of mine spoils and low retention of organic matter, sufficient nitrogen in excess of the crop requirement must be provided in order to establish growth. In order to provide sufficient nitrogen, a maximum application of rate of sixty (60) dry tons of sludge per acre may be utilized for land reclamation.

(ii) The application rate is further to be limited according to the trace metal content of the sludge and spoil material determined by the diagnostic tests and rates shall not exceed limits in Table 1. A sample calculation is given in Figure 1.

(iii) Liquid sludge application shall not exceed one (1) inch per week unless otherwise approved by the COMMISSION. This is equivalent to 27,156 gallons per acre per week.

§407. Bonds. In order to assure the BOARD that the various tests and duties imposed upon a PERMITEE by this ordinance are fully performed, sufficient surety for such performance shall be posted by a PERMITEE before any actual disposal or storage of sewage sludge. The PERMITEE shall assure the BOARD by means of a corporate bond or the deposit of funds or securities in escrow sufficient to cover the cost, as estimated by the BOARD, of performing the various test and duties imposed upon him by the Ordinance over the expected useful life of the site plus five (5) years. The Bond shall be furnished under such conditions and form and with the surety as shall be approved by the Township Solicitor to guarantee and secure that all such tests and duties are fully and adequately performed and are paid for by the PERMITEE and that the Township shall, in no event, be held liable for the cost of any such duties or tests. In lieu of a bond, the PERMITEE may deposit cash or securities with the TOWNSHIP or a bank or trust company to guarantee and secure the same requirements as set forth above. In the event, that such cash or securities are deposited, said deposited must be made pursuant to an escrow agreement prepared and approved by the Township Solicitor. The escrow agent for the deposit of such cash or securities shall be located in Schuylkill County and shall be subject to approval by the Township Solicitor.

§408. Indemnification. In addition to the foregoing requirements, all PERMITEES shall, prior to the actual disposal or storage of any sewage sludge, deliver to the TOWNSHIP a liability indemnification with bond good for useful life of the proposed site plus five (5) years, on a form to be prepared by or approved by Township Solicitor, pursuant to the terms of which, the PERMITEE come individually and with surety, specifically agrees to fully indemnify and hold harmless the TOWNSHIP, BOARD, and all of their officers, agents, and employees from any and all liability, expense, or damages whatsoever, as well as litigation and defense costs accruing to any of the same as the result of any use of any land in the TOWNSHIP pursuant to the provisions hereof. The amount of the indemnification bond shall be equal to the cost of removal and/or clean-up of any site and engineering or legal fees pertaining thereto as estimated by the BOARD and Township Solicitor at the time of issuance of any permit by the DEPARTMENT plus fifteen (15%) percent per year thereof for the useful life of the site plus five (5) years.

§409. Severability. The provision of this Ordinance shall be severable, and if any of its provisions shall be held unconstitutional, illegal, invalid, or preempted by any other law, such a decision shall not effect the validity of any of the remaining provisions of this Ordinance.

§410. Effective Date. This Ordinance shall go into effect five (5) days after its enactment or adoption.

§411. Repealer. All ordinances or parts of ordinances not in accord with this Ordinance are hereby repealed as they conflict herewith.

EDITOR'S NOTE: This Ordinance No. 10702-2 was adopted by the East Union Township Board of Supervisors on October 7, 2002.

§501. Title. The Ordinance shall be known and may be cited as The Land Application for Sewage Sludge Ordinance of East Union Township, Schuylkill County, Pennsylvania of 2002.

§502. Purpose. The Purpose of the Ordinance is:

(a) To protect the health, safety and general welfare of all township citizens and other persons by seeking to prevent exposure to any toxic or other harmful material contained in sewage sludge including but not limited to: heavy metals, pathogens, radioactivity, and toxic carcinogens, chemicals as provided by Section 503.5 of Chapter I. Part 503, Subpart A of Title 40. Code of Federal Regulations.

(b) To seek to preserve and protect agriculture and agriculture related activities and to seek to preserve a productive land base and climate for future generations.

(c) To seek to preserve and protect agriculture and agriculture related activities and to seek to preserve a productive land base and climate for future generations.

(d) To register Land Application Sites and Land Application Process to assure compliance with PA DEP permit requirements and to provide local registration, inspection and enforcement by PA DEP.

§503. Interpretation and Implementation. Interpretation or implementation of this Ordinance shall give priority to the purposes stated in Section 1.1 over such considerations as economics, efficiency and scheduling factors.

§504. Prohibition. Sewage sludge containing radioactive waste from any source is prohibited in East Union Township. Beta and Gamma Radiation emanating from sewage sludge shall not exceed the natural background radiation levels of East Union Township as determined by current standardized radiometric procedures carried out by a laboratory whose work is accepted by the Pennsylvania Department of Environmental Protection (DEP).

§505. Regulations. The Federal and state Government have established regulations for the land application of sewage sludge. These regulations have been incorporated into this Ordinance. The following regulations apply to the Land Application of Sewage sludge as of the date of this Ordinance:

(a) A person may not apply sewage sludge in a way that will cause surface or groundwater pollution, cause or allow the attraction, harborage or breeding of vector, cause or allow emissions of any malodorous air containments under Section 123.31 (b), adversely affect private or public water supplies, or cause any public nuisance, 25 PA Code Chapter 271, Subchapter J, Sec. 271.902(g).

(b) No sewage sludge shall be applied to the land where such application shall have a direct adverse effect on the public health and safety, constitute an environmental or health hazard or otherwise cause a nuisance.

(c) Sewage sludge shall not be deposited on any land in East Union Township if the sewage sludge exceeds State and Federal standards for land application of sewage sludge.

(d) Soil pH shall be 6.0 or greater prior to the land application and shall be maintained at 6.0 or greater for the life of land application operations and for two additional years following the last application of sludge to the site.

(e) All sewage sludge applied to land in East Union Township shall not be applied to the land at a rate that is greater than the agronomic rate. 25 PA Code Sec. 271.915(f).

(f) No sewage sludge shall be applied to land where such application would adversely affect air quality of the East Union Township residents, evidenced by the emission of regulated compounds in amounts exceeding federal or state occupational, health and safety standard.

(g) Currently regulations require that the following site restrictions for crops grown on sewage sludge sites be followed:

- (i) May not be harvested for 14 months of application of sewage sludge.
- (ii) Food crops with harvested parts below the surface of the land may not be harvested for 20 months after application of sewage sludge when Food crops with harvested parts that touch the sewage sludge soil mixture and are totally above the land surface the sewage sludge remains on the land surface for 4 months or longer period to incorporation into the soil.
- (iii) Food crops with harvested parts below the surface of the land may not be harvested for 38 months after application of sewage sludge remains on the land surface for less than 4 months prior to incorporation into the soil.
- (iv) Food crops, feed crops and fiber crops may not be harvested for 30 days after application of sewage sludge.
- (v) Animals may not be allowed to graze on the land for 30 days after application of sewage sludge.
- (vi) Turf grown on land where sewage sludge is applied may not be harvested for 1 year after application of the sewage sludge when the harvested turf is placed on either land with high potential for public exposure or a lawn, unless otherwise specified by the Department.
- (vii) Public access to land with a high potential exposure shall be restricted for 1 year after application of sewage sludge.
- (viii) Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge. 25 PA Code #271.93(b)(5) OR Sewage sludge may not be applied to land where:
 - (1) Root vegetables which are eaten raw are grown or will be grown within 2 years.
 - (2) Tobacco is grown or will be grown.
 - (3) Sewage sludge shall be applied to the soil surface or incorporated in a manner that prevents ponding or standing accumulation of liquid or sludge.
 - (4) No person or municipality may use spray irrigation equipment to apply sewage sludge unless the person has demonstrated to the Department in the permit application that the equipment will not cause aerosol transport offsite, and the Department has approved the equipment as part of the permit.
 - (5) Livestock may not be allowed to graze for at least 2 months after the application of sludge. 25 PA CODE #275.203(d)

§506. Exception. This Ordinance does not apply to exceptional quality sewage sludge as defined by Federal and State Regulations.

§507. Definitions. The following terms shall have the meanings defined in this section wherever they are used in this Ordinance.

Adjacent Areas: Lands that abut a sewage sludge site within the boundaries of the property on which the site is located.

Administrative Completeness: An application is administratively complete if it contains the necessary analyses, fees, documents and information, regardless of whether the analyses, fees, documents and information would be sufficient for the issuance of the permit, or the determination of applicability. 25 PA Code Chapter 271. Subchapter I, Sec. 271.822.

Applicant:

A. Site Registration Applicant is the preparer of sewage sludge for use, incineration or disposal.

B. Land Application Registration Applicant is the person responsible for complying with Pa DEP and the East Union Township Federal regulations governing the application of sewage sludge to the land.

Beneficial Use: Use of reuse of residential waste or residual material derived from residual waste for commercial, industrial or governmental purposes where the use does not harm or threaten public health, safety, welfare or the environment, or the use or reuse of processed municipal waste for any purpose, where the use does not harm or threaten public health safety, welfare or the environment. 25 PA Code Chapter 271, Subchapter A. Sec. 271.1.

DEP: Pennsylvania Department of Environmental Protection.

Inspection: Pre-application inspection and post-application surveillance and reporting on land applications of sewage sludge.

Land Application: The spraying or spreading of sewage sludge onto the land surface for beneficial use; the injection of sewage sludge below the land surface for beneficial use; or the incorporation of sewage sludge into the soil for beneficial use so that the sewage sludge can either condition the soil or fertilize crops for vegetation grown in the soil. 25 PA Code Chapter 271, Subchapter J, Sec. 271.907.

Ordinance: The Land Application of Sewage Sludge Ordinance of East Union Township and any subsequent amendment thereto.

Person: Any individual, natural person, trustee, court appointed representative, syndicate, association, partnership, firm, club, company, corporation, business trust, institution, agency, government corporation, municipal corporation, city, county, municipality, district or other political subdivision, department, bureau, agency or instrumentality of federal, state or local government, contractor, or any officers, agents, employees, factors, or any kind of representatives of any thereof, in any capacity acting either for himself, or for any other person, under either personal appointment or pursuant to law, or other entity recognized by law as the subject of rights and duties. The masculine, feminine singular or plural is included in any circumstances.

Pretreatment User: All users subject to the National Pretreatment Standards under 40 CFR. Chap. 1, Part 403, as amended

Pollutant: An organic substance, a combination of organic substance, a combination of organic substances, a pathogenic organism or another substance identified by the Department (PA DEP) that, after discharge and upon exposure, ingestion, inhalation or assimilation into an organism either directly from the environment or indirectly by ingestion through the food chain, could, on the basis of information available to the Department cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunction in reproduction), or physical deformations in either organisms or offspring of the organisms. 25 PA Code Chapter 271. Subchapter J, Sec. 271.907.

Pollutant Limit: A numerical value that describes the amount of a pollutant allowed per unit amount of sewage sludge (for example, milligrams per kilogram of total solids); the amount of a pollutant that can be applied to a unit area of land (for example, pounds per acre or kilograms per hectare); or volume of a material can be applied to a unit area of land (for example, gallons per acre or liters per hectare). 25 PA Code Chapter 271, Subchapter J, 271.907.

Registration:

A. Site Registration- document which confirms that the proposed site meets all federal, state and local regulations pertaining to land application of sewage sludge.

B. Land Application Registration- authorization of land apply sewage sludge on agricultural lands in East Union Township.

C. Annual Updates- annual renewal of site registration.

Sewage Sludge: Liquid or solid sludges and other residues from a municipal sewage collection and treatment system; and liquid or solid sludges and other residues from septic and holding tank pumpings from commercial, institutional or residential establishments. The term includes materials derived from sewage sludge. The term does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator, grit or screenings generated during preliminary treatment of sewage sludge at a municipal sewage collection and treatment system, or grit, screenings and nonorganic objects from septic and holding tank pumpings. 25 PA Code Chapter 271, Subchapter A, Sec. 271.1.

Site/Sewage Sludge Site: A surveyed area of agricultural land used for the application of sewage sludge.

Transportation: The conveyance of sewage sludge from one point to another.

Township: References East Union Township, their agents and or employees

Water Source: Groundwater, spring or surface water which is used for human use or consumption.

§508. Authority. This Ordinance is adopted and enacted pursuant to the authority granted to the Township by all relevant state and federal laws including but not limited to the following:

(a) The provisions of the Second Class Township Code, Article VII, as codified in 53 P.S. Section 65101 et seq., authorizes the Township to provide for the protection and preservation of the natural resources, human resources, and to promote protect facilities public health, safety and welfare; and to preserve and protect farm land, woodland and the recreational use of the land within the Township.

(b) The provisions of the Second Class Township Code, Article VII, as codified in 53 P.S. Section 5101. Et seq., authorizes the Township to provide for the protection and preservation of the natural resources, human resources, and to promote protect and facilities public health, safety and welfare; and to preserve and protect farm land, woodland and the recreational use of the land within Township.

(c) Act 537 East Union Township Official Sewage Plan as updated.

And recognizes the additional authority of:

(d) Pennsylvania Constitution, Article I, Section 27.

(e) Municipal Waste Regulations, 25 Pa Code, Section 271 et seq., unless otherwise specified.

(f) Pennsylvania Air Pollution Control Act 35 PS Section 4001, et seq.

(g) Clean Air Amendment of 1977k, 42 U.S.C. Section 7416 and 7422.

(h) Safe Drinking Water Act, 1974 of Federal Regulations as amended, 1986.

(i) Right to Know Act – 42 U.S.C. Section 11011 et seq. and corresponding regulations, 35 P.S. Section 7301 et seq. and corresponding regulations.

(j) Nutrient Management Act- 25 PA Code Chapter 83, as amended.

(k) General Pretreatment Regulations for existing and new sources of pollution- 40 CFR Part 403.

(l) Pennsylvania Right to Farm Act, 3 P.S. #951 et seq.

§509. Registration. It shall be unlawful for any person to apply sewage sludge for any purpose to any lands within the limits of East Union Township unless he holds a valid permit for

such purpose or purposes as may be required by the DEP or any other administrative agency under the laws of the Commonwealth of Pennsylvania and holds a valid Site Registration and/or Land Application Registration required and issued for a specific site and person by East Union Township under this or any other Ordinance of East Union Township. Prior to land application, all sewage sludges sites in East Union Township must have a Site Registration and Land Application Registration issued by East Union Township.

§510. Eligibility of Registration. Site Registration shall be issued to the Wastewater Treatment Facility which generates the sewage sludge for land application within East Union Township. Registration shall be issued to the transportation (hauler) or sewage sludge within East Union Township.

Land Application Registration shall be issued to the facility person responsible for complying with Pa DEP and Federal regulations governing the land application of sewage sludge within East Union Township.

No registration shall be issued unless the person making the application shall have first been issued a valid permit by PaDEP.

No Land Application Registration shall be issued unless the person making application shall be licensed with the Schuylkill County Solid Waste Authority.

§511. Site Registration Requirements.

(a) A copy of the DEP application and any and all amendments thereto approve by DEP for the land application of sewage sludge on the site including proof of consent of the landowner of the property to be used as the sewage sludge site with tax map and parcel number shall be submitted to East Union Township.

(b) Application shall be in writing in such form and number as required and shall be submitted to the Township. Application shall be accompanied by an application map as required by DEP, on a scale in which 1 inch equals no more than 400 feet, on paper sized no greater than 22 x 36 inches showing the location and necessary narrative descriptions for land and data, including:

- (1) Boundaries and names of present owners of record of land, both surface and subsurface, including easement, rights-of-way and any other property interests, for the PADEP Permit area.
- (2) Boundaries of the land where sewage sludge will be applied, including all setbacks as required by Federal and DEP regulations as amended. 25 PA Code Subchapter C 275.202.

Except for areas permitted by the Department prior to April 9, 1988, the land application of sewage sludge may not be conducted:

- (1) Within 100 feet of an intermittent or perennial stream.
- (2) Within 300 feet of a water source, unless otherwise approved by the Department in writing
- (3) Within 1,000 feet up gradient of a surface water source unless otherwise approved by the Department in writing.
- (4) Within 25 feet of bedrock outcrop.
- (5) Within 50 feet of a property line within which the sludge is applied, unless otherwise approved by the Department, in writing.
- (6) Within 100 feet of a sinkhole or area draining into a sinkhole.
- (7) Within 25 feet of the perimeter of an undrained depression
- (8) In or within 100 feet of an exceptional value wetland as defined in 25 PA Code Chapter 271. Section 105.17 (relating to wetlands).

- (9) Within 300 feet from an occupied dwelling unless the current owner there has provided a written waiver consenting to activities closer than 300 feet.
- (10) In an area without an implemented erosion and sedimentation control plan or a farm conservation plan.
- (11) Within 11 inches of the seasonal high water table, nor within 4 feet of the regional groundwater table.
- (12) Where land application of sewage sludge is to be applied for agricultural utilization on slopes that exceed 25% unless otherwise approved in writing by the Department.
- (13) Where land application of sewage sludge is to be applied for land reclamation on slopes that exceed 35% unless otherwise approved in writing by the Department.
- (14) Where an adverse effect occurs to the food chain, causes odors or allows vectors.
- (15) When nitrogen from manure disposed of at the site satisfies the nutrient needs of the farm for realistic expected crop yields, unless an approved management plan allows for otherwise.
- (16) When the ground is saturated, frozen, covered with snow or during periods of rain.
- (17) Where no sludge storage capacity or other means of storage or disposal exists at the generating facility.

(c) Soil Analysis: The applicant for a Site Registration shall obtain an analysis of soil taken from the site where sewage sludge is to be spread detailing the organic and inorganic chemicals and pH listed in Table One. One through Fourteen, found in the Appendix of this Ordinance. Soil concentrations of all chemicals shall be expressed in mg/kg on a dry weight basis. Sample points must be indicated on the soils map. Soil samples shall be expected to meet all Federal and State regulations applicable to sewage sludge. Soil sample results that indicate a concentration in excess of the cumulative loading limits of the Federal and State regulations shall be forwarded to PA DEP by East Union Township. Soil samples shall be collected according to PA DEP approved methods and analyzed by a laboratory whose work is approved by PA DEP. Soiled analysis shall be conducted in accordance with PA DEP regulations and those results shall be submitted to the Township with the application. Soil analysis shall be submitted with each site registration and site registration renewal. Prior to approval of the Site Registration, the Township may request the opportunity to collect and analyze representative soil samples, at Township expense. This analysis shall include, but not necessarily be limited to all of the items listed in Table 1. East Union Township may also analyze soil for pathogens, including but not necessarily limited to: fecal conform, salmonella sp., clostridium, cryptosporidium and enteric viruses.

(d) Groundwater: Sewage sludge shall not contaminate a water source. Groundwater quality tests shall be used to establish a baseline for potential pollutant concentrations. A Site Regulation application shall be accompanied by a Background applicant. The intent of the Background Groundwater Analysis Report is to provide a description of the background groundwater quality of the proposed site prior to the issuance of the Site Registration. The Background Groundwater Analysis Report shall consist of the following:

- (1) The depth to regional groundwater table;

(2) The depth to seasonal high water as indicated by the presence of soil mottling or as altered by drainage devices installed under an approved soil conservation plan;

(3) A description of the use or uses of the groundwater from the aquifer underlying the proposed surface registration area; and

(4) Two analyses, provided existing groundwater sources are available. One of which shall be downgradient, if possible, from the sludge application area, of groundwater sources located within the boundaries of a proposed site registration area. In the event that existing groundwater sources are not available on the proposed site registration area, the applicant shall make a reasonable effort to obtain groundwater analysis of existing wells, springs, etc. including household wells, from adjacent properties within 75 feet of the property boundary. The Township shall assist the applicant in this regard. A map showing the location of the test sites shall be included. The applicant shall only be required to use existing wells, springs, etc., including household wells as water sources. Groundwater samples from these water sources shall be obtained and analyzed for inorganic and organic chemicals listed in table three, items one through thirteen, in the appendix. The analysis of the test sites shall also include for fecal coliform. The Township may request the opportunity to collect and analyze representative water samples at sample points delineated on the map, at the Township expense. The Township may analyze for the inorganic and organic chemicals, including but not necessary limited to items one through thirteen listed in table three. The Township may also analyze, but not necessarily be limited to water samples for the concentrations of the following pathogens: total, coliform, salmonella sp. clostridium, cryptosporidium and enteric viruses.

(5) All data on groundwater sampling performed within the previous 12 month period from the we associated with the proposed site registration area shall be included in the Background Groundwater Analysis Report.

(e) Surface Water: Surface water map: An application shall contain a description and a map of the surface waters in the proposed site registration area and adjacent area including the following:

(1) The location of the watershed which will receive water discharge.

(2) The location of the surface water bodies such as streams, lakes, ponds, springs and seeps

(3) The location of water discharge into the surface bodies of water.

(4) Descriptions of surface drainage systems within the proposed permit area and adjacent areas.

(f) Erosion Control: A plan approved by the East Union Township County Conservation District to manage surface water and control erosion that will contain the sewage sludge within the site registration area.

(g) Pretreatment: Applicant shall provide “the list of significant users that have received written notices of violation and the number of written notices issued to each user during the reporting period”, from the EPA Pretreatment Annual Report of the Wastewater Treatment Facility signed and certified by an authorized representative of the Wastewater Treatment Facility. The applicant shall also provide a list of Significant Industrial Users required to be permitted by EPA. An applicant shall be required to have instituted an enforcement procedure for the pre-treatment violations.

(h) Fee: A non-refundable administrative fee sufficient to cover all Township expenses necessary process the application shall be paid by the applicant. Administrative fees shall include costs associated with administering the Township duties and responsibilities as set forth in this Ordinance. Fees shall be established and adjusted as necessary by the Board of Supervisors. Said fee shall be set through Resolution by the East Union Township Board of Supervisors.

(i) Certification: The applicant will certify by letter that all appropriate rules, requirements and regulations of the Code of Federal Regulations. Chapter I of Title 40 as amended by Part 503 and PA Title 25 Chapter 271 and 275, as amended, as well as all other applicable Federal and State Regulations for the land application of sewage sludge not specifically addressed in this Ordinance have been complied with.

(j) Site Registration shall be valid for a period concurrent with the DEP permit. Annual Updates of the Site Registration shall be valid for a period of one year from the date of issuance.

§512. Annual Report.

(a) An Annual Report shall be submitted annually, in writing, on forms provided by the Township at least forty-five (45) days prior to the anniversary date of the current Site Registration.

(b) The Annual Report shall identify whether there have been any changes to the support data and documents (A through G and I, Section 511) for the original Site Registration. If any changes have occurred, updated information shall be submitted as part of the Annual Report.

(c) Any laboratory analyses of any soil or water samples, required by PA DEP and collected and analyzed within the previous twelve month period shall be submitted with the Annual Report. The Annual Report Form shall contain a checkoff box indicating whether any other soil or water samples have been taken within the past year.

(d) A non-refundable administrative fee for Township review as described above shall be paid by the applicant. Fee to be established and adjusted as necessary by the Board of Supervisors. Said fee shall be so through Resolution by the East Union Township Board of Supervisors.

§513. Approval Process for the Site Registration-Non Transferability.

(a) Site Registration shall be issued by East Union Township. East Union Township shall notify the applicant as to administrative completeness within fifteen (15) business days after receiving the application. The Township shall issue the Site Registration within five (5) business days after an application has been determined to be administratively complete. Failure to render a written determination within five days of administrative completeness shall constitute deemed approval.

(b) All Site Registration shall be announced at a public meeting of the Township Supervisors.

(c) A Site Registration issued herein shall not be transferable.

§514. Land Application Registration (LAR) Requirements. It shall be unlawful for any person to land apply sewage sludge within the limits of East Union Township unless the Township has issued both a Site Registration and a Land Application Registration.

(a) The application from for LAR shall be submitted by the person responsible for complying with the DEP and Federal regulations governing the land application of sewage sludge within East Union Township. An application from must be made not less than fifteen (15) days prior to the scheduled date that the land application of sewage sludge will occur.

(b) The application for a LAR shall be in writing on Township approved forms and shall include the following information:

(1) The name and address of the person applying for LAR.

(2) The source of the sewage sludge (the waste treatment facility). A LAR shall be restricted to a single wastewater treatment facility.

(3) An up-to-date certified list of the names and addresses of all users of the Wastewater Treatment Facility that are subjected to National Pretreatment Standards under 40CFR. Chapter 1, Part 403 amended.

(4) If a Priority Pollutant Scan for the sludge is required by state or federal regulations, a copy shall be supplied to East Union Township.

(5) The name and address of the person holding the current valid East Union Township Site Registration for the land application.

(c) East Union Township shall be notified of any sludge discharges, violations, new hazardous waste discharges, spills, etc., by the users of the Facility that could contaminate sludges. (Users are required to notify the wastewater treatment facility in writing concerning these events. See 40 CFR, Sections 403.9, 403.12 and 403,16 as amended.) Copies of these notices shall be forwarded to the Township when received by the Wastewater Treatment Facility in order to keep the information current on the LAR.

(d) A description of the route to be utilized by vehicles hauling sewage sludge to the LAR site.

(e) An estimated schedule of when the land application will occur (date and time). If schedule changes are made for the land application, the Township must be notified of the change at least twelve (12) hours before the date and the time of the land application. On the day land application begins, the Township shall be notified by phone or fax.

(f) Results of analysis of sewage sludge (see Table Two, Items One through Twelve, in the Appendix). Copies of all tests conducted on sludge within the previous twelve (12) months by the by Wastewater Facility shall be forwarded to East Union Township with the land application form.

(g) An Application Map detailing the limits of the LAR within the Site Registration area showing location of markers that shall be posted prior to and maintained for the duration of the land application of sewage sludge on the site.

(h) Letter from the applicant, certifying that all appropriate rules, requirements and regulations of the Code of Federal Regulations. Chapter I Title 40 as amended by part 503 and 25 PA Code Chapter 271 and 275, as amended, and all other applicable Federal and State regulations for the land application of sewage sludge not specifically addressed in this Ordinance have been complied with.

(i) A non-refundable fee must accompany the application. This fee shall be established and adjusted by the Township Board of Supervisors as necessary to ensure all Township administrative and other expenses are covered. Fees shall be established and adjusted as necessary by the Board of Supervisors. Said fee shall be set through Resolution by the East Union Township of Board of Supervisors.

§515. Approval of LAR.

(a) The land application of the sewage sludge shall comply with the following requirements and standards:

(b) All analyses required by the Ordinance shall be performed by the laboratory whose work is approved and accepted by DEP.

(c) Any vehicle hauling sewage sludge, in any form shall be of such construction so as to prevent part load from spilling or leaking at all times. The operator of each vehicle must have current vehicle registration, vehicle safety inspection, YCSWA license and a copy of the LAR and vehicle manifest of the contents of that vehicle.

(1) Vehicle manifest must show the GVW of the vehicle and the source of the sludge.

(2) The transporting [note-this is transportation only] of sewage sludge within East Union Township will be restricted to Monday through Friday between 6 a.m. and dusk.

(d) The Township may enforce the PA DEP regulations, as amended, regarding the land application of sewage sludge consistent with requirements of those regulations.

(e) Except for areas permitted by the Department prior to April 9, 1988, the land application of sewage sludge may not be conducted:

(f) Within 100 feet of an intermittent or perennial stream.

(g) Within 300 feet of a water source, unless otherwise approved by the Department in writing

(h) Within 1,000 feet upgradient of a surface water source unless otherwise approved by the Department, in writing

(i) Within 25 feet of a bedrock outcrop.

(j) Within 50 feet of a property line within which the sludge is applied, unless otherwise approved by the Department, in writing.

(k) Within 100 feet of a sinkhole or area draining into a sinkhole.

(l) Within 25 feet of the perimeter of an undrained depression.

(m) In or within 100 feet of an exceptional value wetland as defined in 25 PA Code, Chapter 271, Section 105.17 (relating to wetlands)

(n) Within 300 feet from an occupied dwelling unless the current owner there has provided a written waiver consenting to activities closer than 300 feet.

(o) In an area without an implemented erosion and sedimentation control plan or a farm conservation plan.

(p) Within 11 inches of the seasonal high water table, nor within 4 feet of the regional groundwater table.

(q) Where land application of sewage sludge is to be applied for agricultural utilization on slopes that exceed 25% unless otherwise approved in writing by the Department.

(r) Where application of sewage sludge is to be applied for land reclamation on slopes that exceed 35% unless otherwise approved in writing by the Department.

(s) Where an adverse effect occurs to the food chain, causes odor or allows vectors.

(t) Where nitrogen from manure disposed of at the site satisfies the nutrient needs of the farm for realistic expected crop yields, unless an approved management plan allows for otherwise.

(u) When the ground is saturated, frozen, covered with snow or during periods of rain.

(v) Where no sludge storage capacity or other means of storage or disposal exists at the generation facility.

(w) Sewage sludge containing radioactive waste from any source is prohibited in East Union Township. Beta and Gamma radiation emanating from the sewage sludge shall not exceed the natural background radiation levels of East Union Township as determined by cur-

rent standardized radiometric procedures carried out by a laboratory whose work is accepted by DEP.

(x) The Federal and State Government have established regulations for the land application of sewage sludge. These regulations have been incorporated into this Ordinance. The following regulations apply to the Land Application of sewage sludge as of the date of this Ordinance.

(y) A person may not apply sewage sludge in a way that will cause surface or groundwater pollution cause or allow the attraction, harborage or breeding of vectors, cause or allow emissions of any malodorought air contaminants under Section 123.31(b), adversely affect private or public water supplies, or cause any public nuisance. 25 PA Code Chapter 271, Subchapter J. Sec. 271 902(g).

(z) No sewage sludge shall be applied to the land where such application shall have a direct adverse effect on the public health and safety, constitute an environment or health hazard or otherwise cause a nuisance.

(aa) Sewage sludge shall not be deposited on any land in East Union Township if the sewage sludge exceeds State and Federal standards for land application of sewage sludge.

(bb) Soil pH shall be 6.0 or a greater prior to the land application and shall be maintained at 6.0 or greater for the life of land application operations and for two additional years following the latter application of sludge to the site.

(cc) All sewage sludge applied to land in East Union Township shall not be applied to the land at a rate that is greater than the agronomic rate. 25 PA Code Sec. 271.915(f).

(dd) Current regulations require the following site restrictions for crops grown on sewage sludge so to be followed.

(1) Food crops with harvested parts that touch the sewage sludge soil mixture and are total above the land surface may not be harvested for 14 months after application of sewage sludge.

(2) Food crops with harvested parts below the surface of the land may not be harvested for months after application of sewage sludge when the sewage sludge remains on the land surface for 4 months or longer period to incorporation into the soil.

(3) Food crops with harvested parts below the surface of the land may not be harvested for 38 months after application of sewage sludge when the sewage sludge remains on the land surface for less than 4 months prior to incorporation into the soil.

(4) Food crops, feed crops and fiber crops may not be harvested for 30 days after application of sewage sludge.

(5) Animals may not be allowed to graze on land for 30 days after the application of sewage sludge.

(6) Turf grown on land where sewage sludge is applied may not be harvested for 1 year after application of sewage sludge when the harvested turf is placed on either land with a high potential for public exposure or a lawn, unless otherwise specified by the Department.

(7) Public access to land with high potential for public exposure shall be restricted for 30 days after application of sewage sludge.

(8) Public access to land with a low potential for public exposure shall be restricted for 30 days after application of sewage sludge. 25 PA Code Section 271.932(b)(5).

(ee) No sewage sludge shall be applied to land where such application would adversely affect air quality of the East Union Township residents, evidenced by the emission of regulated compounds in amounts exceeding federal or state occupational, health and safety standards.

(f) Sewage sludge may not be applied to land where:

(1) Root vegetables or vegetables which are eaten raw are grown or will be grown within 2 years.

(2) Tobacco is grown or will be grown.

(3) Sewage sludge shall be applied to the soil surface or incorporated in a manner that prevents ponding or standing accumulations of liquid or sludge.

(4) No person or municipality may use spray irrigation equipment to apply sewage sludge unless the person has demonstrated to the Department in the permit application that the equipment will not cause aerosol transport offsite, and the Department has approved the equipment as part of the permit.

(5) Livestock may not be allowed to graze for at least 2 months after the application of sludge. 25 Pa Code Sec. 275.203(d)

§516. Site Registration.

(a) Prior to the site registration being issued, the Township or its agents (i.e. inspector) may inspect the land application site to determine whether the person that has applied for a Site Registration has complied with all the provisions of this Ordinance. The Township inspector shall be accompanied by a representative of the Registrant. The Township shall provide reasonable notice to the Registrant of the inspection.

§517. Land Application Registration.

(a) The Township Inspector may randomly inspect the spreading of the sewage sludge to insure compliance with all provisions of the LAR without prior notice to LAR applicant on the Site Registration Applicant.

(1) Samples of the sewage sludge may be collected at random by the Township and analyzed utilizing PA DEP approved procedures. Samples shall be analyzed by a laboratory whose work is approved and accepted by PA DEP, and selected by the Township. Samples shall be tested for organic and inorganic chemicals, including but not necessarily limited to, those chemicals listed in Table Two of the Appendix, this Ordinance and for the density, on a basis of dry weight of sludge solids expressed in grams, of various pathogens, including but not necessarily limited to: Fecal coliform, salmonella sp. Clostridium, cryptosporidium and enteric viruses. Sludge samples tested shall be expected to comply with PA DEP and Federal regulations.

(2) There shall be a minimum of one inspection per year per active site, with records to be kept indefinitely by the Township.

(3) If it is determined by the Township that any of the provisions of this Ordinance are being violated and cannot be rectified on site, the spreading of the sewage sludge shall be enjoined and the LAR suspended until violations are corrected.

§518. Post Land Application.

(a) A representative of the Township may inspect the sewage sludge site within forty-eight (48) hours of the application to ensure that:

(1) The sewage sludge was properly applied.

(2) All other site registration, land application registration and DEP permit requirements have been achieved.

(b) Additional inspections by the Township representative may occur to insure that food and feed crop restrictions are in compliance.

§519. Township Inspections. Any Township Inspector shall prevent his Township credentials to the owner or occupier of the property prior to inspection.

§520. Enforcement and Revocation.

(a) Notice of Violation. Whenever the Township determines that there has been a violation of any provision of this Ordinance, or any regulation adopted pursuant thereto, the Township shall be given notice of such alleged violation to the person to whom the Site Registration or LAR was issued. Such notice shall (a) be made in writing, (b) include a statement of the reasons for its issuance, (c) allow five (50 days for the registrant to obtain compliance; (d) be served upon the owner or his agent as required by the Laws of the Commonwealth; and (e) contain an outline of remedial action which, if taken, will effect compliance with the provisions of the Ordinance or part thereof, and with the regulations adopted pursuant thereto.

(b) Suspension. Upon failure of a holder of the Site Registration or LAR to comply with the notice of violation and compliance order provided herein. East Union Township may suspend the Site Registration or LAR with an appropriate cease and desist order terminating the land application of sewage sludge at the site at which the alleged violation occurred.

(c) Appeal. The holder of a registration has been suspended hereunder may appeal the suspension to the Court of Common Pleas of Schuylkill County, provided the appeal is made within thirty (days after the date of the order of the suspension.

(d) Enforcement.

(1) As provided by the second Class Township Code, enforcement of this ordinance shall be by action brought before a District Justice in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. 53 P.S. Section 66601 (C.1)(2). Any person who violates any provision of this Ordinance shall be guilty of a summary offense and upon conviction thereof by a District Justice shall be sentenced to pay a fine not to exceed \$1,000.00 per each violation and may be imprisoned as to the extent allowed by law for the punishment of summary offenses. Id. For purposes of this Section, a separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each section of this ordinance which is found to be violated. 53 P.S. Section 66601 (C.1)(5). The Township may also enforce this Ordinance through an action in equity brought in the Code of Common Pleas of Schuylkill County. 53 P.S. Section 66601 (C.1)(4).

(2) When determining the amount of any penalty to be imposed upon a violator of the Ordinance District Justice shall consider the conduct of the violator, negligence, whether the action(s) or the violator was intentional and any steps taken by the violator to mitigate any alleged harms. The purpose of this provision that the District Justice may impose the maximum penalty only when the District Justice finds that the violation is an intentional violation.

(3) All fines collected for violation of this Ordinance shall be paid to the Township.

(4) Mediation:

(i) If remedial action by the Township in the Notice of Violation (“NOV”) is determined to be unsatisfactory by the Site Registrant or the LAP registrant, the Registrant shall follow the following procedure for mediation. The Registrant, with a Remedial Action Plan, shall request

mediation, in writing within five (5) business days of receipt of NOV. The Township shall schedule a meeting, within five (5) business days of submission or Remedial Action Plan to discuss the Notice of Violation, the Remedial Action Plan and resolution. At that meeting the Township and Registrant shall attempt to develop a Remedial Action Plan that is mutually agreeable.

(ii) If the parties do not achieve a mutually acceptable Remedial Action Plan, then the Township and the Registrant shall engage the services of a mediator who will attempt to mediate an acceptable Remedial Action Plan between the parties. The mediation shall be non-binding. The cost of the mediator shall be equally divided between the parties. Every effort shall be made to conclude all aspects of the mediation within ten (10) days after initial meeting of the parties.

(iii) If the Registrant has requested mediation, then the Township shall not suspend or revoke the Site Registration or LAR for a period of not less than ten (10) days after the Registration has requested mediation and submitted its Remedial Action Plan. If the mutually agreeable remedial action plan is achieved, it shall supersede the outline of remedial action contained in the Notice of Violation. If the Registrant fails to request mediation if the Registrant fails to appear at any meeting or mediation described in subsection (d) then any suspension shall be effectively immediately.

§521. Administration. The provision of this Ordinance shall be administered by the East Union Township Board of Supervisors or their duly authorized representatives.

§522. Duties.

(a) To review and process all applications for sewage sludge disposal Site Registration and LARs and to establish and collect all fees for said applications.

(b) To indefinitely keep records of the findings, discussions, recommendations, and actions taken upon or in respect to all sewage sludge disposal within the Township.

(c) To enforce the provisions herein.

§523. Effective Date. This Ordinance shall be effective five (5) days after the date of its enactment and shall apply to all current existing permits issued or authorized by PA DEP for the land application of sewage sludge in East Union Township. Any land application of sewage sludge in process of the effective date of this ordinance must be completed in thirty (30) days. All future land applications of sewage sludge must comply with all provisions of this Ordinance.

§524. Validity and Repealer. The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, valid or unconstitutional by any court of competent jurisdiction, such decision of the Court shall not effect, impair, or invalidate any of the remaining sections, clauses, sentences, parts of the provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part or provision had not been included herein. The provisions of any prior Ordinance, which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

EDITOR'S NOTE: This Ordinance was adopted by the East Union Township Board of Supervisors on June 6, 2003.

Part 6
Termination of Sewer Service to Delinquent Customers

§601. Purpose. The East Union Township Sewer Authority provides sewer services to customers who are located in East Union Township. The Sewer Authority has experienced difficulty in the collection of its sewer billings. The extremely high volume of outstanding and delinquent payments for said sewer service has created a hardship on the Township and Sewer Authority. The current condition will continue to have a detrimental effect on the health, safety and public welfare of the citizens of said Township. The Sewer Authority currently has no method for the termination of sewer services in instances of delinquent payment. East Union Township wishes to provide terms, conditions and procedure to allow for the termination of sewer services and the methods to be followed by the authority prior to the termination of said service.

§602. Monthly Notices. The Sewer Authority on each of its monthly billing statements shall provide a notice to each customer as follows:

“If you have a problem paying your sewer bill or dispute the charges listed on your bill, you may contact the sewer authority by calling (570) 384-0000 or by writing or visiting the office at 10 East Elm Street, Sheppton, Pa.”

§603. Shut-Off Notice. The Sewer Authority shall prior to termination of service for non-payment of sewer bills mail a shut-off notice to the customer which shall contain the following language:

“At this date your payment for sewer service has not been received. If you do not make arrangements for payment within fourteen (14) days from the date you received this notice, your sewer service will be terminated without further notice.”

§604. Method of Service of Shut-off Notice. The Sewer Authority shall send all shut-off notices via registered mail, return receipt requested, and regular mail to the billing address and to the service address which notice shall be in an envelope and shall not be by postcard or other communication, the nature of which is readily ascertainable.

§605. Failure to Comply. Any property owner including any person, corporation, partnership, tenant, lessee or occupant who fails to comply with the requirements set forth in the notice as set forth above shall subject the property to a termination of sewer service at the property owner’s expense.

§606. Termination.

(a) The Sewer Authority upon following the procedures as set forth herein shall be permitted to terminate the sewer service provided to its customers who are delinquent in their sewer utility payments.

(b) The Sewer Authority shall access the delinquent properties connection to the public sewer system by excavating down to the connection and installing a shut off valve, access to a pipe to the shut off valve and all other materials necessary to allow the Authority continuous access to said valve.

(c) The Sewer Authority shall be responsible for shutting off the sewer service and shall be also responsible for turning the sewer service back on once the delinquent amount has been paid or arrangements are made for payment.

(d) All terminations of sewer service by the Sewer Authority shall be performed between the hours of 8:00 a.m. and 4:00 p.m.

(e) The Sewer Authority shall be required to turn the sewer service back on only after all termination and reactivation fees, costs, and outstanding delinquent amounts are paid in full.

§607. Costs. The property owner shall be responsible for any and all costs incurred by the Sewer Authority in carrying out the terms set forth herein including, but not limited to all materials and labor utilized at the Sewer Authorities discretion. The Authority shall also collect a turn-off charge for the termination and re-activation of all sewer service consistent with the terms set forth herein. The cost for the termination and reactivation shall be determined by a resolution which shall be adopted by the Sewer Authority. In the event that there is any problem with the shutoff valve, the valve will be replaced by the Sewer Authority and the customers shall reimburse the Sewer Authority the cost of all labor, equipment and material necessary for such repairs.

§608. Miscellaneous.

(a) Prior to any termination of sewer service the Sewer Authority shall have complied with all applicable rules, regulations and ordinances adopted by the East Union Township and terms and conditions set forth herein.

(b) East Union Township and the Sewer Authority shall not be liable for any loss, damage, or other claim asserted by the owner or occupant of the premises for carrying out the provisions set forth herein.

§609. Repealer. All ordinances and resolutions or parts of ordinances or resolutions, insofar as they are inconsistent herewith, be and the same are hereby repealed.

§610. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, it shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intention of the East Union Township Supervisors of the Township of East Union, that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included.

§611. Effective Date. This Ordinance shall become effective five days after adoption.

EDITOR'S NOTE: This Ordinance 2009-3 was adopted by the East Union Township Board of Supervisors on March 2, 2009.

Registration, Regulation, and Control of Well Water

§701. Title. This Ordinance shall be known and may be cited as the “East Union Township Well Ordinance.

§702. Purpose. The intention of this Ordinance is to insure and protect the quality and suitability of domestic, commercial or industrial water supply, and to secure and maintain the minimum required isolation distances between water supplies and sewage disposal systems or other sources of contamination.

§703. Application.

(a) This Ordinance shall apply to all wells which have not been completed, or which are not in operation or in operable condition at the effective date of this Ordinance.

(b) This Ordinance shall further apply to the reconstruction, major repair and other changes to existing wells, when, in the opinion of the Inspecting Officer, such reconstruction, major repair and other changes may affect the quality and suitability of the water supply on the property upon which the well is constructed or on surrounding properties.

§704. Design Standards. All wells shall be constructed at a minimum distance of one hundred (100’) feet from any existing subsurface sewage disposal drain field, or from any location where such a drain field may reasonably be located on adjacent premises.

§705. Registration.

(a) No construction, drilling, digging, reconstruction, major repair or other change of or for any well for the production of water for domestic, commercial or industrial purposes shall commence unless the property owner, or his duly authorized agent, shall apply for and receive a permit for such construction activity from the Township of East Union.

(b) Application for such a well permit shall be made upon a form supplied by the Township, and shall be submitted to the Township Secretary or duly authorized Inspecting Officer of the Township.

(c) The said application shall set forth the name or names of owners of the property, the address or location of the property, a scale or sketch of the premises showing the property location of the well, the location or proposed location of all buildings and septic tanks and drain fields, the boundary lines of the premises upon which the well is proposed to be located, the boundary line of all adjacent premises, and such other information as may be required thereon.

§706. Inspection. Upon receipt of an application for a well permit, the Township, through its duly authorized Inspecting Officer, shall within thirty (30) days perform an inspection of the premises on which the well is to be constructed. The inspection shall be conducted in accordance with the provisions of this Ordinance and the provisions of the Township Sewage Ordinance. Upon completion of the inspection, the Inspecting Officer shall either (a) issue a permit to the applicant indicating the approved location for the well and special instructions for construction, if any; or (b) refuse to issue the said permit, and, in such event, shall provide the applicant with written reasons for such refusal.

§707. Permits. All permits shall be issued on a form provided by the Township, which shall be executed by the duly authorized Inspecting Officer. Permits shall be prepared in triplicate, and distribution of copies shall be made as follows:

- (a) Original copy to be retained by the Township;
- (b) First copy to be tendered to the applicant upon written acknowledgement of receipt thereof upon the original copy; and
- (c) Second copy to be tendered to the applicant for the use of a well contractor.

§708. Construction. Upon the completion of construction, or at such other time as the Inspecting Officer may deem appropriate, the Township, through its duly authorized Inspecting Officer, shall perform a final inspection of the well to determine whether there has been compliance with the permit issued. Upon completion of the said inspection, the Inspecting Officer shall (a) issue an approval of operation upon the original permit, or (b) deny such approval due to non-compliance with the permit issued, in which latter event written reasons for such denial shall be noted.

§709. Fees. All applicants for a well permit shall be accompanied by a fee payable to the Township of East Union in accordance with a schedule of fees established from time to time by resolution of the Board of Supervisors of the Township of East Union.

§710. Effective Date of Permits. All permits shall be in effect as of the date of issuance, and shall remain in effect for a period of two (2) years. In the event that construction under the permit has not been completed at the expiration of two (2) years from the date of issuance, the permit shall expire and the validity of the permit shall cease and terminate.

§711. Violations.

(a) Any person who violates any of the provisions of this Ordinance shall be subject to prosecution by the Township, and upon conviction before a district magistrate shall be subject to a fine of no more than Three Hundred (\$300.00) Dollars.

(b) Upon discovery of any violation of this Ordinance, the Township may, at its option, forego any prosecution hereunder, and may grant to the owner a period of thirty (30) days to comply with the provisions of this Ordinance. Upon failure of the owner to effect such compliance, the Township may initiate prosecution as hereinabove set forth.

(c) For the purpose of this Ordinance, each day of a continuing violation shall be considered a new and additional violation of this Ordinance.

§712. Severability. The provisions of this Ordinance shall be severable, and if any of its provisions shall be held to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect the validity of any of the remaining provisions of this Ordinance.

§713. Liability. No responsibility or liability for the construction of any well shall be deemed to be placed upon the Township of East Union, or its officers, agents, or employees by virtue of the terms of this Ordinance or otherwise.

§714. Repealer. All ordinances and resolutions or parts of ordinances or resolutions, insofar as they are inconsistent herewith, be and the same are hereby repealed.

§715. Effective Date of Permits. All permits shall be in effect as of the date of issuance and shall remain in effect for a period of three (3) years. In the event that construction under the permit has not been completed at the expiration of three (3) years from the date of issuance, the permit shall expire and the validity of the permit shall cease and terminate.”

EDITOR'S NOTE: This Ordinance No. 11-97 was adopted by the East Union Township Board of Supervisors on December 1, 1997.

CHAPTER 12

STREETS

Part 1

Skateboarding upon Public Property

§101. Purpose. The purpose of this Ordinance is to serve the protection of the public health, safety, morals and general welfare in East Union Township.

§102. Definitions. As used in this Part the following shall have the meanings given herein:

Person – any natural person whether an adult or a minor.

Public Property – the streets, paved parking lots and recreation areas owned or maintained by the East Union Township and sidewalks available for use by the public.

Skateboard - an object consisting of a board or rigid material which may be ridden, with a pair of wheels at each end.

§103. Violation. It shall be unlawful, for any reason, to leave unattended, put into motion, or ride upon a Skateboard on any Public Property within East Union Township.

§104. Penalties. Any person who shall violate any of the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine not exceeding three hundred (\$300.00) dollars and costs of prosecution and/or imprisonment for not more than thirty (30) days.

§105. Invalidity. If any section or part of a section of this Ordinance shall be declared invalid, such invalidity shall not affect the remaining parts or sections of this Ordinance.

§106. Repealer. Any Ordinance or parts thereof that are inconsistent with this Ordinance are hereby repealed. This Ordinance shall be effective five (5) days after adoption.

EDITOR’S NOTE: This is Ordinance No. 10702 adopted by the East Union Township Board of Supervisors.

Part 2

Street Excavation, Repair and Restoration

§201. Title. This Part shall be known and identified as “East Union Township Street Repair Ordinance.”

§202. Purpose. This Part is being adopted because:

(a) The excavation, repair and restoration in the streets of East Union Township has on occasion been unreasonably delayed.

(b) The excavation, repair and restoration in the streets of East Union Township has on occasion been unsatisfactorily completed.

(c) The unreasonable delay and unsatisfactory completion of the excavation, repair and restoration of streets in East Union Township places an undue burden and creates a hazardous condition to all citizens of the Township including, motorists and pedestrians.

(d) East Union Township desires to create and impose rules and regulations as to how the excavation, repair and restoration is to be performed with the Township.

(e) The health, safety, and welfare of the citizens of East Union Township, both motorists and pedestrians alike, can be protected by Rules and Regulations ensuring that the excavation repair and restoration of streets is properly performed in a timely fashion when streets are properly repaired.

§203. Definitions. As used in this Part the following shall have the meanings given herein:

CONTRACTOR: Any individual person, entity, organization, corporation, limited liability company or partnership, whether in business for profit or not, hired contracted or merely performing a job, supplying labor and materials and providing staff if need to also include any general, independent and sub-contractor.

EXCAVATION: The act or process of excavating by the cutting, scooping, removing or digging out of any material whatsoever.

PAVEMENT: Any hard surface structured in such a way to form the surface of a street as defined herein to also include the shoulder.

STREET: Any surface, a portion of which is improved, designed or ordinarily used for vehicular travel, which includes, but is not limited to, any public road, street, court, alley, highway or other surface as described herein and to include the shoulder.

UTILITY: Any entity that provides services such as, but not limited to, water, sewer, gas, electricity to members of the public to also include any general, independent, subcontractor, or any entity including in the definition of Contractor that is performing services on behalf of any utility.

§204. Permits. Every Permittee and Contractor shall make application to the East Union Township Zoning/Permits Officer for a permit for approval not less than three (3) days prior to beginning any excavation, repair or restoration in the pavement and/or shoulder in or along a Township Street or right-of-way located in East Union Township. Emergency street excavations shall be reported to the Zoning/Permits Officer of East Union Township and all necessary permits shall be obtained on the next business day after excavation. Each application shall include a complete set of plans which include drawings, list of materials, names and phone number of all contractors or utilities who will

be working on the project and an estimated date of completion. The Zoning/Permits Officer of East Union Township, at his/her discretion, may deny or disapprove any application for any reason whatsoever. An application that does not conform to the rules and regulations set forth herein shall be denied and disapproved. The Engineer/Supervisors of East Union Township, at his/their discretion, may require a performance bond as contingent upon approval of the permit application. A non-refundable permit application fee is to be paid at the time of the application, said fee to be determined from time to time by way of resolution of East Union Township Board of Supervisors (see attached Fee Schedule).

§205. Backfill Sub-base Restoration Specifications. All work must be completed within the confines of the specifications of the Pennsylvania Department of Transportation (PA DOT) as set forth in 67 Pa. Code, Chapter 459 governing occupancy of highways by utilities and Department of Transportation Design Manual part 5- Utility Relocation, as well as Section 401.3(f), 305, 421, and 420 of the Pennsylvania Department of Transportation Publication 408. All work areas must be cleanly and neatly saw cut to full depth of existing pave. The preferred and recommended backfill method is utilizing PA Dot approved flowable concrete backfill. After placement of flowable fill Permittee and Contractor shall mill and provide steel plate covers for minimum 24 hours curing period prior to placement of final pavement restoration. (No temporary pave would be required.) Steel plate covers are to be hot patched and or pinned as required. Saw cut shall be to a depth of one and a half (1 ½”) inches or the depth of the existing paving, whichever is greater, for the length of the opening. Use of flowable fill requires only initial saw cut. Alternate trench backfill method if pre-approved by the Engineer/Road Master may be 2A modified material meeting the requirement of Section 703.3 in Publication 408 and placed and compacted throughout its full width in layers not to exceed six (6”) inches if a tamper or wacker is used or in layers is used or in layers not to exceed twelve (12”) if approved vibratory compaction equipment is used. Excavated material may not be used for backfill. All existing pavement shall then be saw cut back 1’-0” on each side as per sketch attached to this Ordinance and labeled “Pavement and Trench Detail” and all edges shall be tack coated prior to pavement restoration and all edges sealed.

§206. Temporary Restoration. Temporary pavement restoration shall be required and shall be performed by the utility or contractor if contractor does not use PA DOT approved flowable concrete backfill, as follows:

(a) The Permittee and Contractor shall be responsible for all temporary restoration of pavement surface. Temporary restoration shall be placed in the trench before traffic is allowed to travel on the disturbed area, and shall remain in place for a minimum of 30 days. The temporary restoration shall consist of a minimum of 2 ½ inches of 19.0 mm Binder Course. After the minimum 30-day period, but before 60 days, the temporary restoration shall be removed and the area saw cut back one foot prior to permanent restoration as per sketch attached to this ordinance and labeled “Pavement and Trench Replacement Details”. If utility cut occurs when asphalt plant is not available the Permittee or Contractor shall continue to maintain temporary pave until hot patch is available. If in the opinion of the Township Engineer, the temporary restoration fails because of poor materials or placement, the Permittee and Contractor will be responsible to remove and replace same in a manner consistent with the requirements of this Ordinance, within 24 hours of being notified by the Township.

§207. Permanent Restoration. Permanent pavement restoration shall be required and shall performed by the Permittee and Contractor, as follows:

(a) The Permittee and Contractor shall restore all areas disturbed by the work, such restoration to meet Department of Transportation specifications, for both materials and workmanship. All pavement design shall meet 0.3 to 3 million ESAL's. All existing pavement shall be saw cut back 1'-0" on each side as per sketch attached to this Ordinance and labeled "Pavement and Trench Detail" and all edges shall be tack coated prior to pavement restoration and all edges sealed.

§208. Base Course. Prior to placement of the base course, if alternate restoration is used, an additional 1'-0" outside of each edges of the opening shall be saw cut, in a neat straight line, to the top elevation of the existing aggregate sub base or stone base course, and the detached material shall be removed. Other surface opening methods such as cutting may be authorized by the Township Engineer if the methods result in the opened pavement having a near straight vertical line. All existing pavement edges shall be tack coated prior to restoration.

(a) Exposed vertical and horizontal surfaces shall be prepared under Section 01.3(f) of PA DOT Publication 408.

(b) The base course shall consist of bituminous concrete meeting the requirements of Section 305 of PA DOT publication 408 or other base course material authorized by the Township Engineer. The base course material shall consist of hot mix, hot laid super pave 25.0 mm base material and shall have a minimum depth of 5 inches or a depth equal to the existing base course, whichever is greater.

(c) If required by existing conditions, a binder course shall be provided consisting of 19.0 mm material meeting the requirements of Section 421 of PA DOT Publication 408. The binder course shall have a minimum depth of 2 ½ inches or a depth equal to the existing binder course, whichever is greater.

(d) If required by existing conditions any rock choke base, brick, or concrete shall be replaced with new 3,000 psi concrete at depth to match existing and doweled 18" oc to any existing concrete as per applicable PA DOT Standard.

§209. Wearing Course. Any surface course shall consist of constructing a wearing course of hot-mixed, hot-laid Superpave 9.5 mm wearing course on the above prepared base course to a depth of not less than one and half (1.5) inches, after compaction. The materials and construction methods shall be in strict accordance with the requirements of Section 409- "Superpave Mixture Design, Standard and Restricted Performance Specification (RPS) Construction of Plant-Mixed HMA Courses" of PA DOT Specifications. The bituminous surface course shall be rolled with a vibratory roller. If the right-of-way has not been and accepted by the Township, the Supervisors may require that the final wearing course be withheld until the streets are ready to be offered for dedication to the Township.

Additional Restoration: Additional permanent pavement restoration shall be required and shall be performed by the Permittee and Contractor, as follows:

(a) Disturbed portions of the street, including, but not limited to, slopes and appurtenances and structures such as guide rails, curbs, signs, markings, drain pipes, driveways and vegetation, shall be restored by the utility or contractor to a like new condition. Additional restoration may also be required, upon written notification to the utility or contractor by the Township Engineer, to restore the structural integrity of the pavement or shoulder.

(b) All damaged areas outside of trench installation caused directly or indirectly by work of the Permittee and Contractor shall be restored in kind to like new condition and in compliance with this ordinance.

§210. Notch, Mill and Overlay. If the Permittee and Contractor opens a pavement having bituminous concrete surface, the Permittee and Contractor shall, in addition to restoration conditions outlined in this Ordinance, provide full lane or road width milling to depth of 1 ½” and overlay the pavement in accordance within the following conditions (See sketches attached to this ordinance):

(a) Whenever a longitudinal opening greater than five (5’) feet has been made in the pavement, the utility or contractor shall diagonally notch each end, mill and overlay the full width of the traffic lanes in which the opening was made, for a distance of five (5’) feet beyond the end of the excavation or saw cut in both directions of the street that was opened.

(b) When one transverse opening has been made, the utility or contractor shall diagonally notch, mill and overlay the full width of the traffic lanes in which the opening was made for five (5’) feet from the trench saw cut in both directions.

(c) When two or more transverse openings have been made within 100 linear feet of each other, the utility or contractor shall diagonally notch, mill and overlay the full width of the traffic lanes in which the openings were made, for the entire length of the street between the openings, and for a distance of five (5’) feet in both directions from the saw cut.

(d) When two or more emergency openings have been made by the same utility or contractor within a 90-day period within 100 linear feet of pavement, the utility or contractor shall diagonally notch, mill and overlay the full width of the traffic lanes in which the openings were made, for the entire length of the street between the openings, and for the distance of five (5’) feet in both directions from the saw cut.

(e) If directed by the supervisors for Permittee or Contractor shall overlay the adjacent undisturbed lane. The Permittee and Contractor shall saw cut, mill, notch and overlay both lanes as directed.

(f) If disturbed lanes adjacent to shoulders are milled and overlaid, the shoulder shall be repaired with material and in a manner authorized by the Township Engineer of the type to match the existing shoulder, so that the overlaid pavement and shoulder edges are at the same elevation.

(g) Aggregate used in bituminous overlay wearing course shall comply with skid resistance level (SRL) criteria specified in PA DOT Design Manual, Part 2, Chapter 11.

§211. Restoration within Three Feet from the Edge of Pavement. If an opening is made in a bituminous concrete pavement within 3 feet from the edge of pavement or other longitudinal joint or opening, the surface restoration shall be extended to the edge of pavement and full width of lane. Any restoration adjacent to a curb shall be sealed in accordance with Section 11 of this ordinance.

(a) At each end of an overlay, the Permittee and Contractor shall provided a minimum five (5') foot overlay transition with diagonal paving notch, under PA DOT Roadway Construction Standard RC-28M, by milling, planning or other authorized method.

(b) The transition area at each end of an overlay shall follow the contour of the surrounding surface.

§212. Pavement Markings. When any pavement markings are covered or destroyed by the permitted work, including overlays, they shall be replaced with temporary pavement markings, under PA DOT 203.72 (relating to temporary pavement markings) before opening the disturbed pavement to traffic. When the pavement surface is restored, permanent pavement markings that were covered or destroyed shall be replaced in their former location.

§213. Sealing. All restored openings in the pavement, along curb, or along paved shoulder shall be sealed with PG-64 under Section 401.3 (j)(3) of PA DOT Publication 408 in the case of bituminous concrete of Section 501.3 (n) of PA DOT Publication 408 in the case of cement concrete.

§214. Courts and Alleys. Permanent restoration in courts and alleys shall be required, to the greatest extent possible and consistent with the standards set forth in this Ordinance and conditions is such court or alley, with the precise methods to be at the direction of the Township Engineer.

§215. Penalties and Enforcement.

(a) Penalties – Any person, firm, or corporation, public utility contractor or other public or private entity violating any provision of this Ordinance shall be subject to a civil enforcement penalty, by way of citation, of not less than \$500.00 for each violation. A separate citation shall be issued for each separate violation of any section or sub section herein. Each and every day that a violation continues shall constitute a new violation of this Ordinance, subject to the penalties set forth above, unless the East Union Township Zoning/Permits Officer is satisfied that substantial evidence of a remedial plan, which shall be in writing and approved by the Township Engineer, has been presented to the Officer. Any remedial plan shall include an affidavit that the remedial work will commence immediately. The submission or approval of any remedial plan shall not constitute a waiver of any authority of the Code Enforcement Officer is issue continuing citations for each day of violating where the remedial plan is not carried out pursuant to the terms as set forth in the remedial plan. Nor shall the submission or approval of a remedial plan constitute a bar or defense to any prosecution for a violation that took place prior to or during the submission and approval process. All Permittee and Contractor are presumed to have been aware of the rules and regulations set forth in this ordinance prior to beginning work.

(b) Enforcement – The Code Enforcement Officer of East Union Township, Zoning/Permits Officer, Engineer and Road Master shall have authority to carry out the provisions of this ordinance.

§216. Constitutionality. If any part of this Ordinance is deemed unconstitutional by a court of competent jurisdiction, only that part of the Ordinance shall be affected and the remaining portions shall be presumed valid.

§217. Repeal. Any and all Ordinances and parts of Ordinances heretofore enacted which are inconsistent with any provision of this Ordinance are, to the extent of such inconsistency, hereby repealed.

§218. Effective Date. This Ordinance shall become effective five days after adoption.

EDITOR'S NOTE: This Ordinance No. 3-2010 was adopted by the East union Township Board of Supervisors on July 5, 2010.

STREET EXCAVATION PERMIT APPLICATION
EAST UNION TOWNSHIP
PHONE: 570-384-0739
FAX: 570-384-4257

Authorized by Ordinance

Permit No. _____ (To be completed by Township)

Applicant: _____

Contact Person: _____

Address: _____

Phone No: _____ Return Fax: _____

Date: _____

Location: _____

Description and Start Date: _____

Estimated Linear Footage of Work: _____

Emergency: Yes _____ No _____

EXCAVATION PERMIT SCHEDULE

OFFICE USE ONLY

Fees:

- | | | |
|----|---|----------|
| 1. | Initial 50 feet of excavation: | \$85.00 |
| 2. | Plus \$85/each additional foot
or increment thereof | \$ _____ |
| 3. | Inspection (Minimum one hour) | \$45.00 |
| 4. | Subtotal | \$ _____ |
| 5. | Processing and issuing an excavation permit in a newly paved or
Constructed street.
(1) \$400 for the first fifty (50') linear feet
(2) \$200 for every subsequent fifty (50') linear feet or increment thereof. | \$ _____ |
| 6. | Total | \$ _____ |

Approved By: _____

Zoning/Permit Officer

Date

Conditions

1. Application to be faxed to Township Office in accordance with the procedure outlined in this Ordinance.
2. Signed permit application must be received by applicant in accordance with this Ordinance.
3. Street restoration must be in compliance with East Union Township ordinance relating to excavation passed on July 5, 2010.

4. It is the responsibility of the Permittee to perform traffic control in accordance with Penn Dot Pub 213.
5. Permittee will be billed for initial one hour of inspection with application and be charged for additional inspection time as needed in accordance with fee schedule.

PROCEDURE PRIOR TO EXCAVATING

1. All permits must be paid at least 48 hours prior to starting job, including work permit, excavation permit and sewer tap of fee (if applicable).
2. Permittee or Contractor must provide contractor’s license and proof of insurance prior to issuance of permits.
3. Permittee or Contractor must call “ONE CALL” 1-800-242-1776, at least 3 working days prior to starting job.
4. Permittee or Contractor must notify Zoning/Permit Officer 24 hours before street closing.
5. No more than 100’ of trench can be open at any time.
6. Permittee or Contractor must comply with all Township Ordinances.
7. It is the Permittee or Contractor’s sole responsibility to familiarize himself/ herself with all safety procedures as outlined by, but not limited to, PA DOT and OSHA, and implement them prior to start of construction. This will include, but not be limited to, safety helmets, safety vest, trench boxes and traffic control.
8. Permittee or Contractor must contact the office of code enforcement 24 hours prior to the start of excavation to arrange for inspection of all pipe connections. Failure to arrange for inspection will require that the trench be reopened at the contractor’s expense. The Contractor will be unable to secure any additional permits in the Township until all inspections are successfully completed. The Township also reserves the right to impose fines and other penalties as outlined by law.

NOTE: The words “Contractor” or “Permittee” are synonymous.

FEE SCHEDULE EAST UNION TOWNSHIP STREET REPAIR ORDINANCE FEE SCHEDULE

SECTION 1

Processing and issuing an Excavation Permit	\$85.00 for the first linear feet and \$85.00for each additional 50 linear feet or increment thereof
Inspection	\$45.00/hr (1 hour minimum)
Processing and issuing an Excavation Permit newly paved or constructed street and \$200.00 for every subsequent (see Section II, Item 1) 50 linear feet or increment thereof	\$400.00 for the first 50 linear feet
Processing and issuing a permit to close a road	No Charge
Material and/or other testing	At Cost
Failure to obtain permit	\$400.00
Failure to make corrections upon written	\$10.00/calendar day
Notification from the Township	

SECTION II

1. A street shall be considered newly paved or constructed for a period of six years subsequent to project completion. A list of these streets will be on file at the Township Zoning Office.

2. Except in the case of emergencies, all application for excavation must be received by the Zoning/Permits Officer no later than 48 hours prior to the initiation of work. No work shall be authorized until an application signed by the Zoning/Permits Officer is received by the applicant. Initiation of work prior to the applicant's receiving a copy of the signed permit application will be considered failure to obtain a permit and applicant shall be subject to the fines outlined above in addition to application and inspection fees.

3. In the case of emergencies, the following will apply: Emergency street applications shall be reported to the Zoning/Permit Officer of East Union Township and all necessary permits shall be obtained on the next business day after excavation.

CHAPTER 13

TRAFFIC & MOTOR VEHICLES

Part 1

No Parking Zones

§101. No Parking Zones.

(a) A no parking zone is hereby established on both sides of East Elm Street starting at its intersection with Route 924 going east approximately five hundred (500') feet to the Township Building. No person shall park or let stand at any vehicle in the No Parking Zone. Any person found parking a vehicle in this No Parking Zone shall be issued a parking ticket as described in Section 105 below.

[Reserved for Future No Parking Zones]

§102. Owners of Vehicles. No owner shall allow any person to park or let stand that vehicle in the No Parking Zone described in Section 101 above. Any owner who delivers possession of his or her vehicle to any person found parking that vehicle in the No Parking Zone, shall be issued a parking ticket as described in Section 105 below.

§103. No Parking Signs. The Township Public Works Department, or designated Township Employee, is directed to post the official signs notifying the public of the No Parking Zone in accordance with the posting requirements of the Pennsylvania Motor Vehicle Code.

§104. Parking Tickets. The Township Supervisors, or their designated representative, including the East Union Township Police Department, Pennsylvania State Police and East Union Township Code Enforcement Officer shall have the authority to issue parking tickets to all persons who park in violation of this Ordinance.

§105. Fines for Violations. Any person violating any provision of this Ordinance relating to parking in a restricted zone shall pay a fine as follows:

(a) Any person who causes, allows, permits or suffers any vehicle to be parked in a No Parking Zone shall pay to the Township an unlawful parking charge in the amount of ten (\$10.00) Dollars. There shall be a separate unlawful parking charge of Ten (\$10.00) Dollars for each subsequent period of one half hour during which such unlawful parking continues. Failure to pay such unlawful parking charge within five (5) days after a violation will result in an additional late charge of five (\$5.00) Dollars.

(b) Any person who parks unlawfully in a No Parking Zone as provided in this Ordinance, and fails to pay any unlawful parking charge, including any late charge, shall be upon conviction thereof, fined Fifty (\$50.00) Dollars and costs, and in default of payment thereof, shall be imprisoned in Schuylkill County Prison for not more than ten (10) days.

§106. Towing. In addition to any tickets issued pursuant to this Ordinance, any vehicle parked in areas marked ‘no parking-tow away zone’, may be summarily removed without notice to the owner or operator by any member of the Board of Supervisors, the East Union Township Police Department, Pennsylvania State Police, the East Union Township Code Enforcement Officer, and any other person(s) employed or designated by them, including towing service companies, at the owner’s sole risk and expense, and stored in an appropriate impound facility. The towing company will make notice of the impoundment to the title owner of the vehicle within ten (10) days of the towing.

(a) All administrative fees, necessary costs and expense of towing, removing or storage of such vehicles shall be first paid to the person(s) employed or designated by the Board of Supervisors to perform towing services and storage, by the persons claiming the vehicles before release of same.

(b) The Board of Supervisors, their designated representatives as set forth in section 104 above and any towing service utilized shall not be responsible for any damage to such vehicles removed in accordance with the provisions of this Ordinance.

(c) In the event that any vehicle held or stored under the direction of an officer of the law upon which there are charges for storage or towing, or both, is not reclaimed, recovered or taken by the vehicle owner thereof, there shall be deemed to be imposed under such vehicle a possessory lien in the amount so charged and unpaid, and should the owner thereof fail to pay the same then the possessory lien may be foreclosed in the manner provided by law.

§107. Repealer. All ordinances or parts of ordinances inconsistent herewith are hereby repealed.

EDITOR’S NOTE: This Ordinance No. 5-2012 was adopted by the East Union Township Board of Supervisors establishing a No Parking Zone for Elm Street.

Part 2 **Traffic Regulations**

§201. Township Roads.

(a) **Road/Street Names.** All public and private roads in the Township shall be named in accordance with this Ordinance. At the time of adoption of this Part, the Township has named those roads existing within its limits with corresponding road numbers as listed in Attachment 201-A.

(b) **Road/Street Name Assignments.** The Board of Supervisors shall have the sole authority to provide for, regulate and assign names to all roads or streets in the Township, and to change such names if deemed necessary to achieve the purposes of this Ordinance. In the case of new subdivisions and land developments, the street names shall be included on the plans submitted to the Township for review. The Township shall whenever possible post road or street names on all roads and streets within the Township. In the event that it is a private street or one within a subdivision or land development, the owner, developer or applicant shall be responsible for the posting of street or road names to the satisfaction of the Township Supervisors.

(c) **Road/Street Name Duplication.** No road name sign shall be posted on any public or private road, driveway or access way unless the Township has approved such name in order to avoid duplication of names.

§202. Maximum Speed Limits. No person shall operate any vehicle upon any portion of a Township Road as listed in Attachment 202-B, which Attachment is incorporated herein by reference and made a part of this Section 202, at a greater rate of speed than the maximum prescribed miles per hour for that Township Road as specified in Attachment 202-B.

§203. One-way Streets established. One-way streets are established as listed in Attachment 203-C, which Attachment is incorporated herein by reference and made a part of this Section 203. It shall be unlawful for any person to drive a vehicle upon a one-way street other than in the direction established for traffic upon that street.

§204. Stop Intersections established. Those intersections listed in Attachment 204-D, which Attachment is incorporated herein by reference and made a part of this Section 204 are established as stop intersections, and official stop signs shall be erected (or are ratified if previously erected) in such a position as to face traffic approaching the streets at each stop intersection. Every driver of a vehicle who approaches the intersection upon the named street, in the direction indicated in each case, shall stop the vehicle as required by Section 3323(b) of the Vehicle Code and shall not proceed into or across that named street until he or she has followed all applicable requirements of that section of the law.

§205. Vehicle Weight Limits Established. On those streets and portions of streets listed in Attachment 205-E, which Attachment is incorporated herein by reference and made a part of this section 205, vehicle weight limits are established by authority granted by Section 4902(a) of the Vehicle Code, and it shall be unlawful for any person to drive on any of those streets or portions of streets, as the case may be, any vehicle or combination having a gross weight in excess of the maximum prescribed for that street or portion of street.

§206. Fines for Violations. The minimum fines for violations of Sections 202 through 205 shall be Twenty-Five (\$25.00) Dollars, or as established by the Pennsylvania Vehicle Code, as may be amended. A violation of any of these sections shall subject the violator to summary traffic enforcement proceedings with the issuance or filing of citation(s).

§207. Applicability. This Ordinance shall be enforced in accordance with the provisions of the Vehicle Code of Pennsylvania as it pertains to fines and other penalties.

§208. Severability. Should any provision of this Ordinance be found unconstitutional or otherwise illegal or in any other manner unenforceable, the remaining sections of the ordinance shall remain in full force and effect.

§209. Effective Date. This Ordinance shall take effect five (5) days after enactment thereof.

EDITOR'S NOTE: Section 203 of this Part is taken from Ordinance No. 2008-3 adopted by the East Union Township Board of Supervisors on February 4, 2008. Ordinance No. 2008-3 stated that West Pine Street in the Village of Sheppton from the intersection of Defrain Street to the intersec-

tion of Center Street shall be a one-way street for all traffic proceeding in a westerly direction. No traffic shall be permitted to proceed in an easterly direction on said section of West Pine Street. West Pine Street from the intersection of Defrain Street to the intersections of Center Street shall be posted with the appropriate signs pursuant to PENNDOT rules and regulations.

Attachment 201-A
Township Road Numbers and Names

<u>Township Road No.</u>	<u>Name</u>
454	Old Mill Road
455	Foose Lane
456	Trailer Road
796	Kunkels Hill Road
813	Dombrowski Lane
814	Pumping Station Road
817	Park Place Road
818	Girard Manor Road
819	Shepp Street
820	Franklin Street
822	School House Road
854	Cemetery Road
855	Pine Street
856	Washington Street
857	Market Street
861	Morth Street
862	Second Street
863	Third Street
864	Fourth Street
865	Brandon Street
866	South Street
867	Park Avenue
868	Oak Street
869	Defrain Street
870	Second Boulevard
871	Fourth Boulevard
872	Spruce Street
873	Iron Street
874	Swanks Grove Road
875	Phineyville Road
876	Pole Road
877	Mountain Drive

878	Green Mountain Road
879	Green Mountain Road (Humboldt)
880	Hemlock Street
1005	Chapel Road

Attachment 202-B
Speed Limits

<u>Township Road</u>	<u>Maximum Speed Limit</u>
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<u>No.</u>	<u>Name</u>	<u>Miles Per Hour</u>
454	Old Mill Road	35 mph
455	Foose Lane	35 mph
456	Trailer Road	35 mph
796	Kunkels Hill Road	35 mph
813	Dombrowski Lane	35 mph
814	Pumping Station Road	35 mph
817	Park Place Road	35 mph
818	Girard Manor Road	35 mph
819	Shepp Street	35 mph
820	Franklin Street	35 mph
822	School House Road	35 mph
854	Cemetery Road	35 mph
855	Pine Street	35 mph
856	Washington Street	35 mph
857	Market Street	35 mph
861	Morth Street	35 mph
862	Second Street	35 mph
863	Third Street	35 mph
864	Fourth Street	35 mph
865	Brandon Street	35 mph
866	South Street	35 mph
867	Park Avenue	35 mph
868	Oak Street	35 mph
869	Defrain Street	35 mph
870	Second Boulevard	35 mph
871	Fourth Boulevard	35 mph
872	Spruce Street	35 mph
873	Iron Street	35 mph
874	Swanks Grove Road	35 mph
875	Phineyville Road	35 mph
876	Pole Road	35 mph
877	Mountain Drive	35 mph
878	Green Mountain Road	35 mph
879	Green Mountain Road (Humboldt)	35 mph

880	Hemlock Street	35 mph
1005	Chapel Road	35 mph

Attachment 203-C
One-Way Streets

<u>Township Road</u>	<u>From</u>	<u>To</u>	<u>Direction</u>
Pine Street	Route 924	Washington Street	West

Attachment 204-D
Stop Signs

<u>Stop Sign</u>	<u>Intersection</u>	<u>Direction</u>
#1	Green Mountain Road and S.R. 924	facing north
#2	Chapel Road and S.R. 924	facing south
#3	Chapel Road and First Street	facing north
#4	Chapel Road and First Street	facing south
#5	Chapel Road and First Street	facing east
#6	Chapel Road and South Street	facing west
#7	South Street and Second Street	facing north
#8	Second Street and South Street	facing east
#9	Third Street and South Street	facing east
#10	Fourth Street and South Street	facing east
#11	Third Street and North Street	facing north
#12	Second Street and North Street	facing north
#13	School House Road and S.R. 924	facing south
#14	Pine Street and S.R. 924	facing east
#15	Pine Street and S.R. 924	facing west
#16	Market Street and S.R. 924	facing east
#17	Market Street and S.R. 924	facing west
#18	Oak Street and S.R. 924	facing east
#19	Oak Street and S.R. 924	facing west
#20	Brandon Street and S.R. 924	facing east
#21	Brandon Street and S.R. 924	facing west
#22	Pine Street and Shepp Street	facing north
#23	Pine Street and Shepp Street	facing south

Attachment 205-E
Vehicle Weight Limits

Township Road

Foose Lane

Weight Limit (tons)

35

Part 3
Snow and Ice Emergency

[This Part is Reserved for Future Establishment of Snow or Ice Emergency Routes]

EDITOR’S NOTE: By the adoption of this Code of Ordinances, the East Union Township Board of Supervisors intentionally omitted Ordinance No. 2-94 adopted by the East Union Township Board of Supervisors on November 7, 1994. This Ordinance had designated snow emergency routes for Defrain Street, Center Street and Spruce Street.

Part 4
Recreational Vehicles

§401. Title. The Ordinance shall hereafter be known and cited as the “RECREATIONAL VEHICLE REGULATION ORDINANCE” of the Township of East Union.

§402. Purpose. This Ordinance is intended to promote the public health, safety, and general welfare by regulating the operating of recreational vehicles as defined in this Ordinance within East Union Township, Schuylkill County, Pennsylvania with the purpose to regulate and control the operation and use of recreational vehicles within the township, for the protection of the health, safety, and general welfare of the residents, property owners, visitors and others within the Township.

§403. Definitions. The following terms, when used in the within this Ordinance, shall have the following meanings

(a) Operator- means any person who operates or is in actual physical control of an ATV, snowmobile or any other recreational vehicle described in said ordinance.

(b) Owner- means any of the following:

(1) A person who holds the legal title to an ATV, snowmobile or any other recreational vehicle described in said ordinance.

(2) A vendee or lessee of the ATV, snowmobile, or any other recreational vehicle described in said ordinance, which in the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lease.

(3) A person renting a recreational vehicle or having the exclusive use of a recreational vehicle.

(c) Operate- means to ride in or on or to be in actual physical control of the operation of the recreational vehicle.

(d) Person means an individual, partnership, corporation, the State or any of its agencies or subdivisions, and anybody or persons, whether incorporated or not.

(e) Recreational Vehicle or Vehicle- means all-terrain vehicles, four wheel drive vehicles, motorcycles, motorbikes, dirt bikes, three wheelers, bicycles, cars, trucks, and any other type of recreational vehicle and any motor-driven vehicle designed for travel primarily off road, or on snow or ice, or of a type which utilizes sled-type runners or skis, or an endless belt tread or any combination of these or other similar means of contact with the surface upon which it is operated.

(f) Dealer- means any person engaged in the sale, lease, or rental of all terrain vehicles, four wheel drive vehicles, motorcycles, dirt bikes, three wheelers, bicycles, cars, trucks, and all other type of recreational vehicle and snowmobiles as regular business.

(g) Highway or Street- means the entire width between the boundary lines of every way publicly maintained where any part thereof is open to the use of the public for purposes of vehicular travel.

(h) Roadway- means that portion of a highway improved, designated, or ordinarily used for vehicular travel. If a highway includes two or more separate roadways, the term roadways refers to any such roadway separately, but not to all such roadways collectively.

(i) Right-of-Way- means that portion of a highway less the roadway and any shoulder.

(j) Shoulder- means that portion of a highway on either side of the roadway which is normally snowplowed for the safety and convenience of vehicular traffic.

(k) Private Property-means used for farming or other use.

§404. Regulations. No person shall operate and no owner or dealer shall permit the operation of all-terrain vehicles, four wheel drive vehicles, motorcycles, motorbikes, dirt bikes, three wheelers, bicycles, cars, trucks, and any other type of recreational vehicles and snowmobiles under the following conditions, circumstances, or at the following locations:

(a) Upon a public highway, land used as farm or play areas or street, or a public or private parking lot not specifically designed for the use of vehicles defined in Section 403, except under the following conditions and circumstances:

(1) The Supervisors, any public officer or ordinance or municipal law enforcement officer may authorize the use of such vehicles defined in Section 403, on a public highway or street when an emergency occurs and conventional motor vehicles cannot be used for transportation due to snow or other extreme highway conditions.

(2) A person may operate such vehicles described in Section 3, on a highway for a special event of limited duration, conducted according to a pre-arranged schedule, if he or she first obtain a permit from the township board which shall only be granted if said board is of the opinion that the same can be operated in a safe, non-destructive, manner and without thereby creating a nuisance or hazard to persons or property.

(3) A person may not operate such vehicles defined in Section 403:

(i) On public highways, roadways, right-of-ways, or public easements except as set forth above.

(ii) On private property not owned, leased or under the control of the operator unless the operator has the express consent of the owner, lessees or other person in control of said property, except in a case of an emergency when other means of travel are not feasible or possible.

(iii) On public school grounds, parks, playgrounds, recreational areas, golf courses and other public lands (other than state owned lands where such operation is authorized by statute), without the express consent of the public authority in charge of such lands or premises, except where such operation is absolutely necessary in an emergency when other means of travel are not feasible or possible.

(iv) At a speed not greater than is reasonable and proper, having due regard for conditions then existing.

(v) While under the influence of intoxicating liquor or narcotic drugs, barbitol or any derivative of barbitol.

(vi) During the hours from one-half hour after sunset to one-half hour before sunrise without displaying a lighted headlight and a lighted tail light.

(vii) In any forest nursery, planting area, or public lands posted or reasonably identifiable as an area of forest reproduction when growing stock may be damaged or as a natural dedication area.

(viii) On the frozen surface of public waters within 100 feet of a person, including but not limited to a skater, not in or upon a snowmobile or recreational vehicle, or within, 100 feet of a fishing shanty or shelter, except at a minimum speed, or on an area which has been cleared of snow for skating purposes unless the area is necessary for access to the frozen public water.

(ix) Unless such vehicle defined in Section 403 of this Ordinance is equipped with a muffler in good working order and in constant operation from which noise emission at 50 feet at right angles from the vehicle path under full throttle does not exceed 86 DBA (decibels on the "A" scale) on a sound meter having characteristics defined by American Standards Association SI, 41-1966 "General Purpose Sound Meter".

(x) Within 100 feet of a dwelling between 8:00 p.m. and 6:00 a.m., at a speed greater than the minimum required to maintain forward movement of the vehicle.

(xi) In or upon premises which are fenced, otherwise enclosed in a manner to exclude intruders, private property, not posted, in a conspicuous manner or when notice against trespass is personally communicated to the operator by the owner of the premises or other authorized persons.

(xii) In any area on which public hunting is permitted during the season open to the taking of deer with firearms from 7:00 a.m. to 5:00 p.m., except during an emergency for lawful enforcement purpose, to go to and from a permanent residence or a hunting camping otherwise inaccessible by conventional wheeled vehicle or for the conduct of necessary work functions involving land and timber survey, communication and transmission line patrol and timber harvest operations, or the operators own property under his control or as an invited guest of an owner or person in control of said property.

(xiii) While transporting a bow, unless unstrung, or a firearm, unless securely encased or equipped with and made inoperative by a manufactured key locked trigger housing mechanism.

(xiv) On or across a cemetery or burial ground.

(xv) Within 100 feet of a slide, ski, or skating area, except for the purpose of servicing the area for medical emergencies.

(xvi) On a railroad or railroad right-of-way, except for railroad, public utility, or law enforcement personnel while in the performance of their duties.

(xvii) Unless it has at least one headlight, one tail-light and adequate brakes capable of stopping the vehicle.

§405. Enforcement. Any police officer, peace officer or ordinance enforcement officer of the Township is authorized to issue non-traffic citations for violations of the within Ordinance.

§406. Saving Clause. The provisions of this Ordinance are hereby declared to be severable. If any clause, sentence, paragraph, section or subsection is declared void or inoperable for any reason by any Court, it shall not effect any other part or portion thereof after than the part declared void or inoperable.

§407. Penalties. Any violation of this Ordinance shall constitute a summary offense and any person, firm or corporation found guilty of such violation shall be fined not less than Six Hundred (\$600.00) Dollars and not more than One Thousand (\$1,000.00) Dollars per violation plus costs of prosecution and/or imprisonment of up to 30 days or both. Each day that a violation continues to exist or specifically occurs shall constitute a separate offense. Any person guilty of a violation of the within Ordinance shall also be subject to civil proceedings for damages and/or injunctive relief by the property owner, firm, or corporation injured or damaged by such violations. Both criminal and civil proceedings may be commenced against a person violating the within ordinance and commencement of any such proceedings shall not constitute an elevation of remedies preventing the commencement of the other proceedings against such violator. The burden of proof is required by the Defendant to prove he/she had permission to ride a recreational vehicle upon any property except their own property.

§408. Conflicting Provisions. Any ordinance or part of an ordinance in conflict herewith is hereby repealed.

§409. Effective Date. This Ordinance shall take effect five (5) days after enactment.

EDITOR'S NOTE: This Ordinance No. 1-1-05 was adopted by the East Union Township Board of Supervisors on January 3, 2005. This Ordinance was amended by Ordinance No. 2009-2, wherein on February 2, 2009 the violation was increased from \$300.00 to a sliding fine of not less than \$600.00 and not more than \$1,000.00.

Part 5
All-Terrain Vehicles

§501. Purpose. The Board of Supervisors desire to enact regulations for the operation and use of all-terrain vehicles (“ATVs”) within East Union Township where the use and operation of All-Terrain Vehicles (hereinafter referred to as “ATVs”) within East Union Township may create a public nuisance and adversely affect the public’s health, safety and welfare by the creation of excessive noise, dust and fumes; and this Ordinance is intended to provide for the reasonable regulation of ATV’s in East Union Township so as to reduce noise and air pollution and protect the public’s health, safety and welfare; and to provide for the peaceable enjoyment of property.

§502. Definitions.

ALL TERRAIN VEHICLES (ATVs)- means a motorized off highway vehicle which travels on three (3) or more inflatable tires which are (1) a maximum width of 50 inches and a maximum dry weight of 800 pounds; or (2) a width which exceeds 50 inches or a dry weight which exceeds 800 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. The term ATV shall also include the following vehicles:

(a) “Off-road motorcycle” means a two-wheeled motor vehicle that has a seat or saddle designated to be straddled by the operator and handlebars for steering and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway, but which contained design features that enables operation over natural terrain.

(b) “Off-road utility vehicle” means a motorized off highway vehicle with not less than four (4) and not more than six (6) low pressure inflatable tires and that has a seat that is of bench design, not intended to be straddled by the operator, and a steering wheel for control and that is intended by the manufacturer for use on natural terrain.

(c) “Snowmobile” means a motorized vehicle which uses sled-type runners or skis, endless belt-type tread or any combination of runners, ski, or tread, and is designed for travel on snow or ice. “Snowmobile” includes any all-terrain vehicles which has been altered or equipped with runners, skis, belt-type tracks, or treads.

EXCLUSION: The term “ATV” shall not include motorized vehicles for law enforcement, fire, emergency, fire emergency, military, or other authorized government purposes, or off-road motorized vehicles used as utility vehicles for agriculture, husbandry, lawn care, snow removal or business operations, or any other “reasonable” property maintenance or landscaping.

OCCUPANT- a person who regularly resides on the subject property.

OWNER- any person who has legal or equitable title to the property on which an ATV is being operated. *The term includes a tenant operating a business upon property of another.*

PERSON- any individual, group or individuals, a partnership, firm, association, or any other entity.

PRIVATE PROPERTY- means any land, rights-of-way, roads, or other real property

owned, maintained, or otherwise under the control of any person or entity other than government and not available for general use by the public.

REGISTRATION- *means the registration of vehicles as required by the provisions of the Pennsylvania Snowmobile and All Terrain Vehicle Law, 75 PA C.S. Section 7701 et seq.*

§503. Operation and use of ATVs on Private Property. The following regulations shall apply for the use of an ATV on private real property.

(a) Owner or Occupant. Only the owner, occupant, permitted guests and family may operate an ATV on private real property subject to the restrictions outlined herein.

(b) Setback Requirements.

(1) A Person operating an ATV must remain at least fifty (50') feet from any property line, and two hundred (200') feet from a dwelling structure, including property road frontage and associated roadway right-of-way lines, unless written permission (that is duly notarized) has been obtained from the adjoining property owner to operate the ATV within any reduced setback, and with any additional mutually agreed terms and conditions; and which such written permission shall be carried on the person of the operator. Additionally, a Person operating a "two stroke" type ATV shall remain at least (50') feet from any property line, and three hundred (300') feet from any dwelling structure, including property road frontage and associated roadway right-of-way lines, unless written permission (that is duly notarized) has been obtained from the adjoining property owner to operate the ATV within any reduced setback, and with any additional mutually agreed terms and conditions; and which such written permission shall be carried on the person of the operator;

(2) Environmentally Sensitive Areas. No person shall operate, allow or permit the operation of an ATV within fifty (50') feet of a stream, creek, waterway, drainage-way, wetland, or erosion-sensitive area, or any environmentally sensitive areas as determined by the Township, DEP, or LCCD.

(3) It shall not be a violation of this Section to operate an ATV within a required setback for the limited purpose of ingress and egress or to load or unload from or onto a driveway, garage or other structure used for housing ATVs. This exception shall not apply where it is shown that the ingress and egress is excessive, unreasonable, used as a defense where no such defense exists or for some other purpose than storing or loading said ATV. The purpose of this section is to afford all ATV owners the opportunity to travel to and from those locations where it is lawful to operate said ATV, one way to and one way from said locations. If the owner requires additional ingress and egress then owner shall transport said ATV to a location where it does not violate any section of this Ordinance. Nothing in this section shall preclude strict compliance with all other sections herein.

§504. Additional Restrictions.

(a) Number of ATV's in operation on same property. No more than two (2) ATVs may be operated at the same time on the same property. ***The operation of three or more ATVs at one time on private property requires zoning approval as a recreational facility. A private property owner may not permit an ATV on private property without being able to provide the amount of private property necessary to comply with this ordinance, including permitting the operation of the ATV on the private property without the necessity of traveling over or crossing private property of another, or a public road, street, alley, sidewalk or highway to gain access to that private property.***

(b) Time Limitations for operation of ATV's within the Township. A person may operate an ATV only between the hours of 9:00 a.m. and dusk.

(c) Noise.

(1) Excessive Noise. No person shall operate, allow, or permit the operation of an ATV which emits excessive noise that creates a disturbance to any adjacent or adjoining property.

(2) Exhaust Equipment. All ATVs shall be fitted with the original manufacturer's exhaust equipment while in operation unless the vehicle is fitted with a more restrictive and/or quieter exhaust system than original.

(3) Operating an ATV without a muffler. No person may operate an ATV that is not equipped at all times with an effective and suitable muffling device on its engine to effectively deaden or muffle the noise of the exhaust.

(i) Each ATV shall meet noise omission standards of the United States Environmental Protection Agency, and in no case exceed 82 decibels of sound pressure at 50 feet on the "A" scale as measured by the SAE standards J-192.

(ii) Each ATV shall be equipped with a working spark arrestor.

(iii) No person may modify the exhaust system of any ATV in any manner which will increase the noise emitted above the emission standard provided in paragraph (c)(3)(i).

(d) Dust and Fumes. A person shall not generate or permit to be generated as a result of the use or operation of any ATV any dust or fumes which crosses over onto an adjoining or adjacent property that will interfere with the reasonable use of an enjoyment of the residential use of the property, either inside or outside. ***Visible dust, mud or debris shall not leave the private property boundaries of the property upon which the ATV is authorized to operate.***

(e) Unlawfully operating an ATV while underage. No person who is under the age of 15 years of age may operate an ATV across any public way maintained for travel or operate an ATV while unaccompanied by an adult.

(f) Operating an ATV without a certificate of training. No person under 18 years of age may operate an ATV without having successfully completed a training course approved by the Commonwealth of Pennsylvania.

(g) Permitting an unaccompanied child to operate an ATV. No person may permit a child under 15 years of age to operate any ATV, unless the child is supervised by an adult.

(h) Written Permission Required. No person shall operate an ATV on or over the private property of another without the written permission of the property owner, which written permission shall be carried on the person of the operator.

(i) Tracks or Courses. Where a private property owner provides a track, course, or one or more obstacles on the private property for use of an ATV, zoning approval for a recreational facility is required.

(j) Fueling or Gasoline Stations. No person owning or operating a fueling or gasoline station within the Township shall disperse or permit another to disperse gasoline from a pump directly into an ATV unless the ATV is securely fastened on a licensed trailer connected to a licensed hauling vehicle during fueling; and the licensed hauling vehicle has transported the ATV to and from the gasoline or fueling station.

(k) All persons are hereby prohibited from dispersing gasoline from gasoline pumps located at a gasoline or fueling station directly into an ATV unless the ATV is securely fastened on a licensed trailer connected to a licensed hauling vehicle during fueling; and the licensed hauling vehicle has transported the ATV to and from the gasoline or fueling station.

(l) All ATVs shall be registered.

§505. Operation and Use of an ATV on Township Property. No person shall operate an ATV on Township Property without the express written consent of the Township except as follows:

(a) Americans with Disabilities Act (ADA). In attempt to be ADA compliant, an Owner, Occupant, or Person shall not be in violation of this Ordinance when operating an ATV if the Owner, Occupant, or Person is proven to be certified by a medical doctor to be physically handicapped, disabled or mentally impaired and is able to prove that the use of an ATV is the only means for general accessibility of the property. In such instance, Owner, Occupant, or Person shall obtain a handicapped placard to display prominently on the ATV.

(b) All motorized vehicles operated for law enforcement, fire, emergency, fire emergency, military, or other authorized government purposes.

§506. Enforcement and Penalty.

(a) Violations, a Public Nuisance; Person Liable. A violation of this Ordinance shall be deemed a public nuisance and shall subject the Owner or the property and/or person operating an ATV in violation of this Ordinance to summary enforcement and/or civil proceeding.

(b) Enforcement. The East Union Township Police Department and the Code Enforcement Officer and other such appropriate officers or agents of East Union Township are hereby authorized to make an initial determination of violation of, and to enforce the provisions of this Ordinance. An initial determination of violation of this Ordinance shall result in a verbal warning to the Occupant, or Owner or operator of the ATV.

(c) Penalties. *Any person who shall violate this Ordinance shall be subject to summary enforcement proceedings and upon being found guilty thereof shall be subject to a fine of \$300.00 for a first offense, and \$600.00 for a second or subsequent offense. Upon default in payment of a fine may subject the violator to a term of imprisonment up to the maximum allowed by law for a summary offense. Each day that a violation continues or each section of this Ordinance that is found to be violated shall be considered a separate violation. All offenders convicted of violating this Ordinance shall also pay the costs of prosecution, including court costs and reasonable attorney fees. Any person guilty of a violation of this Ordinance may also be subject to civil proceedings for damages and/or injunctive relief by the Township, a property owner or any other person injured or damaged by such violation. Both criminal and civil proceedings may be commenced against a person violating the within Ordinance and commencement of any such proceedings shall not constitute an election of remedies preventing the commencement of the other proceedings against such violator.*

(d) Impoundment.

(1) Any ATV operated in violation of this Ordinance by a minor under eighteen (18) years of age may be impounded and shall be released only to the parent or guardian of the minor operating the impounded vehicle. The parent or guardian may claim the impounded vehicle upon payment of the towing and impoundment fees.

(2) Any ATV operated in violation of this Ordinance by a person eighteen (18) years of age or older, may be impounded, and shall be released only to the owner of the impounded vehicle upon payment of cost of towing and impoundment fees.

§507. Miscellaneous Provisions.

(a) Incorporation by Reference. To the extent applicable, this Ordinance incorporates by reference thereto the provisions of the rules and regulations relating to the "Pennsylvania Snowmobile and All Terrain Vehicle Law" as contained in Part 6, Chapter 77, of the PA Vehicle Code, Title 75 enacted June 17, 1796, P.L. 162, No. 81, effective July 1, 1977, et seq., as amended.

(b) Rules of Interpretation. The use of the singular shall include the plural. The use of headings is for convenience only.

(c) Severability. The Sections of this Ordinance are severable, and if any section or part thereof is found to be unconstitutional or unenforceable, then such findings shall not affect the validity or the remaining sections or parts.

(d) Repeal of Conflicting Ordinances. The within Ordinances supersedes and repeals all former and/or prior Ordinances or parts thereof which conflicts, or are in any way inconsistent, with the provisions of this Ordinance and., to the extent that any prior or existing Ordinances of East Un-

ion Township are inconsistent with the terms of the within Ordinance, said inconsistent Ordinances, or portions thereof, are hereby expressly repealed.

§508. Effective Date. This Ordinance shall become effective five (5) days after adoption.

EDITOR'S NOTE: This Ordinance No. 15 of 2020 and was adopted by the East Union Township Board of Supervisors on November 19, 2020.

Part 6
Towing and Towing Storage

§601. Short Title. This Ordinance shall be known and may be cited as the “East Union Township Towing and Towing Storage Facility Ordinance”.

§602. Purpose. The purpose of this Ordinance is to establish procedures governing tow truck operators, including criteria for the selection of tow truck operators, while complying with the Pennsylvania Towing and Towing Storage Facilities Standards Act; protecting the public; and facilitating the appropriate enforcement of state and local laws.

§603. Definitions. The following words and phrases when used in this Part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(a) Authorized Municipal Personnel- includes any member of the East Union Township Police Department, any Code Enforcement Officer, the Road Master, Road Foreman, or the Fire Chief.

(b) Chief of Police- means the East Union Township Chief of Police appointed by the East Union Township Board of Supervisors.

(c) Tow Truck Operator- means a person performing towing in East Union Township, including the owner or operator of towing equipment.

(d) Towing- means the moving, removing or recovery of a motor vehicle, regardless of whether the vehicle owner or operator consents to the moving, removal or recovery of a motor vehicle and for which a fee, not including dues to a club or association which provides such services, is charged.

(e) Towing storage facility- means the location where a motor vehicle has been towed as a result of a motor vehicle accident and is securely stored pursuant to an agreement with the tow truck operator who has towed the vehicle.

§604. Standards for Tow Truck Operators Selected by the Vehicle

Owner or Vehicle Operator. The following standards shall apply to tow truck operators and operators of a towing storage facility when summoned or selected by the vehicle owner or vehicle operator:

(a) General Requirements. A tow truck operator and, where applicable, the operator of a towing storage facility, shall:

- (1) Maintain a physical street address;
- (2) Properly register the tow truck with the Pennsylvania Department of Transportation;
- (3) Display the name, address and telephone number of the tow truck business on the tow truck; and
- (4) Post the towing fees and the storage and related service fees and hours of operation at the towing storage facility. The notice of towing and storage fees and the hours of operation shall be conspicuously posted in two places at the towing storage facility so that it is clearly visible to the public when the facility is closed and to the vehicle owner and operator when the facility is open.

(b) Time of Notice. At the scene of an accident, a tow truck operator shall provide the owner or operator of the vehicle, if the owner or operator is at the scene, with a notice containing the name, address and telephone number for a point of contact to be informed where the vehicle is to be stored.

(c) Accident. A tow truck operator shall undertake towing at the scene of a motor vehicle accident only if summoned to the scene by the vehicle owner or vehicle operator, or law enforcement personnel or authorized municipal personnel when directed by the vehicle owner or vehicle operator, and is authorized to perform the towing as follows:

- (1) The owner or operator of the vehicle being towed shall summon to the scene the tow truck operator of the owner's or operator's choice in consultation with law enforcement or authorized municipal personnel and designate the location where the vehicle is to be towed.
- (2) The provisions of subsection (c)(1) shall not apply when the owner or operator is incapacitated; otherwise unable to summon a tow truck operator; or defers to law enforcement or authorized municipal personnel.
- (3) The authority provided to the owner or operator in subsection (c)(1) may be superseded by the law enforcement officer or authorized municipal personnel if the tow truck operator of choice cannot respond to the scene in a timely fashion and the vehicle is a hazard, impedes the flow of traffic, or may not legally remain in its location in the opinion of law enforcement, or authorized municipal personnel.

(d) Repair and Storage. As a condition of towing a vehicle at the scene of an accident and prior to the tow, a tow truck operator shall not:

- (1) Secure the signature of the vehicle owner or vehicle operator on a document that requires authorization to repair the vehicle; or
- (2) Secure the signature of the vehicle owner or vehicle operator to authorize storage of the vehicle for more than 24 hours.

(e) **Release of Towed Vehicle.** Upon a request from the vehicle owner or a person authorized by the owner to regain possession, a tow truck operator or operator of a towing storage facility shall not refuse during the posted hours of operation to release a towed motor vehicle unless law enforcement has requested that the vehicle be held. Release shall be conditioned on the payment for towing, storage and related services. All charges shall be itemized and in writing. Payment may be made with cash, a credit card from a common issuer, or a check from an insurance company or authorized tower or salvor acting on behalf of the insurance company.

(f) **Access to Vehicle.** A tow truck operator or towing storage facility shall provide hours of operation that reasonably allow access to a towed vehicle and shall grant reasonable access to the towed vehicle during its posted hours of operation for the purpose of inspection and retrieval by law enforcement officials or authorized municipal personnel, the vehicle owner, or a person authorized by the owner under this Part.

(g) **Storage Fee Prohibited.** Unless law enforcement has requested that a vehicle be held, a tow truck operator or towing storage facility shall not charge a storage fee for any period during which it has refused reasonable access during posted normal business hours as required in subsection (e) of this Section or has refused to allow authorized inspection of the vehicle under inspection rights in 75 Pa.C.S. § 1799.4 (relating to examination of vehicle repairs) or section 11 of the act of December 29, 1972 (P.L.1713, No.367), known as the Motor Vehicle Physical Damage Appraiser Act.

§605. Standards for Tow Truck Operators Selected by the Law Enforcement Officials or Authorized Municipal Personnel. The following standards shall apply to tow truck operators and operators of a towing storage facility when summoned or selected by law enforcement officials or authorized municipal personnel:

(a) **General Requirements.** A tow truck operator and, where applicable, the operator of a towing storage facility, shall:

- (1) Maintain a business with a physical street address that is open at least 40 hours per week, Monday through Friday, between the hours of 8:00 a.m. and 4:00 p.m.;
- (2) Maintain a business phone and are directly accessible by telephone 24 hours per day seven days a week;
- (3) Properly register the tow truck with the Pennsylvania Department of Transportation;
- (4) Display the name, address and telephone number of its tow truck business on the tow truck;

- (5) Post the towing fees and the storage and related service fees (as preapproved by resolution of East Union Township through the Request for Proposal Process) and hours of operation at the towing storage facility;
- (6) Maintain liability insurance, ensuring compliance with the Pennsylvania Vehicle Code and Federal Motor Carrier Safety Regulations, as appropriate, and maintain garage keeper's insurance in the minimum amount of \$250,000.00;
- (7) Provide a secure indoor alarmed storage facility capable of storing at least three vehicles that is capable of being locked and prevents general access to vehicle as well as providing cover and protection from exposure of the elements;
- (8) Provide a secured fenced storage lot with locked gate to prevent general access to vehicles;
- (9) Provide a response time of 30 minutes measured from the time of the call for towing to arrival at the scene; and
- (10) Be a licensed salvor by the Pennsylvania Department of Transportation (PennDot).

(b) Time of Notice. At the scene of a tow, a tow truck operator shall provide the owner or operator of the vehicle if the owner or operator is at the scene with a notice containing the name, address and telephone number for a point of contact to be informed where the vehicle is to be stored.

(c) Procedures. The Chief of Police shall review all applications of tow truck operators for towing and towing storage to ensure compliance with the general requirements of this Ordinance. Once approved by the East Union Township Board of Supervisors, the Chief of Police shall place the names of all tow truck operators that comply with the general requirements of this Ordinance and whose towing and towing storage fees have been determined to be reasonable and customary by East Union Township Board of Supervisors on a rotation list. The towing rotation is set by the East Union Township Board of Supervisors based upon a monthly rotation schedule starting Sunday at 12:00 a.m. and running seven consecutive days ending at 11:59 p.m. on Saturday. The Chief of Police shall inform the County 911 and the members of the East Union Township Police Department of the rotation schedule. The County 911 and the members of the East Union Township Police Department shall be responsible for keeping track of the rotation schedule.

(d) Exception to Procedure. The Police Chief, any member of the East Union Township Police Department, or any authorized municipal personnel may deviate from the rotation schedule when the tow truck operator called does not possess the equipment necessary to provide the necessary towing or recovery service.

(e) Suspension. The East Union Township Board of Supervisors shall be authorized to suspend a tow truck operator from the rotation schedule under the following circumstances and for the following periods:

- (1) Three instances of inability to respond to a call within a 12-month period (1-year suspension).

- (2) Failure to comply with the standards of this Ordinance (first offense-6-month suspension; second offense- 1-year suspension; and third and subsequent offense- 3years suspension).
- (3) Furnishing false information (1-year suspension for unintentional omission; and lifetime for intentionally providing materially false information).
- (4) Overcharging for towing and towing storage in violation of the resolution approved by the East Union Township Board of Supervisors (3-year suspension).

(f) Release of Towed Vehicle. Upon a request from the vehicle owner or a person authorized by the owner to regain possession, a tow truck operator or operator of a towing storage facility shall not refuse during the posted hours of operation to release a towed motor vehicle unless law enforcement has requested that the vehicle be held. Release shall be conditioned on the payment for towing, storage and related services. All charges shall be itemized and in writing. Payment may be made with cash, a credit card from a common issuer, or a check from an insurance company or authorized tower or salvor acting on behalf of the insurance company.

(g) Access to Vehicle. A tow truck operator or towing storage facility shall provide hours of operation that reasonably allow access to a towed vehicle and shall grant reasonable access to the towed vehicle during its posted hours of operation for the purpose of inspection and retrieval by law enforcement officials or authorized municipal personnel, the vehicle owner or a person authorized by the owner under this Part.

(h) Storage Fee Prohibited. Unless law enforcement has requested that a vehicle be held, a tow truck operator or towing storage facility shall not charge a storage fee for any period during which it has refused reasonable access during posted normal business hours as required in subsection (e) or has refused to allow authorized inspection of the vehicle under inspection rights in 75 Pa.C.S. § 1799.4 (relating to examination of vehicle repairs) or section 11 of the act of December 29, 1972 (P.L.1713, No.367), known as the Motor Vehicle Physical Damage Appraiser Act.

§606. Violations. Any tow truck operator who fails to comply with any of the sections of this Ordinance shall be guilty of a summary offense, and, upon conviction, shall be sentenced to pay a fine of not less than Fifty (\$50.00) Dollars and no more than Three Hundred (\$300.00) Dollars plus the costs of prosecution, and, in default of payment of fine and costs, to imprisonment for a term of not more than thirty (30) days. The fine or penalty imposed under this section may be in addition to any suspension. Each day that a violation continues shall be deemed a separate offense.

§607. Coordination of laws.

(a) Other East Union Township Ordinances. This Part supersedes other East Union Township Ordinances only to the extent that those ordinances regulate towing and storage operations that are in conflict with and less stringent than this Part.

(b) Criminal investigations. This Part shall not supersede or otherwise cause interference with any Federal or State criminal investigation or prosecution.

(c) Federal and State law. If any portion of this act is preempted or superseded by Federal or State law or is declared invalid by any court of competent jurisdiction, the remainder of this act shall remain in effect.

§608. Effective date. This Ordinance shall take effect immediately upon its adoption.

EDITOR'S NOTE: This Ordinance No. 2 of 2020 and was adopted by the East Union Township Board of Supervisors on March 16, 2020.

EDITOR'S NOTE: The original version of this Ordinance misnumbered section 608. That mis-numbering has been corrected.

Chapter 16 Solid Waste

Part 1 Collection of Municipal Waste

§101. Title. This ordinance may be known and cited as the “East Union Township Municipal Waste Collection Ordinance”.

§102. Definitions. For purposes of this Part:

GARBAGE- means all putrescible animal and vegetable matter resulting from the handling, preparation, cooking and consumption of food.

MUNICIPAL WASTE- means any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities, except farm-produced manure, other agricultural waste and food processing waste used on land where such materials will improve the condition of the soil, the growth of crops or the restoration of the land for the same purposes, and any sludge not meeting the definition of "residual or hazardous waste" as defined in Commonwealth of Pennsylvania Solid Waste Management Act, but excluding recyclables, materials capable of being burnt in the township, and compost piles.

OWNER- any person, agent, operator, firm, or corporation having a legal or equitable interest in an improved property within the township or otherwise having control of the property, including the guardian of an estate of such person and the executor or administrator of the estate of such person.

PERSON- includes an individual, partnership, corporation, association, institution, cooperative enterprise, agency, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

PRIVATE HAULER- means a person licensed in the Commonwealth of Pennsylvania, County of Schuylkill, to collect, transport, and dispose of municipal waste for a fee.

PROPERTY- includes a lot, plot, or parcel of land, improved with an occupied roofed structure thereon intended for shelter, housing or enclosure of person, animals, or property, and capable of generating municipal waste.

RECYCLABLES- means materials designated as recyclables such as aluminum, steel cans, cardboard, glass, newspaper, plastic bottles that must be kept separate from municipal waste, recycled, transported, and disposed of at a permitted recycling facility.

RECYCLING- means the collection, separate maintenance, separation, recovery and sale or reuse of recyclables which would otherwise be disposed of or processed as municipal waste, or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.

RECYCLING FACILITY- means a center designed to, and which does, act as a collection center for the processing, storage, and shipment of recyclables. The term specifically excludes transfer stations and landfills for solid waste and composting facilities and resource recovery facilities and specifically excludes charitable organizations that accept recyclables for collection but do not process such recyclables.

REGULAR BASIS- means once each week, except where conditions beyond the control of the private hauler prevent it.

STRUCTURE- means anything constructed or erected, the use of which requires a permanent location on the land or that is attached to something having a permanent location of the land.

TOWNSHIP- means East Union Township, Schuylkill County, Pennsylvania.

TRANSPORTATION- means the offsite removal of any municipal waste at any time after generation thereof.

WASTE- means a material whose original purpose has been completed and which is directed to a disposal or processing facility or is otherwise disposed of. The term does not include source-separated recyclable materials or material approved by the Commonwealth of Pennsylvania Department of Environmental Protection for beneficial use.

§103. Mandatory collection of municipal waste. Every owner of property within the township shall contract with a private hauler for the collection, transportation, and disposal of the owner's municipal waste on a regular basis.

§104. Exceptions. Nothing in this ordinance shall prohibit an owner of property from lawfully composting, confined burning, or carrying out the normal activities of a farming operation in accordance with township ordinances.

§105. Storage of municipal waste for collection. Municipal waste shall be placed for collection:

- a. On private property, curb, or outside of the improved portion of a public right-of-way.
- b. In a leak proof sanitary closed metal, plastic, or fiberglass waste collection container with a lid except for the collection of large bulky items. All municipal waste shall be drained of excess liquids and placed in paper or plastic bags before being placed in the waste storage container. No person, other than the owner of the property on which a waste container is placed or the private hauler shall be permitted to remove the lid or contents of the waste collection.
- c. Not more than twenty-four (24) hours before the scheduled collection time.
- d. In a manner that shall not attract breeding or harboring of insects or rodents; create a potential health or safety hazard to the public; or otherwise create fire, odors, unsightliness, or cause a public nuisance.

§106. Proof of contract with private hauler required. Upon request of the code enforcement officer or a police officer, an owner of property shall present proof that the owner of the property has a current contract with a private hauler for the collection, transportation, and disposal of municipal waste generated on the owner's property on a regular basis. Proof for purposes of this section shall include the name, address and telephone number of the private hauler and may include either proof of payment unless there is a written contract between the owner of the property and the private hauler, then the written contract shall be produced.

§107. Enforcement and administration. The code enforcement officer, any assistant code enforcement officer, and any police officer may administer and enforce this ordinance, and inspect any property where municipal waste is being stored for collection by a private hauler.

§108. Violations and Penalties. Any person who shall violate this ordinance shall be subject to one of the following enforcement proceedings:

- a. A civil enforcement proceeding with fines of not more than \$600.00 for each offense, together with the cost of prosecution; or
- b. A summary proceeding with fines of no more than \$1,000.00 or imprisonment for a term not to exceed 30 days, or both, at the discretion of the court.

In either type of proceeding, each day that a violation continues shall be deemed a separate offense.

§109. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

§110. Repealer. All ordinances or parts thereof which are inconsistent with this ordinance are hereby repealed to the extent of their inconsistencies.

§111. Effective Date. This ordinance shall become effective immediately following its adoption.

EDITOR'S NOTE: This Ordinance No. 3 of 2021 and was adopted by the East Union Township Board of Supervisors on February 18, 2021.

EDITOR'S NOTE: The original version of this Ordinance misnumbered sections 103 through 111. Those misnumbered sections have been corrected.