

PART 7

PERFORMANCE STANDARDS

§27-700. Compliance.

All uses and activities established after the effective date of this Chapter shall comply with the following standards.

§27-701. Natural Resource Protection Standards.

1. All uses and activities established after the effective date of this Chapter shall comply with the following resource protection standards. Site alterations, grading, filling or clearing of vegetation prior to the submission of applications for zoning or building permits or the submission of plans for subdivision or land development shall be a violation of this Chapter. Cutting of trees and/or grading that is initiated two years or less before the submission of plans for subdivision, land development, or building permits is presumed to be in anticipation of development.

If an application for building, subdivision or land development is submitted for the property within two years of the date the cutting and/or grading began, the requirements for resource protection, as set forth in this Chapter and in the Borough Subdivision/Land Development Ordinance, shall be applied to the property as it was prior to the removal of trees or grading. If forest removal, tree removal or grading has exceeded the limits set forth in borough ordinances, the applicant shall be required to replace trees removed during the tree or forest removal process. Replacement shall be based on the actual number and size of trees or forest removed, and trees shall be replaced on the basis of three inches of new stock for every one inch that was removed. Determination of actual caliper-inches of trees removed may be determined through a site inspection or on the basis of the tree inventory that was submitted to the Borough. If it is not possible to determine the caliper inches of trees removed, then replacement trees shall be provided so that there shall be a minimum of 2,000 caliper-inches of trees per acre after replanting. Provided that the minimum planting requirements for the proposed site have been met, the applicant may, at his option and with the approval of the Council, plant the replacement trees off-site provided that the location selected benefits the public. All costs associated with the planting at the alternate location shall be borne by the applicant.

2. The following Natural Resource Standards shall apply to all uses.
 - A. **Floodplains.** Areas identified as within the floodplain of the 100-year recurrence interval flood shall not be altered, graded, filled or built upon except in conformance with §27-703 Floodplain Regulations. The floodplain area shall be those areas classified as special flood hazard areas (SFHAs) in the Flood Insurance Study dated May 18, 1999 and issued by

the Federal Emergency Management Agency or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study. For areas along streams and watercourses where the 100-year floodplain has not been delineated, the requirements of Floodplain Soils shall be met.

- B. **Floodplain Soils.** All such areas shall not be altered, regraded, filled or built upon except in conformance with §27-703 Floodplain Regulations. Floodplain soils shall not be used to delineate the floodplain where the 100-year floodplain has been delineated by a floodplain study.

Studies prepared by a registered engineer expert in the preparation of hydrological studies may be used to delineate the 100-year floodplain with a floodway and flood fringe in place of areas designated as “floodplain soils” and “approximate 100-year Flood Boundary.” Such hydrological studies shall be subject to the review and approval of the Borough Council on the recommendation of the Borough Engineer.

- C. **Steep Slopes.** In areas of steep slopes, i.e., those above 8%, the following standards shall apply:

- (1) 8 - 15%: no more than 40% of such areas shall be developed and/or regraded or stripped of vegetation.
- (2) 15 - 25%: no more than 30% of such areas shall be developed and/or regraded or stripped of vegetation.
- (3) 25% or more: no more than 15% of such areas shall be developed and/or regraded or stripped of vegetation.
- (4) Small areas of steep slopes of less than 3,000 square feet of contiguous slope shall be exempt from the limitation of this subsection.

- D. **Forests.** No more than 40% of any forest (as defined in §27-201) may be cleared or developed. The remaining 60% shall be maintained as permanent open space. In addition, any individual trees greater than 15 inches caliper may not be removed in a land development proposal without approval of the Borough Council. This does not include the removal of sick or dead trees as determined by a qualified person duly appointed by Borough Council.

- E. **Wetlands.** These areas shall be left as permanent open space. No development, grading, filling, piping or diverting shall be permitted except for required roads. No construction of any kind inclusive of the storage of materials is permitted within fifty (50) feet of the edge of any wetland.

A wetland is an ecosystem that depends on constant or recurrent, shallow inundation or saturation at or near the surface of the substrate. The minimum essential characteristics of a wetland are recurrent, sustained inundation or saturation at or near the surface and the presence of physical, chemical, and biological features reflective of recurrent, sustained inundation or saturation. Common diagnostic features of wetlands are hydrology, hydric soils and hydrophytic vegetation. Any area containing all three elements shall be defined as wetlands as shall any area that meets the definition of a wetland in either 1) The United States Army Corps of Engineers Technical Report Y87-1, Corps of Engineers Wetlands Delineation Manual; or 2) The United States Environmental Protection Agency Wetlands Identification Delineation Manual, Volume I, Rational, Wetland Parameters, and Overview of Jurisdictional Approach, Volume II, Field Methodology, as most recently updated or modified; or 3) The Pennsylvania Department of Environmental Resources Wetlands Identification and Delineation, Chapter 105 Dam Safety and Waterways Management Rules and Regulations, as most recently updated or modified. Where a difference between the foregoing criteria exists, the most restrictive criteria will be used in any particular case. For the purposes of this definition and for its application to this Chapter most restrictive criteria shall mean the criteria which effects preservation of the most extensive area of wetlands.

No area, which does not contain the required hydrology, hydric soils and hydrophytic vegetation shall be considered as a regulated wetland except where specific physicochemical, biotic, or anthropogenic factors have removed them or prevented their development. In the event that such factors have occurred and have prevented the development of or removal of wetland hydrology, hydric soils or hydrophytic vegetation, the area shall be considered as a wetland and regulated as such with the exception that replacement and/or mitigation will not be required by the Borough unless required by another regulatory entity.

All wetland determinations shall be performed by the Army Corp of Engineers or by an independent party certified by the Army Corp of Engineers to be expert in wetland delineations in which case a copy of such certification shall be provided with the subdivision or land development application and all wetland delineations shall be attested to and sealed.

At the time of application, the applicant shall file for review a wetlands report that shall identify and delineate all wetlands on the plan set in sufficient detail as to make on-site verification possible. All wetland areas shall be clearly staked at the time of application and throughout the review period to allow the entire parameter of the wetland area(s) to be located.

In the event that one or more but less than three of the normal characteristics of a wetland are present, the party delineating the wetlands shall identify such areas and clearly indicate their location on the plan set. Such areas shall be clearly staked in the field at the time of application and throughout the review period to allow such areas to be located. All such areas shall be considered wetlands unless the application for land development or sub-division is accompanied by a signed and certified, detailed explanation that asserts that the lack of a particular wetland characteristic is a normal and natural condition and is not the result of human intervention (including agricultural activities) or an unusual natural event.

- F. **Soil Erosion and Sedimentation.** All developments shall protect streams, lakes and ponds from sedimentation damage and control erosion in accordance with the “Clean Streams Law PL 198, Chapter 102,” except that in addition all developments shall submit a plan as part of the preliminary land development plan even where they are less than 25 acres in extent.
- G. **Streams, Watercourses, Waters of the Commonwealth, Lakes or Ponds:** Such areas shall not be altered, graded, developed, filled, piped, diverted or built upon. No construction activity or permanent construction of any kind inclusive of the storage of materials is permitted within 50 feet of the edge of any waterway.
- H. **Riparian buffer.** A riparian buffer shall be established along all watercourses tributary to Neshaminy Creek. The buffer shall be 10 feet in width measured from the top of bank of the stream and extending on both sides of the stream. The area of the riparian buffer may be counted as part of the minimum lot area. The purpose of the buffer is to protect water quality, prevent erosion and sedimentation, and prevent flooding. Within the riparian buffer, there shall be no grading, removal of vegetation, building, disturbance, or placement of structures, except as permitted by this Chapter.

§27-702. Site Design and Intensity Performance Standards; Site Capacity Calculation.

- A. The following site capacity calculations shall be submitted with applications for Use B3 Single-Family Detached Cluster and Use B4 Traditional Neighborhood Development. Through these calculations, the net buildable site area, the maximum number of lots or dwelling units, the maximum amount of impervious surfaces and the required open space shall be determined for the specific site. The required open space shall be the minimum open space as related to the Minimum Open Space Ratio specified in Part 4 Use Regulations and the area and

dimensional requirements of §§27-500 through 27-505, or the calculated Resource Protection Land, whichever is the greater amount. Areas identified as Resource Protection Land shall be included in the required open space for these uses.

(1) Base Site Area: Certain portions of tracts may not be usable for development. These shall be subtracted from the site area to determine base site area. The following calculation for Base Site Area shall be used for all site capacity calculations.

(a) Site area as determined by actual on-site survey _____acres

(b) *Subtract* land which is not contiguous, i.e:

i. A separate parcel which does not abut or adjoin, nor share common boundaries with the rest of the development, and/or

ii. Land which is cut off from the main parcel by an expressway, arterial or collector roadway, railroad, existing land uses, major stream, or other body of water so as to serve as a major barrier to common use, or so that it is isolated and unavailable for building purposes. _____acres

c. *Subtract* land which in a previously approved subdivision was reserved for resource protection, open space, or recreation. _____acres

d. *Subtract* land used or zoned for another use, i e., land used or to be used for commercial or industrial uses in a residential development, or land in a different zoning district than the primary use. _____acres

e. *Subtract* land within ultimate rights-of-way of existing roads, or utility rights-of-way or easements. _____acres

Equals Base Site Area _____acres

(2) Resource Protection Land—All land and resources within the base site area shall be mapped and measured for the purpose of determining the amount of open space needed to protect it. Portions of a site which may have overlapping resource protection restrictions shall be subject to the highest open space ratio and shall be calculated only once.

Resource	Protection Ratio		Acres of Land in Resource	Resource Protection Land	Total Proposed Disturbance
Floodplains	1.00	x	_____acres	_____acres	_____acres
Floodplain Soils	1.00	x	_____acres	_____acres	_____acres
Wetlands	1.00	x	_____acres	_____acres	_____acres

Steep slopes (26% or more)	0.85	x	_____ acres	_____ acres	_____ acres
Steep slopes (16 – 25%)	0.70	x	_____ acres	_____ acres	_____ acres
Steep slopes (8 – 15%)	0.60	x	_____ acres	_____ acres	_____ acres
Forest	0.60	x	_____ acres	_____ acres	_____ acres

Total Land With Resource Restrictions = _____ acres
Total Resource Protection Land = _____ acres
Total Proposed Disturbance = _____ acres

a. Calculation of Minimum Required Open Space

Base Site Area _____ acres
Multiply by Minimum Open Space Ratio _____ acres
Equals Minimum Open Space _____ acres

b. Calculation of Net Buildable Site Area

Base Site Area _____ acres
Minus Total Resource Protection Land or Minimum Open Space
(whichever is greater) _____ acres
Equals Net Buildable Site Area _____ acres

c. Determination of Maximum Number of Dwelling Units/Lots

Net Buildable Site Area _____ acres
Multiply by Maximum Density
(See §27-406 and §27-500 through 27-505) _____ acres
Equals Maximum Number of Dwelling Units/Lots (rounded down)
_____ units/lots

d. Determination of Maximum Amount of Impervious Surface

Net Buildable Site Area _____ acres
Multiply by Maximum Site Impervious Surface Ratio _____ acres
Equals Maximum Site Imperviousness _____ acres

e. Site Capacity Summary

Base Site Area _____ acres
Total Resource Protection Land _____ acres
Required Open Space _____ acres
Net Buildable Site Area _____ acres
Maximum Number of Dwelling Units/Lots (rounded down) _____ units/lots
Maximum Site Imperviousness _____ acres

BOROUGH OF HULMEVILLE
ORDINANCE NO. 265

AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES, AND CORPORATIONS TO OBTAIN A PERMIT FOR ANY CONSTRUCTION OR DEVELOPMENT; PROVIDING FOR THE ISSUANCE OF SUCH PERMITS; SETTING FORTH CERTAIN MINIMUM REQUIREMENTS FOR NEW CONSTRUCTION AND DEVELOPMENT WITHIN AREAS OF THE BOROUGH OF HULMEVILLE WHICH ARE SUBJECT TO FLOODING; AND ESTABLISHING PENALTIES FOR ANY PERSONS WHO FAIL, OR REFUSE TO COMPLY WITH, THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

Repealer Section 703 of the Hulmeville Borough Zoning Ordinance, being Section 703 of Ordinance No. 256, enacted August 6, 2012, is hereby repealed and deleted in its entirety, and the following is hereby enacted in its place:

§27-703 Floodplain Regulations.

1 STATUTORY AUTHORIZATION

The Legislature of the Commonwealth of Pennsylvania has, by the passage of the Pennsylvania Flood Plain Management Act of 1978, delegated the responsibility to local governmental units to adopt floodplain management regulations to promote public health, safety, and the general welfare of its citizenry. Therefore, the Council of the Borough of Hulmeville does hereby order as follows.

2 GENERAL PROVISIONS

A. Intent

The intent of this Ordinance is to:

- (1) Promote the general health, welfare, and safety of the community.
- (2) Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- (3) Minimize danger to public health by protecting water supply and natural drainage.
- (4) Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- (5) Comply with federal and state floodplain management requirements.

B. Applicability

- (1) It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough of Hulmeville unless a Permit has been obtained from the Floodplain Administrator.
- (2) A Permit shall not be required for minor repairs to existing buildings or structures.

C. Abrogation and Greater Restrictions

This ordinance supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.

D. Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such a decision shall not affect the remaining portions of the Ordinance, which shall remain in full force and effect, and for this purpose the provisions of this Ordinance are hereby declared to be severable.

E. Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on accepted engineering methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the part of the Borough of Hulmeville or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

3. ADMINISTRATION

A. Designation of the Floodplain Administrator

The Borough Council President Pro Tem is hereby appointed to administer and enforce this ordinance and is referred to herein as the Floodplain Administrator. The Floodplain Administrator may: (A) Fulfill the duties and responsibilities set forth in these regulations, (B) Delegate duties and responsibilities set forth in these regulations to qualified technical personnel, plan examiners, inspectors, and other employees, or (C) Enter into a written agreement or written contract with another agency or private sector entity to administer specific provisions of these regulations.

Administration of any part of these regulations by another entity shall not relieve the community of its responsibilities pursuant to the participation requirements of the National Flood Insurance Program as set forth in the Code of Federal Regulations at 44 C.F.R. Section 59.22.

In the absence of a designated Floodplain Administrator, the Floodplain Administrator duties are to be fulfilled by the Borough Council President.

B. Permits Required

A Permit shall be required before any construction or development is undertaken within any area of the Borough of Hulmeville.

C. Duties and Responsibilities of the Floodplain Administrator

- (1) The Floodplain Administrator shall issue a Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- (2) Prior to the issuance of any permit, the Floodplain Administrator shall review the application for the permit to determine if all other necessary government permits required by state and federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- (3) In the case of existing structures, prior to the issuance of any Development/Permit, the Floodplain Administrator shall review the history of repairs to the subject building, so that any repetitive loss concerns can be addressed before the permit is issued.
- (4) During the construction period, the Floodplain Administrator or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He/she shall make as many inspections during and upon completion of the work as are necessary.
- (5) In the discharge of his/her duties, the Floodplain Administrator shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
- (6) In the event the Floodplain Administrator discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Floodplain Administrator shall revoke the Permit and report such fact to the Council for whatever action it considers necessary.

- (7) The Floodplain Administrator shall maintain in perpetuity all records associated with the requirements of this ordinance including, but not limited to, finished construction elevation data, permitting, inspection and enforcement.
- (8) The Floodplain Administrator is the official responsible for submitting a biennial report to FEMA concerning community participation in the National Flood Insurance Program.
- (9) The responsibility, authority and means to implement the commitments of the Floodplain Administrator can be delegated from the person identified. However, the ultimate responsibility lies with the person identified in the floodplain ordinance as the floodplain administrator/manager.
- (10) The Floodplain Administrator shall consider the requirements of the 34 PA Code and the 2009IBC and the 2009 IRC or latest revisions thereof.

D. Application Procedures and Requirements

- (1) Application for such a Permit shall be made, in writing, to the Floodplain Administrator on forms supplied by the Borough of Hulmeville. Such application shall contain the following:
 - (a) Name and address of applicant.
 - (b) Name and address of owner of land on which proposed construction is to occur.
 - (c) Name and address of contractor.
 - (d) Site location including address.
 - (e) Listing of other permits required.
 - (f) Brief description of proposed work and estimated cost, including a breakout of flood-related cost and the market value of the building before the flood damage occurred where appropriate.
 - (g) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- (2) If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Permits shall provide all the necessary information in sufficient detail and clarity to enable the Floodplain Administrator to determine that:
 - (a) all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
 - (b) all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage;

- (c) adequate drainage is provided so as to reduce exposure to flood hazards;
 - (d) structures will be anchored to prevent floatation, collapse, or lateral movement;
 - (e) building materials are flood-resistant;
 - (f) appropriate practices that minimize flood damage have been used; and
 - (g) electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities have been designed and located to prevent water entry or accumulation.
- (3) Applicants shall file the following minimum information plus any other pertinent information as may be required by the Floodplain Administrator to make the above determination:
- (a) A completed Permit Application Form.
 - (b) A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - i. north arrow, scale, and date;
 - ii. topographic contour lines, if available;
 - iii. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and development;
 - iv. the location of all existing streets, drives, and other access ways; and
 - v. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
 - (c) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
 - i. the proposed lowest floor elevation of any proposed building based upon North American Vertical Datum of 1988;
 - ii. the elevation of the base flood;
 - iii. supplemental information as may be necessary under 34 PA Code, the 2009 IBC or the 2009 IRC.

(d) The following data and documentation:

- i. elevation certificate.
- ii. detailed information concerning any proposed floodproofing measures and corresponding elevations.
- iii. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a base flood; and Floodway Area (See section 4.B.(1)) when combined with all other existing and anticipated development, will not increase the base flood elevation at any point.
- iv. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the base flood.

Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.

- v. detailed information needed to determine compliance with Section 5.C.(6), Storage, and Section 5.D, Development Which May Endanger Human Life, including:
 - [a] the amount, location and purpose of any materials or substances referred to in Sections 5.C.(6) and 5.D which are intended to be used, produced, stored or otherwise maintained on site.
 - [b] a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 5.D during a base flood.
- vi. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
- vii. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

(4) Applications for Permits shall be accompanied by a fee, payable to the municipality based upon the estimated cost of the proposed construction as determined by the Floodplain Administrator.

E. Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Floodplain Administrator to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, County Conservation District etc.) for review and comment.

F. Changes

After the issuance of a Permit by the Floodplain Administrator, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Floodplain Administrator. Requests for any such change shall be in writing, and shall be submitted by the applicant to Floodplain Administrator for consideration.

G. Placards

In addition to the Permit, the Floodplain Administrator shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the Permit, the date of its issuance, and be signed by the Floodplain Administrator.

H. Start of Construction

Work on the proposed construction or development shall begin within 180 days after the date of issuance of the development permit. Work shall also be completed within twelve (12) months after the date of issuance of the permit or the permit shall expire unless a time extension is granted, in writing, by the Floodplain Administrator. The issuance of development permit does not refer to the zoning approval.

The actual start of construction means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first, alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Time extensions shall be granted only if a written request is submitted by the applicant, who sets forth sufficient and reasonable cause for the Floodplain Administrator to approve such a request and the original permit is compliant with the ordinance & FIRM/FIS in effect at the time the extension is granted.

I. Enforcement

(1) Notices

Whenever the Floodplain Administrator or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provisions of this Ordinance, or of any regulations adopted pursuant thereto, the Floodplain Administrator shall give notice of such alleged violation as hereinafter provided. Such notice shall:

- (a) be in writing;
- (b) include a statement of the reasons for its issuance;
- (c) allow a reasonable time not to exceed a period of thirty (30) days for the performance of any act it requires;
- (d) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this State;
- (e) contain an outline of remedial actions which, if taken, will effect compliance with the provisions of this Ordinance.

(2) Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order of direction of the Floodplain Administrator or any other authorized employee of the municipality shall be guilty of a summary offense and upon conviction shall pay a fine to Borough of Hulmeville, of not less than Twenty-five Dollars (\$25.00) nor more than Six Hundred Dollars (\$600.00) plus costs of prosecution. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with this Ordinance shall not excuse the violation or noncompliance or permit it to continue. All such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Council to be a public nuisance and abatable as such.

J. Appeals

- (1) Any person aggrieved by any action or decision of the Floodplain Administrator concerning the administration of the provisions of this Ordinance, may appeal to the Zoning Hearing Board. Such appeal must be filed, in writing, within thirty (30) days after the decision, determination or action of the Floodplain Administrator.
- (2) Upon receipt of such appeal the Zoning Hearing Board shall consider the appeal in accordance with the Municipalities Planning Code and any other local ordinance.
- (3) Any person aggrieved by any decision of the Zoning Hearing Board may seek relief therefrom by appeal to court, as provided by the laws of this State including the Pennsylvania Flood Plain Management Act.

4. IDENTIFICATION OF FLOODPLAIN AREAS

A. Identification

The identified floodplain area shall be:

- (1) any areas of Borough of Hulmeville, classified as Special Flood Hazard Areas (SFHAs) in the Flood Insurance Study (FIS) and the accompanying Flood Insurance Rate Maps (FIRMs) dated March 16, 2015 and issued by the Federal Emergency Management Agency (FEMA) or the most recent revision thereof, including all digital data developed as part of the Flood Insurance Study.

The above referenced FIS and FIRMs, and any subsequent revisions and amendments are hereby adopted by Borough of Hulmeville and declared to be a part of this ordinance.

B. Description and Special Requirements of Identified Floodplain Areas

The identified floodplain area shall consist of the following specific areas:

- (1) The Floodway Area shall be those areas identified in the FIS and the FIRM as floodway and which represent the channel of a watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without increasing the water surface elevation by more than one (1) foot at any point. This term shall also include floodway areas which have been identified in other available studies or sources of information for those Special Flood Hazard Areas where no floodway has been identified in the FIS and FIRM.
 - (a) Within any floodway area, no encroachments, including fill, new construction, substantial improvements, or other development shall be permitted unless it has been demonstrated through hydrologic and hydraulic analysis performed in accordance with standard engineering practice that the proposed encroachment

would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- (b) Within any floodway area, no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office.
- (2) The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided.
- (a) The AE Area adjacent to the floodway shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA for which base flood elevations have been provided and a floodway has been delineated.
- (3) The A Area/District shall be those areas identified as an A Zone on the FIRM included in the FIS prepared by FEMA and for which no base flood elevations have been provided. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources shall be used when available. Where other acceptable information is not available, the base flood elevation shall be determined by using the elevation of a point on the boundary of the identified floodplain area which is nearest the construction site.

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality.

C. Changes in Identification of Area

The Identified Floodplain Area may be revised or modified by the Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change to the Special Flood Hazard Area, approval must be obtained from FEMA. Additionally, as soon as practicable, but not later than six (6) months after the date such information becomes available, a community shall notify FEMA of the changes to the Special Flood Hazard Area by submitting technical or scientific data. See 5.A.(2) for situations where FEMA notification is required.

D. Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Floodplain Administrator and any party aggrieved by this decision or determination may appeal to the Borough Council. The burden of proof shall be on the appellant.

E. Jurisdictional Boundary Changes

Prior to development occurring in areas where annexation or other corporate boundary changes are proposed or have occurred, the community shall review flood hazard data affecting the lands subject to boundary changes. The community shall adopt and enforce floodplain regulations in areas subject to annexation or corporate boundary changes which meet or exceed those in CFR 44 60.3.

F. Overlay Concept

- (1) The floodplain areas described above shall be overlays to the existing underlying zoning district and the floodplain provisions shall serve to supplement the underlying zoning districts and to supplement the underlying zoning provisions. Where there is a conflict between the provisions or requirements of any floodplain requirement and those of the underlying zoning, the more restrictive provisions and those pertaining to the floodplain area shall apply. However, in all cases, the floodplain requirements shall be met.
- (2) In the event any provision concerning a floodplain regulation is declared inapplicable as a result of any legislative or administrative actions or judicial discretion, the basic underlying zoning district provisions shall remain applicable.

5. TECHNICAL PROVISIONS

A. General

- (1) Alteration or Relocation of Watercourse
 - (a) No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have first been obtained from the Department of Environmental Protection Regional Office.
 - (b) No encroachment, alteration, or improvement of any kind shall be made to any watercourse unless it can be shown that the activity will not reduce or impede the flood carrying capacity of the watercourse in any way.
 - (c) In addition, FEMA and the Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.
- (2) When a community proposes to permit the following encroachments:
 - any development that causes a rise in the base flood elevations within the floodway; or

- any development occurring in Zones AI-30 and Zone AE without a designated floodway, which will cause a rise of more than one foot in the base flood elevation; or
- alteration or relocation of a stream (including but not limited to installing culverts and bridges)

the applicant shall (as per 44 CFR Part 65.12):

- (a) apply to FEMA for conditional approval of such action prior to permitting the encroachments to occur.
 - (b) Upon receipt of the FEMA Administrator's conditional approval of map change and prior to approving the proposed encroachments, a community shall provide evidence to FEMA of the adoption of floodplain management ordinances incorporating the increased base flood elevations and / or revised floodway reflecting the post-project condition.
 - (c) Upon completion of the proposed encroachments, a community shall provide as-built certifications. FEMA will initiate a final map revision upon receipt of such certifications in accordance with 44 CFR Part 67.
- (3) Any new construction, development, uses or activities allowed within any identified floodplain area shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.
 - (4) Within any Identified Floodplain Area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse except for bridges, culverts, roads, driveways, trails and utility crossings where the appropriate permit is obtained from the Department of Environmental Protection Regional Office.

B. Elevation and Floodproofing Requirements

Within any Identified Floodplain Area any new construction or substantial improvements shall be prohibited. If a variance is obtained for new construction or substantial improvements in the Identified Floodplain Area in accordance with the criteria in Section 8, then the following provisions apply:

(1) Residential Structures

- (a) In AE, AI-30, and AH Zones, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation.

- (b) In A Zones, where there are no Base Flood Elevations specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation determined in accordance with Section 4.B.(3) of this ordinance.
- (c) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

(2) Non-residential Structures

- (a) In AE, A1-30 and AH Zones, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation, or be designed and constructed so that the space enclosed below the regulatory flood elevation:
 - i. is floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and,
 - ii. has structural components with the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy:
- (b) In A Zones, where no Base Flood Elevations are specified on the FIRM, any new construction or substantial improvement shall have the lowest floor (including basement) elevated or completely floodproofed up to, or above, the regulatory flood elevation determined in accordance with Section 4.B.(3) of this ordinance.
- (c) Any non-residential structure, or part thereof, made watertight below the regulatory flood elevation shall be floodproofed in accordance with the W1 or W2 space classification standards contained in the publication entitled "Flood- Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.
- (d) The design and construction standards and specifications contained in the 2009 International Building Code (IBC) and in the 2009 International Residential Code (IRC) or the most recent revisions thereof and ASCE 24 and 34 PA Code (Chapters 401-405 as amended) shall be utilized, where they are more restrictive.

(3) Space below the lowest floor

- (a) Basements are prohibited.

- (b) Fully enclosed space below the lowest floor (excluding basements) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "fully enclosed space" also includes crawl spaces.
- (c) Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - i. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - ii. the bottom of all openings shall be no higher than one (1) foot above grade.
 - iii. openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) Historic Structures

Historic structures undergoing repair or rehabilitation that would constitute a substantial improvement as defined in this ordinance, must comply with all ordinance requirements that do not preclude the structure's continued designation as a historic structure. Documentation that a specific ordinance requirement will cause removal of the structure from the National Register of Historic Places or the State Inventory of Historic Places must be obtained from the Secretary of the Interior or the State Historic Preservation Officer. Any exemption from ordinance requirements will be the minimum necessary to preserve the historic character and design of the structure.

(5) Accessory structures

Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:

- (a) the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
- (b) floor area shall not exceed 200 square feet.
- (c) the structure will have a low damage potential.
- (d) the structure will be located on the site so as to cause the least obstruction to the flow of flood waters.
- (e) power lines, wiring, and outlets will be elevated to the regulatory flood elevation.

- (f) permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
- (g) sanitary facilities are prohibited.
- (h) the structure shall be adequately anchored to prevent flotation, collapse, and lateral movement and shall be designed to automatically provide for the entry and exit of floodwater for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
 - i. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
 - ii. the bottom of all openings shall be no higher than one (1) foot above grade.
 - iii. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

C. Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

(1) Fill

- (a) Within any Identified Floodplain Area the use of fill shall be prohibited. If a variance is obtained in accordance with the criteria in Section 8, then the following provisions apply:

If fill is used, it shall:

- i. extend laterally at least fifteen (15) feet beyond the building line from all points;
- ii. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;
- iii. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
- iv. be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data justifying steeper slopes are submitted to, and approved by the Floodplain Administrator; and
- v. be used to the extent to which it does not adversely affect adjacent properties.

(2) Drainage Facilities

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall ensure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

(3) Water and Sanitary Sewer Facilities and Systems

- (a) All new or replacement water supply and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
- (b) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
- (c) No part of any on-site waste disposal system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.
- (d) The design and construction provisions of the UCC and FEMA #348, “Protecting Building Utilities From Flood Damages” and “The International Private Sewage Disposal Code” shall be utilized.

(4) Other Utilities

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

(5) Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

(6) Storage

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 5.D, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation or floodproofed to the maximum extent possible.

(7) Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

(8) Anchoring

- (a) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
- (b) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

(9) Floors, Walls and Ceilings

- (a) Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
- (b) Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
- (c) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
- (d) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other "water-resistant" material.

(10) Paints and Adhesives

- (a) Paints and other finishes used at or below the regulatory flood elevation shall be of "marine" or "water-resistant" quality.
- (b) Adhesives used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.
- (c) All wooden components (doors, trim, cabinets, etc.) used at or below the regulatory flood elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.

(11) Electrical Components

- (a) Electrical distribution panels shall be at least three (3) feet above the base flood elevation.

(b) Separate electrical circuits shall serve lower levels and shall be dropped from above.

(12) Equipment

Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the regulatory flood elevation.

(13) Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

(14) Uniform Construction Code Coordination

The Standards and Specifications contained 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this ordinance, to the extent that they are more restrictive and supplement the requirements of this ordinance.

International Building Code (TBO 2009 or the latest edition thereof:
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC12009 or the latest edition thereof:
Secs. R104, R105, R109, R322, Appendix E, and Appendix J.

D. Development Which May Endanger Human Life

Within any Identified Floodplain Area, any structure of the kind described in Subsection (1), below, shall be prohibited. No variance shall be granted.

(1) In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure which:

(a) will be used for the production or storage of any of the following dangerous materials or substances; or,

(b) will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,

(c) will involve the production, storage, or use of any amount of radioactive substances; shall be prohibited. The following list of materials and substances are considered dangerous to human life:

- Acetone
- Ammonia
- Benzene
- Calcium carbide
- Carbon disulfide
- Celluloid
- Chlorine
- Hydrochloric acid
- Hydrocyanic acid
- Magnesium
- Nitric acid and oxides of nitrogen
- Petroleum products (gasoline, fuel oil, etc.)
- Phosphorus
- Potassium
- Sodium
- Sulphur and sulphur products
- Pesticides (including insecticides, fungicides, and rodenticides)
- Radioactive substances, insofar as such substances are not otherwise regulated.

E. Special Requirements for Subdivisions and Development

All subdivision proposals and development proposals containing at least 50 lots or at least 5 acres, whichever is the lesser, in Identified Floodplain Areas where base flood elevation data are not available, shall be supported by hydrologic and hydraulic engineering analyses that determine base flood elevations and floodway information. The analyses shall be prepared by a licensed professional engineer in a format required by FEMA for a Conditional Letter of Map Revision and Letter of Map Revision. Submittal requirements and processing fees shall be the responsibility of the applicant.

F. Special Requirements for Manufactured Homes

Within any Identified Floodplain Area manufactured homes shall be prohibited. No variance shall be granted.

G. Special Requirements for Recreational Vehicles

Within any Identified Floodplain Area recreational vehicles shall be prohibited. If a variance is obtained in accordance with the criteria in Section 8, then the following provisions apply:

- (1) Recreational vehicles in Zones A, AI-30, AH and AE must:

- (a) be on the site for fewer than 180 consecutive days, and
- (b) be fully licensed and ready for highway use.

6. PROHIBITED ACTIVITIES

A. General

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any Identified Floodplain Area:

- (1) The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
 - (a) Hospitals
 - (b) Nursing homes
 - (c) Jails or prisons
- (2) The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

7. EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

A. Existing Structures

The provisions of this Ordinance do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 7.B shall apply.

B. Improvements

The following provisions shall apply whenever any improvement is made to an existing structure located within any Identified Floodplain Area:

- (1) No expansion or enlargement of an existing structure shall be allowed within any Floodway Area/District that would cause any increase in BFE.
- (2) Any modification, alteration, reconstruction, or improvement of any kind to an existing structure to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.

- (3) The above activity shall also address the requirements of the 34 PA Code, as amended and the 2009IBC and the 2009 IRC.
- (4) Within any Floodway Area/District (See Section 4.B.(1)), no new construction or development shall be allowed, unless the appropriate permit is obtained from the Department of Environmental Protection Regional Office
- (5) Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of “repetitive loss” shall be undertaken only in full compliance with the provisions of this ordinance.

8. VARIANCES

A. General

If compliance with any of the requirements of this Ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the Borough of Hulmeville may, upon request, grant relief from the strict application of the requirements.

B. Variance Procedures and Conditions

Requests for variances shall be considered by the Borough Zoning Hearing Board in accordance with the procedures contained in Section 3.J and the following:

- (1) No variance shall be granted for any construction, development, use, or activity within any Floodway Area/District that would cause any increase in the BFE.
- (2) No variance shall be granted for Prohibited Activities (Section 6) or to Development Which May Endanger Human Life (Section 5.D).
- (3) If granted, a variance shall involve only the least modification necessary to provide relief.
- (4) In granting any variance, the Borough Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Ordinance.
- (5) Whenever a variance is granted, the Borough Zoning Hearing Board shall notify the applicant in writing that:
 - (a) The granting of the variance may result in increased premium rates for flood insurance.
 - (b) Such variances may increase the risks to life and property.
- (6) In reviewing any request for a variance, the Borough Zoning Hearing Board shall consider, at a minimum, the following:

- (a) That there is good and sufficient cause.
 - (b) That failure to grant the variance would result in exceptional hardship to the applicant.
 - (c) That the granting of the variance will
 - i. neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense,
 - ii. nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
 - (d) Compliance with the requirements set forth in Section 1205 of the Zoning Ordinance regarding Variance standards.
- (7) A complete record of all variance requests and related actions shall be maintained by the Borough of Hulmeville. In addition, a report of all variances granted during the year shall be included in the annual report to the FEMA.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one-percent (1%) annual chance flood.

9. DEFINITIONS

A. General

The following definitions apply only to terms used in §27-703. Definitions found in Part 2 of the Zoning Ordinance apply in all other sections of the Zoning Ordinance. Unless specifically defined below, words and phrases used in this §27-703 shall be interpreted so as to give this §27-703 its most reasonable application.

Specific Definitions

- (1) Accessory use or structure - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- (2) Base flood - a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood" or one-percent (1%) annual chance flood).
- (3) Base flood discharge - the volume of water resulting from a Base Flood as it passes a given location within a given time, usually expressed in cubic feet per second (cfs).
- (4) Base flood elevation (BFE) - the elevation shown on the Flood Insurance Rate Map (FIRM) for Zones AE, AH, A1-30 that indicates the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

- (5) Basement - any area of the building having its floor below ground level on all sides.
- (6) Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
- (7) Development - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.
- (8) Existing manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- (9) Expansion to an existing manufactured home park or subdivision - the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- (10) Flood - a temporary inundation of normally dry land areas.
- (11) Flood Insurance Rate Map (FIRM) - the official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.
- (12) Flood Insurance Study (FIS) - the official report provided by the Federal Emergency Management Agency that includes flood profiles, the Flood Insurance Rate Map, the Flood Boundary and Floodway Map, and the water surface elevation of the base flood.
- (13) Floodplain area - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.
- (14) Floodproofing - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- (15) Floodway - the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

- (16) Historic structures - any structure that is:
- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (c) Individually listed on a state inventory of historic places in states which have been approved by the Secretary of the Interior; or
 - (d) Individually listed on a local inventory of historic places in communities with historic preservation that have been certified either:
 - i. By an approved state program as determined by the Secretary of the Interior or
 - ii. Directly by the Secretary of the Interior in states without approved programs.
- (17) Identified Floodplain Area- this term is an umbrella term that includes all of the areas within which the community has selected to enforce floodplain regulations. It will always include the area identified as the Special Flood Hazard Area on the Flood Insurance Rate Maps and Flood Insurance Study, but may include additional areas identified by the community. See Sections 4. A and 4.B for the specifics on what areas the community has included in the Identified Floodplain Area.
- (18) Lowest floor - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this ordinance.
- (19) Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.
- (20) Manufactured home park or subdivision - a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- (21) Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of

- any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring, mechanical or other work affecting public health or general safety.
- (22) New construction - structures for which the start of construction commenced on or after March 16, 2015 and includes any subsequent improvements to such structures. Any construction started after September 30, 1977 and before March 16, 2015 is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.
 - (23) New manufactured home park or subdivision - a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
 - (24) Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.
 - (25) Post-FIRM Structure - is a structure for which construction or substantial improvement occurred after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map (FIRM) dated September 30, 1977, whichever is later, and, as such, would be required to be compliant with the regulations of the National Flood Insurance Program.
 - (26) Pre-FIRM Structure - is a structure for which construction or substantial improvement occurred on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map (FIRM) dated September 30, 1977, whichever is later, and, as such, would not be required to be compliant with the regulations of the National Flood Insurance Program.
 - (27) Recreational vehicle - a vehicle which is:
 - (a) built on a single chassis;
 - (b) not more than 400 square feet, measured at the largest horizontal projections;
 - (c) designed to be self-propelled or permanently towable by a light-duty truck,

- (d) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (28) Regulatory flood elevation - the base flood elevation (BFE) or estimated flood height as determined using simplified methods plus a freeboard safety factor of one and one-half (1 ½) feet.
- (29) Repetitive loss — flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market value of the structure before the damages occurred.
- (30) Special flood hazard area (SFHA) - means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone A, AO, A1-A30, AE, A99, or, AH.
- (31) Start of construction - includes substantial improvement and other proposed new development and means the date the Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days after the date of the permit and shall be completed within twelve (12) months after the date of issuance of the permit unless a time extension is granted, in writing, by the Floodplain Administrator. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (32) Structure - a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.
- (33) Subdivision - the division or re-division of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development: Provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

- (34) Substantial damage - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.
- (35) Substantial improvement - any reconstruction, rehabilitation, addition, or other improvement of a structure, of which the cost equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" or "repetitive loss" regardless of the actual repair work performed. The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
- (36) Uniform Construction Code (UCC) - The statewide building code adopted by The Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, The Code adopted The International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the State floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.
- (37) Variance- A grant of relief by a community from the terms of a floodplain management regulation.
- (38) Violation - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.
- (39) Watercourse - A natural channel or conveyance of surface water having a defined bed and banks with perennial flow.

10 ENACTMENT

A. Adoption

This Ordinance shall be effective on March 16, 2015 and shall remain in force until modified, amended or rescinded by Borough of Hulmeville, Bucks County, Pennsylvania.

ENACTED AND ADOPTED by the Council this 2nd day of February, 2015.

ATTEST:

COUNCIL OF THE BOROUGH OF
HULMEVILLE

Dorothy Omietanski
Borough of Hulmeville Secretary

By: Thomas Walsh
Council President

EXAMINED and APPROVED, this 2nd day of February, 2015, by the Mayor Borough of Hulmeville

ATTEST:

Dorothy Omietanski
Borough of Hulmeville Secretary

[Signature]
Mayor

§27-704. Transportation Impact Study and Water Resources Impact Study.

1. Transportation Impact Study.

A. Purpose.

A Transportation Impact Study shall be required for all subdivisions and land developments meeting one or more of the criteria below in Subsection B. This study will enable Hulmeville Borough to assess the impact of a proposed development on the transportation system, both highways and public transportation, in the Borough. The purpose of the impact study is to insure that proposed developments do not adversely affect the transportation network and to identify any traffic problems associated with access between the site and the existing transportation network. The study's purpose is also to delineate solutions to potential problems and to present improvements to be incorporated into the proposed development. The study shall assist in the protection of air quality, conservation of energy and encouragement of public transportation use.

B. Applicability.

(1) A Transportation Impact Study shall be submitted for all subdivisions and land developments that will meet one or more of the following criteria:

- (a) Residential: Fifteen (15) or more dwelling units or lots.
- (b) Non-Residential Subdivision: Five (5) lots or more.
- (c) Commercial: A commercial building or buildings consisting of 15,000 square feet or more of floor area.
- (d) Office: A development consisting of 15,000 square feet or more of floor area.
- (e) Industrial: Any industrial development consisting of 5 or more lots, or 15,000 square feet or more of floor area, or having more than 35 employees (immediately or future) with access from the site onto a Borough street, or with an expected daily traffic flow of more than 150 vehicle trips per day with site access onto a Borough street.

- (f) Institutional: Any medical, educational, or institutional development consisting of 15,000 square feet or more of floor area.
 - (g) Other: All other uses that propose to generate 250 or more trips.
 - (2) The number of trips shall be determined through the use of the Institute of Transportation Engineers (ITE), "Trip Generation", latest edition.
 - (3) Borough Council, at its discretion, may require any other subdivision or land development to be accompanied by a Transportation Impact Study; provided, however, that Borough Council notifies the applicant within thirty (30) days following the Planning Commission's first meeting to consider the proposal. Such a notification shall specify the reason for the requirement, citing the proposal's particular location or existing problems or type of use. Borough Council may, at its discretion waive the requirement of a Transportation Impact Study when it determines that such a study is unnecessary.
- C. The Transportation Impact Study shall be prepared by a qualified traffic engineer and/or transportation planner with previous traffic study experience. The procedures and standards for the Transportation Impact Study are set forth in Appendix B.

2. Water Resources Impact Study.

- A. A Water Resources Impact Study shall be required for all subdivision and land developments meeting one or more of the criteria below in Subsection B. The purpose of the study is to determine if there is an adequate water supply to serve the proposed use. Any proposed subdivision or land development which does not provide an adequate water supply for use shall not be approved by the Borough and shall be cause for denial of the subdivision or land development plans.
- B. Applicability.
 - (1) A Water Resources Impact Study shall be submitted for all subdivisions and land developments that will meet one or more of the following criteria:
 - (a) Residential: Fifteen (15) or more dwelling units or lots.
 - (b) Non-Residential Subdivision: Five (5) lots or more.

- (c) A zoning permit application or land development which will require public water of more than 4,500 gallons per day.

C. Report Requirements. The Water Resources Impact Study shall be prepared by a Professional Engineer registered in the Commonwealth of Pennsylvania and shall include those requirements set forth in §27-1301.C.

§27-705. General Open Space Standards.

1. Single-family cluster developments, traditional neighborhood developments and other uses with open space requirements shall meet the open space standards of the Zoning Chapter. The plan shall contain or be supplemented by such material as required to establish the method by which open space shall be perpetuated, maintained, used, and administered. The plan and other materials shall be construed as a contract between the land owner(s) and the municipality, and shall be noted on all deeds.
2. Any property or parcel, including open space as part of previous subdivision within the Borough, which is subject to a restriction against further subdivision, whether by notation on a subdivision plan or restriction in a deed, shall not be further subdivided or developed, regardless of an intervening zoning or other ordinance change.
3. Where open space is designated on a subdivision plan or is to be restricted from further subdivision or development by a restriction in a deed and/or by a note on a subdivision plan, the plan shall contain the following statement: “Open space which is designated on this subdivision plan is restricted from further subdivision and development by a restriction in a deed or by this note, regardless of an intervening or other ordinance change.”
4. All subdivisions and residential developments with open space requirements shall provide internal usable open space that shall be accessible to residents of the development. For all developments of 25 dwellings or more, a minimum area of 800 square feet per dwelling unit shall be provided in one or more central community greens accessible to residents of the development. A green or common area shall have a minimum contiguous area of at least 20,000 square feet.
5. Where open space is designated on a subdivision plan, an open space easement shall be granted to the Borough over such open space assuring the open space’s protection from future subdivision, development or use inconsistent with its preservation as open space in accordance with §27-707.

§27-706. Layout of Open Space.

The open space shall be laid out in accordance with the best principles of site design. It is intended that the open space shall be as close to all residences as possible, with green ways leading to major recreation spaces. Major recreation areas shall be located to serve all residents. The open space is most needed in areas of highest density.

§27-707. Open Space Designation.

1. The subdivision plans shall further designate the use of open space, the type of maintenance to be provided, and a planting plan or schedule. In designating use and maintenance, the following classes may be used:
 - A. **Lawn.** A grass area with or without trees which may be used by the residents for a variety of purposes and which shall be mowed regularly to insure a neat and tidy appearance.
 - B. **Recreation Area.** An area designated for a specific recreation use but not limited to tennis, swimming, shuffle board, playfield and tot lot. Such areas shall be maintained so as to avoid creating a hazard or nuisance and shall perpetuate the proposed use.
2. Minimum width buffer yards do not count as open space. However, required open space may be used to meet the requirements for buffers where the open space has a minimum contiguous area of four acres and a minimum dimension of 200 feet.
3. Required open space shall not include any area that is required by this Chapter for minimum yards or setbacks or building separations.
4. Stormwater facilities or basins (retention or detention) may be located in open space but the land area of the stormwater facility and/or basin, as defined by the extent of the stormwater or drainage easement, may not be used to meet the minimum open space requirements for the use or district.
5. Open space whose purpose or resulting effect is to enhance the private yards of individual lots shall not be considered to meet the ordinance requirements for open space and shall not be counted in the calculation of minimum required open space. Narrow or irregular pieces of land which serve no public open space function or which are remnants leftover after the lots, streets, and parking areas have been laid out shall not be considered to meet the ordinance requirements for open space and shall not be counted in the calculation of minimum required open space.
6. The easement area for any underground utility pipelines shall not be used to meet open space requirements.

§27-708. Open Space Performance Bond.

The developer shall provide designated planting and recreation facilities within the open space areas. A performance bond or other securities shall be required to cover costs of installation in accordance with provisions of the Subdivision and Land Development Ordinance [Chapter 22].

§27-709. Ownership and Preservation of Open Space.

Any of the following methods may be used to preserve, own, or maintain open space: condominium, homeowners' association, dedication in fee simple to Hulmeville Borough or to a County or State government, dedication of easements to a municipal government or conservation organization, transfer to a private conservation organization, or dedication of development rights. The following specific requirements are associated with each of the various methods:

- A. **Condominium.** The open space may be controlled through the use of condominium agreements. Such agreements shall be in conformance with the Pennsylvania Uniform Condominium Act. All open space land shall be held as “common element.” Such land shall not be eligible for sale to another party except for transfer to another method of ownership permitted under this §27-709, and then only where there is no change in the open space ratio or the open space designated on the record plans for the development.
- B. **Homeowners Association.** The open space may be held in common ownership by a homeowners association. Such land shall not be eligible for sale to another party except for transfer to another owner permitted under this section, and then only where there is no change in the open space ratio or the open space designated on the record plans for the development.
- C. **Fee-simple Dedication.** The municipality may, but shall not be required to, accept any portion or portions of the open space, provided: (a) such land is freely accessible to the public, (b) there is no cost of acquisition to the Borough involved, (c) the municipality agrees to and has access to maintain such lands; and (d) the open space shall be in an acceptable condition to the Borough at the time of transfer with regard to size, shape, location, condition, and improvement.
- D. **Dedication of Development Rights.** The Borough or County may accept but shall not be required to accept, title to the development rights or easements to any portion or portions of the open space. In such cases, the land remains in the ownership of the individual, condominium, or homeowners association while the development rights are held in public ownership. The County shall accept ownership only in accordance with

the provisions of Act 442 and county plans. The municipality may accept such land as it sees fit. In either case, there shall be no cost to County or municipality for acquisition or maintenance. The municipality may require this method where it deems this the most appropriate way of maintaining land in open space, particularly in single-family cluster developments.

E. **Transfer to a Private Conservation Organization.** With permission of the Borough, an owner may transfer either the fee simple title, with appropriate deed restrictions running in favor of the Borough, or easements, to a private, nonprofit organization, among whose purposes it is to conserve open space land and/or natural resources provided that:

- (1) the organization is acceptable to the Borough and is a bona fide conservation organization with perpetual existence;
- (2) the conveyance contains appropriate provision for transfer to the Borough in the event that the organization becomes unwilling or unable to continue carrying out its functions; and
- (3) a maintenance agreement acceptable to the Borough is entered into by the developer and the organization.

F. **Deed Restrictions.** Natural resource protection land or open space, as required by this Ordinance, may be held in the ownership of an individual property owner(s). This form of ownership of open space will be subject to the following requirements:

- (1) It may be used only if approved by Borough Council.
- (2) Restrictions meeting Borough specifications must be placed in the deed and through conservation easement for each property that has natural resource protection areas within its boundaries. The restrictions shall provide for the continuance of the resource protection areas in accordance with the provisions of this ordinance;
- (3) It will be clearly stated in the individual deeds and in the easement documents that the maintenance responsibility lies with the individual property owner.

G. **Multifamily or Townhouse Developments as part of Use B4 Traditional Neighborhood Development.** In the case of multifamily or townhouse residential uses, the open space land may be in the same ownership as that of the development provided that the land is deed-restricted to ensure its protection and continuance and that a maintenance agreement suitable to the Borough is provided. For any of these options the Borough may

accept, but is not required to accept, an easement to the open space land in the development.

§27-710. Noise.

1. **Purpose.**

The purpose of this section is to protect the citizens of the Borough from Noise Disturbances. Although it is recognized that in present society certain amounts of noise are unavoidable, the citizens of Hulmeville Borough are entitled to be protected from unnecessary disturbance, annoyance, or injury from sound.

2. **Terminology and Definitions** - For the purposes of this section, the following words and phrases shall have the meanings respectively ascribed to them by this section:

A-weighted decibel—The sound level, in decibels, measured with a sound level meter using the A-weighting network or scale as specified in the ANSI S1.4-1983 (specification for sound level meters). The level so read shall be postscripted dB(A) or dBA.

ANSI—The American National Standards Institute, Inc., New York, New York.

Chief—The Chief of Police of Hulmeville Borough or his authorized officers.

Daytime—The local time of day between the hours of 7:00 a.m. and 10:00 p.m. weekdays and from 9:00 a.m. to 10:00 p.m. on Saturdays, Sundays and legal holidays unless otherwise specified.

Decibel—A unit that describes the sound pressure level or intensity of sound. The sound pressure level in decibels is twenty (20) times the logarithm to the base ten (10) of the ratio of the pressure of the sound in microbars to a reference pressure of 0.0002 microbar; abbreviated dB.

Nighttime—Those times excluded from the definition of daytime.

Noise—Any steady-state or impulsive sound occurring on either a continuous or intermittent basis that annoys or disturbs humans or that causes or tends to cause an adverse psychological or physiological effect on humans.

Noise disturbance—any sound which:

- (1) Endangers or injures the safety or health of humans; or
- (2) Annoys or disturbs a reasonable person of normal sensitivities; or
- (3) Endangers or injures personal or real property; or

- (4) Exceeds the applicable maximum permissible sound levels as they appear in the table in Section 4.

Sound level meter—An instrument to measure sound pressure levels that meets or exceeds performance standards for a Type 2 meter as specified by the ANSI.

Sound pressure level—The intensity in decibels (dB) of a sound.

Zoning district classification—the scheme of land use classification contained in the Hulmeville Borough Zoning Ordinance, as amended from time to time.

- 3. **Noise Sensitive Zones.** Any property may constitute a “Noise Sensitive Zone” if established by resolution or Borough Council at a future time. The measure of the dBA sound level at the boundary line of any such “Noise Sensitive Zone” shall comply with the general sound standard as set forth in this section except that all dBA ratings shall be lowered by a factor of 15 dBA for computation purposes.
- 4. **Maximum Permissible Sound Levels.** Except as otherwise provided, any noise which emanates from any operation, activity or source and which exceeds the maximum permissible sound levels established in this section below is hereby prohibited. Such levels shall be measured at the property boundary of the sound source or at any point within any other property affected by the noise. When a noise source can be identified and its noise measured in more than one (1) zoning district classification, the limits of the most restrictive classification shall apply.

A. Maximum Permissible Sound Pressure Levels

	Zoning District(s)	Classification Maximum dBA (Daytime/Nighttime)
Commercial	C Commercial District	60/50
Industrial	I Industrial District	70/60
	LIC Limited Industrial Conservation District	60/50
Residential	R-1 Residential District	60/50
	R-2 Residential District	60/50
	R-3 Residential District	60/50

- B. Heating and cooling systems, including but not limited to air conditioners and heat pumps, shall not be subject to the night levels enumerated above.

- C. Any person, with lawfully obtained building and/or land development permits, who between the hours of 7:00 a.m. and 7:00 p.m. weekdays and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays, Sundays and legal holidays operates or causes to be operated any equipment used in construction, repair, alteration or demolition work on buildings, structures, alleys or appurtenances thereto in the outdoors in any residential district within one hundred (100) yards of a lawfully occupied dwelling shall not be subject to the levels enumerated above.
 - D. Persons performing construction of public projects, repair or maintenance work for such projects or persons performing work for private or public utilities for the repair of facilities or restoration of services shall not be subject to the levels enumerated above.
- 5. Prohibitions.** The following acts are violations of this Chapter:
- A. Operating or causing to be operated between the hours of 7:00 p.m. and 7:00 a.m. on weekdays and between the hours of 6:00 p.m. and 9:00 a.m. on Saturdays, Sundays and legal holidays any equipment used in construction, repair, alteration or demolition work on buildings, structures, alleys or appurtenances thereto in the outdoors in any residential district (as above set forth) within one hundred (100) yards of a lawfully occupied dwelling. This section shall not apply to construction of public projects, the repair or maintenance work performed on such projects or work performed by private or public utility companies for the repair of facilities or restoration of services.
 - B. Operating or permitting the operations of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snow blower or similar device (used outdoors) between the hours of 9 PM and 7 AM on weekdays and between the hours of 9 PM and 9 AM on Saturdays, Sundays, and legal holidays in such a manner as to create a noise disturbance at any time across a real property line or within a “Noise Sensitive Zone.”
 - C. Repairing, rebuilding, modifying, testing or operating any motor vehicle, motorcycle, boat, recreational vehicle or other powered motor vehicle between the hours of 10 PM and 7 AM in such a manner as to create a noise disturbance at any time across a real property line or within a “Noise Sensitive Zone.”
 - D. Operating or permitting the operation of mechanically powered equipment or trucks used in waste management, waste disposal, trash collection or brush disposal between the hours of 10 PM and 6 AM in such a manner as to create a noise disturbance at any time across a real property line or within a “Noise Sensitive Zone.”

- E. Extended parking of trucks with idling motors or other motor vehicles for more than two (2) hours in a twenty-four hour period on any property or public or private roadway within the Borough Limits constitutes a sound disturbance in violation of this Chapter regardless of the sound level created and no testing is required. This section shall not apply to the operation of emergency vehicles.
- F. Using, operating or causing to be operated mechanical loud speakers or other sound amplification devices on trucks or other moving vehicles for the purpose of commercial advertising or attracting the attention of the public during the nighttime. The use of such at all other times shall be subject to the following conditions:
 - (1) The only sounds permitted are music or human speech.
 - (2) Sound shall not be issued or devices shall not be used within one hundred (100) yards of hospitals, schools, or churches.
- G. Using, operating or causing to be operated mechanical loud speakers or other sound amplification devices in commercial establishments for the purpose of commercial advertising or attracting the attention of the public during the nighttime when such sound, as measured at the property line of the premises, exceeds the maximum permissible sound pressure levels for the zoning district from which the sound emanates as set forth in §27-710.4. above.
- H. Operating or permitting to be operated any powered model vehicle in the outdoors during the nighttime.
- I. The playing of radio, phonographs, television, tape or disc players, musical instruments or drums, sound amplifiers or similar devices which produce, reproduce or amplify sound in such a manner as to create a noise disturbance.
- J. Talking, yelling, shouting, screaming, singing, or any other form of human sounds produced by any person or group of people that creates a noise disturbance.
- K. Noise From Animals
 - (1) It shall be unlawful for any person to allow within the Borough prolonged or intense barking or other harsh or excessive noises to be made by any animal under his ownership or control, at any time, so as to disturb the quiet, comfort or repose of one (1) or more members of the community.

- (2) For the purpose of this section, a harsh or excessive animal noise is one that disturbs the quiet, comfort or repose of a reasonable person with normal sensitivities.
- (3) For the purpose of this section, a person shall be deemed to have "allowed" his animal to bark or create other harsh or excessive noises, if he has once been put on notice by the Borough Police Department or the Zoning Officer, upon the complaints of two (2) persons who are not members of the same household that the animal is disturbing one (1) or more members of the community and he thereafter fails to confine such animal inside his dwelling unit or other enclosed structure or take similar action calculated to terminate such disturbance. It shall not be necessary for the Borough Police Department or the Zoning Officer to issue a new notice for each repeated occurrence.

6. Measurement Procedures.

The measurement of sound or noise pursuant to this Chapter shall be as follows:

- A. The measurement of sound or noise shall be made with sound level meters Type 1 or Type 2 that meet the standards prescribed by the ANSI. The instruments shall be maintained in calibration and good working order. A calibration shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide a proper representation of the noise source. The microphone during measurement shall be positioned so as not to create any unnatural enhancement or diminution of the measured noise. A windscreen for the microphone shall be used when required. A minimum of three (3) sound level readings will be taken. The geometric mean of these readings will be used as the average sound level. If the background noise is equal to the levels set forth in §27-710.4 above, three (3) dB shall be subtracted out of the average sound level.
- B. The slow meter response of the sound level meter shall be used to determine that the average amplitude has not exceeded the dBA readings or the limiting noise spectra set forth in §27-710.4 above.
- C. Unless otherwise specified, the measurement shall be made at the property boundary on which such noise is generated, or at any point within the receiving property affected by the noise.
- D. For any source of sound which emits an impulsive sound, the excursions of sound pressure level shall not exceed twenty (20) dBA over the maximum sound level limits set forth §27-710.4 above, provided that in no case shall they exceed eighty (80) dBA, regardless of time of day or

night or receiving land use, using the “fast” meter characteristic of a Type II meter, meeting the American National Standards Institute specifications SI.4- 1983.

7. Exceptions.

The maximum permissible sound levels established in §27-710.4 and the general prohibitions set forth in §27-710.5 hereof shall not apply to any of the following noise sources:

- A. All emergency vehicles and implements, such as but not limited to fire-fighting equipment, law enforcement equipment, ambulance/medical equipment and any other equipment such as may be needed on short notice to protect personnel and/or property or secure the general welfare, are exempt from the noise control provisions of this Chapter.
- B. The work to provide electricity, water or other utilities when public health or safety is involved.
- C. Licensed game hunting activities on property where such activities are authorized.
- D. Agriculture - All farming and/or agricultural vehicles and implements are exempt from the noise control provisions of this Chapter.
- E. The noise of aircraft flight operations.
- F. Public celebrations specifically authorized by the Borough.
- G. Surface carriers engaged in commerce by railroad.

8. Variances.

The Hulmeville Borough Zoning Hearing Board is empowered to hold public hearings and to grant variances from the terms of this Chapter (Pursuant to the procedure established in Section 1205 and in addition to the procedures set forth by the Pennsylvania Municipalities Planning Code, as amended). A variance shall be granted only if the applicant can establish that a hardship will be created if any of the following applies:

- A. The source of the sound violation cannot be controlled so as to be brought into conformance with this Chapter by any reasonable method;
- B. The property in question cannot be used without the source of noise violation, or that the source of the noise violation is necessary to prevent a taking of the property without compensation and;

- C. All reasonable steps have been taken to reduce the noise violation to the lowest level possible.
9. **Applicability.** When any two or more provisions of the regulations found in this §27-710 apply to any sound source, the most restrictive section shall be applicable to that source.

§27-711. Smoke.

No smoke shall be emitted from any chimney or other source, of visible gray opacity greater than No. 1 of the Ringlemann Smoke Chart as published by the U.S. Bureau of Mines; except that smoke of a shade not darker than No. 2 on the Ringlemann Chart may be emitted for not more than four minutes in any 30 minute period.

§27-712. Dust, Fumes, Vapors and Gases.

1. The emission of dust, dirt, fly ash, fumes, vapors, or gases which can cause any damage to human health, to animals, or vegetation, or to other forms of property, or which can cause any soiling or staining of persons or property at any point beyond the lot line of the use creating the emission, is herewith prohibited.
2. No emission of liquid or solid particles from any chimney or other source shall exceed 0.3 grains per cubic foot of the covering gas at any point beyond the lot line of the use creating the emission. For measurement of the amount of particles in gases resulting from combustion, standard correction shall be applied to a stack temperature of 500 °F and 50% excess air in stack at full load.

§27-713. Heat.

No use shall produce heat perceptible beyond its lot lines.

§27-714. Odor.

No use shall emit odorous gases or other odorous matter in such quantities as to be offensive at any point on or beyond its lot lines. The guide for determining such quantities of offensive odors shall be the fifty percent response level of Table I (Odor Thresholds in Air), "Research on Chemical Odors: Part 1 – Odor Thresholds for 53 Commercial Chemicals," October, 1968, Manufacturing Chemists Association, Inc., Washington, D.C.

§27-715. Glare.

No use shall produce a strong light or reflection of a strong light greater than 35 foot candles beyond its lot lines.

§27-716. Vibrations.

No use shall cause earth vibrations or concussions in excess of the standards outlined below, with the exception of that vibration produced as a result of construction activity. The standards below are as set forth in the Table of Frequency Amplitude Relations. Vibrations shall be expressed as displacement in inches and shall be measured with a standard three component measuring system, which is a device for recording the intensity of any vibration in three mutually perpendicular directions.

Frequency Amplitude Relations

Frequency of Ground Motion in Cycles per Second	Maximum Amplitude of Ground Motion in Inches no more than
Up to 10	0.0305
20	0.0153
30	0.0102
40	0.0076
50	0.0061
60	0.0051

§27-717. Buffer Yards.

A landscaped buffer yard shall be provided and maintained between any nonresidential use which borders a residential use or district (R-1, R-2, and R-3) and between any industrial use which borders a street, a non-industrial use, or a non-industrial district (R-1, R-2, R-3, and C). The Borough Council may modify buffer requirements between nonresidential uses and residential uses where appropriate to accommodate intended mixed use areas. Where specified in §27-406, Use Regulations, buffer yards will be required around particular uses. These uses shall hereafter not be established, nor shall existing uses be expanded unless the following buffer yard regulations are met:

1. The buffer yard shall be measured from the district boundary line, lot line, or from the near street line where a street serves as the district boundary line. Buffer yards shall not be within an existing or future street right-of-way and shall be in addition to that right-of-way.
2. A ten foot (10') wide buffer yard shall be required unless otherwise indicated in this Chapter. Where an industrial use borders a street, a non-industrial use or a non-industrial district, the buffer yard shall be thirty feet (30') in width.
3. The buffer yard may be coterminous with a required front, side or rear yards and in case of conflict, the larger yard requirements shall apply.
4. Any portion of the buffer yard which is not used for the screen planting (See Subsection (5) below) shall be planted with grass seed, sod or ground cover, and shall be maintained and kept clean of all debris, rubbish, weeds and tall grass more than 12 inches in height.

5. The buffer yard shall be a landscaped area free of any principal or accessory building or structures, manufacturing or processing activity, outdoor storage, or vehicular parking. No driveways or streets shall be permitted in the buffer yards except at points of ingress or egress provided it crosses the buffer with the minimum possible displacement of buffer plantings.
6. Screen Planting. All buffer yards shall include a dense screen planting of trees and shrubs, or other plant materials, or both, to the full length of the lot line to serve as a barrier to visibility, air-borne particles, glare and noise. Such screen planting shall be in accordance with the following requirements.
 - A. Plant materials used in the screen planting shall be at least 4 feet in height when planted and be of such species as will produce, within two years, a complete visual screen of at least 8 feet in height.
 - B. The screen planting shall be maintained permanently by the landowner, and any plant material which does not live shall be replaced within one year.
 - C. The screen planting shall be so placed that at maturity it will not be closer than 3 feet from any street or property line.
 - D. In accordance with the provisions of §27-603, a clear-sight triangle shall be maintained at all street intersections and at all points where private accessways intersect public street.
 - E. The screen planting shall be broken only at points of vehicular or pedestrian access.
 - F. The dense screen planted portion of the buffer yard shall be mulched to control weeds and erosion and shall be maintained and kept clean of debris, rubbish, weeds and other growth.
 - G. In circumstances where it is impractical for a screen planting to meet all the requirements of this Section or would create an undue hardship, the Borough Council may modify the requirements or approve acceptable alternatives which shall satisfy the spirit, objectives, and intent of the screen requirements.
8. Equipment Screening. All mechanical and electrical equipment not enclosed in a building shall be fully screened from view from any point from a public street or an adjacent residential use in a manner compatible with the architectural and landscaping style of the lots so that it blends with the landscape.

9. Planting Requirements. The standards below indicate the amount of plant material that is required per linear foot of property line. Plantings shall be placed within the minimum width of the buffer area. The planning commission may permit staggering or grouping of plant materials provided a satisfactory buffer is achieved.

WIDTH OF PLANTING SCREEN WITHIN THE BUFFER YARD	REQUIREMENTS (where two options are provided, applicant may choose one within the category)
10 feet (for 10-foot buffer yard)	Shrubs with a planted minimum height of 5 feet shall be planted, with shade trees interspersed, in a continuous band with a spacing not exceeding 5 feet on center for shrubs and 30 feet on center for trees.
Minimum 15 feet (for 20-foot buffer yard)	(1) 1 canopy tree per 40 feet; plus 1 evergreen tree per 60 feet OR (2) 1 flowering tree per 40 feet; plus 1 evergreen tree per 60 feet
Minimum 25 feet (for 30-foot buffer yard)	(1) 1 canopy tree per 40 feet; plus 1 flowering tree per 60 feet; plus 1 evergreen tree per 60 feet OR (2) 1 canopy tree per 40 feet; plus 1 flowering tree per 60 feet; plus 1 hedge on lot line (3-foot centers except as noted in Section 27-717.10 below) OR (3) 1 flowering tree per 40 feet; plus 1 evergreen tree per 25 feet

10. Plant Materials List. In particular, approved plant materials for buffer yard planting include the following:

Canopy Trees (2 inches caliper minimum)

Acer ginnala - Amur Maple
Acer rubrum - Red Maple
Acer saccharum - Sugar Maple
Betula alba - European White Birch
Fagus grandifolia - American Beech
Fagus sylvatica - European Beech
Ginkgo biloba - Gingo (male only)
Gleditsia tricanthos inermis - Thornless Honeylocust
Liquidamber styraciflua 'Rotundiloba' - Sweet Gum
Liriodendron tulipifera - Tulip Tree
Phillondendron amureuse - Amur Cork Tree

Plantanus acerifolia - London Plane Tree
Quercus alba - White Oak
Quercus borealis - Red Oak
Quercus coccinea - Scarlet Oak
Quercus palustris - Pin Oak
Quercus phellos - Willow Oak
Robina pseudoacacis inermis - Thornless Black Locust
Sophora japonica - Japanese Pagodatree
Tilia -Linden - all species hardy to the area
Zelkova serata - Japanese zelkova

Flowering Trees (2 inches caliper minimum)

Amelanchier canadensis - Shadblow Serviceberry
Cornus Florida - Flowering Dogwood
Cornus kousa - Kousa Dogwood
Cornus mas - Cornelian Cherry
Crataegus phaenopyrum - Washington Hawthorn
Hamamelis vernalis - Vernal Witch Hazel
Hamamelis virginiana - Common Witch Hazel
Koelreuteria paniculata - Golden Rain Tree
Laburnum vossi - Goldenchain
Magnolia soulangeana - Saucer Magnolia
Magnolia virginiana - Sweetbay Magnolia
Malus baccata - Siberian Crab
Malus floribunda - Japanese Flowering Crab
Malus hopy - Hopy Red-Flowering Crab
Oxydendrum arboreum – Sourwood
Prunus cerasifera - Thunder Cloud Purple Plum
Prunus kwanzan - Kwanzan Cherry
Prunus yedoensis - Yoshino Cherry
Viburnum dentatum - Arrowwood Viburnum
Viburnum lantana - Wayfairingtree Viburnum

Evergreen Trees (4 feet high minimum)¹⁴

Ilex opaca - American Holly
Picea abies - Norway Spruce
Picea omorika - Serbian Spruce
Picea pungens - Colorado Spruce
Pinus nigra - Austrian Pine
Pinus strobus - White Pine
Pseudotsuga menziesii - Douglas Fir
Tsuga canadensis - Canada Hemlock

Hedge (4 feet high minimum)

Acer campestre - Hedge Maple

¹⁴ It is recommended that two or more species of evergreen trees be used in a buffer yard.

Crataegus intricata - Thicket Hawthorn
Forsythia intermedia - Border Forsythia
Syringa chinensis - Chinese Lilac
Syringa vulgaris - Common Lilac
Juniperus virginiana - Upright Juniper
Pinus strobus - White Pine (1 per 5 feet)
Pyracantha coccinea lalandi - Laland Firethorn
Taxus cuspidata - Upright Yew
Taxus hicksi - Hicks Yew
Tsuga canadensis - Canadian Hemlock (1 per 5 feet)
Thuja occidentalis - American Arborvitae (1 per 5 feet)
Viburnum alatum – Viburnum

Shrubs (4 feet high minimum)

Hamamelis vernalis - Vernal Witch Hazel
Hamamelis virginiana - Common Witch Hazel
Ilex verticillata - Winterberry
Viburnum dentatum - Arrowwood Viburnum
Viburnum lantana - Wayfaring Tree Viburnum

11. Prior to the issuance of any zoning permit, complete plans showing the arrangement of all buffer yards and the placement, species and size of all materials, and the placement, size, materials, and type of all fences placed in such buffer yard, shall be reviewed by the Zoning Officer to ascertain that the plans are in conformance with the terms of this Chapter.
12. Visual Screen for Outdoor Trash Collection Stations.
 - A. A buffer wide enough to accommodate a fence and plantings abutting the fence, as described below, is required.
 - B. A solid fence shall be provided and shall be placed around the designated trash collection area. The fence height shall be adequate to provide a complete visual screen from adjoining properties but shall be not less than 6 feet in height. Fence details shall be provided with the landscape plan.
 - C. Along the exterior face of the fence there shall be a row of evergreen shrubs and/or evergreens pruned in a hedging habit planted at a rate to obscure the appearance of the fencing after a five-year growing period. Minimum shrub and upright habit evergreen height at planting shall be four feet and pruned when necessary to maintain an appearance of a uniform screen.
 - D. Plantings shall be located three feet on center. Suggested screen plantings for trash collection areas are:

Juniperus virginiana – Upright Juniper
 Pyracantha coccinea lalandi – Laland Firethorn
 Taxus cuspidata – Upright Yew
 Taxus hicksi – Hicks Yew
 Thuja occidentalis – American Arborvitae
 x Cupressocyparis leylandii – Leyland Cypress

§27-718. Storage and Waste Disposal. The following requirements shall apply to nonresidential land uses:

1. No liquids, solids or gases having a flash point less than 73° F (as specified in the National Fire Code Vol. 12 and 13, National Fire Protection Association), shall be stored in bulk above ground, except tanks or drums of fuel, having a maximum capacity of 3,000 gallons, connected directly with energy devices or heating appliances located and operated on the same lot as the tanks or drums of fuel.

Capacity of Flammable Materials Permitted, Gallons¹⁵

Flash Point Closed Cup Tester	Above Ground Storage (gal)
140° F or higher	10,000
74° F to 139° F	5,000
73° F or less, fuels connected to energy devices	3,000

2. All outdoor storage facilities for fuel, raw materials and products, and all fuel, raw materials and products stored outdoors, shall meet National Fire Code standards and shall be enclosed by a fence with a minimum height of seven (7) feet. The fence shall be chain link, stockade, picket (not exceeding 3 inch spacing), solid wood, building wall or such other material as may be acceptable to the zoning officer to carry out the intent of this Chapter.
3. No materials or wastes shall be deposited upon a lot in such Form or manner that they may be transferred off the lot by natural causes or forces, nor shall any substance which can contaminate a stream or water course or otherwise render such stream or watercourse undesirable as a source of water supply or recreation, or which will destroy aquatic life, be allowed to enter any stream or watercourse.
4. All materials or wastes which might cause fumes or dust, or which constitute a fire hazard, or which may be edible or otherwise attractive to rodents or insects, shall be stored outdoors only if enclosed in rigid containers adequate to eliminate such hazards. These containers shall be properly screened and blocked from view from public thoroughfares. Along zoning district boundaries, such containers shall not be stored within the buffer yards as required in §27-717.
5. Radioactivity and Electrical Disturbance. There shall be no activity that emits dangerous or harmful radioactivity. There shall be no electrical disturbance

¹⁵ When flammable gases are stored and measured in cubic feet, the quantities of cubic feet at standard temperature and pressure shall not exceed 30 times the quantities listed above.

adversely affecting the operation of any equipment beyond the property line of the creator of such disturbance.