

ARTICLE XX

ADMINISTRATION AND ENFORCEMENT

Section 2001. APPOINTMENT AND POWERS OF ZONING OFFICER

For the administration of this Zoning Ordinance, a zoning officer, who may not hold any elective office in the Township, shall be appointed. The Zoning Officer shall administer the Zoning Ordinance regulations prescribed herein in accordance with their literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the Zoning Ordinance. Applications for permits and variance shall be made to the Zoning Officer upon a form published for that purpose. Applications required by this Ordinance to be submitted to the Zoning Officer shall be promptly considered and granted or denied. Application for action by the Zoning Hearing Board shall be forthwith transmitted by the Zoning Officer.

Section 2002. ENFORCEMENT

A. The Board of Supervisors may bring legal proceedings or take any other lawful actions to enforce the provisions of this ordinance, or any amendment hereto. The Zoning Officer shall examine all applications for permits, issue permits for construction and uses which are in accordance with the requirements of this Ordinance, record and file all applications for permits with accompanying plans and documents, and make such reports as the Township Board of Supervisors may require. Permits for construction and uses which are a special exception, or a variance to requirements of this Ordinance shall be issued only upon approval by the Zoning Hearing Board.

B. If a private citizen, individual, or other legal entity is, or believes they are, affected by a violation of this ordinance, or any amendment hereto, such private citizen, individual, or other legal entity may bring legal proceedings to enforce compliance with this ordinance, or any amendment hereto, after giving proper prior notice of their intention to do so by Wysox Township, as required by the municipalities planning code, specifically Pennsylvania Statute 53 PS & 10617, which requires that notice must be given to a municipality before a private claim for zoning violations may be brought by any person.

Section 2003. PERMITS

A. Requirements of Permits

A sign permit, drainage permit, special permit, **change of use permit**, zoning permit and/or any other permits required by this Ordinance shall be obtained prior to the erection, addition, or alteration of any sign, structure, building or portion thereof; prior to the use or change in use of a building or land; and prior to the change or extension of a nonconforming use. It shall be unlawful for any person, partnership, business or corporation to commence any construction, development, work for the erection or alteration of any sign, structure, building or portion thereof or for a change in land use, until a permit has been duly issued therefore.

Any change in use of land that changes the character of the use from one category under the zoning code to another requires a change of use permit, examples include but are not limited to a change in use from residential use, commercial use, industrial use, agricultural use, public use, or religious use to another use that is either permitted under the zoning ordinance or permitted by way of variance or special exception. No change of use shall be permitted and no permit shall be issued for any change of use that is not permitted by the applicable zoning ordinance unless a variance or special exception has been granted for that use. No such permit shall be required in case of normal maintenance activities, minor repairs, and minor alterations to

existing buildings or structures which do not structurally change a building or structure or changes of use which are minor additional permitted uses under the zoning code that are consistent with and natural extensions of the existing permitted use.

B. Application for Permits

Applicants shall file the following minimum information and any other pertinent information as may be required by the Zoning Permit Officer to make the above determination:

1. Zoning Permit Application Form, completed in writing, to the Zoning Permit Officer on forms supplied by the Township. 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.

e. Listing of other permits required.

f. Brief description of proposed work and estimated cost;

g. such information as may be necessary to determine compliance with this Ordinance and all other codes and ordinances;

h. A plan of the entire site, in duplicate, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less , showing the following:

1. north arrow, scale, and date;

2. the actual shape and dimensions of the lot to be built upon;

3. the exact size and location of the proposed construction or use;

4. the exact size and location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;

5. the lines within which the proposed building or structure shall be erected or altered;

6. the existing and intended use of each building or part of a building;

7. the number of families or dwelling units the building is designed to accommodate;

8. topographic contour lines, if available; and

9. . all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;

10. the location of all existing streets, drives, and other accessways;

11. 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;

12. the proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929; and

13. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources, to implement and maintain erosion and sedimentation control.

i. If all, or any portion, of the proposed construction or use will be in the one hundred (100) year floodplain then the following additional detailed information needed to determine compliance with all the requirements of the floodplain management Section of this ordinance including, but not limited to the portion dealing with Development Which May Endanger Human Life, must also be supplied by the applicant:

1. the elevation of the one hundred (100) year flood;

2. if available, information concerning flood depths, pressures, velocities,

impact and uplift forces and other factors associated with a one hundred (100) year flood on the property involved;

3. 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 one hundred (100) year flood.

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

4. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an FE (Special Floodplain Area), when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one (1) foot at any point;

5. the amount, location and purpose of any materials or substances referred to in the floodplain management Section of this ordinance which are intended to be used, produced, stored or otherwise maintained on the site;

6. 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 4.04 during a one hundred (100) year flood.

7. the appropriate component of the Department of Environmental Resources' "Planning Module for Land Development."

j. One (1) copy of such plans shall be returned to the owner when such plans have been reviewed and acted upon by the Zoning Officer; and

k. All applications with accompanying plans and documents shall become a public record after a permit is issued or denied.

C. Issuance of Permits

1. No permit shall be issued until the Zoning Officer has certified that the proposed building, addition or alteration, complies with all the provisions of this Ordinance, as well as the provisions of all other applicable codes and ordinances and amendments thereto that the Zoning Officer is required to administer. The issuance of a permit pursuant to this ordinance creates no warranty or assurance that the project complies with the requirements of all other ordinances or laws and the property owner and contractor remain solely liable for the failure to obey any applicable law or ordinance and the township and zoning officer assume no liability for their failure to do so.

2. Prior to the issuance of any Zoning permit, the Zoning Permit Officer 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. The issuance of a permit pursuant to this ordinance creates no warranty or assurance that all other necessary government permits have been obtained and the property owner and contractor remain solely liable for the failure to obtain any other necessary license or permit and the township and zoning officer assume no liability for their failure to do so..

3. Zoning Officer shall act upon and provide a written response to such request within thirty (30) days following application.

4. Work on the proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the Zoning permit or the permit shall expire and shall become void unless a time extension is granted, in writing, by the Zoning Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or

foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street. The extensions shall be granted only if a written request is submitted at least thirty (30) days prior to the permit expiration date. by the applicant to the Zoning Officer, which. sets forth sufficient and reasonable cause for the Zoning Permit Officer to approve such a request.

D. Permits for construction or uses involving watercourse

No permit shall be issued for construction or uses involving encroachment, alteration, relocation or improvement of any kind to any watercourse until the following requirements are met:

1. 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 and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams, Waterways and Wetlands.

2. In addition, the Federal Insurance Administrator and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified prior to any alteration or relocation of any watercourse.

E. Temporary Permits

A temporary permit may be authorized by the Zoning Officer for a structure or use which it deems necessary to promote the proper development of the community, provided that such structure or use shall be completely removed upon expiration of the permit without cost to the Township. Such permits shall be issued for a specified period of time not to exceed one (1) year, and may be renewed annually for an aggregate period not exceeding two (2) years.

Section 2004. INSPECTION BY THE ZONING OFFICER

In the discharge of his duties, the Zoning permit officer, or his duly appointed representative, shall have the authority to enter any building, structure, premises or development, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Ordinance and 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. In the event the Zoning Permit Officer, or his duly appointed representative, 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 Zoning Permit Officer may suspend or revoke the Zoning permit and shall report such fact to the Township for whatever action it considers necessary. It shall be the duty of the Zoning Officer, or his duly appointed representative, to make as many inspections during and upon completion of the work as are necessary in the sole reasonable discretion of the Zoning permit officer, or his duly appointed representative, including the following minimum number of inspections of property for which a permit has been issued :

1. At the Beginning of Construction

A record shall be made and maintained indicating the time and date of inspection and the finding of the Zoning Officer in regard to conformance of the construction with plans submitted with the approved permit application.

a. If the actual construction does not conform to the application, a written notice of violation shall be issued by the Zoning Officer, and such construction shall be discontinued. Upon proper correction of the violation and receipt of written notice from the Zoning Officer, construction shall proceed.

2. At the Completion of Construction

A record shall be made and maintained indicating the time and date of the inspection, the findings of the Zoning Officer in regard to conformance to this Ordinance, and the opinion of the Zoning Officer in regard to the issuance of a Certificate of Use Permit.

3. At any other time Deemed necessary by the Zoning Officer

A record shall be made and maintained indicating the time and date of the inspection, the findings of the Zoning Officer in regard to conformance to this Ordinance, and the opinion of the Zoning Officer in regard to the issuance of a Certificate of Use Permit.

Section 2005. **FEES**

A. The Township Board of Supervisors shall establish a schedule of fees, charges and expenses, as well as a collection procedure for any permits required by this Ordinance, certificates of use, appeals, variances, special exceptions, amendments, bonds and other matters pertaining to this Ordinance. The schedule of fees shall be posted in the office of the Zoning Officer.

B. Any fees relating to this or any prior land use ordinance or land use regulation in the Township of Wysox that are expressly modified herein shall replace, supersede, revoke, and rescind prior land use permit fees that are inconsistent with or contrary to those set forth herein.

C. Any existing fees relating to any prior land use ordinance or land use regulation in the Township of Wysox that are not expressly modified herein shall continue at the prior rate until expressly modified by the Township Supervisors in a subsequent ordinance or resolution.

D. All fees required pursuant to this land use ordinance or amendment to this ordinance or any regulation under this ordinance or subsequent amendment, including both creation of new fees and modification of existing fees, shall be set by the Township Supervisors by either ordinance or resolution. Whenever a fee of any kind relating to land use regulation in the Township of Wysox pursuant to this land use ordinance or amendment to this ordinance needs to be created for legitimate reason the Township Supervisors are hereby authorized and empowered to create said fee. Whenever in the reasonable discretion of the Township Supervisors an existing fee relating to land use regulation in the Township of Wysox pursuant to this land use ordinance or amendment to this ordinance needs to be modified for legitimate reason the Township Supervisors are hereby authorized and empowered to modify said fee. Once a fee has been set initially, or thereafter modified by resolution or ordinance, said fee shall remain in effect until it is modified or discontinued by subsequent ordinance or resolution of Wysox Township or modified or discontinued by ruling of court or the application of a state or federal law or regulation that supersedes the land use ordinances or regulations of the Township of Wysox.

E. Such fees shall be payable to the Township and until all applicable fees, charges and expenses have been paid in full, the application shall be considered incomplete and no action shall be taken on any applications or appeal.

F. The Township Board of Supervisors may, but are not required to, waive permit fees or Zoning Hearing Board fees in connection with the construction, repair, renovation or expansion of emergency service facilities as defined by this ordinance.

Section 2006. **REVOCATION OR SUSPENSION OF A PERMIT**

A. Any permit issued under this Ordinance may be suspended or revoked by the governing body or the Zoning Permit Officer for:

1. Non-compliance with or failure to implement any provisions of the permit;
2. A violation of any provision of this Ordinance or any other applicable law, ordinance, rule or regulation relating to the project; or
3. The creation of any condition or the commission of any act during construction or development which constitutes or creates a hazard or nuisance, pollution or which endangers the life or property of others, or as outlined in Article IX of this Ordinance.

B. A suspended permit shall be reinstated by the governing body when:

1. The municipal engineer or his designee has inspected and approved the corrections to the storm water management and erosion and sediment pollution control measure(s), or the elimination of the hazard or nuisance, and/or;

2. The governing body is satisfied that the violation of the Ordinance, law, or rule and regulation has been corrected.

C. A permit which has been revoked by the governing body cannot be reinstated. The applicant may apply for a new permit under the procedures outlined in this Ordinance.

D. Following the revocation or suspension of a permit, the aggrieved property owner can seek review of said revocation or suspension by first filing an appeal to the Zoning Hearing Board of Wysox Township with the Zoning Permit Officer.

Section 2007. **CERTIFICATES OF USE OR OCCUPANCY**

A. A Certificate of Use for the use or occupancy shall be a statement issued by the Zoning Officer setting forth that a building, structure, parcel, or use of land complies with the provisions of this Ordinance.

B. No vacant land shall be occupied or used, and no structure or part of a structure hereafter erected, substantially altered or changed in use shall be occupied or used-until a Certificate of Use shall have been issued by the Zoning Officer.

C. A Certificate of Use shall be required for each lot owner and/or developer of all subdivisions and land development in the municipality.

D. No Certificate of Use shall be secured or issued unless all certifications of compliance required by this ordinance been secured.

E. A Certificate of Use for the use or occupancy of vacant land or for a change in the use of land, or for a change in the use of an existing building, either for whole or part of a new building or for the alteration of an existing building, shall be applied for coincident with the application for a building or zoning permit, and shall be issued or denied within fifteen (15) days after a final inspection by the Zoning Officer.

F. A Certificate of Use for changing or extending a non-conforming use, existing at the time of the passage of this Ordinance or of an amendment thereto, shall be applied for and issued before any such nonconforming use shall be changed or extended. Such Certificate shall be issued within fifteen (15) days after a final inspection and approval by the Zoning Officer.

G. A record of all Certificates of Use shall be kept on file in the office of the Zoning Officer.

Section 2008. **CERTIFICATE OF NONCONFORMANCE**

A Certificate of Nonconformance for a nonconforming use and/or structure shall be issued by the Zoning Officer to the owner of any property which, at the time of the effective date of this Ordinance, is identified as containing a nonconforming use or structure. The owner's property and the issuance date of such certificate shall be registered in the records of the Township as follows:

1. The Certificate of Nonconformance shall set forth in detail all of the nonconforming conditions of said property related to the use and structure.

2. A copy of the Certificate of Nonconformance shall be retained and filed by the Zoning Officer.

3. The Certificate shall be for the purposes of insuring the owner the right to continue a nonconforming use and/or structure in accordance with the regulations of this Ordinance.

Section 2009. **SPECIAL EXCEPTIONS**

Applications for any special exception permitted by this Ordinance shall be made to the Zoning Hearing Board through the Zoning Officer. The Zoning Hearing Board shall refer the matter to the Planning Commission for report thereon as to its effect on the Community Goals and Objectives of Wysox Township, pursuant to Section 1811, herein.

Section 2010. **APPEALS AND APPLICATIONS**

A. APPEALS FROM ACTION OR DECISION OF THE ZONING PERMIT OFFICER OR THE MUNICIPALITY PURSUANT TO THE PROVISIONS OF THIS ORDINANCE.

1. Any person aggrieved by any action or decision of the Zoning Permit Officer, or the municipality, concerning the administration of the provisions of this Ordinance, may appeal to the Zoning Hearing Board of Wysox Township.

2. Such appeal must be filed, in writing, within thirty (30) days after the decision or action of the Zoning Permit Officer.

B. PROCEDURE FOR FILING AN APPEAL OR APPLICATION FOR AN AMENDMENT, SPECIAL EXCEPTION, OR VARIANCE WITH THE ZONING HEARING BOARD OF WYSOX TOWNSHIP

1. An appeal of any action or decision of the Zoning Permit Officer or the municipality pursuant to the provisions of this Ordinance, or application for an amendment, special exception, or variance from the terms of this Ordinance shall be filed with the Zoning Officer, and shall contain:

a. The name and address of the applicant;

b. The name and address of the owner of the real estate to be affected by such proposal;

c. A brief description and location of the real estate to be affected by such proposal;

d. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof;

e. A statement of the Section of this Ordinance under which the appeal or application requested may be allowed, and reasons why it should be granted; or a statement of the Section of this Ordinance governing the situation in which the alleged erroneous ruling is being appealed, and reasons for the appeal;

f. An accurate description of the present improvements and the additions intended to be made under this application, indicating the size and use of such proposed improvements and general construction thereof. In addition, there shall be attached a plot plan of the real estate to be affected, as required to accompany applications for permits, indicating the location and size of the lot and location of improvements now erected, and proposed to be erected thereon;

g. Any other pertinent data required by the Zoning Hearing Board, Township Board of Supervisors, and/or Zoning Officer, as appropriate to their individual authorities set forth in this Article; and

h. Upon receipt of such appeal the Zoning Hearing Board of Wysox Township shall set a time and place for the purpose of considering the appeal, not less than ten (10), nor more than Sixty (60) days, after the filing of such appeal with the Zoning Officer. Notice of the time and place at which the appeal will be considered shall be given to all parties.

2. Any appeal must be accompanied by the full fee for proceedings before the zoning hearing board and such fee is in addition to any application fees, permit fees, or other fees the applicant has already paid or owes the township in connection with the matter being appealed to the board or in connection with any other matter. Any application for appeal to the Zoning Hearing Board which is not accompanied by the appropriate fee shall be deemed incomplete, shall not be accepted and shall not toll the time limitation for filing such appeal.

C. PROCEDURE FOR FILING AN APPEAL TO THE COURT OF COMMON PLEAS OF BRADFORD COUNTY, PENNSYLVANIA, FROM ANY DECISION OF THE ZONING HEARING BOARD OF WYSOX TOWNSHIP

1. All appeals from all land use decisions rendered by the Zoning Hearing Board of Wysox Township shall be taken to the court of common pleas of Bradford County Pennsylvania and shall be filed within 30 days after entry of the decision as provided in 42 Pa.C.S. 5572 (relating to time

of entry of order) or, in the case of a deemed decision, within 30 days after the date upon which notice of said deemed decision is given as set forth in Section 908(9) of the Pennsylvania Municipalities Planning Code, Act 247 as amended.

2. Land use appeals shall be entered as of course by the Prothonotary or clerk upon the filing of land use appeal notice which concisely sets forth the grounds on which the appellant relies. The appeal notice need not be verified. The land use appeal notice shall be accompanied by a true copy thereof.

3. Upon filing of a land use appeal, the Prothonotary or clerk shall forthwith, as of course, send to the governing body, board or agency whose decision or action has been appealed, by registered or certified mail, the copy of the land use appeal notice, together with a writ of certiorari commanding said governing body, board or agency, within 20 days after receipt thereof, to certify to the court its entire record in this matter in which the land use appeal has been taken, or a true and complete copy thereof, including any transcript of testimony in existence and available to the governing body, board or agency at the time it received the writ of certiorari.

4. If the appellant is a person other than the landowner of the land directly involved in the decision or action appealed from, the appellant, within seven days after the land use appeal is filed, shall serve a true copy of the land use appeal notice by mailing said notice to the landowner or his attorney at his last known address. For identification of such landowner, the appellant may rely upon the record of the municipality and, in the event of good faith mistakes as to such identity, may make such service nunc pro tunc by leave of court.

5. The filing of an appeal in court under this section shall not stay the action appealed from, but the appellants may petition the court having jurisdiction of land use appeals for a stay. If the appellants are persons who are seeking to prevent a use or development of the land of another, whether or not a stay is sought by them, the landowner whose use or development is in question may petition the court to order the appellants to post bond as a condition to proceeding with the appeal. After the petition for posting a bond is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the landowners to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for posting a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from the final decision of the court. The question of the amount of the bond shall be within the sound discretion of the court. An order denying a petition for posting a bond to post a bond shall be interlocutory. If an appeal is taken by a respondent to the petition for posting a bond from an order of the court dismissing a land use appeal for refusal to post a bond, such responding party, upon motion of petition and, after hearing in the court having jurisdiction of land use appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by petitioner.

6. Within the 30 days first following the filing of a land use appeal, if the appeal is from a board or agency of a municipality, the municipality and any owner or tenant of property directly involved in the action appealed from may intervene as of course by filing a notice of intervention, accompanied by proof of service of the same, upon each appellant or each appellant's counsel of record. All other intervention shall be governed by the Pennsylvania Rules of Civil Procedure.

7. If, upon motion, it is shown that proper consideration of the land use appeal requires the presentation of additional evidence, a judge of the court may hold a hearing to receive additional evidence, may remand the case to the body, agency or officer whose decision or order has been brought up for review, or may refer the case to a referee to receive additional evidence, provided that appeals brought before the court pursuant to Section 916.1 of the Pennsylvania Municipalities Planning Code, Act 247, as amended, shall not be remanded for further hearings before

any body, agency or officer of the municipality. If the record below includes findings of fact made by the governing body, board or agency whose decision or action is brought up for review and the court does not take additional evidence or appoint a referee to take additional evidence, the findings of the governing body, board or agency shall not be disturbed by the court if supported by substantial evidence. IF the record does not include findings of factor if additional evidence is taken by the court or by a referee, the court shall make its own findings of fact based on the record below as supplemented by the additional evidence, if any.

D. OTHER PROCEDURES EXPRESSLY CREATE OR PROVIDE FOR BY THE LAWS OF THIS COMMONWEALTH OR REGULATIONS PROMULGATED THEREUNDER

1. To the degree that the laws of this Commonwealth or regulations promulgated thereunder specifically and expressly create or provide for a different means to appeal any action of the Zoning Permit Officer, the municipality or the Zoning Hearing Board, than the procedures set forth in this ordinance, any person aggrieved by such decision or action may also seek relief therefrom by appeal to the appropriate court or administrative body, as specifically and expressly provided by the laws of this Commonwealth or regulations promulgated thereunder.

E. FAILURE TO TIMELY SEEK REVIEW

1. The failure to timely seek review by the Zoning hearing board of an action or decision of the Zoning Permit Officer or the municipality, or the failure to timely seek review of a the Zoning hearing board decision by the court of common pleas, or the failure to timely seek other relief specifically and expressly created by the laws of this Commonwealth or regulations promulgated, shall result in a forfeiture or waiver of the right to seek such review or relief.

Section 2011. VIOLATIONS

Failure to comply with any provision of this Ordinance, failure to secure a permit, Zoning Hearing Board Certification, when required, or failure to secure a Certificate of Use, shall be violations of this Ordinance.

A. Notice of Violation:

As a result of an on-site inspection by the designee of the governing body or a majority of the governing body, and it has been determined that an owner, subdivider, developer or his agent has failed to comply with the requirements of this Ordinance, or fails to conform to the requirements of any permit issued thereunder, the governing body or designee shall provide written notification of violation within ten (10) days of said on-site inspection. Such notification shall set forth the nature of the violations and establish a time limit for correction of these violations. Upon failure to comply within the time specified, the owner, subdivider, developer or his agent shall be subject to the penalty provisions of this Ordinance

1. If it appears to the municipality that a violation of any part of this ordinance or prior land use ordinances still in effect, has occurred, the Township Zoning Officer shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

2. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record; 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.

3. The enforcement notice shall be in writing

4. The enforcement notice shall be sent within ten (10) days of confirmation of violation by the Township Zoning Office;

5. The enforcement notice shall state at least the following:

a. The name of the owner of record and any other person against whom the

municipality intends to take action;

b. The location of the property in violation.;

c. The reasons for its issuance specifying the violation's with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance;

d. contain an outline of remedial action/s which, if taken, will effect compliance with the provisions of this Ordinance;

e. state a reasonable time for compliance specifying the date before which the steps must be commenced, . not to exceed a period of thirty (30) days, and a reasonable date before which compliance with the provisions of this Ordinance must be completed;

f. When written notice of a violation of any of the provisions of this Ordinance has been approved by the Board of Supervisors and served by the Zoning Officer on the owner, agent or occupant, or contractor, such violation shall be discontinued immediately;

g. That failure to comply within the time specified in the notice shall subject the owner, subdivider, developer, contractor, subcontractor or their agents to the penalty provisions of this Ordinance;

h. Each day that the violation continues shall be a separate offense; and

i. All appeals from determinations by the Zoning Officer under this Section shall be made to the Zoning Hearing Board within thirty (30) days of the date of the determination.

B. Causes of Action

1. In case any building, sign, structure, landscaping of land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, the Township Board of Supervisors or, with the approval of the Township Board of Supervisors, an officer of the Township, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct, or abate such building, sign, structure, landscaping of land, or to prevent, in or about such premises, any act, conduct, business, or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Township Board of Supervisors. No such action may be maintained until such notice has been given.

C. Enforcement Remedies and Penalties:

1. Any person, partnership or corporation, who or which has violated or permitted the violation of the provisions of this Ordinance, shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a shall pay a fine to the Township of not less than Twenty-Five (\$25.00) Dollars nor more than five hundred dollars (\$500.00) plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed ten (10) days. Each day during which any violation of this Ordinance continues shall constitute a separate offense or violation, unless a court of competent jurisdiction determining that there has been a violation further determines that there was a good faith basis for person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation.. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance and the judgment of monetary penalty. In case any building, structure, or land is, or is proposed to be, erected, constructed, re-constructed, altered, covered, maintained or used in violation of this Ordinance, the governing body or, with the approval of the governing body, an officer of the municipality, in addition to other remedies, may

institute in the name of the Municipality any appropriate action or proceeding to prevent, restrain, correct or abate such buildings, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. The Township may institute injunctive mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Ordinance. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief. All judgments, costs and reasonable attorney fees collected for the violation shall be paid over to Wysox Township. 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 and all such persons shall be required to correct or remedy such violations and noncompliances 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 Township to be a public nuisance and abatable as such.

2. The Court of Common Pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

3. Nothing contained in this Section shall be construed or interpreted to grant to any person or entity other than the Township Board of Supervisors the right to commence any action for enforcement pursuant to this Section.

Section 2012. **ZONING HEARING BOARD**

The Zoning Hearing Board shall continue, with three (3) members appointed by the Township Board of Supervisors, and have such powers and authority as set forth in the Pennsylvania Municipalities Planning Code (Act 247), as amended. The duly established Zoning Hearing Board shall have the following functions:

A. Hearings

1. The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the Pennsylvania Municipalities Planning Code (Act 247), as amended. Notice shall be given to the public, the applicant, the landowner, the Zoning Officer, such other persons as the Zoning Hearing Board shall designate and any person who has made timely request for the same. Notices shall be given as provided for in the Pennsylvania Municipalities Planning Code, Act 247, as amended. The Township Board of Supervisors may prescribe reasonable fees, with respect to hearings before the Zoning Hearing board. Fees for said hearing may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. the costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.

2. No person shall be allowed to file any proceeding with the board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given if such person has succeeded to his interest after such approval, he shall be bound by the knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant to section 709 or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map pursuant to section 916.2 shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

3. All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of the determination is issued.

B. Scheduling of Hearing

The hearing shall be held within sixty (60) days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.

C. Rendering of Decision

The Zoning Hearing Board shall render a written decision or, when no decision is called for, make written findings on the application within forty-five (45) days after the last hearing before the Board. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of the Pennsylvania Municipalities Planning Code, as amended, or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. Where the Zoning Hearing Board fails to render the decision within the forty-five (45) day period, or fails to hold the required public hearing within sixty (60) days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision, the Board shall give public notice of said decision within ten (10) days from the last day it could have met to render a decision in the same manner as provided for above. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him/her not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

D. Jurisdiction

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters, as set forth in the Pennsylvania Municipalities Planning Code.

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

2. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after effective date of said ordinance.

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

4. Appeals from a determination by the Township Engineer or Zoning Officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.

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

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

7. Appeals from the determination of any officer or agency charged with the administration of any transfer of development rights or performance density provisions of the Zoning Ordinance.

8. Appeals from the Zoning Officer's determination under Section 916.2, Procedure to Obtain Preliminary Opinion, of the Code.

9. Appeals from the determination of the Zoning Officer or Township Engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving

applications under Article V or VII of the Pennsylvania Municipalities Planning Code.

E. Variances

The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. In granting a variance in designated Flood Plain Districts, additional criteria set forth in the Wysox Township Flood Plain Management Ordinance shall also apply. The Zoning Hearing Board may by rule prescribe the form of application and may require application to the Zoning Officer. The Zoning Hearing Board may grant a variance, provided the following findings are made where relevant in a given case:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the Ordinance in the district which the property is located.
2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
3. That such unnecessary hardship has not been created by the appellant.
4. That the variance, if authorized, will not alter the essential character of the district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
5. That the variance, if authorized, will represent the minimum variance that will afford relief and represent the least modification possible of the regulation in issue. In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance.

F. Special Exceptions

In this Ordinance, Special Exceptions may be granted or denied by the Zoning Hearing Board pursuant to expressed standards and criteria contained in this Ordinance. The Zoning Hearing Board shall hear and decide requests for such Special Exceptions in accordance with such standards and criteria and prescribe the application form to be used. In granting a Special Exception, the Zoning Hearing Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of this Ordinance. The Zoning Hearing Board shall pursue the following procedure:

1. The Zoning Hearing Board's decision to grant a permit for Special Exception use shall be made only after public notice and public hearing. Such permit shall apply specifically to the application and plans submitted and presented at said public hearing. Any subsequent amendments or additions shall be subject to review and public hearing by the Zoning Hearing Board as a Special Exception.
2. No application for a permit shall be granted by the Zoning Hearing Board for any Special Exception use until said Board has first received and considered an advisory report thereon from the Planning Commission with respect to the location of such use in relation to the needs and growth pattern of Wysox Township, where appropriate, with reference to the adequacy of the site area and the arrangement of buildings, driveways, parking areas, off-street loading and unloading spaces, and other pertinent features of the proposal.
3. The Planning Commission shall have thirty (30) days from the date of its receipt of the application within which to file its report thereon. In the event that the Planning Commission shall fail to file its report within thirty (30) days, such application shall be deemed to have been approved by the Planning Commission. The Planning Commission may have representation at the public hearing held by the Zoning Hearing Board on such application. After receipt of the report, the Zoning Hearing Board shall hear the application in the same manner and under the same procedure as it is empowered

by law and ordinance to hear cases and make exceptions to the provisions of the Zoning Ordinance. The Zoning Hearing Board may thereafter direct the Zoning Officer to issue a permit if, in its judgment, the request will not be detrimental to the health, safety, and general welfare of Wysox Township.

4. A Special Exception use for which a permit is granted by the Zoning Hearing Board pursuant to the provisions of this Section shall be construed to be a conforming use.

G. Expiration Of Variance Or Special Exception

Any Variance, Special Exception or Conditional use issued pursuant to this ordinance shall expire if the applicant does not begin construction, repair, alteration or otherwise act upon the relief granted within two years.

H. Parties Appellant Before the Zoning Hearing Board

Appeals raising the substantive validity of any land use ordinance, except those to be brought before the Township Board of Supervisors, pursuant to the Pennsylvania Municipalities Planning Code, procedural questions or alleged defects in the process or enactment Of adoption of land use ordinance; or from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot; from a determination by the Township Engineer or Zoning Officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance; from the determination of the Zoning Officer or Township Engineer in the reference to sedimentation and erosion control and storm water management insofar as the same relate to the development not involving subdivision and development or planned residential development may be filed with the Zoning Hearing Board in writing by the landowner affected, any officer or agency of the Township, or any person aggrieved. Requests for a variance and for Special Exception may be filed with the Zoning Hearing Board by any landowner or tenant with the permission of such landowner.

I. Time Limitations

1. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than thirty (30) days after an application for development, preliminary or final, has been approved by the Township if such proceeding is designed to secure reversal or limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval has been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan or from an adverse decision by the Zoning Officer on a challenge to the validity of this Ordinance, or an amendment hereto, or map, or an amendment thereto, shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

2. No issue of alleged defect in the process of enactment of any ordinance or map or any amendment thereto shall be raised in any proceeding filed with the Zoning Hearing Board later than thirty (30) days from the time such ordinance, map or amendment takes effect, unless the person raising such issues alleges and proves that he failed to receive adequate notice of the enactment or amendment. If such person has succeeded to his interest after the enactment of the ordinances, adequate notice to his predecessor in interest shall be deemed adequate notice to him.

3. All appeals from determinations adverse to the landowner shall be filed by the landowner within thirty (30) days after notice of the determination is issued.

J. Stay of Proceedings

1. Upon filing of any appeal proceeding before the Zoning Hearing Board and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies

to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.

2. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

3. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

4. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondents to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

Section 2013. **ALTERNATE MEMBERS OF ZONING HEARING BOARD**

Pursuant to section 903(b) of the Pennsylvania Municipalities Planning Code, the governing body may appoint by resolution at least one but no more than three residents of the municipality to serve as alternate members of the Zoning Hearing Board. 53 P.S. § 10903 (b)

Section 2014. **INTERPRETATION, PURPOSE, AND CONFLICT**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion of the health, safety, morals, and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations, or ordinances, provided that where this Ordinance imposes a greater restriction upon the use of buildings or real estate, or upon the height of a building, or requires larger open spaces than are imposed by such other rules, easements, covenants, restrictions, regulations or ordinances, the provisions of this Ordinance shall control.

Section 2015. **VALIDITY**

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole, or of any other part thereof.

Section 2016. **REPEALER**

This Ordinance expressly repeals, revokes, rescinds, replaces and supersedes any prior ordinance or portion of any prior ordinance that is inconsistent herewith. Any prior ordinance, or portion of any prior ordinance, that that legitimately and lawfully regulates the use of land within the township of Wysox which is not covered by this ordinance and is not inconsistent with this ordinance shall remain in full force and effect until such time as it is expressly repealed, revoked, rescinded, replaced, superseded or judicially determined to be null and void by a court of law having competent jurisdiction.

Section 2017 . SAVING PROVISION - SEVERABILITY & INDEPENDENT SEPARATE SECTIONS

This Ordinance are hereby declared to be severable. Each section hereof shall be deemed to be separate and independent. If any section, or sections, or part of any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance shall be legislatively, or judicially or otherwise, found to be invalid, rendered void or unenforceable for any reason whatsoever, in whole or in part, then only that section shall be stricken from this Ordinance and in all other respects the remaining portions of this Ordinance shall be valid and continue in full force, effect and operation, and this determination shall not effect the validity of the remainder of the Ordinance.

Section 2018. ABROGATION AND GREATER RESTRICTIONS

This ordinance supersedes any other conflicting provisions which may be in effect in. If there is any conflict between any of the provisions of this ordinance, the more restrictive shall apply. If there is any conflict between this ordinance and the state wide building code or any other statute, regulation, ordinance or applicable court ruling, the more restrictive shall apply.

Section 2019. WARNING AND DISCLAIMER OF LIABILITY

The degree of public protection sought by the provisions of this Ordinance are considered reasonable for regulatory purposes. This Ordinance shall not create liability on the part of the Township or any officer or employee thereof for any damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

Section 2020. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its enactment