

**Code
of the
Township of
Black Creek**

COUNTY OF LUZERNE
COMMONWEALTH OF PENNSYLVANIA

SERIAL NO. 1

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ORDINANCE NO 2 of 2010

AN ORDINANCE ADOPTING, BY REFERENCE, THE CODE OF ORDINANCES OF THE TOWNSHIP OF BLACK CREEK, LUZERNE COUNTY, PENNSYLVANIA; CONSOLIDATING, REVISING, AMENDING AND REPEALING CERTAIN ORDINANCES; ENACTING CERTAIN NEW PROVISIONS; PROVIDING A PROCEDURE FOR AMENDING THE CODE AND FOR THE CITATION OF THE CODE AND THE EFFECTIVE DATE THEREOF; ESTABLISHING RESPONSIBILITY FOR MAINTENANCE OF THE CODE; SAVING CERTAIN PROVISIONS FROM REPEAL; AND PRESCRIBING PENALTIES FOR VIOLATION.

The Township of Black Creek hereby ordains:

Section 1. Adoption. "The Code of Ordinances of Black Creek Township", as prepared and published for the said Township of Black Creek, by Donald G. Karpowich, Esquire, is hereby adopted as a consolidation, codification and revision of the ordinances of the Township of Black Creek. Chapters 1 through 15 thereof contain the text of the body of all general administrative and penal ordinances of the Township of Black Creek organized as follows:

Introduction to the Code of Ordinances
Chapter 1.....Administration and Government
Chapter 2.....Buildings and Structures
Chapter 3.....Code Enforcement
Chapter 4.....Conduct
Chapter 5.....Fees
Chapter 6.....Licenses
Chapter 7.....Financial Administration
Chapter 8.....Fire Protection and Fire Prevention
Chapter 9.....Franchises
Chapter 10.....Streets and Sidewalks
Chapter 11.....Health and Safety
Chapter 12.....Motor Vehicles and Traffic
 Motor Vehicle and Traffic Appendices
Chapter 13.....Sewer and Water
Chapter 14.....Subdivision and Land Development
Chapter 15.....Zoning

Section 2. Saving Clause. The provisions of the Code of Ordinances of Black Creek Township, so far as they are the same as those ordinances and regulations in force immediately prior to the adoption of said Code, are intended as a continuation of such ordinances and regulations and not as a new enactment. The provisions of the Code of Ordinances of Black Creek Township shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances and regulations.

Section 3. Amending the Code of Ordinances. The procedure for amending the Code of Ordinances shall include the citation of the Chapter, Part, Section and Subsection to be amended, revised, repealed or added as follows:

A. Amendment or Revision - "Chapter ___, Part ___, Section ___, Subsection ___ is hereby amended [revised] to read as follows..."

B. Additions - "Chapter ___, Part ___, Section ___, Subsection ___ is hereby amended by the addition of the following..."

C. Repeal - "Chapter ___, Part ___, Section ___, Subsection ___ is hereby repealed in its entirety.

Section 4. Responsibility for Code of Ordinances. It shall be the responsibility of the Black Creek Township Secretary to maintain an up-to-date certified copy of the Code of Ordinances. This copy shall be the official copy of the Township's Code of Ordinances and shall be available for public inspection.


Section 5. Penalties. It shall be unlawful for anyone to change, alter or tamper with the Code of Ordinances in any manner which will intentionally misrepresent the laws of the Township of Black Creek. Whosoever shall violate this section shall, upon conviction thereof, be sentenced to pay a fine of not more than Seven Hundred and Fifty dollars (\$750.00) and costs, or in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days.

Section 6. Severability of Parts of Codification. It is hereby declared to be the intention of Board of Supervisors that the chapters, parts, sections, paragraphs, sentences, clauses and phrases of this Codification are severable. If any section, paragraph, sentence, clause or phrase of this Code is declared unconstitutional, illegal or otherwise invalid by the judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining chapters, parts, sections, paragraphs, sentences, clauses or phrases of this Codification.


Section 7. Citation and Effective Date. The Codification referred to in Section 1 of this ordinance shall be known and cited officially as "The Code of Ordinances of Black Creek Township" and all future ordinances shall make reference thereto. The ordinances included within this Code that were not already adopted by the Board of Supervisors, are hereby adopted and shall become effective within ten (10) days from the date of adoption of this Code of Ordinances, and all other ordinances shall become effective at the date of adoption of this Code of Ordinances, if not already in effect.


ENACTED AND ORDAINED this
4th day of MAY, 2010.

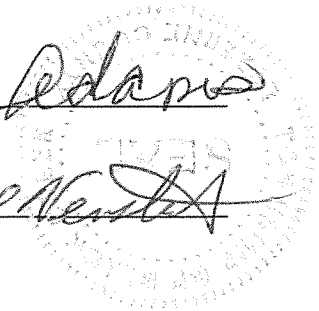
ATTESTED:

By: 
Secretary/Treasurer

BLACK CREEK TOWNSHIP
BOARD OF SUPERVISORS:

By: 
Chairperson

By: 
Supervisor



INTRODUCTION TO THE CODE OF ORDINANCES

Part 1

Use and Construction of Code

§101. How Code is Designated and Cited. The provisions embraced in the following parts, chapters, and sections shall constitute and be designated as the "Black Creek Township Code of Ordinances" and may so be cited.

§102. Section Headings; Citations. The bolded headings of sections in this Code, and citations included at the end of sections, are intended to indicate the contents of the section and original historical source respectively, and shall not be deemed or taken to be titles and official sources of those sections, or as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of those sections, including the citations, are amended or reenacted.

§103. Effect of Repeal of Ordinances. The repeal of an ordinance shall not affect any penalty incurred before the repeal took effect, or any suit, prosecution or proceeding pending at the time of the repeal for an offense committed under the ordinance repealed.

§104. Severability of Parts of Code. It is declared to be the intention of the Board of Supervisors that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any section, paragraph, sentence, clause or phrase of this Code shall be declared unconstitutional, illegal or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, that invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses or phrases of this Code.

§105. Amendment to Code; Effect of New Ordinances; Amendatory Language. All ordinances passed after enactment of this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion in this Code. When later ordinances repeal any chapter, section or subsection or any portion thereof, those repealed portions may be excluded from this Code by omission from reprinted pages.

(a) Amendments to any provision of this Code may be made by amending any provision by specific reference to the section of this Code in substantially the following language: "§ ____ of the Black Creek Township Code of Ordinances is amended to read as follows: (Set out new provisions in full.)"

(b) When the Board of Supervisors desire to enact an ordinance of a general and permanent nature on a subject not previously contained in this Code, which the Supervisors desire to incorporate into the Code, a section in substantially the following language may be made a part of the ordinance: "§ ____ . It is the intention of the Supervisors, and it is ordained that the provisions of this ordinance shall become and be made a part of the Black Creek Township Code of Ordinances and the sections of this ordinance may be re-numbered to accomplish that intention."

CHAPTER 1

ADMINISTRATION AND GOVERNMENT

Part 1

Official English Ordinance

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Meetings and Work Sessions

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- §202. Work Sessions and Special Meetings
- §203. Organizational Meetings
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Compensation of Elected Officials

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- §302. Compensation of Tax Collector
- §303. Compensation of Sewage Enforcement Officer (S.E.O.)

Part 4

Appointed Officers

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- §402. Building Code Official
- §403. Zoning Officer

Part 5

Boards and Commissions

- §501. Planning Commission
- §502. Uniform Construction Code Appeals Board
- §503. Zoning Hearing Board

Part 6
Municipal Retirement System

- §601. Enrollment & Purpose in Pennsylvania Municipal Retirement Law
- §602. Membership
- §603. Credits & Accrual
- §604. Required Payments by Township
- §605. Agreement & Obligation
- §606. Complete Authorization & Repeal
- §607. Filing of Copies & Effective Dates

CHAPTER 1

ADMINISTRATION AND GOVERNMENT

Part 1

Official English Ordinance

§101. Title. This chapter shall be known and may be cited as the "Black Creek Township Official English Ordinance."

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

(a) That the English language is the common language of the Township of Black Creek, of the Commonwealth of Pennsylvania and of the United States.

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

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

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

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

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

§103. Official English Declaration.

(a) The English language is the official language of the Township of Black Creek.

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

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

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

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

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

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

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

(a) To teach or encourage the learning of languages other than English.

(b) To protect the public health or safety.

(c) To teach English to those who are not fluent in the language.

(d) To comply with the Native American Languages Act, the Individuals with Disabilities Education Act, the Voting Rights Act, or any other federal law or law of the Commonwealth of Pennsylvania.

(e) To protect the rights of criminal defendants and victims of crime.

(f) To promote trade, commerce, and tourism.

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

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

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

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

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

Part 2

Meetings and Work Sessions

§201. Scheduling of Regular Meetings. The regular meetings of Black Creek Township shall be held on the first Tuesday of each month at 2:00 P.M. on January, February, March, April, October, November and December and 6:00 P.M. on May, June, July, August and September at the Municipal Building, Park Street, Rock Glen, Pennsylvania 18246, or at such other times and places as Supervisors may designate pursuant to public notice and in accordance with law.

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

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

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

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

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

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

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

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

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

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

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

Part 3
Compensation of Elected Officials

§301. Compensation of Supervisors. Each supervisor of Black Creek Township elected or appointed to office on or after November 5, 1985, shall receive compensation as a supervisor in the annual amount of \$1,500.00 and shall be paid in monthly installments. This Ordinance is set forth by the guidelines and limitations of the General Assembly of the Commonwealth of Pennsylvania, Act 68 of 1985, which provides that supervisors of townships having a population of zero to 4,999 shall be compensated in an amount not to exceed \$1,500.00, and the General Assembly of said Act 68 authorizes the boards of supervisors of the various townships of the second class to determine the compensation of supervisors subject to the limitations set forth in the Act. (Ord. No. 2-1985, 12/19/85)

§302. Compensation of Tax Collector. The compensation of the Black Creek Township Tax Collector for real estate tax certifications and duplicate bills shall be \$10.00 each and that the fee shall go to the township Tax Collector. This ordinance shall become effective on January 6, 1997 and shall continue in effect on a calendar basis without annual reenactment. (Ord. No. 1-1997, 1/06/97)

EDITOR'S NOTE: The compensation of the Tax Collector has been established at 2.5% of the amount of tax collected.

§303. Compensation of Sewage Enforcement Officer (S.E.O.). The compensation of the Black Creek Township Sewage Enforcement Officer (S.E.O.) for sewer line certification and permit shall be \$100.00 and that the fee shall go to the township S.E.O. This ordinance shall become effective on January 6, 1997 and shall continue into effect on a calendar basis without annual reenactment. (Ord. No. 2-1997, 1/06/97)

EDITOR'S NOTE: The compensation of the S.E.O. is re-established from time to time by resolution.

Part 4
Appointed Officers

§401. Code Enforcement Officer.

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

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

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

- (1) Enforcing the applicable provisions of the Code of Ordinances.
- (2) Providing information to the general public, governmental agencies, and Township Officials, both elected and appointed, on the Code of Ordinance and the applicable permit process under applicable Code provisions which are the responsibility of the Code Enforcement Officer.
- (3) Performing property inspections for compliance with the Code of Ordinances.
- (4) Keeping the Code of Ordinances current and updated, including keeping official records of all business and activities of the Code Enforcement Office.
- (5) Preparing and presenting monthly reports to the Board of Supervisors on all activities; including attending Work Sessions and Regular and Special Meetings, when requested to attend.
- (6) Attending meetings and presenting evidence and testimony at hearings, if required or necessary.
- (7) Assisting the Secretary in scheduling Appeal Hearings.
- (8) Acting on complaints, and detecting and investigating Code violations, and seeking compliance with the provisions of the Code of Ordinances.
- (9) Assisting the Solicitor in prosecuting Code violations, which may include attending hearings before Appeal Boards, the appropriate District Justice, and a Judge of the Court of Common Pleas.

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

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

§402. Building Code Official.

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

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

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

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

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

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

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

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

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

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

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

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

§403. Zoning Officer.

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

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

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

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

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

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

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

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

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

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

(8) Assisting the Secretary of the Zoning Hearing Board to schedule hearings and process zoning appeal applications, including making arrangements for the stenographer's presence at every hearing and taking the steps necessary to insure that the property subject to the hearing is properly posted in the time periods mandated by the Pennsylvania Municipalities Planning Code.

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

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

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

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

BLACK CREEK TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA

ORDINANCE NO. 1 of 2017

AN ORDINANCE OF BLACK CREEK TOWNSHIP, LUZERNE COUNTY,
PENNSYLVANIA, ABOLISHING THE PLANNING COMMISSION AND
ESTABLISHING A PLANNING COMMITTEE AND AMENDING THE BLACK
CREEK TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE

WHEREAS, the Board of Supervisors of Black Creek Township have concluded that planning and development in the Township can best be served by abolishing the Planning Commission and establishing a Planning Committee;

WHEREAS, under the provisions of the Pennsylvania Municipalities Planning Code, Article II, Section 201, the Supervisors have the power to abolish, by ordinance, the Planning Commission of the Township and to assign the powers and duties set forth in the Municipalities Planning Code to a planning committee comprised of members appointed by the Township Supervisors; and

NOW, THEREFORE, it is hereby enacted and ordained by the Black Creek Township Board of Supervisors as follows:

Chapter 1, Part 1, Section 101, entitled "Planning Commission" of the Black Creek Township Code of Ordinances is hereby abolished and repealed and a new Chapter 1, Part 1, Section 101, entitled "Planning Committee" is established that reads as follows:

§101. Planning Committee. In lieu of a planning commission, the Board of Supervisors elect to assign the powers and duties conferred by the Pennsylvania Municipalities Planning Code upon a Planning Committee comprised of three (3) members appointed by the Board of Supervisors. Each member of the Committee shall serve for terms of four (4) years with the initial committee members serving staggered terms of two, three and four years so that no two members of the Committee are reappointed or replaced in the same calendar year. All members of the Committee shall reside within the Township and serve without pay, although they may be reimbursed for necessary expenses incurred in performance of their duties as Committee Members. At least two of the members shall be citizen members. An appointment to fill a vacancy shall be only for the unexpired portion of the term.

Chapter 14, entitled "Black Creek Township Subdivision and Land Development Ordinance" adopted January 3, 2011, as amended, is hereby further amended so that any reference to Planning Commission is hereby replaced with Planning Committee".

AS TO BOTH AMENDMENTS:

Severability. The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect the


other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application.

Repealer. Any and all other ordinances, resolutions or parts thereof inconsistent herewith are expressly repealed by the adoption of this Ordinance. The remaining sections of the Code of Ordinances shall remain the same unchanged, except as otherwise amended herein.

Effective Date. These Ordinance shall take effect immediately upon its adoption.

ENACTED and ORDAINED this 7th day of February, 2017.

ATTEST:


[Signature]
Secretary

BOARD OF SUPERVISORS OF
BLACK CREEK TOWNSHIP

[Signature]
Chairperson

[Signature]
Vice-Chairperson

[Signature]
Secretary/Treasurer

Part 5
Boards and Commissions

§501. Planning Commission.

(a) Creation, Appointment, Term and Vacancy. The Black Creek Township Board of Supervisors hereby creates a Township Planning Commission consisting of seven (7) members. The Township Supervisors may increase or decrease the size of the Commission to not less than three (3) members and no more than nine (9) members provided that it does so by Ordinance and in accordance with Law. The Supervisors shall appoint members of the Commission in the manner provided by Law. The term of each member shall be for four (4) years or until his or her successor is appointed and qualified, except that the terms of the members first appointed shall be so fixed that no more than two shall be reappointed or replaced during any calendar year. The Chairperson of the Commission shall promptly notify the Township of any vacancies in the Commission. The Supervisors shall fill any such vacancies by appointment for their unexpired term.

(b) Membership. All of the members of the Planning Commission shall be residents of the Township. There shall be at least five (5) citizen members of the Commission who are not officers or employees of the Township.

(c) Removal of Members. Any Commission member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Supervisors taken after the member has received a minimum of fifteen (15) days advanced notice of the intent of the Supervisors to take such a vote. A hearing shall be held before taking the vote if the member requests it in writing.

(d) Conduct of Business. The Commission shall elect its own Chairperson and Vice-chairperson and create and fill such other offices as it may determine. Officers shall serve annual terms and may succeed themselves. The Commission shall keep a full record of its business and shall annually make a written report by March 1 of each year of its activities to the Township. Interim reports may be made as often as may be necessary, or upon request of the Township.

(e) Powers and Duties of the Commission. The Planning Commission shall at the request of the Township have the power and be required to:

(1) Prepare a comprehensive plan for the development of the Township as set forth in the Pennsylvania Municipalities Planning Code, and present the same to the Supervisors for consideration.

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

(f) Other Powers and Duties of the Commission. The Planning Commission may at the request of the Supervisors:

(1) Make recommendations to the Supervisors concerning the adoption or amendment of the Official Zoning Map.

(2) Prepare and present to the Supervisors a zoning ordinance, and make recommendations to The Supervisors of proposed amendments thereto.

(3) Prepare and recommend to the Supervisors subdivision and land development and planned residential development regulations.

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

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

(6) Prepare and present to the Supervisors an environmental study, recommend a capital improvement program, a water survey and/or a study regarding the feasibility and practicality of using renewable energy sources in specific areas of the Township.

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

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

(9) Hold public hearings and meetings.

(10) Present testimony before any board.

(11) Require from other departments and agencies of the municipality such available information as relates to the work of the planning commission.

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

(13) Review the Zoning Ordinance, Subdivision and Land Development Ordinance (SALDO), official map, provisions for planned residential development, and such other ordinances and regulations governing the development of land no less frequently than it reviews the comprehensive plan.

(14) Perform all of other duties and exercise any and all other powers vested by law in planning agencies in Townships.

- (f) This Ordinance shall take effect immediately following its enactment.

EDITOR'S NOTE: This Ordinance No. 1 of 2010 was adopted by the Black Creek Township Board of Supervisors on 1/04/10. This Ordinance repealed Ord. No. 6-1965, 12/06/65.

§502. Uniform Construction Code Appeals Board.

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

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

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

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

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

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

EDITOR'S NOTE: This Ordinance No. 1 of 2010 was adopted by the Black Creek Township Board of Supervisors on 1/04/10.

§503. Zoning Hearing Board.

(a) *Creation, Appointment, Term and Vacancy.* Township does hereby acknowledge that a Zoning Hearing Board has been created at the time of adoption of this Part, and a Zoning Hearing Board is hereby created by this Part. The membership of the Zoning Hearing Board currently consists of five (5) members. However, in the future the membership may, upon determination of the Township, consist of either three or five residents of the Township appointed by resolution of the Township. The terms of office of a three member Zoning Hearing Board shall be three years and shall be so fixed that the term of office of one member shall expire each year. The terms of office of a five member Zoning Hearing Board shall be so fixed that the term of office of one member of a five member

board shall expire each year. The Zoning Hearing Board shall promptly notify the Township of any vacancies that may occur on the Board. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Zoning Hearing Board shall not hold any other elected or appointed office in the Township nor shall any member be an employee of the Township.

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

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

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

(e) *Conduct of Business.* The Zoning Hearing Board may make, alter and rescind rules and forms for its procedures, consistent with the Township Zoning Ordinance and the laws of the Commonwealth of Pennsylvania. The Board shall keep full public records of its business, which records shall be the property of the Township, and shall submit reports of its activities to the Township as requested by the Township.

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

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

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

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

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

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

(6) Applications for special exceptions under the zoning ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to 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 transfers of development rights or performance density provisions of the zoning ordinance.

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

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

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

(1) Public notice shall be given and written notice shall be given to the applicant, the zoning officer, such other persons as the governing body shall designate by ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed

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

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

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

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

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

(9) The board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for, make written findings on the application within 45 days after the last hearing before the board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reason thereof. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decisions or findings are final, the board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the board prior to final decision or entry of findings, and the board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for challenges filed under section 916.1 where the board fails

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

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

AN ORDINANCE OF BLACK CREEK TOWNSHIP, LUZERNE COUNTY, COMMONWEALTH OF PENNSYLVANIA, ELECTING TO AMEND ITS NON-UNIFORM PENSION PLAN ADMINISTERED BY THE PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM PURSUANT TO ARTICLE IV OF THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW; AGREEING TO BE BOUND BY ALL PROVISIONS OF THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW AS AMENDED AND AS APPLICABLE TO MEMBER MUNICIPALITIES. IT IS HEREBY ORDAINED BY BLACK CREEK TOWNSHIP, LUZERNE COUNTY, AS FOLLOWS:

SECTION I. Black Creek Township (the Township), having established a non-uniform pension plan administered by the Pennsylvania Municipal Retirement System (the System), hereby elects to amend its Non-Uniform Pension Plan administered by the System in accordance with Article IV of the Pennsylvania Municipal Retirement Law, 53 P.S. §881.101 et seq. (Retirement Law), and does hereby agree to be bound by all the requirements and provisions of the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. §895.101 et seq., and to assume all obligations, financial and otherwise, placed upon member municipalities.

SECTION II. As part of this Ordinance, the Township agrees that the System shall administer and provide the benefits set forth in the amended Non-Uniform Pension Plan Document entered into between the Pennsylvania Municipal Retirement Board and the Township effective as of the date specified in the adoption agreement (the Contract).

SECTION III. The Township acknowledges that by passage and adoption of this Ordinance, the Township officially accepts the Contract and the financial obligations resulting from the administration of the Contract.

SECTION IV. Payment for any obligation established by the adoption of this Ordinance and the Contract shall be made by the Township in accordance with the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act. The Township hereby assumes all liability for any unfundedness created due to the benefit structure set forth in the Contract.

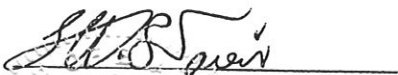
SECTION V. The Township intends this Ordinance to be the complete authorization of the Contract, as amended and it shall become effective as of the date specified in the adoption agreement, which is the effective date of the Contract, as amended.

SECTION VI. A duly certified copy of this Ordinance and an executed Contract shall be filed with the System.

ORDAINED this 2nd day of JULY, 2020

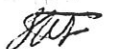
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ATTEST:









AN ORDINANCE OF BLACK CREEK TOWNSHIP, LUZERNE COUNTY, COMMONWEALTH OF PENNSYLVANIA, ELECTING TO AMEND ITS MUNICIPAL PENSION PLAN ADMINISTERED BY THE PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM PURSUANT TO ARTICLE IV OF THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW; AGREEING TO BE BOUND BY ALL PROVISIONS OF THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW AS AMENDED AND AS APPLICABLE TO MEMBER MUNICIPALITIES. IT IS HEREBY ORDAINED BY BLACK CREEK TOWNSHIP, LUZERNE COUNTY, AS FOLLOWS:

SECTION I. Black Creek Township (the Township), being a member municipality of the Pennsylvania Municipal Retirement System (the System), hereby elects to amend its Municipal Pension Plan administered by the System in accordance with Article IV of the Pennsylvania Municipal Retirement Law, 53 P.S. §881.101 et seq. (Retirement Law), and does hereby agree to be bound by all the requirements and provisions of the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. §895.101 et seq., and to assume all obligations, financial and otherwise, placed upon member municipalities.

SECTION II. As part of this Ordinance, the Township agrees that the System shall administer and provide the benefits set forth in the amended Municipal Pension Plan Contract entered into between the Pennsylvania Municipal Retirement Board and the Township effective October 1, 2012 (the Contract).

SECTION III. The passage and adoption of this Ordinance by the Township is an official acceptance of the Contract and the financial obligations resulting from the administration of the Contract.

SECTION IV. Payment for any obligation established by the adoption of this Ordinance and the Contract shall be made by the Township in accordance with the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act. The Township hereby assumes all liability for any unfundedness created due to the benefit structure set forth in the Contract.

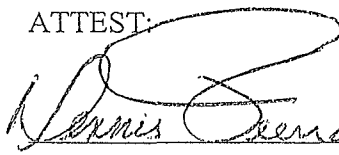
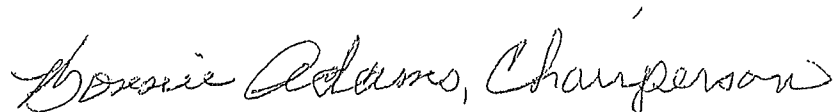
SECTION V. The Township intends this Ordinance to be the complete authorization of the Contract and it shall become effective and specifically repeal Ordinance Number 3 of 2003 either immediately or on October 1, 2012, which is the effective date of the Contract, whichever is later.

SECTION VI. A duly certified copy of this Ordinance and an executed Contract shall be filed with the System.

ORDAINED this 11th day of September, 2012.

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ATTEST:

Reviewed by PMRS Legal Counsel YH

PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM

MUNICIPAL PENSION PLAN

OF

BLACK CREEK TOWNSHIP, LUZERNE COUNTY

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ARTICLE II – DEFINITIONS

Section 2.1 Definitions

The following terms shall be defined as set forth below, provided, that each term defined in the PMRL shall have the meaning set forth therein and shall be interpreted consistent with its definition under the PMRL.

“Accumulated Deductions” means the total amount deducted from the Compensation of the Member as set forth in this Contract and paid over by the Municipality or paid by the Member or from any existing pension or retirement System directly into the Fund and credited to the Member’s Account, together with Regular Interest thereon, unless interest is specifically excluded in this Contract.

“Active Member” means a Member who is earning Credited Service under this Contract as a result of employment with a Municipality.

“Actuarially Equivalent” means annuities or lump sum amounts of equal present value determined by appropriate actuarial factors based on mortality tables and interest rates currently adopted and used by the Board.

“Actuary” means: (1) a member of the American Academy of Actuaries, or (2) an individual who has demonstrated to the satisfaction of the Insurance Commissioner of Pennsylvania that he or she has the educational background necessary for the practice of actuarial science and has had at least seven years of actuarial experience, or (3) a firm, partnership or corporation of which one or more members meets the requirements of subclauses (1) or (2) above.

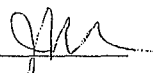
“Alternate Payee” means any spouse, former spouse, child or dependent of a Member who is recognized by an Approved Domestic Relations Order as having a right to receive all or a portion of the monies payable to that Member.

“Annuitant” means any Member on or after the Effective Date of Retirement until the Member’s annuity is terminated.

“Approved Domestic Relations Order” means any Domestic Relations Order which has been approved by the System in accordance with the PMRL.

“Basic Benefit” means the Member’s accrued retirement benefit as calculated pursuant to Article VI Section 6.1.

“Beneficiary” means the person or persons last designated in writing to the Board by a Member or an Annuitant, or if one is not so designated, the estate or next of kin under 20 Pa.C.S. § 3101 (relating to payments to family and funeral directors), to the extent applicable, to receive any death benefit after the death of such Member or Annuitant.



"Domestic Relations Order" means any judgment, decree or order, including approval of a property settlement agreement, by a court of competent jurisdiction pursuant to a domestic relations law which relates to the marital property rights of the spouse or former spouse of a Member, including the right to receive all or a portion of the monies payable to that Member under the System in furtherance of the equitable distribution of marital assets. The term includes orders of support as that term is defined by 23 Pa. C.S. 4302 (relating to definitions) and orders for the enforcement of arrearages as provided by 23 Pa. C.S. § 3703 (relating to enforcement of arrearages).

"DROP" means the Deferred Retirement Option Plan adopted by the Board and set forth in Appendix A to this Contract, if one is so attached.

"DROP participant" means an Annuitant who has elected to participate in the DROP as may be provided under Article VII, Section 7.2 (b).

"Early Retirement Benefit" means the Member's Basic Benefit adjusted for commencement upon early retirement as may be provided under Article V, Section 5.2.

"Effective Date of Disability Retirement" means the date following the last day for which Compensation was paid or the date on which the Member filed an effective application for disability benefits, whichever is later.

"Effective Date of Retirement" means one of the following:

- (a) For a Member who files an application for an annuity within ninety days after the Date of Termination of Service, the later of:
 - (i) the first day following the Date of Termination of Service; or
 - (ii) the date specified on the application.
- (b) For a Member who does not file an application for an annuity within ninety days after the Date of Termination of Service, the later of:
 - (i) the date the application is filed; or
 - (ii) the date specified on the application.
- (c) For a Member who applies for a disability retirement, the date certified by the Board as the Effective Date of Disability Retirement.
- (d) For a DROP participant, the day before the effective date of DROP participation as determined in accordance with Appendix A to this Contract, if one is so attached.

"Member's Account" means the account to which shall be credited any Accumulated Deductions, municipal contributions made on behalf of the Member and Excess Interest.

"Member's Annuity" means that portion or component of the Basic Benefit which is of Equivalent Actuarial Value, at date of retirement, to the Accumulated Deductions of the Member.

"Member's Excess Investment Account" means the account maintained for each Member, to which shall be credited such Excess Interest deemed to be earned on Accumulated Deductions.

"Municipal Account" means the Account maintained for the Municipality, to which shall be credited the contributions made by it toward the benefits of the Members under the System.

"Municipality" means Black Creek Township, Luzerne County.

"Original Member" means a Member who was employed by the Municipality as of the date the Municipality joined the System.

"Pennsylvania Municipal Retirement Law" means, 53 P. S. §881.101 et seq. A reference to "PMRL Section ____" shall be deemed to refer to the identically numbered subsection of 53 P.S. § 881 as may be amended.

"PMRL" See the Pennsylvania Municipal Retirement Law.

"Policy Statement" means a statement of rule adopted by the Board as provided in Article XIII, Section 13.3 and as authorized by PMRL Section 104(10).

"Prior Service" means all service as an Original Member completed at the time the Municipality elected to join the System.

"Regular Interest" means the rate fixed by the board, from time to time, on the basis of earnings on investments to be applied to the Member's Accounts, Municipal Accounts and the Retired Member's Reserve Account.

"Retired Member's Reserve Account" means the account from which all Basic Benefits shall be paid for Superannuation, Early and disability retirements.

"Service Connected Disability" means total and permanent disability of a Member resulting from a condition arising out of and incurred in the course of employment, and which is compensable under the applicable provisions of the act of June 2, 1915 (P.L. 736, No. 338), known as "The Pennsylvania Workmen's Compensation Act," or the act of June 21, 1939 (P.L. 566, No. 284), known as "The Pennsylvania Occupational Disease Act."

"Superannuation Retirement Age" means the age set forth in Article V, Section 5.1.

ARTICLE III – MEMBERSHIP

Section 3.1 Mandatory Membership

Membership for full-time officers and employees of the Municipality is mandatory.

Section 3.2 Optional Membership

Not available.

Section 3.3 Prohibited Membership

Membership for elected officials, part-time employees not currently Members, seasonal employees, and temporary employees is prohibited, as is membership for individuals paid only on a fee basis.

- (c) A Member may purchase credit for intervening military service only if discharge or separation from the service was granted under other than dishonorable conditions. A Member may not purchase military credit for any service that is covered by another retirement system administered and wholly or partially paid for by any other government agency or private employer.

Section 4.5 Non-Intervening Military Service

- (a) An Active Member may purchase credit for other than intervening military service performed for the United States in times of war, armed conflict or national emergency, so proclaimed by the President of the United States, for a period not to exceed five (5) years, provided the Member has completed five (5) years of service to the Municipality subsequent to such military service. An Active Member may file an application with the Board for permission to purchase credit for nonintervening military service upon completion of five (5) years of subsequent service to the Municipality.
- (b) The rate of interest charged a Member on purchase of credit for nonintervening military service shall be the Regular Interest in effect on the date of the Member's application.
- (c) An Active Member may purchase credit for nonintervening military service only if discharge or separation from the service was granted under other than dishonorable conditions. A Member may not purchase military credit for any service that is covered by another retirement system administered and wholly or partially paid for by any other government agency or private employer.

Section 4.6 USERRA Service / HEART Act

- (a) Qualified Military Service.-- Notwithstanding any provisions herein to the contrary, contributions, benefits and service credit with respect to "qualified military service" within the meaning of IRC Section 414(u)(5) will be provided in accordance with IRC Section 414(u).
- (b) HEART Act Provisions.--
 - (i) Death benefits. In the case of a death or disability occurring on or after January 1, 2007, if a Member dies while performing qualified military service (as defined in IRC Section 414(u)), the survivors of the Member are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the System as if the Member had resumed and then terminated employment on account of death.

ARTICLE V – ELIGIBILITY FOR BENEFITS

Section 5.1 Eligibility for Superannuation Retirement Benefit

- (a) A Member hired prior to October 1, 2012 shall be eligible for a Superannuation Retirement Benefit upon attainment of Superannuation Retirement Age, which shall be sixty (60) years of age.
- (b) A Member hired on or after October 1, 2012 shall be eligible for a Superannuation Retirement Benefit upon attainment of Superannuation Retirement Age, which shall be sixty-two (62) years of age.

Section 5.2 Eligibility for Early Retirement Benefit

- (a) A Member who terminates service after ten (10) years of Credited Service and who has attained at least fifty-five (55) years of age may apply for an Early Retirement Benefit.
- (b) The Early Retirement Benefit will be actuarially reduced for each year or partial year thereof prior to Superannuation Retirement Age that early retirement takes place.

Section 5.3 Eligibility for a Vested Benefit

- (a) A Member hired prior to October 1, 2012 shall vest upon the completion of two (2) years of Credited Service provided the Member files an application to vest with the Board within ninety (90) days of the Member's Date of Termination of Service.
- (b) A Member hired on or after October 1, 2012 shall vest upon the completion of five (5) years of Credited Service provided the Member files an application to vest with the Board within ninety (90) days of the Member's Date of Termination of Service.
- (c) A Vested Member shall be entitled to a Superannuation Retirement Benefit upon attainment of Superannuation Retirement Age.
- (d) In the event that a Member fails to file within ninety days of the Member's Date of Termination of Service, the Member shall be deemed ineligible for a vested benefit. The amount payable to the Member shall be determined in accordance with Article VII, Section 7.1.

(iii) In the event that a Member's benefit is to be distributed prior to age 62, the currently effective dollar amount in subsection (a) of this section shall be actuarially reduced to the actuarial equivalent (as determined pursuant to IRC Section 415(b)(2)(C)) of an annual benefit equal to the dollar amount commencing at age 62 in the manner as prescribed by IRC Section 415.

(iv) In the event that a Member's benefit is to be distributed after age 65, the currently effective dollar amount in subsection (a) of this section shall be actuarially increased to the actuarial equivalent (as determined pursuant to IRC Section 415(b)(2)(D)) of an annual benefit equal to such dollar amount commencing at age 65 in the manner as prescribed by IRC Section 415.

(v) With regard to any Member identified in IRC Section 415(b)(2)(H), this subsection (b) shall not serve to reduce the limitation set forth in subsection (a).

(c) This section shall be interpreted consistent with the limitations or annual benefits set forth under IRC Section 415(b) and Treasury Regulations thereunder as applicable to governmental plans under IRC Section 414(d).

Section 6.6 Social Security Offset

There shall be no offset for Social Security retirement benefits received by a Member.

- (c) in a lump-sum payment and an annuity. Such annuity shall be of Equivalent Actuarial Value to the balance payable less the amount of the lump-sum payment specified by the Beneficiary.
- (ii) Option 2. Upon the Annuitant's death, the joint and survivor annuity shall be continued throughout the life of and paid to the Survivor Annuitant, if then living.
- (iii) Option 3. Upon the Annuitant's death, one-half of the joint and survivor annuity shall be continued throughout the life of and paid to the Survivor Annuitant, if then living.
- (iv) Option 4. A Member may elect to receive, in one payment at the time of retirement, the full amount of the Accumulated Deductions, excluding Excess Interest, standing to the Member's credit in the Member's account. In so electing this option, the Member forfeits the portion of the annuity paid from the Accumulated Deductions, but shall continue to be entitled to an annuity comprised of the municipal contribution and any Excess Interest credited to the account. Any Member electing this option shall be entitled to receive the remaining annuity calculated in accordance with any of the other options provided for in this section.
- (v) Option 5. Not Available.
- (c) If a Member has elected a joint and survivor annuity option and the Member and Survivor Annuitant die before receiving in annuity payments the full amount of the total Accumulated Deductions and Excess Interest standing to the credit of the Member on the Effective Date of Retirement, the balance shall be paid to the Beneficiary.

Section 7.3 Required Minimum Distribution

In no event may a Member or Beneficiary be entitled to a form of payment which commences or is payable over a period which fails to satisfy the required distribution provisions of IRC Section 401(a)(9), including the incidental benefit distribution requirements. The Board shall adopt procedures as necessary to comply with IRC Section 401(a)(9) and Treasury Regulations thereunder as applicable to governmental plans.

- (e) A Disability Annuitant shall receive a benefit calculated in accordance with the provisions of Article VI.
- (f) The Disability Annuitant's annuity shall not be affected by the amount of any payments for which the Disability Annuitant shall be eligible under the Act of June 2, 1915 (P.L. 736, No. 338), known as "The Pennsylvania Workmen's Compensation Act" or the Act of June 21, 1939 (P.L. 566, No. 284), known as "The Pennsylvania Occupational Disease Act."

ARTICLE IX -- CONTRIBUTIONS

Section 9.1 Municipality Contributions

- (a) For a Member hired prior to October 1, 2012, the Municipality shall contribute to each Member's Account fifteen percent (15%) of each Member's Compensation in accordance with the Board's policy regarding the treatment of member contributions. The Municipality's contribution will be credited quarterly to each Member's Account.
- (b) For a Member hired on or after October 1, 2012, the Municipality shall contribute to each Member's Account five percent (5%) of each Member's Compensation in accordance with the Board's policy regarding the treatment of member contributions. The Municipality's contribution will be credited quarterly to each Member's Account.
- (c) The Municipality may annually elect to contribute at a higher rate in future years by adopting a resolution and filing a copy of it with the Board.

Section 9.2 Member Contributions

- (a) Members shall not be required to contribute under this Contract.
- (b) Members may optionally contribute up to, but no more than twenty percent (20%) of their Compensation to fund the annuity described in Article VI, Section 6.1. Optional contributions may be changed or stopped by the member by filing a PMRB-15 form with the System.
- (c) Contributions shall be deducted from payroll and transmitted to the System by the Municipality in accordance with the Board's policy regarding the treatment of member contributions.
- (d) Member contributions will be treated as taxed at the time they are made to the System, will be tracked separately, and will not be treated as taxable when paid out to the member.

ARTICLE XI – EXEMPTION OF BENEFITS

Section 11.1 General

The Basic Benefit, Accumulated Deductions and the moneys in the Fund shall be exempt from any State or municipal tax and shall be unassignable except to a Beneficiary.

Section 11.2 Domestic Relation Orders

Rights under this Contract shall be subject to attachment in favor of an Alternate Payee as set forth in an Approved Domestic Relations Order.

Section 11.3 Forfeiture

- (a) Rights under this Contract shall be subject to forfeiture as required under the act of July 8, 1978 (P.L.752, No.140), known as the "Public Employee Pension Forfeiture Act." Forfeitures under this clause or under any other provision of law may not be applied to increase the benefits that any member would otherwise receive under this act.
- (b) The Public Employee Pension Forfeiture Act states that all benefits payable to a public employee must be forfeited if the employee is convicted of, or pleads guilty or no defense to a crime related to public office or public employment enumerated in the Public Employee Pension Forfeiture Act.
- (c) In the event a Member is convicted of, pleads guilty or no defense to a forfeitable crime, the Member will be entitled to receive the retirement contributions the Member made, without Regular Interest or Excess Interest, unless a court of competent jurisdiction orders the Member's contributions to be paid as restitution to the Municipality.
- (d) All service and benefits forfeited by operation of the Public Employee Pension Forfeiture Act shall be ineligible for retirement coverage should the Member later gain public employment and qualify for membership in the System, regardless of the employing Municipality.

- (a) Benefits to Members in accordance with the PMRL and this Contract; and,
- (b) Necessary and appropriate expenses of the System.

Section 12.7 Custody of the Fund

All moneys and securities in the Fund shall be placed in the custody of the State Treasurer as is required by PMRL Section 109.

Section 12.8 Management and Investment of the Fund

The members of the Board shall be trustees of the Fund, and shall have the exclusive management of said Fund, with full power to invest the moneys therein, subject to the terms, conditions, limitations and restrictions imposed by law upon fiduciaries. The Board shall have power to hold, purchase, sell, assign, transfer and dispose of any securities and investments in said Fund, as well as the proceeds of such investments, and of the money belonging to such Fund.

Section 12.9 Allocation of Regular Interest

The Board shall annually allocate Regular Interest to the credit of each Member's Account, Municipal Account, and the Retired Member's Reserve Account.

Section 12.10 Allocation of Excess Interest

- (a) The Board may, after deducting money to pay for Regular Interest and any appropriate expenses of the System, award Excess Interest to the Municipality in accordance with Board adopted policy.
- (b) Notwithstanding any other provision, Excess Interest shall not be allocated to the Member's Accounts and/or Retired Members' Reserve Account if the Municipality's funding status in relation to the benefit structure set forth under this Contract is less than 95% funded as of the most recent actuarial report filed pursuant to the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. § 895.101 et seq.
- (c) In the event that the Municipality's funding status in relation to the benefit structure set forth under this Contract is less than 95% funded as of the most recent actuarial report filed pursuant to the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. § 895.101 et seq., all Excess Interest awarded by the Board shall be allocated to the Municipal Account.

ARTICLE XIII -- ADMINISTRATION

Section 13.1 General Powers of the Board

In the administration of the System the Board has the exclusive authority under the PMRL to:

- (a) Contract for professional services, including but not limited to actuarial, investment and medical as it deems advisable;
- (b) Keep in convenient form such data as shall be deemed necessary for actuarial valuation purposes;
- (c) From time to time, through its Actuary, make an actuarial investigation into the mortality and service experience of the Members and Annuitants and of the various accounts created by the PMRL;
- (d) Adopt for the System one or more mortality tables and such other tables as shall be deemed necessary;
- (e) Certify annually the amount of appropriation which the Municipality shall pay into the Fund, which amounts shall be based on estimates furnished by the Actuary;
- (f) Prepare and distribute annual statements of accounts to each of the Active Members, showing the contributions made during the year, the interest earned and the total balance standing in the Member's Account at the end of the year;
- (g) Perform such other functions as are required for the execution of the PMRL and of any other Federal and State law and to administer and interpret this Contract to ensure that the System is maintained as tax qualified under the IRC.

Section 13.2 Limits on Benefit Structure

This Contract shall not provide benefits in excess of or provide for member contribution rates less than those available to the Municipality's class of employees covered by this Contract under existing law, including laws applicable to the establishment of pension plans.

Section 13.3 Policy Statements

- (a) Pursuant to PMRL Section 104(5), the Board has authority to adopt Policy Statements as necessary to administer the System and establish rules regarding the operation of the System. Policy Statements shall remain in full force and effect until superseded or otherwise revoked by the Board.

- (d) An administrative hearing is a process in which evidence is presented before an independent hearing examiner who makes a recommendation to the Board, following which the Board renders a final adjudication. All administrative hearings are conducted at the Board's headquarters in Harrisburg. The Board's final adjudication is subject to an appeal before the Commonwealth Court of Pennsylvania.
- (e) All appeals and requests for administrative hearings must be made in writing within 30 days of the date of the final determination and sent to:

**Appeal Docket Administrator
Pennsylvania Municipal Retirement Board
5 North Fifth Street
Harrisburg, PA 17101-1905**

- (f) If the appeal and request for an administrative hearing is not received by the Board within the thirty (30) day period, the Member and/or Municipality will no longer have the right to administratively appeal the denial of its request to the Board.

Section 13.6 Plan Withdrawal

- (a) Withdrawal.-- The Municipality may, for good cause, file an application with the Board for permission to withdraw from the system if it meets all of the following requirements:
 - (i) The Municipality has been enrolled in the System for a period of at least five years.
 - (ii) The Municipality has met all of its financial obligations to the System.
 - (iii) The Municipality has passed an ordinance signifying its intention to withdraw from the System.
 - (iv) The Municipality has certified to the Board that an affirmative vote approving withdrawal from the System had been obtained from at least seventy-five per cent of all Active Members, Inactive Members, Vested Members, Annuitants, and Survivor Annuitants.
 - (v) The Municipality has acknowledged its responsibility to assume and provide for all future benefit payments to the existing Active Members, Inactive Members, Vested Members, Annuitants, Survivor Annuitants, and their Beneficiaries effective upon the withdrawal.

Section 13.8 Filings with the Board

- (a) Receipt.--Any filing, election or notice required to be made under this Contract or the PMRL by a Member must be made by written statement, duly attested, and filed in the office of the Board or deposited in the United States mail, addressed to the Board.
- (b) Timeliness.-- Subject to any exceptions provided for in the PMRL, the timeliness of any filing, election or notice required to be made under this Contract or the PMRL to the Board by a Member shall be governed by the actual receipt of the filing, election or notice rather than the date of mailing.
- (c) Municipal Certifications. --
 - (i) In the event the System receives an application for a benefit from a Member in which certification by the Municipality with regard to the data used to calculate such benefit is needed but such certification has not been made by the Municipality, the System shall issue a formal demand to the Municipality for such certification of the necessary data.
 - (ii) Any certification required to be made by the Municipality with regard to any application for benefits by a Member under this Contract shall be made by the Municipality within forty-five (45) days following the date of the System's formal demand.
 - (iii) Failure of the Municipality to provide such requested certification within the forty-five (45) day period shall result in the System utilizing the most current reliable data maintained by the System for the Member.

Section 13.9 Effective Date

This Contract shall be effective the first day of October, 2012.

Section 13.10 Entire Agreement

Except as hereinabove expressly provided, this Contract supersedes all prior contracts and undertakings, written or oral, between the same parties concerning the same subject matter.


Section 13.11 Applicable Law


This Contract shall be governed by and interpreted and enforced in accordance with the PMRL and, as applicable, Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. §895.101 et seq., as they shall, from time to time, be amended.

IN WITNESS WHEREOF, we have hereunto set our hands and seal the day, month and year as written below.

ATTEST:

BLACK CREEK TOWNSHIP,
LUZERNE COUNTY

BY:  9/11/12
Secretary Date

BY: 
Chairman Date

ATTEST:

PENNSYLVANIA MUNICIPAL
RETIREMENT BOARD

BY: _____
Secretary Date

BY: _____
Chairman Date

Approved as to form and legality:

BY: 49-K-100
Office of Attorney General

BY: 49-K-100
Office of General Counsel

BY: _____
Chief Counsel of the Board

Part 6

Municipal Retirement System

§601. Enrollment & Purpose in Pennsylvania Municipal Retirement Law. Black Creek Township hereby elects to enroll its municipal employees in the Pennsylvania Municipal Retirement System, established by the Pennsylvania Municipal Retirement Law, Act 15 of 1974, as amended, with the express purpose of having the Pennsylvania Municipal Retirement System administrator the pension plan established by the Township for the municipal employees. Black Creek Township does hereby agree to be bound by all the requirements and provisions of said Article and the Law, as the case may be, and to assume all obligations, financial and otherwise, placed upon member municipalities by said Amendment, as the case may be. All references hereafter shall be based on benefits negotiated between the Board and the municipality under the provisions of Article IV.

§602. Membership. Membership in the Pennsylvania Municipal Retirement System shall be mandatory for all permanent, municipal employees of the Township. Membership for elected officials and employees hired on a temporary or seasonal basis is prohibited, as is membership for individuals paid only on a fee basis.

§603. Credits & Accrual. Credit for service toward the annuity of each original member shall begin to accrue upon the effective date of the agreement between the Township and the Pennsylvania Municipal Retirement System. For purposes of determining credited service for vesting only, the original member's date of hire shall be the initial point from which to calculate credited service.

§604. Required Payments by Township. Payment for any obligation established by the adoption of this Ordinance and the agreement between the System and Black Creek Township shall be made by the Township in accordance with the Pennsylvania Municipal Retirement law and Act 205 of 1984, the Municipal Pension Plan Funding Standard and Recovery Act.

§605. Agreement & Obligation. As part of this Ordinance, the Township agrees that the System shall provide the benefits set forth in the agreement between the Board and Black Creek Township, dated November 5, 2003. The passage and adoption of this ordinance by Black Creek Township is an official acceptance of said agreement and the financial obligations resulting from the administration of said benefit package. Black Creek Township hereby assumes all liability for any unfundedness created due to the acceptance of the benefit structure outlined in the above-referenced agreement.

§606. Complete Authorization & Repeal. Black Creek Township intends this Ordinance to be the complete authorization of the Township's municipal pension plan and, therefore, specifically repeals all previous agreements and ordinances to the contrary.

§607. Filing of Copies & Effective Dates. A duly certified copy of this ordinance and the referenced agreement having been filed with the Pennsylvania Municipal Retirement System of the Commonwealth of Pennsylvania. Membership for the municipal employees

of Black Creek Township in the Pennsylvania Municipal retirement System shall be effective the first day of July, 1991, with the revised plan structure reflected in the agreement dated December 8, 1992, effective the first day of January, 1993. (Ord. No. 2-1992, 12/08/92).

**BLACK CREEK TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1 OF 2015

**ORDINANCE AUTHORIZING THE PARTICIPATION OF BLACK CREEK
TOWNSHIP IN THE PSATS UNEMPLOYMENT COMPENSATION GROUP TRUST
PURSUANT TO THE PENNSYLVANIA INTERGOVERNMENTAL COOPERATION
LAW**

WHEREAS, the PSATS Unemployment Compensation Group Trust, originally established in 1980, exists as an intergovernmental cooperative arrangement of municipalities to provide townships and certain other permitted governmental employers of Pennsylvania with a vehicle to pool resources and jointly leverage buying power to develop and maintain unemployment compensation insurance coverage; and

WHEREAS, the governing Declaration and Agreement of Trust for the Trust has been comprehensively updated, amended and restated effective July 16, 2014 (hereinafter "Restated Trust Agreement"); and

WHEREAS, pursuant to the Restated Trust Agreement any municipality wishing to commence participation in the Trust, or continue participation in the Trust after July 16, 2014, is required to take formal action in the form of an enacted ordinance in which the municipality agrees to participate in the Trust in accordance with the amended and updated terms of the Restated Trust Agreement; and

WHEREAS, Black Creek ("the Township") has determined that it is in the best interest of the Township to participate in the Trust in accordance with the terms of the Restated Trust Agreement and to agree to and join in such Restated Trust Agreement; and

WHEREAS, pursuant to the Pennsylvania Intergovernmental Cooperation Law, 52 Pa. C.S.A. §2301 et seq., a municipality may enter into an intergovernmental cooperative agreement upon the passage of an ordinance by its governing body.

The Board of Supervisors of Black Creek Township, Luzerne County, Pennsylvania does hereby **ENACT** and **ORDAIN**:

Section 1. That the Chairman of the Board of Supervisors and Secretary of the Township are hereby authorized to adopt the Restated Trust Agreement and any other agreements necessary for the Township's participation in the Trust.

The Restated Trust Agreement is on file for inspection and review at the Township's offices at 1330 Park Street, Rock Glen, Pennsylvania, 18246. The Restated Trust Agreement may be subsequently modified or amended in accordance with its terms, but in no event shall such modifications or amendments divert any of the trust funds from the purposes of the Trust. The Township may withdraw from the Trust in accordance with the Restated Trust Agreement,

including if the Board of Supervisors determines the modifications or amendments are not in the best interest of the Township.

Section 2. That the participation of the Township in the Trust is authorized for the purpose of pooling resources for the purpose of providing unemployment compensation insurance for Participating Employers at reasonable cost.

Section 3. That, as set forth in greater detail in the Restated Trust Agreement and as otherwise stated herein, the following conditions apply to the participation of the Township in the Trust:

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

Section 4. That the Township agrees to participate in the Trust and may withdraw for any reason and in accordance with the Restated Trust Agreement provided that it has fulfilled all its financial obligations to the Trust upon withdrawal.

Section 5. That the effective date of the Township's agreement to and joinder in the Restated Trust Agreement and the participation of the Township in the Trust pursuant to the terms of the Restated Trust Agreement will be January 5, 2014.

Section 6. That each Participating Employer delegates to the Board of Trustees the powers enumerated in the Restated Trust Agreement.

Section 7. That the organizational structure of the Trust shall consist of a Board of Trustees. Under the Restated Trust Agreement, the Board of Trustees is authorized to, among other things, enter into contracts with third parties to perform various services necessary for the administration of the Trust.

Section 8. That the funds required for the operation of the Trust shall be provided by the Participating Employers through scheduled appropriations as determined by the Board of Trustees.

Section 9. That the Trust is empowered to enter into contracts for policies of group insurance and employee benefits, including Social Security, for employees of the Trust, if any.

Section 10. That as a condition of participating in the Trust, the Township agrees to comply with all of the terms and conditions in the Restated Trust Agreement.

Section 11. That the Secretary of the Township shall provide a certified copy of this Ordinance upon its enactment to the Board of Trustees of the Trust.

Section 12. The Board of Supervisors of the Township is hereby authorized to take any and all such other actions as may be necessary or appropriate to carry out the purposes of this Ordinance and comply with the requirements of the attached Restated Trust Agreement and any duly adopted amendments thereto.

Section 13. The duration of the term of the Township's participation in the Trust and obligations under the Restated Trust Agreement shall continue until withdrawal from the Trust by the Township in accordance with the terms of the Restated Trust Agreement.

Section 14. The Board of Supervisors hereby specifically finds and determines as follows:

1. The conditions of the intergovernmental cooperative agreement are set forth in the Restated Trust Agreement incorporated by reference herein.

2. The Township shall participate in the Trust in accordance with the Restated Trust Agreement until it withdraws by giving notice to the Board of Trustees in accordance with the terms of the Restated Trust Agreement.

3. The purpose and objectives of the intergovernmental cooperative arrangement, including powers and scope of authority delegated to the Board of Trustees, are set forth in the incorporated Restated Trust Agreement.

4. The manner and extent of financing of the agreement are that (i) funds to implement the Township's obligations under the agreement shall come from the normal and usual budgeted amounts for Township employee compensation and employee benefits and (ii) no borrowing is anticipated to be required.

5. The Trust shall be managed by the Board of Trustees pursuant to the terms of the Restated Trust Agreement.

6. All assets and property, real or personal, of the Trust shall be titled to, acquired, managed, licensed or disposed of by the Trust, and its Board of Trustees, in accordance with the terms of the Restated Trust Agreement.

7. The Trust in accordance with the Restated Trust Agreement shall be empowered to enter into contracts for policies of group insurance and employee welfare benefits to be offered to Participating Employers for their eligible employee and dependents.

Section 15. The provisions of this Ordinance are severable and in the event that any provision is held invalid, void, illegal, or unconstitutional by any court, it is the intent of the Governing Body that such determination by the Court shall not affect or render void the remaining provisions of this Ordinance. It is the declared intent of the Governing Body that this

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

Section 16. Nothing in this Ordinance shall be interpreted to affect any rights or liabilities of the Township, or to affect any cause of action, existing prior to the enactment of this Ordinance.

Section 17. This Ordinance shall become effective immediately upon its enactment.

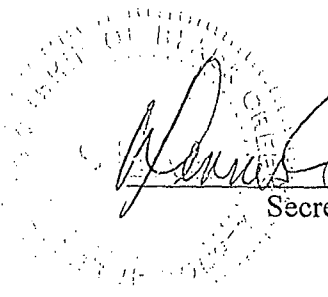
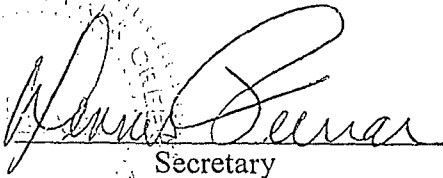
This Ordinance is being enacted pursuant to the provisions of the Pennsylvania Intergovernmental Cooperation Law, Act of July 12, 1972, No. 180, as amended, 53 Pa.C.S. §§2301, et seq.

ENACTED and ORDAINED this 5th day of January, 2015.


BOARD OF SUPERVISORS OF
BLACK CREEK TOWNSHIP


Chairman

ATTEST:



Secretary


Vice Chairman


Supervisor

BLACK CREEK TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA

ORDINANCE NO. 2-2015

ORDINANCE AUTHORIZING THE PARTICIPATION OF BLACK CREEK
TOWNSHIP IN THE PENNSYLVANIA TOWNSHIPS HEALTH INSURANCE
COOPERATIVE TRUST PURSUANT TO THE PENNSYLVANIA
INTERGOVERNMENTAL COOPERATION LAW

WHEREAS, the Pennsylvania Townships Health Insurance Cooperative Trust ("Trust"), formerly known as the "Board of Trustees Insurance Fund," as referred to in the authorizing statute for the Pennsylvania State Association of Township Supervisors, 53 P.S. § 66406(j)(2), or, more commonly, the "Trustees Insurance Fund," originally established in 1966, exists as an intergovernmental cooperative arrangement of municipalities to provide townships and certain other permitted governmental employers in Pennsylvania with a vehicle to pool resources and jointly leverage buying power to develop, administer, and make available cost-effective medical, prescription, dental, life, disability and/or other employee welfare benefit insurance or self-insured programs for their employees; and

WHEREAS, the governing Declaration and Agreement of Trust for the Trust has been comprehensively updated, amended and restated effective October 15, 2014 (hereinafter "Restated Trust Agreement"); and

WHEREAS, pursuant to the Restated Trust Agreement any municipality wishing to commence participation in the Trust, or continue participation in the Trust after October 15, 2014, is required to take formal action in the form of an enacted ordinance in which the municipality agrees to participate in the Trust in accordance with the amended and updated terms of the Restated Trust Agreement; and

WHEREAS, Black Creek Township ("the Township") has determined that it is in the best interest of the Township to participate in the Trust in accordance with the terms of the Restated Trust Agreement and to agree to and join in such Restated Trust Agreement; and

WHEREAS, pursuant to the Pennsylvania Intergovernmental Cooperation Law, 53 Pa. C.S.A. § 2301 et seq., a municipality may enter into an intergovernmental cooperative agreement upon the passage of an ordinance by its governing body.

The Board of Supervisors of Black Creek Township, Luzerne County, Pennsylvania does hereby **ENACT** and **ORDAIN**:

Section 1. That the Board of Supervisors of Black Creek Township adopts the Restated Trust Agreement and agrees to participate in the Trust in accordance with the amended and updated terms of the Restated Trust Agreement and that the Chairman of the Board of Supervisors and Secretary of the Township are hereby authorized to sign the Restated Trust Agreement and any other agreements necessary for the Township's participation in the Trust.

The Restated Trust Agreement is on file for inspection and review at the Township's offices at 1330 Park Street, PO Box 3, Rock Glen, Pennsylvania, 18246. The Restated Trust Agreement may be subsequently modified or amended in accordance with its terms, but in no event shall such modifications or amendments divert any of the trust funds from the purposes of the Trust. The Township may withdraw from the Trust in accordance with the Restated Trust Agreement, including if the Board of Supervisors of Black Creek Township determines the modifications or amendments are not in the best interests of the Township.

Section 2. That the participation of the Township in the Trust is authorized for the purpose of obtaining high quality, cost-effective medical, prescription, dental, life, disability, vision and/or other employee welfare benefit insurance at a reasonable cost to the Township and its employees.

Section 3. That, as set forth in greater detail in the Restated Trust Agreement and as otherwise stated herein, the following conditions apply to the participation of the Township in the Trust:

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

Section 4. That the Township agrees to participate in the Trust and may withdraw for any reason and in accordance with the Restated Trust Agreement provided that it has fulfilled all its financial obligations to the Trust upon withdrawal.

Section 5. That the effective date of the Township's agreement to and joinder in the Restated Trust Agreement and the participation of the Township in the Trust pursuant to the terms of the Restated Trust Agreement will be March 8, 2015.

Section 6. That each Participating Employer delegates to the Board of Trustees the powers enumerated in the Restated Trust Agreement.

Section 7. That the organizational structure of the Trust shall consist of a Board of Trustees. Under the Restated Trust Agreement, the Board of Trustees is authorized to, among other things, enter into contracts with third parties to perform various services necessary for the administration of the Trust.

Section 8. That the funds required for the operation of the Trust shall be provided by the Participating Employers through scheduled appropriations as determined by the Board of Trustees.

Section 9. That the Trust is empowered to enter into contracts for policies of group insurance and employee benefits, including Social Security, for employees of the Trust, if any.

Section 10. That as a condition of participating in the Trust, the Township agrees to comply with all of the terms and conditions in the Restated Trust Agreement.

Section 11. That the Secretary of the Township shall provide a certified copy of this Ordinance upon its enactment to the Board of Trustees of the Trust.

Section 12. The Board of Supervisors of the Township is hereby authorized to take any and all such other actions as may be necessary or appropriate to carry out the purposes of this Ordinance and comply with the requirements of the Restated Trust Agreement and any duly adopted amendments thereto.

Section 13. The duration of the term of the Township's participation in the Trust and obligations under the Restated Trust Agreement shall continue until withdrawal from the Trust by the Township in accordance with the terms of the Restated Trust Agreement.

Section 14. The Board of Supervisors of Black Creek Township hereby specifically finds and determines as follows:

1. The conditions of the intergovernmental cooperative agreement are set forth in the Restated Trust Agreement incorporated by reference herein.
2. The Township shall participate in the Trust in accordance with the Restated Trust Agreement until it withdraws by giving notice to the Board of Trustees at least ninety (90) days in advance to become effective on either June 30 or December 31 of a given Plan year; or in the case of an initial year of participation in the Trust shall participate for a minimum of one (1) year.
3. The purpose and objectives of the intergovernmental cooperative arrangement, including powers and scope of authority delegated to the Board of Trustees, are set forth in the incorporated Restated Trust Agreement.
4. The manner and extent of financing of the Restated Trust Agreement are that (i) funds to implement the Township's obligations under the Restated Trust Agreement shall come from the normal and usual budgeted amounts for Township employee compensation and employee benefits and (ii) no borrowing is anticipated to be required.
5. The Trust shall be managed by the Board of Trustees pursuant to the terms of the Restated Trust Agreement.
6. All assets and property, real or personal, of the Trust shall be titled to, acquired, managed, licensed or disposed of by the Trust, and its Board of Trustees, in accordance with the terms of the Restated Trust Agreement.

7. The Trust, in accordance with the Restated Trust Agreement, shall be empowered to enter into contracts for policies of group insurance and employee welfare benefits to be offered to Participating Employers for their eligible employee and dependents.

Section 15. The provisions of this Ordinance are severable and in the event that any provision is held invalid, void, illegal, or unconstitutional by any court, it is the intent of the Board of Supervisors of Black Creek Township that such determination by the court shall not affect or render void the remaining provisions of this Ordinance. It is the declared intent of the Board of Supervisors of Black Creek Township that this Ordinance would have been enacted if any provision subsequently declared to be void, invalid, illegal or unconstitutional had not been included at the time of enactment.

Section 16. Nothing in this Ordinance shall be interpreted to affect any rights or liabilities of the Township, or to affect any cause of action, existing prior to the enactment of this Ordinance.

Section 17. This Ordinance shall take effect five (5) days from the date of adoption.

This Ordinance is being enacted pursuant to the provisions of the Pennsylvania Intergovernmental Cooperation Law, Act of July 12, 1972, No. 180, as amended, 53 Pa.C.S. §§ 2301, et seq.

ENACTED and ORDAINED this 3rd day of March, 2015.

BOARD OF SUPERVISORS OF
BLACK CREEK TOWNSHIP

Bonnie Adams Chairperson

Dennis Deenar Secretary

Samuel R. R. R.

ATTEST:
Dennis Deenar
Secretary/Treasurer

CHAPTER 2

BUILDINGS AND STRUCTURES

Part 1

Numbering of Buildings

- §101. Purpose
- §102. Administration
- §103. Guidelines for the Naming of Streets
- §104. Establishment of Street Address (House) Numbers
- §105. Size and Location of Street Address Numbers
- §106. Enforcement

Part 2

Dangerous Structures

- §201. Definitions
- §202. Dangerous Structures Declared Nuisances
- §203. Standards for Repair, Vacation, or Demolition
- §204. Duties of Code Enforcement Officer
- §205. Hearings
- §206. Removal of Notice Prohibited
- §207. Emergency Cases
- §208. Abatement by Borough
- §209. Penalties

Part 3

ECHO Houses

- §301. Statement of Intent
- §302. Purposes
- §303. Permit Requirements
- §304. Application Procedures

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BLACK CREEK TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA

ORDINANCE NO. 1 of 2/6/2020

AN ORDINANCE OF BLACK CREEK TOWNSHIP, LUZERNE COUNTY,
PENNSYLVANIA, ABOLISHING THE PLANNING COMMITTEE AND
ESTABLISHING A PLANNING COMMISSION AND AMENDING THE BLACK
CREEK TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE.

WHEREAS, the Board of Supervisor of Black Creek Township have concluded that planning and development in the Township can best be served by abolishing the Planning Committee and establishing a Planning Commission;

WHEREAS, under the provisions of the Pennsylvania Municipalities Planning Code, Article II, Section 201, the Supervisors have the power to abolish, by ordinance, the Planning Committee- of the Township and to assign the powers and duties set forth in the Municipalities Planning Code to a Planning Commission comprised of members appointed by the Township Supervisors; and

NOW, THEREFORE, it is hereby enacted and ordained by the Black Creek Township Board of Supervisors as follows:

Chapter I, Part I, Section 101, entitled "Planning Committee" of the Black Creek Township Code of Ordinances is hereby abolished and repealed and a new Chapter I, Part 1, Section 101, entitled "Planning Commission" is established that reads as follows:

§101. - Planning Commission. In lieu of a Planning Committee, the Board of Supervisors elect to assign the powers and cities conferred by the Pennsylvania Municipalities Planning Code upon a Planning Commission comprised of three (3) members appointed by the Board of Supervisors. Each member of the Commission shall serve for terms of four (4) years with the initial Commission members serving staggered terms of two, three and four years so that no two members of the Commission are reappointed or replaced in the same calendar year. All members of the Commission shall reside within the Township and serve without pay, although they may be reimbursed for necessary expenses incurred in performance of their duties as Commission Members. At least two of the members shall be-citizen members. An appointment to fill a vacancy shall be only for the unexpired portion of the term.

Chapter 14, entitled "Black Creek Township Subdivision and Land Development Ordinance" adopted January 3, 2011, as amended, is hereby further amended so that any reference to Planning Committee is hereby replaced with Planning Commission".



AS TO BOTH AMENDMENTS:

Severability. The provisions of this Ordinance are severable. If any provision of this Ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications.

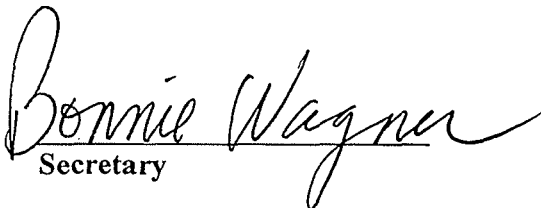
Repealer. Any and all other ordinances, resolutions or parts thereof inconsistent herewith are expressly repealed by the adoption of this Ordinance. The remaining sections of the Code of Ordinances shall remain the same unchanged, except as otherwise amended herein.


Effective Date. These Ordinances shall take effect immediately upon its adoption.

ENACTED and ORDAINED this 6 day of February, 2020.

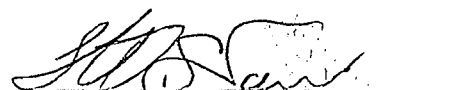
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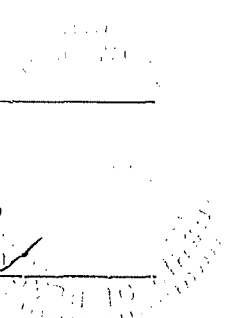
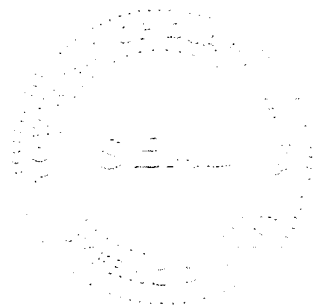
BOARD OF SUPERVISORS OF
BLACK CREEK TOWNSHIP


Secretary


Chairperson

Vice-Chairperson


Secretary/Treasurer



CHAPTER 2

BUILDINGS AND STRUCTURES

Part 1

Numbering of Buildings

§101. Purpose. The purpose of this ordinance is to better enhance the Luzerne County E911 System and to provide for a uniform township-wide addressing system with respect to naming of streets and roadways; fabrication, erection and maintenance of street name signs; and assigning street or house numbers to all residences, including gated communities, principal buildings and businesses to assist fire, rescue, ambulance companies, law enforcement agencies, the Postal Service, and the public in the timely and efficient provision of services to residents and businesses of Black Creek Township.

§102. Administration. The Board of Supervisors is hereby responsible for the administration, implementation and enforcement of this ordinance.

The Supervisors shall establish street names as chosen by the Municipality, or land developer or landowner and street or house numbers in accordance with the guidelines established herein.

During the conduct of addressing operations within the Township, the Board of Supervisors or their agents or contractors including the Township Planning Commission as may be duly appointed by them, shall be authorized to enter upon, travel, measure, photograph and inspect all roadways and private driveways, including gated communities, and to visit all structures within the Township for the purpose of determining, assigning, and notifying the inhabitants thereof of such assigned addresses.

The Supervisors or the agents designated by the Supervisors are hereby directed to limit their visit to private properties to exterior views and are prohibited from entering into private residences or structures, except at the request of the property owner or resident or by advance appointment.

§103. Guidelines for the Naming of Streets.

1. **Street Naming.** A Street or roadway shall be named if the street or roadway is found by the agent to meet one or more of the following conditions:
 - a. If the roadway is greater than one thousand feet (1,000') in length from the intersection of another roadway to a termination point.
 - b. If two or more habitable structures or business-related buildings or otherwise habitable structures are found or proposed to be constructed along same roadway.

2. **Choice of Names.** Street or roadway names should be in pleasant sounding, appropriate, and easy to read and pronounce. The use of similar sounding names shall be avoided. Historical names of roadways should be retained where possible. All street names should tend to promote the heritage, history and traditions of the Township and reflect its geography and character.
3. **Duplication of Street Names.** Duplication of street names, regardless of the particular suffix, shall be prohibited within the Township or postal zip code area. Duplication of street names, regardless of the particular suffix, shall be avoided within an emergency service area. The term duplication shall include "sound-a-like" names, such as Beech Street and Beach Street. The Township or its agent shall keep an updated list of street names in the Township Office so that new street names will not duplicate existing names.
4. **Continuous Roads.** Continuous roads shall bear the same name throughout the Township where practical. Street and roadway name changes shall occur at street intersections and/or municipal boundary lines only.
5. **Generic Classes of Roads for Street Name Suffixes.** The following generic street suffixes and abbreviations are noted for providing a guide for name designation. Street designator abbreviations as listed below shall conform to standards and guidelines established by the U.S. Postal Service to facilitate standardization of addressing.

Other suffixes not listed above may be considered or variations from the above may be allowed at the discretion of the Township or its agent, providing they meet the USPS Guidelines, Luzerne County 9-1-1 guidelines and other requirements:

§104. Establishment of Street Address (House) Numbers. The Township or its agent shall establish street address numbers in accordance with the guidelines established herein.

1. **Assignment of Street Address (House) Numbers.** All street addresses shall be assigned by the agent. New addresses shall be assigned by the agent before final subdivision plan approval is granted. The Township or its agent shall then notify the property owner, developer or sub-divider of the address as assigned. No residential, commercial or industrial subdivision or land development shall be recorded unless it has been assigned street numbers and a street name approved by the agent.
2. **Numbering.** The Township or its agent shall undertake a systematic numbering program for streets within the Township in accordance with the following determinations.
3. **Numbering Convention.** The Township or its agent shall, for the purpose of assigning address numbers (house numbers), use the basic house numbering system known as the equal interval addressing system, also known as the uniform measurement system, century system, or benchmark system. This convention is

based upon creating an address from road distance or road frontage. An address is derived by measuring the distance along a road and dividing that distance by some equal interval to determine the address for a structure. In an equal interval system, the interval unit shall be small enough to provide an address to each building even in the most congested or areas.

4. **Odd and Even Numbering Convention.** A convention of odd and even numbering shall be adopted and adhered to by the agent. A consistent pattern of odd and even numbering shall be established by the agent for addressing new streets. This shall be that odd numbers shall be applied to one side of the street and even numbers to the opposite side of the street. Existing street numbering in an adjacent area should dictate which side the numbering is applied to.
5. **Point of Origin.** A point of origin for street numbering shall be established by the agent for dead end type streets, considering the possible future development or future lengthening of a street. These streets shall have the street numbers commence at the intersection with another street and progress toward the dead end.
6. **City Block Numbering.** In cases where city block numbering systems exist, and such street system is developed and expanded, the new house numbering system shall replicate said block numbering system as close and as efficiently as possible.
7. **Notification.** The affected property owner or current occupant shall be notified in writing of any address change. The property owner and/or occupant shall be responsible for notifying the utility companies and other interested parties of any address change or new address. If a property owner or occupant fails to receive, misplaces or for any other reason is unaware of the address number, the property owner or occupant shall contact the Township Board of Supervisors or its agent and the Luzerne County Data and Mapping Department to obtain the correct address.
8. **Displaying Numbers.** Within ninety (90) days after the enactment of this ordinance, or within sixty (60) days after the receipt of written notification of change of address, the owner or occupant shall affix/display the assigned number as prescribed herein. Street address numbers shall be of a contrasting color to the background on which they are mounted and may be made of a reflective material so as to make them more visible.
9. **New Numbers.** It shall be the duty of such owner or occupant, upon affixing the new number, to remove any conflicting number. The cost of displaying the new number shall be the responsibility of the property owner. Numbers assigned to newly constructed buildings shall be displayed in accordance with the provisions of this ordinance.
10. **Maintenance of Numbers.** It shall be the responsibility of the owner to maintain the street address display in good condition.

§105. Size and Location of Street Address Numbers.

A. Residences.

1. Each residence shall prominently display its numbered address.
2. Street address numbers for residences shall not be less than three (3) inches in height and made of a durable and clearly visible material.
3. The numbers shall be conspicuously placed on, above, or at the side of the main entrance so that the number is distinguishable and legible from the street. Where the entrance of a residence is more than fifty (50) feet from the street, or when the residence is not clearly visible from the street, the number shall be placed along a walk, driveway, or another suitable location as near as conveniently possible to the street so that the number is distinguishable and legible from the street by day or night.

In either case described above, a second set of numbers must be placed on a mailbox or other suitable post, or mounted at the edge of the intersection of the driveway and street so that it is clearly visible.

B. Commercial and Industrial Structure.

1. All commercial and industrial structures shall display street address numbers of not less than four (4) inches in height.
2. When possible, the number shall be displayed over the main entrance to the structure.
3. There shall be no other wording or numbers within two (2) feet of the building number.

C. Apartments, Townhouses, Shopping Centers.

1. Apartments, townhouses, shopping centers or other similar groupings where only one number is assigned shall display such number at the main entranceway.
2. Said address numbers shall have a minimum height of four (4) inches.
3. Numbers for individual units or establishments within the complex shall be displayed on, above, or to the side of the main doorway of each unit or establishment.

D. Street Name Signs.

1. **General.** Metal street signs of standard design approved by the municipality for use on all streets shall be erected on metal or wooded poles, and posted at points designated by the agent or prescribed by current Department of Transportation codes. The cost of the signs, installation and maintenance thereof are not the responsibility of Black Creek Township.
2. **Department of Transportation Regulations.** New sign placement shall follow guidelines and safety regulations as set and described in Pa Title 67, PaDot Regulations and Pa Title 75, Pa Vehicle Code. It is not the intention of this ordinance to supersede, alter, or to enforce the above mentioned codes.
3. **Erection and Fee; Public Streets.** At the request of a developer, and upon receipt of a fee sufficient to cover the cost of materials and labor, as determined by the Township, the Township or its designee shall fabricate, erect and thereafter maintain street name signs at the intersections of new streets. In new subdivisions, all street names must be displayed on properly erected signs prior to final subdivision plan approval. Should street name signs be erected prior to new streets being accepted into the municipal road system, the developer shall be responsible for their maintenance until such time as the streets are accepted into the municipal road system. Prior to the Township accepting a new street for inclusion into the municipal road system, the Township shall first determine that all street name signs are in a state of good maintenance and accurately placed. Should any street name signs be missing or in need of repair, the developer shall pay the full cost of the replacement and/or repair thereof.
4. **Erection and Fee; Private Streets.** At the request of the majority of the owners of a private street, and upon receipt of a fee sufficient to cover the cost of materials and labor, as determined by the Township, the Township or its designee shall fabricate, erect and thereafter maintain street name signs at the intersection of a private and a public street.
5. **Description of Signs.** Street name signs bearing the approved names of public streets shall be installed at intersections and shall comply with specifications and requirements set forth in Title 67 of the Pennsylvania Regulations and Title 75 of Pennsylvania Vehicle Code, the state code of regulations otherwise followed by all Pennsylvania municipalities.
6. **Direction.** Street name signs shall be placed so that the name being displayed is parallel to the named street.
7. **Unapproved Street Name Signs.** The posting or use of a street name that has not been approved by the agent shall be prohibited, including ornamental signs that resemble street name signs.

§106. Enforcement. Whenever the Township Board of Supervisors or its agent has reason to believe there has been a violation of any provision of this ordinance, the agent, or the designee of the agent, or the municipality shall give notice to the person or party failing to comply and order said person or party to take corrective action or measures within thirty (30) days from the date of notification.

If such person or party fails to comply with the duly issued order, the Township or its agent, or the designee of the Township, shall initiate necessary actions to terminate the violation through criminal and/or civil measures.

In addition to any other remedy provided in this ordinance or by law, the Township may institute proceedings to restrain any violation of, or to require compliance with this ordinance.

§107. Penalties. Any violation of any provision of this ordinance shall constitute a summary offense, punishable by a maximum fine not to exceed \$25.00 plus court costs per offense, payable to the Township. Any penalty ordered hereunder may be collected as debts of like amount as provided by Pennsylvania Statutes. Failure of multiple property owners to resolve responsibility for erection of the sign(s) shall constitute a violation of this ordinance by all such owners, jointly and severally. Subsequent to the thirty (30) day period following a notification of violation, each month of violation shall constitute a separate violation.

§108. Effective Date. This ordinance shall become effective immediately upon its adoption.

EDITOR'S NOTE: This ordinance was included in the Code of Ordinances for adoption at the recommendation of the Luzerne County Commissioners, and the ordinance is modeled after the County E911 Property Addressing Ordinance No. 1 June 2009.

Part 2

Dangerous Structures

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

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

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

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

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

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

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

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

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

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

(9) Those which house unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that it is found to be a hazard to life,

health, property, or safety of the public or occupants of the premises or structure. Unsafe equipment may contribute to the finding that the structure is unsafe or unfit for human occupancy or use.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§204. Duties of Code Enforcement Officer.

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

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

- (1) Be in writing;
- (2) Include a statement of the reasons it is being issued;
- (3) State a reasonable time to rectify the conditions constituting the nuisance or to remove and demolish the dwelling, building, or structure;
- (4) Be served upon the owner, or the owner's agent, or the occupant(s), as the case may require.

(A) Except in emergency cases and where the owner, occupant, lessee, or mortgagee is absent from the Township, all notices shall be deemed to be properly served upon the owner, occupant or other person having an

interest in the dangerous building, if a copy thereof is served upon him or her personally, or if a copy thereof is posted in a conspicuous place in or about the structure affected by the notice; or if he is served with such notice by any other method authorized or required under the laws of the Commonwealth.

(B) Except in emergency cases, and in all other cases where the owner, occupant, lessee, or mortgagee is absent from the Township, all notices or orders provided for herein shall be sent by registered mail to the owner, occupant, and all other persons having an interest in said structure, as shown by the records of the County Recorder of Deeds, to the last known address of each, a copy of such notice shall be posted in conspicuous place on the dangerous structure to which it relates. Such mailing and posting shall be deemed adequate service.

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

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

§205. Hearings.

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

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

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

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

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

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

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

Part 3

ECHO Houses

§301. Statement of Intent. This Ordinance authorizes, upon issuance of a special permit, the temporary installation of small removable homes, to be known as Elder Cottage Housing Opportunity units (hereinafter referred to as ECHO Units), on the same lots with existing single-family homes.

§302. Purposes. The Purpose of this Ordinance is:

1. To permit adult children to provide small temporary residences for their aging parents who are in need of support, while maintaining as much of the independence of the two generations as possible.
2. To permit families to provide security and support for non-elderly relatives with serious health problems or physical or developmental disabilities;
3. To reduce the degree to which frail elderly homeowners have to choose between increasing isolation in their own homes and institutionalization in nursing homes;
4. To develop housing types that are appropriate for households at a variety of stages in the life cycle; and
5. To permit ECHO housing in a manner that will protect property values by insuring that the units are compatible with the neighborhood and are easily removed.

§303. Permit Requirements. A permit shall be issued for a temporary ECHO unit to lot owners of record, provided the following requirements are satisfied:

A. A site plan will be presented to the Zoning Officer which sets forth a minimum floor area of 280 square feet for one occupant and 400 square feet for two occupants for each ECHO Unit. Said unit will not exceed a floor area of 280 square feet nor a height of 16 feet. All ECHO units shall be one story only. Only one ECHO Unit may be placed on each lot.

B. An ECHO unit shall only be placed upon a lot that is conforming to the requirements of its respective zoning district.

C. The placing of the ECHO unit shall be in conformity with the maximum lot coverage for building and for total impervious cover for the respective district. The total areas of all buildings including the ECHO Unit, the main house and all other outbuildings shall be used to determine lot coverage capacity for the respective zoning district.

D. The ECHO Unit must be located within the legal yard setbacks required by the Zoning Ordinance for the respective zoning district. No ECHO unit shall be placed in any front yard. The ECHO unit shall be located so as to allow clear access to equipment to place and remove it. Its location shall address aesthetic and community character concerns, especially those of adjoining neighbors.

E. Adequate parking shall be provided for any ECHO unit vehicles. The number of spaces that are required will be determined by the Zoning Officer.

F. Access must be provided to the unit separate from that of the primary residence. Walkways from parking areas and the principal residence to the ECHO unit shall be suitable for wheelchair and stretcher access, as determined by the Zoning Officer. The ECHO unit shall be suitable for wheelchair and stretcher access, as determined by the Zoning Officer. The ECHO unit shall be planned for future installation of a wheelchair ramp.

G. Safety and Security

1. It is recommended that all ECHO units, which are "manufactured/modular" or "stick-built" follow the "Recommended Construction and Installation Standards" published by the American Association of Retired Persons.
2. All ECHO Units shall have at least two exit doors.
3. The applicant shall certify that each ECHO unit shall at a minimum meet the requirements of Subpart C-Fire Safety, department of HUD's "Manufactured Home Construction Safety Standards", 24 CFR Part 3280, or the state wide building code.

H. Water and Sewage

1. Adequate sewage disposal and potable water supply must be provided by utilization of the existing facilities servicing the principal residence or installation of separate systems. If existing on-lot facilities are to be used, the applicant shall certify that they will be adequate for both dwellings.
2. If the owner has not cleaned the septic tank within the previous 24 months, he shall do so before an Occupancy Permit is issued.

I. Occupancy

1. The record owner(s) of the principal residence and lot must live in one of the dwelling units on this lot.

2. At least one occupant of the principal residence and at least one occupant of the ECHO unit must be related by blood, marriage or adoption.
3. In no case shall there be more than two occupants to an ECHO unit.
4. At least one occupant of the ECHO unit must be over 62, or unable to live independently because of mental or physical illness or disability. A certified statement shall provide confirmation of mental or physical illness or disability by a licensed, practicing physician.

J. Removability

1. The ECHO unit's foundation should be of easily removable materials so that the lot may be restored to its original use after removal, with as little expense as possible.
2. No permanent fencing, walls, or other structures shall be installed that will hinder removal of the ECHO unit.
3. In the event there is a sewage failure and there is no repair within 30 days after notice by the township, the use of the ECHO unit will be discontinued immediately until corrected and the Township may revoke said permit and proceed with removal without any liability

§304. Application Procedures.

A. Submission of application: Property owner(s) who want to install an ECHO unit on the same lot with their principal residence must submit a written application with an attached sketch plan to the Zoning Officer which addresses the requirements for issuance of a special permit and includes the following information with adequate proof thereof.

1. The names and address of all owners of record and proposed occupants of the ECHO unit.
2. The relationship of the proposed occupant(s) to owner(s) and an agreement that occupant(s) will meet the eligibility standards of Section II.I of this Ordinance.
3. A Sketch Plan of the lot shall be drawn to scale and shall show:
 - a. The location and dimensions of all structures;
 - b. The location of parking for all vehicles.

- c. The square footage of the ECHO unit and principal residence;
 - d. The location of on-lot water and sewage systems;
 - e. The tax map parcel number.
 - f. The property description of the lot, including total acreage.
4. The floor plan for ECHO unit (which may be the manufacturer's or builder's plan).
- B. Agreement to Special conditions: Also included in the application will be a notarized written agreement by the property owner(s);
- 1. To adhere to the terms and conditions of the Sugarloaf Township ECHO Housing Ordinance and any other conditions required by the Zoning Officer or the Board of Supervisors and to execute any and all documents that may be required to ensure that the intent and policy of this Ordinance is fulfilled.
 - 2. To renew the special permit, if granted on an annual basis until the ECHO unit is no longer a legally permitted use, the owner(s) will be responsible for its removal from the lot and for restoration of the property to its original condition within six months.
 - 3. To acknowledge that when the ECHO unit is no longer a legally permitted use, the owner(s) will be responsible for its removal from the lot and for restoration of the property to its original condition within six months.
 - 4. The floor plan for ECHO unit (which may be the manufacturer's or builder's plan).
- B. Agreement to Special Conditions: Also included in the application will be a notarized written agreement by the property owner(s);
- 1. To adhere to the terms and conditions of the Sugarloaf Township ECHO Housing Ordinance and any other conditions required by the Zoning Officer or the Board of Supervisors and to execute any and all documents that may be required to ensure that the terms and conditions imposed are fulfilled and that the intent and policy of this Ordinance is fulfilled.
 - 2. To renew the special permit, if granted, on an annual basis until the ECHO ordinance is removed.

3. To acknowledge that when the ECHO unit is no longer a legally permitted use, the owner(s) will be responsible for its removal from the lot and for restoration of the property to its original condition within six months.
 4. That if the owner(s) should not remove the Echo unit within six months after it is no longer a permitted use, the Township may remove the unit at the cost of owner(s) and charge the costs of removal as a lien against the property. The township may salvage the ECHO unit and sell it to defray the costs incurred.
 5. That original occupant(s) will remain in the ECHO unit and in the event there is any change in the occupant(s), then a new application will be submitted. (see following paragraph 6).
 6. To remove the ECHO unit from the premises upon the death of the occupant(s) for whom permitted, unless one occupant remains and the resident in the principal dwelling specifically requests from the Zoning Officer continuation of the permit; or upon a permanent change of residence, defined as absence from ECHO unit six months, of the said occupant or occupants. Removal shall be completed within six months of such event. The site shall be restored so that no visible evidence of the unit remains.
 7. That in the event of a sewage or water malfunction, the residents of the premises and record property owner(s) shall repair the same within thirty (30) days after notice by the township.
- C. Petition for Variance To the Zoning Hearing Board: Should the landowner(s) be unable to meet the conditions of the ECHO Housing Ordinance, and feel that a petition for an exception is justified, such petition may be made to the Zoning Hearing Board in accordance with normal procedures.
- D. Application Sequence:
1. Submission of application (See Sect. III-A-2 through 5)
 2. Agreement to Special Conditions (See Sect. III-B-1 through 7)
 3. Zoning Officer of Approval or (Disapproval) (Subject to Sewage Enforcement Officer Report).
 4. Board of Supervisors Approval (or Disapproval)
 5. Special Permit Issued. (Ord. No. 2-2001, 11/07/01)

ORDINANCE NO. 124 9/11/2018
BLACK CREEK TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA

The Black Creek Township Board of Supervisors do hereby amend the Black Creek Township Code of Ordinances to include Chapter 2, Park 4, as follows:

CHAPTER 2
BUILDINGS AND STRUCTURES

Part 4
Alumni Monument and Park

- §401. Definitions
- §402. Naming and Historical Significance
- §403. Rules and Regulations
- §404. Enforcement
- §405. Penalties
- §406. Severability
- §407. Repealer
- §408. Effective Date

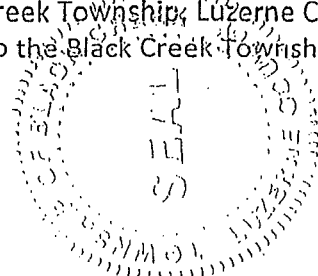
§401. Definitions. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

ALUMNI MONUMENT- means the Black Creek Township High School Alumni Monument located near the Black Creek Township Municipal Building, which monument is situated in the Black Creek Township Alumni Park.

BURNING- means the igniting of any material to cause flame, smoke, embers, ash or residue.

LITTER- means a person who throws, deposits, allows to fall, discharges or leaves in, or otherwise introduce into the Park waste, garbage, paper, bottles, refuse or rubbish or any substance, liquid, solid, gas, or other item.

PARK- means the area where the Black Creek Township High School Alumni Monument is located which area includes a patio, benches and other recreational structures and facilities, and also entrances and approaches thereto, and is more specifically described as including a strip of land measuring approximately 150 feet in width by one 100 feet in depth and located at the former Rock Glen High School, State Route 3020, Black Creek Township, Luzerne County, Pennsylvania, and currently used and leased as a memorial to the Black Creek Township High School Alumni.



PERSON- any natural person, corporation, society, organization, company, association, firm, partnership, or other entity.

SMOKING- means the act of emitting or exhaling smoke from a cigarette, cigar, pipe or any other lighted smoking device or vapor producing device. The term includes the use of (a) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and (b) Any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, cigar, pipe, or hookah.

STRUCTURE- means any man-made object having an ascertainable stationary location on land or water within a park.

TOWNSHIP- means Black Creek Township, Luzerne County, Pennsylvania.

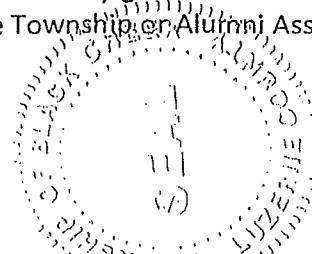
TOWNSHIP SUPERVISORS- means the elected officials of Black Creek Township, Luzerne County, Pennsylvania consisting of a Board of Supervisors.

UNREASONABLE NOISE- means any excessive or unusually loud sound that disturbs the peace, comfort or repose of a reasonable person of normal sensitivity or injures or endangers the health or safety of a reasonable person of normal sensitivity, or damage to property.

§402. Naming/Historical Significance. The Park and Alumni Monument shall be named and referred to as the "Black Creek Township High School Alumni Park" and is hereby registered with the Township as a local historical landmark.

§403. Rules and Regulations.

1. Hours of Operation. The Park shall be open daily to the public after sunrise and before sunset unless otherwise posted or permitted by the Township.
2. Destruction of Property. No person shall deface, remove, or damage any tree, plant, monument, building, structure, sign, fixture, or any other property located in the Park.
3. Littering. No person shall litter in the Park.
4. Burning or Fires Prohibited. No burning or fires shall be permitted in the Park.
5. Solicitation Prohibited. No person shall solicit or sell any goods or offer any services in the Park except with approval of the Township or Alumni Association.



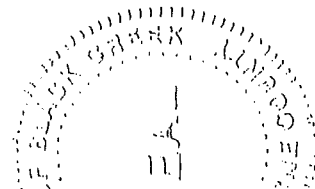
6. **Motor Vehicles Prohibited in Park.** No person shall drive, operate, stop, stand, or park any motor vehicle including a snowmobile, mini-bike, motorcycle, and recreational vehicle in the Park except in areas permitted or designated for such purpose by the Township.
7. **Drugs and Alcohol.** No person shall possess or consume while in the Park any alcoholic beverage or illegal drugs. No person entering a park shall be in an intoxicated state or otherwise under the influence of alcohol or illegal drugs.
8. **Curbing and Leashing of Pets.** Persons shall leash and clean-up after their pets while in the Park.
9. **Noise.** No person shall make, or cause or allow to be made, unreasonable noise in the Park so as to cause public inconvenience, annoyance or harm.
10. **Climbing Prohibited.** No person shall climb on the monument or any other building or structure in the Park.
11. **Smoking Prohibited.** No person shall engage in smoking in the Park except in areas designated by the Township.
12. **Accidents and Injuries.** Neither the Township nor the Alumni Association shall be liable for accident or injuries of anyone using the Park.

§404. Administration and Enforcement. A police officer or the Code Enforcement Officer shall be in charged of administering and enforcing this Part.

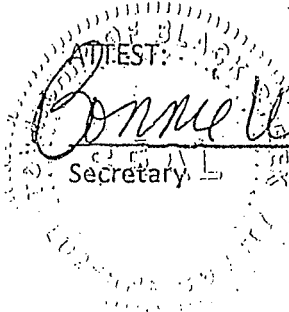
§405. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than one thousand (\$1,000.00) dollars plus costs and, in default of payment of any fine and costs, to a term of imprisonment not to exceed thirty (30) days.

§406. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Part is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate and distance and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

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



§408. Effective Date. This Part shall become effective immediately following its adoption.
Adopted this 11 day of September 2018, by the Black Creek Township Board of Supervisors.

ATTEST:

Bonnie Wagner
Secretary

BOARD OF SUPERVISORS OF
BLACK CREEK TOWNSHIP

Bonnie Adams
Chairperson

[Signature]
Vice-Chairperson

[Signature]
Secretary/Treasurer


11-11-18
(/)

PUBLIC NOTICE

The Black Creek Township Supervisors will hold a public hearing on Tuesday, September 11, 2018 at 2PM at the Municipal Building, 1980 Tomhicken Road, Rock Glen, PA 18246, for the purpose of considering an amendment to the Code of Ordinances to include Chapter 2, Buildings and Structures, Part 4, Alumni Monument and Park.

A copy of the proposed Ordinance is available for inspection at the Municipal Building and the Standard Speaker during normal business hours. The public hearing will be immediately followed by the regular meeting of the Supervisors at which time they intend to adopt the Ordinance.

**Donald G. Karpowich, Esquire
Black Creek Township Solicitor
85 Drasher Road
Drums, PA 18222**

Please publish the above ad in the September 4, 2018 edition of the Standard Speaker in the legal notices. PLEASE SEND PROOF OF PUBLICATION AND INVOICE TO:

Bonnie Wagner, Township Secretary
1980 Tomhicken Road
Rock Glen, PA 18246

ORDINANCE NO. 1 of 2022
BLACK CREEK TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA

The Black Creek Township Board of Supervisors do hereby amend the Black Creek Township Code of Ordinances to include Chapter 2, Part 5, as follows:

**CHAPTER2
BUILDINGS AND STRUCTURES**

**Part 5
Parks and Recreation Regulations**

- §501. Applicability
- §502. Definitions
- §503. Recreation Committee
- §504. Rules and Regulations
- §505. Penalties
- §506. Habitual Violators Prohibited
- §507. Enforcement of Park Rules and Regulations
- §508. Severability
- §509. Repealer
- §510. Effective Date

§501. Applicability. This Ordinance shall apply to the public parks in Black Creek Township commonly known as Rock Glen Park. This Part will not apply to Black Creek Township Alumni Park which is governed by Part 4 of this Chapter.

§502. Definitions. The following words, when used in this Ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates otherwise:

Township - means Black Creek Township, Luzerne County, Pennsylvania.

Township Supervisors - means the elected officials of Black Creek Township, Luzerne County, Pennsylvania.

Motor Vehicle-means a vehicle which is self-propelled including a motor cycle, truck, passenger vehicle, snowmobile, mini-bike, motorcycle, and recreational vehicle electric except for a personal assistive mobility device used by a person with a disability.

Park Rules and Regulations- means those rules and regulations set forth under Section 504, below, including subsections (A) through (S).

Parks- means the public parks in Black Creek Township commonly known as Rock Glen Park

Person— means any natural person, individual, partnership, firm, association, corporation, or any other entity.

Recreation Committee - means the members of the Township Recreation Committee which perform duties as prescribed under the Pennsylvania Second Class Township Code or as performed pursuant to the Committee's bylaws.

Roller Blades or Roller Skates - means any type of shoe with small wheels attached near the toe and at the heel or, in the case of roller blades, a series of small wheels running the length of the shoe, propelled by human power and gravity and used for gliding across a surface, floor, sidewalk, roadway, etc.

Skate Board - means a vehicle propelled by human power and gravity consisting of material or a portion of material formed into a thin firm sheet with wheels attached to the underside.

§503. Recreation Committee. The Recreation Committee shall consist of _____ members. The terms of the members shall be set by the Committee's bylaws. A member may stay in office until a successor qualifies or is appointed.

§504. Rules and Regulations.

- A. All parks shall be open daily to the public after sunrise and before sunset unless otherwise posted or permitted by the Township Supervisors. There is to be no parking, idling, or utilizing headlights for artificial illumination in the parks, or parking areas of the parks, after sunset.
- B. No person shall remove any property, bench, seat or table from the parks or change the location of any property, bench, seat or table without permission of the Township Supervisors.
- C. No person shall obstruct or interfere with any other persons use of the parks for recreational purposes.
- D. No person shall set up any booth, table or stand for the sale of any article whatsoever, within the limits of the parks, without the consent of the Township Supervisors, which shall have the authority to refuse such consent in any instance.
- E. No person shall litter or dispose of any waste or garbage in the parks except in receptacles designated for the respective purposes. All persons using the parks shall dispose of all waste and garbage left by them in such proper receptacles.
- F. No person shall injure, deface or destroy any notice, rule or regulation posted at any place within the parks by authority of the Recreation Committee or Township Supervisors. Nor shall any person post, at any place within the parks, any notice or placard other than by authority of the Recreation Committee or Township Supervisors.

G. No person shall injure, deface, remove, cut or damage any of the trees, plants, shrubs, turf, buildings, equipment, facilities, structures or fixtures of the parks, or any other property of the Township located in the parks.

H. No person shall injure, break, tear down, mutilate, paint, mark or otherwise damage or deface any building, fence, sign, post, pole or other property not his or her own, whether such property is publicly or privately owned and utilized in conjunction with any recreational program within the parks.

I. No person shall start, set, kindle, or maintain any fire or grill in the parks except portable gas or charcoal grills as permitted in designated areas, or as otherwise permitted by the Township Supervisors.

J. No person shall possess or consume any alcoholic beverages while in the parks without the consent of the Township Supervisors. No person entering a park shall be in an intoxicated state or otherwise under the influence of alcohol or illegal drugs.

K. No person shall engage in hunting and fishing from within the parks.

L. All pets brought into the parks shall be leashed and maintained under proper and continuous supervision and control by a responsible adult person. Any person in control of a pet must promptly remove and dispose of, in a sanitary manner, fecal material deposited by the pet.

M. Any person bringing a bicycle into a park shall obey all signs. No bicycle shall be ridden or operated in mulch, vegetated, or landscaped area. Bicycles shall be operated on paths. Bicyclists shall be cautious of pedestrians and shall not operate a bicycle in a reckless manner as to cause harm to other persons or property.

N. No person shall engage in skateboarding, roller skating, or rollerblading or to use, ride, or propel any skate board in any of the parks.

O. Reservations for a large group of ten or more persons are to be made at the Township Building Office. The use of the parks for organized events by groups of ten or more persons shall not be permitted without a reservation.

P. No person shall urinate or defecate in the parks, or in or upon any of the park's buildings, monuments or structures, except in restroom facilities which are specifically designed for such purpose.

Q. No person shall drive, operate, stop, stand, or park any motor vehicle except in areas where permitted or designated for such purpose by proper authority of the Recreation Committee or the Township Supervisors.

R. No person shall carry or possess slingshots, firecrackers, fireworks, arrows, missile propelling instruments, explosives, or any dangerous weapons, substances, compounds or mixtures, which have such properties as to cause annoyance or injury to any person or property, unless permission has been granted by the Recreation Committee or the Township Supervisors in

designated areas. No person shall discharge a firearm within a park except for police officers in the performance of their duties.

S. Township Supervisors shall have the authority to adopt additional rules and regulations by future ordinance.

§505. Penalties. Any person who shall violate any rule or regulation contained in Section 504, above, shall upon conviction thereof, be sentenced to pay a fine of not more than One Hundred Dollars (\$100.00) and costs of prosecution for each and every offense. Each day's violation of any of the provisions of Section 504, above, shall constitute a separate offense. Fines imposed shall be in addition to restitution for the damage caused by any person.

§506. Habitual Violators Prohibited. Persons violating the park rules and regulations in Section 504, above, on more than three occasions within a five-year period may be refused access to or entry into the parks by the Township Supervisors.

§507. Enforcement of Park Rules and Regulations. Township Supervisors and the Recreation Committee are hereby vested with authority and legal standing to enforce Park Rules and Regulations. However, any prosecution of violations of the Park Rules and Regulations shall be performed by a Police Officer or Code Enforcement Officer. The authority and standing to enforce Park Rules and Regulations by the Recreation Committee shall be subject to review and preemption by the Township Supervisors.

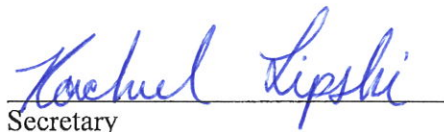
§508. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

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

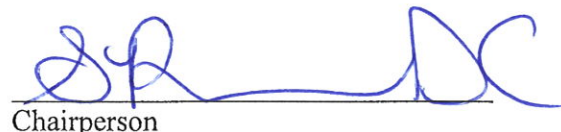
§510. Effective Date. This Ordinance shall become effective immediately following its adoption.

Adopted this 4th day of August, 2022, by the Black Creek Township Board of Supervisors.

ATTEST:


Secretary

BOARD OF SUPERVISORS OF
BLACK CREEK TOWNSHIP


Chairperson

Catherine Tomba

Vice-Chairperson

Donna M. Lupcho

Secretary/Treasurer

CHAPTER 3

CODE ENFORCEMENT

Part 1

International Property Maintenance Code

- §101. Adoption
- §101.1 Title
- §102. Unlawful Acts
- §103. Notice of Violation
- §104. Prosecution of Violation
- §105. Violation Penalties
- §106. Abatement of Violation
- §107. Severability
- §108. Repealer

Part 2

Uniform Construction Code

- §201. Administration
- §202. Board of Appeals
- §203. Code Requirements
- §204. Fees
- §205. Effective Date
- §206. Severability.

Part 3

Landlord Tenant

- §301. Short Title
- §302. Definitions
- §303. Initial Filing of Reports by Landlords
- §304. Filing of Reports by New Landlords
- §305. Filing of Reports by Landlords for Change in Tenants or Vacancy
- §306. Duties of the Secretary of the Township
- §307. Appointment and Duties of Agent/Manager
- §308. Insurance
- §309. Notice of Violation
- §310. Jurisdiction and Enforcement Remedies
- §311. Transfer of Ownership
- §312. Fees
- §313. Severability
- §314. Repealer

Part 4
Certificate of Occupancy

- §401. Short Title
- §402. Definitions
- §403. Inspections and Access
- §404. Certificate of Occupancy Required
- §405. Fees
- §406. Notice of Violation
- §407. Jurisdiction and Enforcement Remedies
- §408. Transfer of Ownership
- §409. Repealer
- §410. Effective Date

Part 5
Building Permits

- §501. Building Permits Required
- §502. Issuance of Building Permit
- §503. Application Procedures
- §504. Review by County Conservation District
- §505. Review by Application of Others
- §506. Changes
- §507. Placards
- §508. Start of Construction
- §509. Inspection and Revocation
- §510. Fees
- §511. Enforcement
- §512. Appeals

ORDINANCE NO. #5 of 2022

AMENDMENT TO CHAPTER 3, CODE ENFORCEMENT, PART 1, INTERNATIONAL
PROPERTY MAINTENANCE CODE, ADOPTING THE 2021 EDITION OF THE
INTERNATIONAL PROPERTY MAINTENANCE CODE

BE IT ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors, of Luzerne County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that Chapter 3, entitled Code Enforcement, Part 1, International Property Maintenance Code, is amended as follows to adopt the 2021 Edition of the International Property Maintenance Code:

Section 101. Adoption of International Property Maintenance Code. Black Creek Township does hereby adopt the International Property Maintenance Code, 2021 edition, as published by the International Code, Inc. referred to in this Ordinance as the "Code".

Section 102. Title. The Code may be known and cited as the "2021 International Property Maintenance Code of Black Creek Township".

Section 103. Unlawful Acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this Code. The Code Official (being the Building Inspector or Code Enforcement Officer appointed by Black Creek Township) shall administer and enforce the provisions of the 2021 International Property Maintenance Code.

Section 104. Notice of Violation. The Code Official shall serve a notice of violation or order in accordance with Section 107 of the 2021 International Property Maintenance Code.

Section 105. Prosecution of Violation. Any person failing to comply with a Notice of Violation or Order served in accordance with Section 107 of the 2021 International Property Maintenance Code shall be deemed guilty of a summary offense and be subject to the penalties delineated in Section 106.4 of the 2021 International Property Maintenance Code and Section 106 of this Ordinance, below. In addition, if the Notice of Violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this Code pursuant to Section 106.5 of the Code.

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

- (1) A civil enforcement proceeding with fines of not less than \$300.00 and not more than \$1,000.00 for each offense, together with the cost of prosecution; OR
- (2) A summary proceeding with fines of not less than \$300.00 and not more than \$1,000.00 or imprisonment for a term not to exceed 30 days, or both, at the discretion of the Court. In either type of proceeding, each day that a violation continues after due notice has been served shall be deemed a separate offense.

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

Section 108. Amendments to the 2021 International Property Maintenance Code. The following sections of the 2021 International Property Maintenance Code are amended:

(A) **Section 101.1 Title.** *The following is inserted:* The regulations shall be known as the “2021 International Property Maintenance Code of Black Creek Township” (hereinafter known as the “Code”).

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

(C) **Section 103.5 Fees.** *The following is inserted:* The schedule of fees for activities and services performed by the Township’s agents/Departments shall be those fees as established by Resolution of Black Creek Township.

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

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

1. A civil enforcement proceeding with fines of not less than three hundred (\$300.00) and not more than one thousand (\$1,000.00) for each offense, together with the cost of prosecution; or
2. A summary proceeding with fines of not less than three hundred (\$300.00) and not more than one-thousand (\$1,000.00) or imprisonment for a term not to exceed 30 days, or both, at the discretion of the Court.

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

Section 107.1 General. amend to read as follows: Any person directly affected by a decision of the code official, or a notice or order issued under this code relating to a condemnation under Section 111 or a demolition under Section 113, shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed on a form provided by the code official with the Black Creek Township Secretary within 20 days after the day the decision, notice or order was served and shall pay all fees as established from time to time resolution of the Black Creek Township Board of Supervisors.

(F) **Section 111, Means of Appeal.** *This section is adopted except for the following subsections:* 111.2. Membership of board.; 111.2.1. Alternate members.; Section 111.2.2.

Chairman.; 111.2.3. Disqualification of member.; 111.2.4. Secretary.; and 111.2.5. Compensation of members.

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

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

Code Official- shall mean the Code Enforcement Officer appointed by the Black Creek Township Supervisors to enforce the Ordinances of the Borough, including the administration and enforcement of this Code, or any duly authorized representative appointed by Black Creek Township.

Junk Material - Any cast-off, damaged, discarded, obsolete, salvaged, scrapped, unusable, worn-out or wrecked object, thing or material including, but not limited to, those composed in whole or in part of crates, cartons, containers, boxes, machinery or parts thereof, scrap metal, furniture or parts thereof, household items, and other salvageable materials

Noxious Weeds - Those weeds listed by the Pennsylvania Department of Agricultural as being noxious.

The following term is added: Appendix B of the 2022 IPMC, and its description of criteria for the formation and operation of the Board of Appeals is also included to hear appeals under this Code.

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

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

(K) **Section 308.1 Accumulation of Rubbish and Garbage** – Amend to read as follows: “308.1 Accumulation of rubbish, garbage, and junk material. Exterior property and premises, and the interior of every structure, shall be free from the accumulation of rubbish, garbage, and junk material.”

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

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

Except as amended in this Section 108 above, the International Property Maintenance Code of 2021 is adopted herein in its entirety.

Section 109. Filing of ordinance and code. One copy of the International Property Maintenance Code, 2021 edition, as published by the International Code, Inc. shall be kept on file in the office of the Borough Secretary along with a copy of this Ordinance. A copy of the 2021 International Property Maintenance Code is also available on line for viewing at <http://www.iccsafe.org>. Copyright infringements apply.

Section 109.3 Prosecution of violations. The section is replaced with: Any person failing to comply with a notice of violation or order served in accordance with Section 111.4 shall be deemed guilty of a summary or civil infraction as determined by the local municipality, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

Section 110. Fee Schedule.

Code Official -----\$83.00 / hour

IPMC Appeal Board Hearing Application -----\$500.00

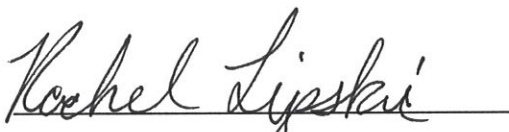
Section 111. Severability. If any section, subsection, clause or provision of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction such decision shall not affect any other section, subsection, clause, or provision this Ordinance so long as it remains legally enforceable minus the invalid portion. Black Creek Township hereby declares that it would have passed this Ordinance, section, subsection, clause and provision of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentence, clauses and phrases be declared unconstitutional.

Section 112. Repealer. All ordinances or parts thereof which are inconsistent with this Ordinance are hereby repealed to the extent of their inconsistencies.

Section 113. Effective Date. This Ordinance shall become effective immediately following its adoption.

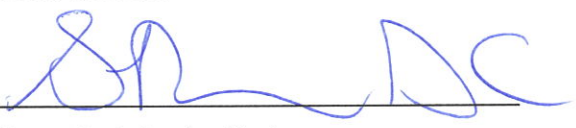
ENACTED AND ORDAINED by Black Creek Township Supervisors on this the 1st day of Dec, 2022.


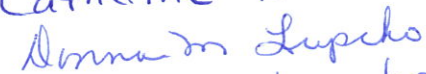
ATTEST:


Rachel Lipski, Secretary

BLACK CREEK TOWNSHIP

SUPERVISORS:

By: 
Dr. Saura Rohrbach, Chairwoman


Catherine Tombarco

Donna M. Lupcho

ORDINANCE NO. 1st 2nd/2018

BLACK CREEK TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA

The Black Creek Township Board of Supervisors do hereby amend the Black Creek Township Code of Ordinances to include Chapter 2, Park 4, as follows:

CHAPTER 2
BUILDINGS AND STRUCTURES

Part 4
Alumni Monument and Park

- §401. Definitions
- §402. Naming and Historical Significance
- §403. Rules and Regulations
- §404. Enforcement
- §405. Penalties
- §406. Severability
- §407. Repealer
- §408. Effective Date

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

ALUMNI MONUMENT- means the Black Creek Township High School Alumni Monument located near the Black Creek Township Municipal Building, which monument is situated in the Black Creek Township Alumni Park.

BURNING- means the igniting of any material to cause flame, smoke, embers, ash or residue.

LITTER- means a person who throws, deposits, allows to fall, discharges or leaves in, or otherwise introduce into the Park waste, garbage, paper, bottles, refuse or rubbish or any substance, liquid, solid, gas, or other item.

PARK- means the area where the Black Creek Township High School Alumni Monument is located which area includes a patio, benches and other recreational structures and facilities, and also entrances and approaches thereto, and is more specifically described as including a strip of land measuring approximately 150 feet in width by one 100 feet in depth and located at the former Rock Glen High School, State Route 3020, Black Creek Township, Luzerne County, Pennsylvania, and currently used and leased as a memorial to the Black Creek Township High School Alumni.



PERSON- any natural person, corporation, society, organization, company, association, firm, partnership, or other entity.

SMOKING- means the act of emitting or exhaling smoke from a cigarette, cigar, pipe or any other lighted smoking device or vapor producing device. The term includes the use of (a) Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff; and (b) Any electronic device that delivers nicotine or other substances to the person inhaling from the device, including, but not limited to an electronic cigarette, cigar, pipe, or hookah.

STRUCTURE- means any man-made object having an ascertainable stationary location on land or water within a park.

TOWNSHIP- means Black Creek Township, Luzerne County, Pennsylvania.

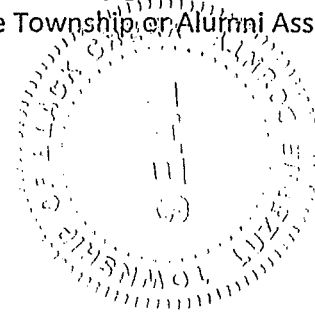
TOWNSHIP SUPERVISORS- means the elected officials of Black Creek Township, Luzerne County, Pennsylvania consisting of a Board of Supervisors.

UNREASONABLE NOISE- means any excessive or unusually loud sound that disturbs the peace, comfort or repose of a reasonable person of normal sensitivity or injures or endangers the health or safety of a reasonable person of normal sensitivity, or damage to property.

§402. Naming/Historical Significance. The Park and Alumni Monument shall be named and referred to as the "Black Creek Township High School Alumni Park" and is hereby registered with the Township as a local historical landmark.

§403. Rules and Regulations.

1. **Hours of Operation.** The Park shall be open daily to the public after sunrise and before sunset unless otherwise posted or permitted by the Township.
2. **Destruction of Property.** No person shall deface, remove, or damage any tree, plant, monument, building, structure, sign, fixture, or any other property located in the Park.
3. **Littering.** No person shall litter in the Park.
4. **Burning or Fires Prohibited.** No burning or fires shall be permitted in the Park.
5. **Solicitation Prohibited.** No person shall solicit or sell any goods or offer any services in the Park except with approval of the Township or Alumni Association.



6. **Motor Vehicles Prohibited in Park.** No person shall drive, operate, stop, stand, or park any motor vehicle including a snowmobile, mini-bike, motorcycle, and recreational vehicle in the Park except in areas permitted or designated for such purpose by the Township.
7. **Drugs and Alcohol.** No person shall possess or consume while in the Park any alcoholic beverage or illegal drugs. No person entering a park shall be in an intoxicated state or otherwise under the influence of alcohol or illegal drugs
8. **Curbing and Leashing of Pets.** Persons shall leash and clean-up after their pets while in the Park.
9. **Noise.** No person shall make, or cause or allow to be made, unreasonable noise in the Park so as to cause public inconvenience, annoyance or harm.
10. **Climbing Prohibited.** No person shall climb on the monument or any other building or structure in the Park.
11. **Smoking Prohibited.** No person shall engage in smoking in the Park except in areas designated by the Township.
12. **Accidents and Injuries.** Neither the Township nor the Alumni Association shall be liable for accident or injuries of anyone using the Park.

§404. Administration and Enforcement. A police officer or the Code Enforcement Officer shall be in charged of administering and enforcing this Part.

§405. Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than one thousand (\$1,000.00) dollars plus costs and, in default of payment of any fine and costs, to a term of imprisonment not to exceed thirty (30) days.

§406. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Part is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate and distance and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

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



§408. Effective Date. This Part shall become effective immediately following its adoption.

Adopted this 11 day of September, 2018, by the Black Creek Township Board of Supervisors.

ATTEST:

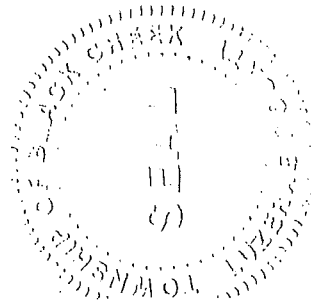
Secretary

BOARD OF SUPERVISORS OF
BLACK CREEK TOWNSHIP

Chairperson

Vice-Chairperson

Secretary/Treasurer



CHAPTER 3

CODE ENFORCEMENT

Part 1

International Property Maintenance Code

§101. Adoption. That a certain document, three (3) copies of which are on file in the office of the Secretary of the Township of Black Creek, being marked and designated as the *International Property Maintenance Code*, 2009 edition and any subsequent versions, as published by the International Code Council, be and is hereby adopted as the Property Maintenance Code of the Township of Black Creek, in the Commonwealth of Pennsylvania for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office the Township of Black Creek are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance.

§101.1 Title. The Code shall be known as the "International Property Maintenance Code of Black Creek Township".

§102. Unlawful Acts. It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this code. The code official (being the Building Inspector or Code Enforcement Officer) shall determine and enforce the provisions of the International Property Maintenance Code of Black Creek Township.

§103. Notice of Violation. The code official shall serve a notice of violation or order in accordance with Section 107 of the International Property Maintenance Code.

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

§105. Violations and Penalties under §106.4 of the Code. Any person who shall violate any provision of this Code shall, upon conviction thereof, be subject to a fine of not less than \$300.00 and not more than \$1,000.00 or imprisonment for a term not to exceed 30 days, or

both, at the discretion of the Court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

§106. Abatement of Violation. The imposition of the penalties herein prescribe shall not preclude the code enforcement officer or building inspector from instituting appropriate action or restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

§107. Additions or Revisions to the 2009 International Property Maintenance Code. The provisions of the 2009 International Property Maintenance Code shall include the following:

- a) *§302.4 Weeds.* Weeds shall not exceed six (6) inches.
- b) *§304.14 Screens.* Insect screens shall be provided from April 1 to October 1 of each year.
- c) *§602.4 Work spaces.* Occupiable work spaces shall be provided from September 1 to July 1 of each year.
- d) *§602.3 Heat Supply.* Heat supply must be provided by Landlord from September 1 to July 1 of each year.

Except as revised or supplemented in this Part, the International Property Maintenance Code of 2009 is adopted herein.

§108. Severability. That if any section, subsection, sentence, clause or phrase of this ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The Township of Black Creek hereby declares that it would have passed this ordinance, and each section, subsection, clause or phrase thereof, irrespective of the fact that anyone or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

§109. Repealer. That nothing in this Part or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance hereby repealed by this ordinance; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

EDITOR'S NOTE: A copy of the 2009 International Property Maintenance Code is available on line for viewing at <http://www.iccsafe.org>. *Copyright infringements apply.*

Part 2

Uniform Construction Code

§201. Administration.

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

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

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

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

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

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

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

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

§202. Board of Appeals. A Board of Appeals shall be established by resolution of the governing body of this Township in conformity with the requirements of the relevant provisions of the Code, as amended from time to time, and for the purposes set forth therein. If at any time enforcement and administration is undertaken jointly with one or more other municipalities, said Board of Appeals shall be established by joint action of the participating municipalities.

§203. Code Requirements.

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

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

§205. Effective Date. This ordinance shall be effective one hundred eighty (180) days after the date of passage of this ordinance.

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

Part 3

Landlord Tenant

§301. Short Title. This part shall be known and may be cited as the “Black Creek Township Landlord-Tenant Ordinance.”

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

- a) “Agent” or “Manager” means a person of legal majority authorized by an owner of real property under the provisions of this ordinance to act for or in place of that owner with respect to certain duties set forth in this ordinance. The Agent shall be either a licensed real estate agent/broker in the Commonwealth of Pennsylvania or a paid employee of the owner.
- b) “Board of Appeals” means the appeal board established by resolution of Black Creek Township pursuant to the adoption of the Uniform Construction Code.
- c) “Building Inspector” means the person appointed by the Township to inspect buildings and their systems and to enforce and administer the various adopted Building and Construction Codes within the Township, including the provisions of this Part.
- d) “Code” means the building code officially adopted by the Township of Black Creek and such other codes officially designated by the Township of Black Creek for the regulation of construction, alteration, addition, repair, removal, demolition, location, occupancy, and maintenance of buildings and structures, including, but not limited to the Existing Property Maintenance Code, Building Codes, Zoning Ordinance and Code of Ordinances, as adopted and amended.
- e) “Code Enforcement Officer” means the person appointed by the Township of Black Creek to enforce and administer the Code of Ordinances (health, safety, building, etc.) of the Township, including the provisions of this Part.
- f) “Commercial Unit” means any building or portion thereof being leased or rented for a nonresidential use, occupation or enterprise for a profit, including industrial and institutional uses.
- g) “Dormitory” means a residence hall providing individual living or sleeping rooms for individuals or groups of individuals, without cooking facilities or private baths, and which are owned or operated by a college or university for student or faculty housing.

- h) "Family" includes persons who are related by blood, marriage, adoption or formal foster relationship to result in one of the following relationships: brother, sister, parent, child, grandparent, grandchild, great grandchild, uncle, aunt, nephew, niece, sister-in-law, brother-in-law, father-in-law, mother-in-law, or first cousin. This term also includes relationships such as second, third, and fourth cousins, and unrelated persons who maintain a common household and live within a dwelling unit.
- i) "Fire Chief" means the person appointed to be in charge of the Black Creek Township Fire Department.
- j) "Hotel" means a building or part thereof in which living and sleeping accommodations are used primarily for transient occupancy, may be rented on a daily basis, and desk service is provided, in addition to one or more of the following services: (1) maid, (2) telephone, (3) bellhop, or (4) the furnishing of laundry or linen.
- k) "Lease" or "Rent" means to permit, provide, or offer for consideration, possession or occupancy of a building, dwelling unit, commercial unit or structure, of any part thereof by a person who is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of real property.
- l) "Motel" means a building or group of buildings which contain living and sleeping accommodations used primarily for transient occupancy, may be rented on a daily basis, and desk service is provided, and has individual entrances from outside the building to serve each such living or sleeping unit.
- m) "Occupant" means a person age 18 or older who resides at a property, such as a tenant, or any other individual (excluding visitors) that is allowed on property by such resident or tenant.
- n) "Operator" means any person who has charge, care or control of a real property.
- o) "Primary Residence" means a person who owns property and resides in that property on a regular and permanent basis, and is sometimes referred to as an "Owner-Occupant".
- p) "Property" or "Real Property" means any parcel of land or real property located within Black Creek Township, including the land and all buildings and structures on which one or more dwelling units or commercial units are located.

- q) "Property Owner" means any person, agent, or operator having a legal or equitable interest in real property; or recorded in the official records of the state, county, or municipality as holding title to real property; or otherwise having control of real property, including the guardian of the estate of any such person, and the executor or administrator of the estate of any such person, and the executor or administrator of the estate such person if ordered to take possession of real property by a Court of competent jurisdiction.
- r) "Rental Unit means a dwelling unit or commercial unit occupied or used by one or more persons commonly known as "Tenants".
- s) "Rooming House" means a building containing one or more dwelling units for the rooming or boarding of at least two or more persons. This term includes tourist homes, lodging houses and boarding houses.
- t) "Structure" means any man-made object having an ascertainable stationary location at any given time on or in land or water, whether or not affixed to the land. This term includes the term "Building".
- u) "Tenant" means any person who occupies a rental unit, dwelling unit or commercial unit within a rental property regardless of whether such person has executed a lease for the property.

§303. Initial Filing of Reports by Landlords. Within sixty (60) days from the effective date of this Ordinance, every Landlord must submit to the Secretary of Black Creek Township, a report on a form provided by the Township, which includes the following information:

- a) Name, address and phone number of the Landlord, and if the Landlord is not a natural person, a description of the entity, including the name, address, phone number and title of the designated representative for that entity.
- b) Name, address and phone number of the Agent of the Landlord, if applicable.
- c) List of the dwelling and commercial units owned by the Landlord.
- d) A brief description of each unit, including the number and type (dwelling or commercial) of units, whether the unit is occupied or not occupied, and a determination of whether the unit is habitable.
- e) Name, address and phone number of the Tenant occupying the unit.

- f) The name, address and phone number of the Landlord's insurance carrier and agent, including the policy number, declaration page and policy expiration date. A copy of the Certificate of Insurance identifying the Township as a contact person in the event that the insurance is cancelled or non-renewed must accompany every report.

§304. Filing of Reports by New Landlords. After the effective date of this Ordinance, any person becoming a Landlord by agreement, deed or other means, shall, within thirty (30) days thereafter provide a report to the Secretary of Black Creek Township in accordance with the reporting requirements of Section 303, above.

§305. Filing of Reports by Landlords for Change in Tenants or Vacancy. After the period for reporting has expired under Section 303 of this Ordinance, and the Landlord has complied with the reporting requirements of that Section, every Landlord shall thereafter file a report with the Secretary of Black Creek Township within thirty (30) days thereafter, where the Tenant of a unit has changed, or a unit has become vacant. The Landlord must provide a report to the Township Secretary on a form supplied by the Township, which includes the following information:

- a) The name, address, and phone number of the new Tenant, or the vacating Tenant, whichever the case may be;
- b) The date of the change; and
- c) The forwarding address of the vacating Tenant, if known by the Landlord.

§306. Duties of the Secretary of the Township. The Secretary shall:

- a) Maintain on file at the Township Building the reports filed under this Ordinance.
- b) Maintain and supply the forms for Landlords to use in making reports as required by Sections 303, 304, and 305 of this Ordinance.
- c) Provide copies of the reports filed by the Landlords under this Ordinance to the Code Enforcement Officer, Zoning Officer, Building Inspector and Fire Chief.

§307. Appointment and Duties of Agent/Manager. Every Landlord who does not reside within a twenty (20) mile radius of the Township limits must appoint and designate an Agent or Manager who resides within a twenty (20) mile radius of the Township limits to:

- a) Maintain the dwelling units, commercial units and property in good repair and in a clean and sanitary condition in compliance with the current Codes of the Township.

- b) Receive or accept service of written communications and notices.
- c) Arrange for the inspection of dwelling units, commercial units and the property.
- d) Perform maintenance, cleaning, repair, pest control, snow and ice removal, garbage removal, garbage disposal, and ensure continued compliance with the dwelling units, commercial units and property with the current Codes of the Township.
- e) The name, address and phone number of the Landlord and Agent or Manager, where applicable, shall be reported to the Township Secretary in writing upon filing a report under this Ordinance.

§308. Insurance. Every Landlord owning property and leasing or renting a dwelling unit or commercial unit shall maintain hazard and general liability insurance with a minimum of fifty thousand (\$50,000.00) dollars in general liability insurance coverage and casualty insurance in an amount sufficient to either restore or remove the building and property in accordance with the Codes of the Township. In the event of fire or loss covered by such insurance, it shall be the obligation of the Landlord to use such insurance proceeds to cause the restoration or demolition or other repair of the property in compliance with the Codes of the Township and all other applicable rules, regulations, laws and ordinances.

§309. Notice of Violation.

(a) Issuance of Notice. If it appears to the Code Enforcement Officer or Building Inspector that a violation of this ordinance has occurred, an enforcement proceeding may be initiated by issuing an enforcement notice to the owner of record of the property, or to any person who has filed a written request to receive violation notices regarding the property, which shall include an Agent or Manager.

(b) Contents of Notice. The enforcement notice shall state at least the following:

- 1) The name of the owner of record and any other person against whom the Code Enforcement Officer or Building Inspector intends to take action.
- 2) The location and/or address of the property in violation.
- 3) The specific violation with a description of the requirements which have not been met and citing in each instance the applicable sections and provisions of this ordinance.
- 4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

5) That the recipient of the notice has the right to appeal within thirty (30) days from date of the issuance of the notice to the Uniform Construction Code Board of Appeals.

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

(c) Service. Service of the Enforcement Notice shall be effective upon posting the property in a conspicuous manner and sending a copy of the notice certified mail, return receipt requested, to the Landlord or owner of record, or by regular mail to the Agent or Manager, if applicable.

(d) Appeal-Burden of Proof. In any appeal of an enforcement notice to the Board of Appeals, the Code enforcement Officer or Building Inspector shall have the responsibility of presenting evidence first.

§310. Jurisdiction and Enforcement Remedies.

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

(b) Enforcement Remedies. Any person violating the provisions of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred (\$600.00) dollars and costs of prosecution, and in default thereof to undergo imprisonment for a term not to exceed thirty (30) days. Every day that a violation continues shall constitute a separate offense, except that the failure to file a report in a timely manner shall not constitute a continuing offense, but shall be considered a single offense not subject to daily fines unless non-compliance continues without a good faith basis for appeal after a notice of violation has been issued.

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

§311. Transfer of Ownership.

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

(b) The person to whom a property is to be transferred may consent to complying with a notice of violation issued under this Ordinance, by entering into an agreement with the Township to comply with the notice of violation on or before the date set forth in the notice. The Code Enforcement Officer and Building Inspector shall also be a party to the Agreement.

§312. Fees. The Township may from time to time establish a fee schedule under this Ordinance. At the time of adoption the fees are as follows:

- (a) Initial filing reports by Landlords - \$10.00 per property.
- (b) Filing of Reports by new Landlords - \$10.00 per property.
- (c) Filing of Reports by Landlords for Change in Tenants or Vacancy - \$10.00 per filing/unit.

§313. Severability. If any of the provisions of this Ordinance or the application thereof to any owner or circumstances is held invalid, the remainder of the Ordinance, and the application of such provision to other owners or circumstances, shall not be affected thereby and to this end the provisions of this Ordinance are declared to be severable.

§314. Repealer. Any and all other Ordinances or parts of Ordinances inconsistent herewith, are, to the extent of their inconsistency, hereby repealed.

Part 4
Certificate of Occupancy

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

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

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

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

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

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

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

§403. Inspections and Access. The Code Enforcement Officer or Building Inspector is authorized to make inspections to determine whether dwellings unit, rooming houses, and commercial buildings located within the Township conform to the requirements of this ordinance. For the purpose of making such inspections, the Code Enforcement Officer or Building Inspector is permitted to enter, examine and survey at all dwellings units, rooming houses, and commercial buildings, and shall be free to have access thereto upon notice and during all reasonable times for the purpose of such inspection, examination and survey.

§404. Certificate of Occupancy Required.

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

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

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

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

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

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

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

§405. Fees.

(a) A fee of \$35.00 shall be paid to the Township and shall accompany each request for a certificate of occupancy in the case of single family or two-family dwelling units. In addition, inspection fees shall be paid to the Code Enforcement Officer or Building

Inspector at the time of making application, and prior to any inspections. No application shall be considered filed with the Township until all related fees have been paid in full.

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

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

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

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

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

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

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

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

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

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

§407. Jurisdiction and Enforcement Remedies.

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

(b) Civil Enforcement Remedies. Any person who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable thereof in a civil enforcement proceedings commenced by the Code Enforcement Officer or

Building Inspector, shall pay a judgment of not more than six (\$600.00) hundred dollars, plus all court costs, including reasonable attorney fees incurred by the Township as a result of said proceedings.

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

§408. Transfer of Ownership.

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

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

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

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

Part 5
Building Permits

§501. Building Permits Required. Building Permits shall be required before any construction or development is undertaken within any area of the Township of Black Creek.

§502. Issuance of Building Permit

- A. The Building Code Official (BCO), Code Enforcement Officer or Building Inspector shall issue a Building 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, parts and ordinances.
- B. Prior to the issuance of any building permit the Building Code Official, Building Inspector and Code Enforcement Officer shall review the application for permit to determine if all other necessary governmental permits such as those required by State and Federal laws have been obtained, including those required by Act 537, the Pennsylvania Sewage Facilities Act, the Dam, Safety and Encroachments Act, and the Federal Water Pollution Control Act Amendments of 1972, Section 404, 33, U.S.C. 1334. No permit shall be issued until this determination has been made.

§503. Application Procedures.

- A. Application for such a building permit shall be made in writing to the Building Code Official on forms supplied by the Township of Black Creek. Such application shall contain at least the following.
 - 1. Name and address of applicant.
 - 2. Name and address or owner of land on which proposed construction is to occur.
 - 3. Name and address of contractor.
 - 4. Site location.
 - 5. Listing of other permits required.
 - 6. Proposed lowest floor and basement elevations in relation to mean sea level, i.e. – National Geodetic Vertical Datum of 1929.
 - 7. Brief description of proposed work and estimated cost.
 - 8. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

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B. If any proposed construction or development is located within, or partially within, any identified flood-prone area, applicants for Building Permits shall also provide the following specific information:

1. A plan which accurately delineates the identified flood-prone area, the location of the proposed construction, the location of the proposed construction, the location of any adjacent flood-prone development or structures, and the location of any existing or proposed subdivision and land development in order to assure that:

- a. All such proposals are consistent with the need to minimize flood damage;
- b. All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
- c. Adequate drainage is provided so as to reduce exposure to flood hazards.

2. Such plan shall also include existing and proposed contours; information concerning one hundred (100) year flood elevations, velocities, and other applicability information such as pressures, impact and uplift forces, associated with the one hundred (100) year flood; size of structures, location and elevations of streets; water supply and sanitary sewage facilities; soil types; and flood proofing measures.

3. A document, certified by a registered professional engineer or architect, which states that the proposed construction has been adequately designed to withstand the one hundred (100) year flood elevations, pressures, velocities, impact, and uplift forces and other hydrostatic, hydrodynamic and buoyancy factors associated with the one hundred (100) year flood.

4. 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.

§504. Review by County Conservation District. A copy of all applications and plans for any proposed construction or development in any identified flood-prone area to be considered for approval shall be submitted by the Building Permit Officer to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the Conservation District shall be considered by the Building Permit Officer for possible incorporation into the proposed plan.

§505. Review of Application by Others. A copy of all plans and applications for any proposed construction or development in any identified flood-prone area to be considered for approval may be submitted by Building Permit Officer to any other appropriate agencies

and/or individuals (e.g. - planning commission, municipal engineer, etc.) for review and comment.

§506. Changes. After the issuance of a building permit by the Building Code Official, Code Enforcement Officer or Building Inspector, 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 issuing official, officer or inspector.

§507. Placards. In addition to the building permit, a placard shall be issued which shall be displayed on the premises during construction. This placard shall show the number of the building permit, the date of its issuance and be signed by an official, officer or inspector.

§508. Start of Construction. Work on the proposed construction shall begin within six (6) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the BCO, Code Enforcement Officer or Building Inspector, who issued the permit. Construction shall be considered to have started with the first placement of permanent construction of a structure on the site such as the pouring of slabs or footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation, or the affixing of any prefabricated structure or mobile home on its permanent site. Permanent construction does not include land preparation, land clearing, grading, filling, excavation for basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed sub-surface footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed sub-surface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

§509. Inspection and Revocation. During the construction period, the BCO, Building Inspector, Code Enforcement Officer or other qualified and authorized official of the Township may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable Black Creek Township laws, ordinances and codes. In the event the Township official discovers that the work does not comply with the permit application or any false statement or misrepresentation by any applicant, that official shall revoke the building permit and report such facts to the Township of Black Creek for whatever action it considers necessary.

§510. Fees. Applications for a building permit shall be accompanied by a fee, payable to the Township of Black Creek based upon the estimated cost of the proposed construction as determined by the issuing officer or official at the rates established by the Township by resolution.

§511. Enforcement

A. Notices. Whenever the BCO, Building Inspector or Code Enforcement Officer 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

regulation adopted pursuant thereto, such authority shall give notice to 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 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 action which, if taken, will effect compliance with the provisions of this Ordinance, or any part thereof, and with the regulations adopted pursuant thereto.

B. Hearings. Any person affected by any notice, which has been issued in connection with the enforcement of any provision of this Ordinance, or of any regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the Uniform Construction Code Appeals Board provided that such person shall file with the Board, a written petition requesting such hearing and setting forth a brief statement of the grounds therefore within ten (10) days after the notice was served. The filing of the request for a hearing shall operate as a stay of the notice and the suspension. Upon receipt of such petition, the Appeals Board shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such notice shall be modified or withdrawn. The hearing shall be commenced not later than thirty (30) days after the day on which the petition was filed; provided that upon application of the petitioner, the Appeals Board may postpone the date of the hearing for a reasonable time beyond such thirty (30) day period when, in its judgment, the petitioner has submitted good and sufficient reasons for such postponement.

C. Findings and Order. After such hearing the Appeals Board shall make findings as to compliance with the provisions of this Ordinance and regulations issued thereunder and shall issue an order in writing, sustaining, modifying, or withdrawing the notice which shall be served as provided in Section 511(A) above.

D. Record and Appeals. The proceedings at such a hearing, including the findings and decision of the Appeals Board and together with a copy of every notice and order related thereto shall be entered as a matter of public record in the Township of Black Creek but the transcripts of the proceedings need not be transcribed unless judicial review of the decision is sought as provided by this Section. Any person aggrieved by a decision of the Appeals Board may seek relief there from in any court of competent jurisdiction, as provided by the laws of the Commonwealth of Pennsylvania and the Uniform Construction Code.

E. Penalties. Any person who shall violate any provision of this Code shall, upon conviction thereof, be subject to a fine of not less than \$300.00 and not more than \$1,000.00 or imprisonment for a term not to exceed 30 days, or both, at the discretion of the Court. Each day that a violation continues after due notice has been served shall be deemed a separate offense. 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 non-compliance or permit it to continue; and all such persons shall be required to correct or remedy such violations and non-compliance within a reasonable time. Any structure or building constructed, reconstructed, enlarged, altered or relocated, in non-compliance with this Ordinance may be declared by the Township to be a public nuisance and abatable as such.

§512. Appeals

A. Any person aggrieved by an action or decision of the BCO, Code Enforcement Officer or Building Inspector, or by any of the requirements of this Ordinance, may appeal to the Appeals Board. Such appeal must be filed, in writing, within ten (10) days after the decision or action of the officer, official or inspector. Upon receipt of such appeal, the Appeals Board shall set a time and place within not less than thirty (30) days unless extended for cause, for the purpose of hearing the appeal. Notice of the time and place of the hearing of the appeal shall be given to all parties, at which time they appear and be heard.

B. Any person aggrieved by any decision of the Appeals Board may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this Commonwealth and the Construction Code.

(Ord. Adopted September 2, 1980, as revised at the time of adoption of this Code of Ordinances to be consistent with the other sections of the Code)

LANDLORD TENANT APPLICATION

FEE \$10.00

(INITIAL FILING OF REPORTS BY LANDLORDS SHALL BE FILED WITH THE BLACK CREEK TOWNSHIP SECRETARY WITHIN THIRTY (30) DAYS IN ACCORDANCE WITH THE REPORTING REQUIREMENTS OF SECTION 303 OF THE BLACK CREEK TOWNSHIP LANDLORD TENANT ORDINANCE)

LANDLORD/PROPERTY OWNER INFORMATION

1. Name of Landlord: _____

2. Address of Landlord: _____

3. Phone Number of Landlord: () _____

4. Address of Unit or Dwelling Being Rented: _____

5. Brief Description of each unit, including number and type of units (Dwelling or Commercial) whether the unit is occupied or not occupied and a determination of whether the unit is habitable.

AGENT INFORMATION

(EVERY LANDLORD WHO DOES NOT RESIDE WITHIN A TWENTY (20) MILE RADIUS OF THE TOWNSHIP LIMITS MUST APPOINT AND DESIGNATE AN AGENT OR MANAGER)

6. Name of Agent: _____

7. Address of Agent: _____

8. Phone Number or Agent: () _____

TENANT INFORMATION

(IF MORE THAN ONE (1) TENANT, COMPLETE ATTACHED SHEET)

9. Name of Tenant: _____

10. Address of Tenant: _____

11. Phone Number of Tenant: () _____

INSURANCE INFORMATION

(A COPY OF THE CERTIFICATE OF INSURANCE, IDENTIFYING THE TOWNSHIP AS A CONTACT PERSON IN THE EVENT THAT THE INSURANCE IS CANCELLED OR NON-RENEWED MUST ACCOMPANY THIS FILING)

12. Name, address and phone number of Landlord's Insurance Carrier and Agent, including Policy Number, Declaration Page and Policy Expiration Date:

BY SIGNING BELOW, I VERIFY THAT THE FACTS IN THIS APPLICATION ARE TRUE AND CORRECT BASED UPON MY OWN PERSONAL KNOWLEDGE, INFORMATION AND BELIEF. I UNDERSTAND THAT FALSE STATEMENTS RELATING HERETO ARE MADE SUBJECT TO PENALTIES OF 18 PA.C.S.A. 4904, RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES.

DATE: _____

LANDLORD: _____

BLACK CREEK TOWNSHIP
LANDLORD TENANT APPLICATION

1. NAME OF TENANT _____

ADDRESS OF TENANT _____

PHONE NUMBER OF TENANT (____) _____

2. NAME OF TENANT _____

ADDRESS OF TENANT _____

PHONE NUMBER OF TENANT (____) _____

3. NAME OF TENANT _____

ADDRESS OF TENANT _____

PHONE NUMBER OF TENANT (____) _____

4. NAME OF TENANT _____

ADDRESS OF TENANT _____

PHONE NUMBER OF TENANT (____) _____

ORDINANCE NO. 2 OF 2014

BLACK CREEK TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA

AMENDING CHAPTER 3, CODE ENFORCEMENT, TO ADD PART 6, COLLECTION
OF MUNICIPAL SOLID WASTE, TO THE BLACK CREEK TOWNSHIP CODE OF
ORDINANCES

§601. Title. This Ordinance shall be known and may be cited as the "Black Creek Township Collection of Municipal Solid Waste".

§602. Definitions. As used in this Part, the following terms shall have the meanings indicated:

COLLECTOR- means any person who collects or removes municipal waste from property within the Township of Black Creek.

COMPOSTING- means an area within a yard used to compost leaf waste, grass clippings, garden residue, tree trimmings, chipped shrubbery, organic matter, or vegetative material to improve soil structure and provide nutrients.

DISPOSAL- means the incineration, deposition, injection, dumping, spilling, leaking or placing of municipal waste into or on the land or water in a manner such that the municipal waste or a constituent thereof enters the environment, is emitted into the air, or is discharged to the waters of the Commonwealth of Pennsylvania.

MUNICIPAL WASTE- means any garbage, refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities, except farm-produced manure, other agricultural waste and food processing waste used on land where such materials will improve the condition of the soil, the growth of crops or the restoration of the land for the same purposes, and any sludge not meeting the definition of "residual or hazardous waste" as defined in Commonwealth of Pennsylvania Solid Waste Management Act, but excluding recyclables, leaf waste and compost piles.

PERSON- means any individual, partnership, corporation, association, institution, cooperative enterprise, or other legal entity. In any provisions of this Part prescribing a fine, imprisonment or penalty, or any combination of the foregoing, the term "person" shall include the officers, directors or members of any corporation or other legal entity having officers and directors or members.

PRIVATE LICENSED HAULER- means a person licensed by the Commonwealth of Pennsylvania per the amended Title 27 (Environmental Resources), Waste Transportation Safety Program, of the Pennsylvania Consolidated Statutes, to collect, haul, transport and dispose of Municipal Waste within Black Creek Township. The term includes any person owning a waste transportation vehicle licensed under the Pennsylvania Act 90.

PROPERTY- means any real property improved with a roofed building used by the occupants for shelter, housing, or living quarters, and capable of generating municipal waste.

PROPERTY OWNER- any person, agent, operator, firm or corporation having a legal or equitable interest in property within Black Creek Township or otherwise having control of property, including a lender, mortgagor, mortgagee, landlord, tenant, buyer, seller, guardian, trustee, administrator, personal representative, or heir.

RECYCLABLES- means materials designated as recyclable in this Part that may be kept separate from municipal waste, recycled, transported to and disposed of at a permitted recycling facility. The term includes aluminum cans, other cans, plastic bottles, glass, cardboard, paper products, and newspapers.

RECYCLING- means the collection, separate maintenance, separation, recovery and sale or reuse of recyclables which would otherwise be disposed of or processed as municipal waste, or the mechanized separation and treatment of municipal waste (other than through combustion) and creation and recovery of reusable materials other than a fuel for the operation of energy.

RECYCLING FACILITY- means a center designed to, and which does, act as a collection center for the processing, storage and shipment of recyclables. The term excludes transfer stations and landfills for solid waste, composting facilities, and resource recovery facilities. The term includes the Black Creek Township Recycling Facility.

TOWNSHIP- means Black Creek Township, Luzerne County, Pennsylvania.

TRANSPORTATION- means the removal of any municipal waste from a person's property.

§102. Accumulation and Disposition of Municipal Waste and Recyclables. The accumulation and disposal of Municipal Waste and Recyclables shall be prohibited in the Township except when done under this Part.

§103. Preparation and Storage of Municipal Waste and Recyclables. The storage and disposal of Municipal Waste and Recyclables shall be prohibited upon property within the Township except when stored on property and disposed of in the following manner:

- A. Municipal Waste shall be stored so as to: (1) prevent the attraction, breeding, or harborage of insects or rodents; (2) prevent conditions which may create potential hazards to the public health, safety and welfare; or (3) not to create a fire or other safety hazard, odors, or unsightliness.
- B. Municipal Waste and Recyclables shall be stored in a sanitary, closed and covered container made of a metal, plastic, or fiberglass construction, rust and corrosion resistant, equipped with a lid and waterproof and leak proof. However, when Municipal Waste is being placed for pickup it shall be placed in a sealed or closed trash bag or other container.

- C. No person other than the owner or a private licensed hauler shall be authorized to remove lids or the contents of a Municipal Waste container.
- D. All hazardous waste including, but not limited to, Municipal Waste of a highly flammable or explosive nature or highly infectious or contagious municipal waste, shall be stored for ordinary collection, but shall be specially disposed of in accordance with applicable State or Federal laws.
- E. Municipal Waste containers shall be placed at such locations as may be agreed upon by the property owner upon which the container is located and the private licensed hauler contracted to collect and dispose of such Municipal Waste.
- F. Municipal Waste containers shall be placed, whenever possible, at ground level and at a point on the property which will enable clear and easy access to the container by the private licensed hauler's collection vehicle.
- G. Municipal Waste containers shall be placed for pick-up not more than twelve (12) hours prior to collection by the contracted private licensed hauler.
- H. Nothing herein shall prohibit composting, recycling, or carrying out the normal activities of a farming operation.

§ 204. Collection of Municipal Waste.

- A. Property owners shall provide for the regular preparation, collection and removal of all Municipal Waste generated from a property by a private licensed hauler on a weekly basis.
- B. No person other than a private licensed hauler shall collect or remove Municipal Waste from a property. All agreements for collection, transportation and disposal of Municipal Waste shall be by written contract between the property owner of the property where the Municipal Waste is generated and the private licensed hauler who is to collect the Municipal Waste from that property.
- C. Private licensed haulers shall collect Municipal Waste and Recyclables within the Township between the hours of 7:00 a.m. and 9:00 p.m. Monday through Saturday.

§ 205. Transportation of Municipal Waste.

- A. Any private licensed hauler transporting Municipal Waste within the Township shall prevent or remedy any spillage from vehicles or containers used in the transport of such Municipal Waste. Any spillage shall be remedied and removed within one hour of the spill.

- B. Private licensed haulers shall collect and transport Municipal Waste from vehicles that contain the Municipal Waste and prevent it from being blown from the vehicles.
- C. The transfer of Municipal Waste from one collection vehicle to another, or from one place to another, is prohibited in the Township, except on private property zoned, permitted and approved for such use. No such transfer may take place on any public property within the Township.

§ 206. Proof of Contract Required.

- A. Proof by Property Owner. Whenever requested by the Township Code Enforcement Officer, a property owner shall present proof adequate in the opinion of the Township Code Enforcement Officer that the property owner has a current contract with the private licensed hauler to dispose of Municipal Waste generated on the property on a regular basis. The property owner shall have 72 hours to provide proof to the Township Code Enforcement Officer of a current contract between a private licensed hauler and the property owner, including the name, address and telephone number of the private licensed hauler servicing the property.
- B. Proof by Hauler. A private licensed hauler picking up Municipal Waste in the Township shall be required to advise the Township in writing within 72 hours after a request from the Township as to whether a property owner has a current contract for Municipal Waste disposal from that person's property. Furthermore, all private licensed haulers shall cooperate with the Township Code Enforcement Officer in providing information in the event that an action is instituted to enforce this Part.

§ 207. Recyclables. Recyclables may be kept separate from and disposed of separately from Municipal Waste provided that those recyclables are transported to and disposed of at a recycling facility permitted to accept recyclables.

§ 208. Composting. Compost piles may be kept by a property owner provided that the materials do not generate any offensive odors and provided further that the compost piles are secure so that animals do not spread the materials around the property.

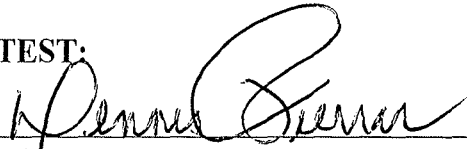
§ 209. Burning. This Part does not prohibit permitted burning within the Township. Materials that are properly burned are not required to be collected under this Part.

§ 210. Presumption of Ownership of Municipal Waste. The presence of Municipal Waste or Recyclables on a person's property, or any Municipal Waste or Recyclables containing a person's name shall create a rebuttable presumption, for purposes of this Part, that the Municipal Waste or Recyclables are that person's Municipal Waste or Recyclables. This presumption can only be rebutted by clear and convincing evidence to the contrary.

§ 211. Violations and Penalties. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than one thousand (\$1,000) dollars per day plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense.

§ 214. Effective Date. This Ordinance shall become effective immediately following its adoption. This Ordinance is adopted this 1 day of July, 2014.


ATTEST:


Secretary

BLACK CREEK TOWNSHIP SUPERVISORS:

By: 
Chairman

By: _____
Vice Chairman

By: 
Secretary/Treasurer

ORDINANCE NO.: 3 - 2014

AN ORDINANCE OF THE TOWNSHIP OF BLACK CREEK, COUNTY OF LUZERNE, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 3, CODE ENFORCEMENT, PART 1, SECTION 105, VIOLATIONS AND PENALTIES UNDER §106.4 OF THE CODE, ALLOWING THE CODE ENFORCEMENT OFFICER TO SELECT AN ENFORCEMENT PROCEEDING AND SPECIFYING THOSE PROCEEDINGS.

BE IT ENACTED AND ORDAINED by the Township of Black Creek, County of Luzerne, Commonwealth of Pennsylvania, as follows:

CHAPTER 3

PART 1

International Property Maintenance Code

§105 entitled, Violations and Penalties under §106.4 of the Code, is hereby amended to read as follows:

"Any person who shall violate this Code shall be subject to one of the following enforcement proceedings as determined by the Code Enforcement Officer:

(a) Any person who shall violate this Code shall be subject in a Civil Enforcement proceeding, to a fine of not more than One Thousand Dollars (\$1,000.00) for each offense, together with the cost of prosecution incurred by the Township. Each day that the violation shall continue shall be deemed as a separate offense and the violator shall be liable for such.

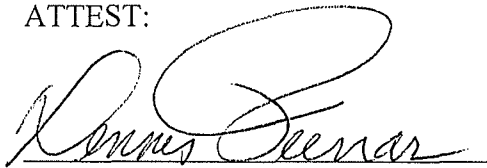
OR

(b) Any person who shall violate any provision of this Code shall, upon conviction thereof in a summary proceeding, be subject to a fine of not less than Three Hundred Dollars (\$300.00) and not more than One Thousand Dollars (\$1,000.00) or imprisonment for a term not to exceed thirty (30) days, or both, at the discretion of the Court. Each day that a violation continues after due notice has been served shall be deemed a separate offense."


This Ordinance Amendment shall take effect immediately following its adoption.


ENACTED AND ORDAINED this 5 day of November, 2014, by
the Black Creek Township Board of Supervisors.

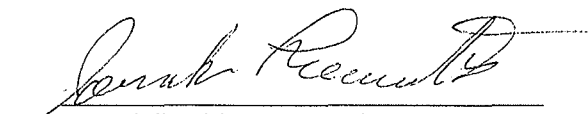
ATTEST:


Dennis Feerrar, Secretary

BLACK CREEK TOWNSHIP BOARD OF
SUPERVISORS

BY: 
Bonnie Adams, Chairperson


Dennis Feerrar, Secretary


Joseph ~~Leskowicz~~, Supervisor
Leskowicz

ORDINANCE NO.: 4-2014

AN ORDINANCE OF THE TOWNSHIP OF BLACK CREEK, COUNTY OF LUZERNE, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 3, CODE ENFORCEMENT, PART 6, FIREWORKS, §603, DISPLAY OR DISCHARGE OF FIREWORKS PERMITTED, ADDING A SUBSECTION REGULATING TIMES OF DISPLAYS.

BE IT ENACTED AND ORDAINED by the Township of Black Creek, County of Luzerne, Commonwealth of Pennsylvania, as follows:

CHAPTER 3

PART 6

Fireworks

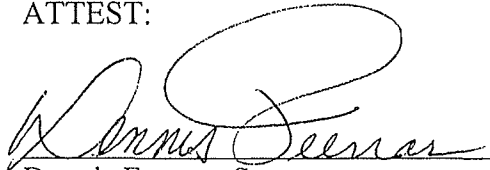
§603 entitled, Display or Discharge of Fireworks Permitted, is hereby amended to add a subsection (g) to read as follows:

(g) A firework display shall not be permitted between the hours of 11:00 PM and 7:00 AM without the prior approval of the Board of Supervisors.

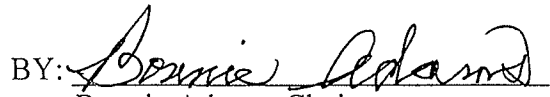
This Ordinance Amendment shall take effect immediately following its adoption.

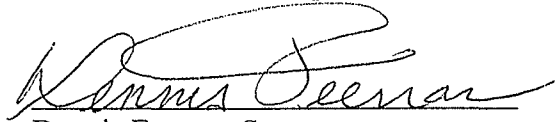
ENACTED AND ORDAINED this 5 day of November, 2014, by the Black Creek Township Board of Supervisors.

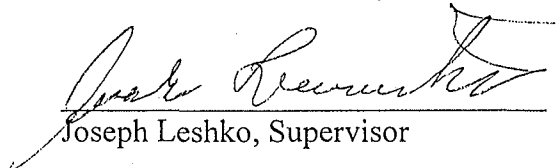
ATTEST:


Dennis Feerrar, Secretary

BLACK CREEK TOWNSHIP BOARD OF SUPERVISORS

BY: 
Bonnie Adams, Chairperson


Dennis Feerrar, Secretary


Joseph Leshko, Supervisor

CHAPTER 4

CONDUCT

Part 1

Public Indecency

- §101. Purpose
- §102. Regulation
- §103. Conduct Defined
- §104. Penalties
- §105. Constitution
- §106. Repealer

Part 2

Prohibition of the Possession and Sale of Drug Paraphernalia

- §201. Purpose
- §202. Definitions
- §203. Factors for Consideration
- §204. Penalties
- §205. Effective Date

CHAPTER 4

CONDUCT

Part 1

Public Indecency

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

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

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

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

§104. Penalties.

A. Individual Offenses. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be guilty of a summary offense and sentenced to pay a fine or not more than Three Hundred Dollars (\$300.00) and costs of prosecution and/or to undergo imprisonment for not more than ninety (90) days, provided that each violation of any provision of this Ordinance and each day the same is continued shall be deemed a separate offense.

B. Corporate and Joint Offenses. In the event any of the unlawful and illegal activities specified herein are conducted by or in the name of a corporation, partnership, joint venture, trust, firm or association, in addition to (corporate) entity liability, the officers, agents or principals of said corporation, partnership, joint venture, trust, firm or association shall be deemed in violation of this Ordinance as well as the person or persons engaged in the unlawful activity, and upon conviction thereof, be guilty of a summary offense and sentenced to pay a fine of not more than Three Hundred Dollars (\$300.00) and costs of prosecution and/or to undergo imprisonment for not more than ninety (90) days, provided that each violation of any

provision of this Ordinance and each day the same is continued shall, be deemed a separate offense.

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

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

(Ord. No. 6-2002, 7/02/02).

Part 2

Prohibition of the Possession and Sale of Drug Paraphernalia

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

§202. **Definitions.**

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

1. Kits used, intended for use, intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances.
3. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
4. Testing Equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.
5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances.
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances.
7. Separation gins and shifters used, intended for use or designed for use in removing twigs and seeds from or in otherwise cleaning or refining marijuana.
8. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
9. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in storing or concealing controlled substances.

10. Containers and other objects used, intended for use or designed for use, or designed for use in parenterally injected controlled substances into the human body.
11. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injected controlled substances into the human body.
12. Objects used, intended for use or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:
 - i. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal howls.
 - ii. Water pipes.
 - iii. Carburetion tubes and devices.
 - iv. Smoking and carburetion masks.
 - v. Roach clips, meaning objects used to hold burning material such as marijuana cigarette that has become too small or too short, to be held in hand.
 - vi. Miniature cocaine spoons and cocaine vials.
 - vii. Chamber pipes.
 - viii. Carburetor pipes.
 - ix. Electric Pipes.
 - x. Chillers.
 - xi. Bongs
 - xii. Ice pipes and chillers.
13. Items that can be used to introduce substances into the human body that may be used for legitimate purposes in business, industry or medicine but can be used to cause intoxication or stupefaction, or cause other physical or mental impairment.

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

§204. Penalties. That anybody attempting to sell, convey or possess drug paraphernalia as defined by this Ordinance shall be guilty of a summary offense punishable by a fine not exceeding \$300.00 and a prison term which shall be fixed by the Court at not more than ninety (90) days.

§205. Effective Date. This Ordinance shall become effective ten (10) days after final enactment or adoption and shall remain in full force and effect until amended or revoked.

(Ord. No. 1-1999, 7/06/99)

**BLACK CREEK TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA**

ORDINANCE NO. #6 of 2022

**AN ORDINANCE OF BLACK CREEK TOWNSHIP, LUZERNE COUNTY,
PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES AS IT RELATES TO
FEES IN CHAPTER 5, CHAPTER 10, AND THE SUBDIVISION/LAND
DEVELOPMENT ORDINANCE AND APPLICATION PACKAGE**

BE IT ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors, of Luzerne County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that the Black Creek Township Code of Ordinances is amended as follows:

Chapter 5 Fees

Part 1 Schedule of Fees

§101 (14) Zoning Books and Maps – The following shall be inserted: All Township Ordinances are available online at the Township's website free of charge. In the event that a hard copy of any of the following are requested, below are the current fees for the same:

1. Zoning Book- \$35.00
2. Zoning Map- \$45.00
3. Subdivision and Land Development Book- \$35.00

§101 (16) Driveway Occupancy/Street Excavation Permits –

Street Excavation shall be replaced with Road Opening.

1. Driveway Occupancy - \$100.00
2. Road opening - Excavation Permit: \$175.00 up to 50 SF
\$100.00 each additional 50 SF
Newly Paved (within 6 years): \$1,500.00 up to 50 SF
\$400.00 each additional 50 SF
Inspection Fee: \$84.00 per hour (minimum one hour)

§101 (17) Subdivision and Land Development

1. Minor Subdivision - \$300.00 plus \$10.00 for each lot or dwelling unit.
4. (d) – With each plan and at the time of application, the applicant or developer must pay to the Township an escrow fee of \$1,250.00 for a minor subdivision plan and \$2,000.00 for a major subdivision/land development plan. The escrow funds will be used to pay for the

professional services being billed by the Township with any excess being refunded to the applicant or developer within sixty (60) days from the date the final plan has been approved and recorded.

Chapter 5 Fees

Part 3 Engineering Review Fees

§302 Upon Filing an application

– The second sentence shall be replaced with “The fees charged by the Township Engineer are hereby established by the Board of Supervisors at the rates provided by the appointed Township Engineer. Current rates are on file and available at the Township’s office.”

§304 Upon Filing of a Preliminary plan and/or Final plan

–First paragraph shall be replaced with “In addition to the above-mentioned filing fees at the time of filing preliminary plans, the applicant shall deposit \$1,250.00 for a minor subdivision plan and \$2,000.00 for a major subdivision/land development plan with the Township Secretary to cover the cost of Engineering fees for review and inspection in conjunction with construction and installation of required improvements.

Editor’s Note – Editor’s Note is removed in its entirety.

Chapter 10 Streets and Sidewalks

Part 2 Road Opening

§202 Permit Required

- The following sentence shall be removed, “All applicants shall pay a Fifty Dollar (\$50.00) fee which fee may be raised or lowered by subsequent resolution.”
- At the end of Section 202, the following shall be added: “Applicants shall use the following fee schedule”.

Excavation Permit: \$175.00 up to 50 SF

\$100.00 each additional 50 SF

Newly Paved (within 6 years): \$1,500.00 up to 50 SF

\$400.00 each additional 50 SF

Inspection Fee: \$84.00 per hour (minimum one hour

Black Creek Township Subdivision/Land Development Application Package

Page 11 Black Creek Township Fee Schedule

1. Minor Subdivision - \$300.00 plus \$10.00 for each lot or dwelling unit.
2. Major Subdivision - \$500.00 plus \$10.00 for each lot or dwelling unit.
3. Site/Land Development Plan - \$500.00
4. (d) The first sentence shall be replaced with, "With each plan and at the time of application, the applicant or developer must pay to the Township an escrow fee of \$1,250.00 for a minor subdivision plan and \$2,000.00 for a major subdivision/land development plan."

Black Creek Township Subdivision and Land Development Ordinance

Section 624 Recreational Area Requirements

624.3 Fees

A. Fee Amount – The fee shall be \$500.00 per dwelling lot or unit.

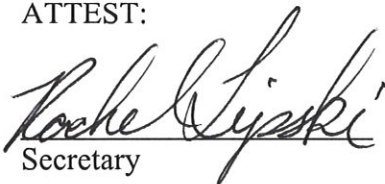
This Amendment shall take effect immediately upon its adoption.

All future amendments related to the fees being amended herein, and all fees charged by the Township and under its Code of Ordinance shall be amended as needed by Resolution of the Board of Supervisors.

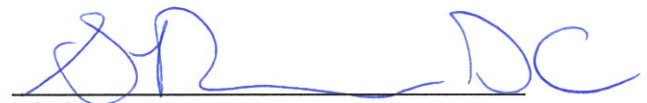
Except as provided above, the remaining provisions of the Code of Ordinances shall remain the same.


ENACTED and ORDAINED this 1st day of December, 2022.


ATTEST:


Secretary

BOARD OF SUPERVISORS OF
BLACK CREEK TOWNSHIP


Chairperson


Vice-Chairperson


Secretary/Treasurer



CHAPTER 5

FEES

Part 1 Schedule of Fees

§101. Schedule of Fees

Part 2 Extraordinary Expenses and Services

- §201. Purpose
- §202. Definitions
- §203. Administration
- §204. Litigation
- §205. Emergency Services
- §206. Repealer

Part 3 Engineer Review Fees

- §301. Administration
- §302. Upon Filing an Application
- §303. Upon Filing of Preliminary and/or Final Plan
- §304. Upon Filing of Preliminary Plan and/or Final Plan

RESOLUTION NO. 3-2013

CHAPTER 5

FEES

Part 1

Schedule of Fees

Be it resolved by the Black Creek Township Board of Supervisors as follows:

§101. Schedule of Fees.

- (1) RESIDENTIAL PACKAGE FOR NEW S.F.D. DUPLEXES & TOWNHOMES per unit CONVENTIONAL FRAME.....\$975.00

Includes plan review and approval, and inspections noted below:

- Footing (before pouring concrete)
- Foundation (before backfill)
- Frame / Draft stop Fire caulk includes: HVAC (rough in)
Plumbing (rough in)
Electric (rough in)
- Insulation
- Wallboard
- Final Electric
- Final

- (2) MODULAR/MANUFACTURED HOUSING, NEW S.F.D.....\$575.00

Includes plan review and approval, and inspections noted below:

- Footing (before pouring concrete)
- Foundation (before backfill)
- Electric Service
- Final Electric
- Final

- (3) RESIDENTIAL CONSTRUCTION
- Addition 1 story with electric.....\$650.00
- Addition 2 story with electric.....\$750.00

Above with plumbing add \$50.00

- (4) RESIDENTIAL DECK PACKAGE..... \$135.00

Includes plan review and 2 inspections, as noted below:

- Footing (before pouring concrete)
- Final

(5) RESIDENTIAL POLE BUILDING OR DETACHED GARAGE

(no electric).....\$250.00
Add \$100.00 with electric

(6) RESIDENTIAL SWIMMING POOL PACKAGE

• Above Ground Pool: Includes Plan Review, electrical and final inspection
(2 inspections included).....\$150.00

• In-Ground Pool: Includes Plan Review, rough and final electric, rough and
final inspection
(4 inspections included).....\$275.00

(7) COMMERCIAL BUILDING FEES

USE GROUP:

A-1	.....	1.20
A-2	.....	0.84
A-3	.....	0.82
A-4	.....	1.06
B	.....	0.76
E	.....	0.83
F	.....	0.47
I-1	.....	0.80
I-2	.....	1.18
I-3	.....	0.95
M	.....	0.60
R-1	.....	0.85
R-2	.....	0.70
R-3	.....	0.60
S	.....	0.44

NOTE: R-3 is for attached single family dwellings i.e. Duplexes & Townhouses
etc. All permit fees are based upon the total square footage of project times use
group multiplier.

Minimum Commercial fees:

New Construction.....	\$1500.00
Commercial Alterations.....	\$ 575.00
Minimum Misc. Fee	\$ 250.00

Other non contracted services are billed at \$65.00 per hour with a 1 hour minimum. A Certificate of Occupancy is \$35.00 for single-family or two-family dwellings; and \$75.00 for multi-family or commercial dwellings. All fees due upon permit application and construction shall not begin until Building Permit secured.

(8) CERTIFICATE OF ZONING COMPLIANCE.....\$60.00

(9) ZONING APPLICATION FEE.....\$80.00

(10) ZONING PERMIT

1. Structures that are less than 1,000 square feet in total gross floor area and less than \$5,000.00 in total construction costs- \$25.00
2. Structures that are 1,000 square feet or more in total gross floor area or more than \$5,000.00 in total construction costs- .25 per square foot calculated by including all total floor area (finished or unfinished).

(11) APPLICATION OR APPEAL TO THE ZONING HEARING BOARD
OR UCC APPEAL BOARD.....\$400.00

(12) APPLICATION FOR ZONING CHANGES OR
CURATIVE AMENDMENT

1. \$500.00 plus the cost of advertising and stenographer transcript fees.
2. \$1,000.00 must be placed in an escrow account at the time of making application, which escrow will be applied toward the application fee and costs of the hearing. Any excess will be refunded to the applicant within sixty (60) days from the conclusion of the hearing.

(13) CERTIFICATE OF NON-CONFORMING USE.....\$100.00

(14) ZONING BOOKS AND MAPS

1. Zoning Book- \$35.00
2. Zoning Map- \$35.00
3. Subdivision and Land Development Book- \$35.00
4. Electronic Version- \$10.00

(15) DEMOLITION PERMITS

1. Residential Principal Structures-\$100.00
2. Residential Accessory Structures-\$25.00
3. Commercial-\$250.00

(16) DRIVEWAY OCUPANCY/STREET EXCAVATION PERMITS

1. Driveway Occupancy-\$30.00
2. Street Excavation/Cut-\$.50 cents per linear foot of disturbed area with a minimum fee of \$100.00.

(17) SUBDIVISION AND LAND DEVELOPMENT-

1. Minor Subdivision-\$275.00 plus \$10.00 for each lot or dwelling unit.
2. Major Subdivision-\$500.00 plus \$10.00 for each lot or dwelling unit.
3. Site/Land Development Plan- \$500.00
4. In addition to the filing fees set forth above, the applicant or developer shall individually or jointly be responsible for paying all review and inspection fees incurred by the Township. These fees include:
 - (a) The cost of the Township Engineer and other professionals to perform the following services:
 - Review of plan
 - Site Inspection
 - Preparation of cost estimates for required improvements
 - Inspection of required improvements during the course of construction and installation of said improvements
 - Final inspection of the subdivision and/or land development and the required improvements contained therein
 - (b) Review and inspection fees will be charged by the Township at the current hourly rate being billed to the Township by the Engineer and other professionals at the time of the work, review or inspection.
 - (c) The review and inspection fees will be billed by the Township monthly and the applicant or developer shall be required to pay those bills within thirty (30) days from the date they are billed.

(d) With each plan and at the time of application, the applicant or developer must pay to the Township an escrow fee of \$300.00 for a minor subdivision plan and \$750.00 for a major subdivision/land development plan. The escrow funds will be used to pay for the professional services being billed by the Township with any excess being refunded to the applicant or developer within sixty (60) days from the date the final plan has been approved and recorded.

(18) WIND MILLS

A zoning permit for a wind mill is required; The zoning permit fee for each wind mill shall be one thousand (\$1,000.00) dollars. A building permit for a wind mill is required, and the building permit fee for each wind mill shall be calculated at \$3.00 per linear foot measured from the surface of the tower foundation at the average grade to the highest point of the structure, including blades. There shall also be an annual inspection required for wind farms and the fee for inspections shall be one thousand (\$1,000.00) dollars per wind mill in a wind farm.

(19) LANDLORD - TENANT FILINGS AND REGISTRATIONS

1. \$10.00 per property for initial and new filings
2. \$10.00 per unit/filing for change in tenants or vacancy

(20) FIREWORK PERMIT FEE

1. \$75.00 plus reimbursement of cost to Fire Company.

(21) TRANSIENT RETAIL MERCHANT PERMIT FEE

1. \$25.00 per month
2. \$50.00 per year

(22) CONTRACTOR/ BUSINESS LICENSE OR PERMIT FEE

..... \$75.00 (For Contractor Licenses it only applies to new residential homes or nonresidential buildings only)

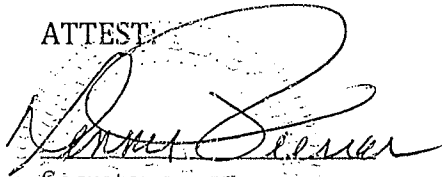
(23) TOW TRUCK FEES

1. \$50.00 hook-up fee
2. \$1.45 per mile from garage and return to garage

(24) CHANGING OF FEES. The fees established herein may be changed (increased, decreased or omitted) by the Township Board of Supervisors from time to time by resolution.

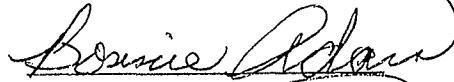
AND NOW, this 7th day of January, 2013, this Fee Resolution is adopted by the Black Creek Township Board of Supervisors.

ATTEST:

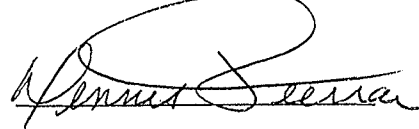

Secretary

BLACK CREEK TOWNSHIP
BOARD OF SUPERVISORS:

By:



By:



Part 2

Extraordinary Expenses and Services

§201. Purpose.

The Township Supervisors finds that the continuing increase in the costs of providing adequate fire, police, public works, and other public safety services, particularly in the event of extra-ordinary occurrences, such as the threat of or actual release of hazardous materials seriously impairs the Township's ability to provide all necessary services; and in order to better protect the public health, safety and welfare, and to protect and preserve the public fiscal and all public funds and tax dollars, the Township hereby adopts a policy of reimbursement of expenses incurred while providing services during a threat of or actual release of hazardous materials either in a transportation or fixed facility incident; and the following provisions are authorized, and it is further declared that all costs and fees related thereto are to be levied solely for the purpose of generating revenue to help defray the actual costs and charges of both public and private sector services during an extraordinary technological emergency.

§202. Definitions.

- A. An "extraordinary expense" shall be those expenses, and those related costs and fees that are incurred by the Township, local, state, or federal department or agency, emergency services organization and from the private sector for actual costs or charges for labor, materials, and any other costs associated with the use of specialized extinguishing or abatement agent, chemical neutralizer or similar equipment or material that is employed to monitor, extinguish, confine, neutralize, contain, clean, or remove any hazardous material that is or may be involved in a fire, or release into the air, ground or water or the potential threat of any release or fire and any and all activities associated with the implementation of a protective action (i.e. evacuation) to protect the public health, safety and welfare.
- B. An "extraordinary service" is a service performed by any Township departments or employees, or any public or private sector organization, agency or company directly associated with mitigating the hazard or potential hazard or involved in providing services to implement a protective action. "Extraordinary services" may include, but as not limited to, the abatement and disposition of hazardous materials, spills, or releases of hazardous materials, utility line breaks or leakages, and other imminent or perceived or potential threats to the health, safety and welfare of the public that may be detailed or contemplated in Section 202(A) above.

§203. Administration. The Supervisors of the Township shall collect all fees as follows:

- A. Fees and costs (including overhead costs) shall encompass all personnel, equipment, materials and maintenance expenses in such a form as to insure for full reimbursement for charges from both the public and private sectors actually rendered.

- B. A particular cost or fee schedule need not be set forth in this section or elsewhere in the Township ordinance or by further formal action by the Township Supervisors. The Township Supervisors approval of this section shall constitute authorization for the Supervisors to collect all such fees and costs (including overhead costs) pursuant to the receipt of related expenditures or costs that are submitted to the Township by affected public and private bureaus, agencies, departments or companies.
- C. Within thirty (30) days of the date of the extraordinary or dangerous occurrence giving rise to the extraordinary service, the affected public agencies, departments or private companies shall submit its extraordinary service related costs, fees, charges and expenses to the Township Supervisors for review. At such time as all costs, fees, charges and expenses related to the extraordinary service have been collected and reviewed, but in any case not later than sixty (60) days from the date of determining the combined cost of rendering extraordinary services, the Township Supervisors shall submit a bill for all costs, fees, charges and expenses, to the owner agent or manager of the vehicle or fixed facility which caused the need for extraordinary services, with a demand that a full remittance be made within thirty (30) days of receipt.
- D. In cases of hardship, or where circumstances are such that a full remittance cannot be made to the Township within the thirty (30) day period, the Township Supervisors shall hereby authorize the Township Solicitor to enter into negotiations with the owner or his agent for an extended payback period of time not to exceed six (6) months.
- E. All monies received under the provisions of this article shall be placed into the General Fund and reimbursement be made to all public and private sector departments, agencies who have submitted related costs, fees, charges and expenses for providing an extraordinary service as outlined herein.

§204. Litigation. The Township may enforce the provisions of this article by civil action in a court of competent jurisdiction for the collection of any amounts due hereunder plus attorneys fees or for any other relief that may be appropriate.

§205. Emergency Services.

- A. Nothing in this article shall authorize any Township bureau, department, or personnel or staff members to refuse or delay an emergency service to any person, firm, organization, or corporation that has not reimbursed the Township for extraordinary services.
- B. Furthermore, nothing in this section shall be construed to demand reimbursement to the Township for those municipal services that are normally provided to the Township residents and others as a matter of the Township's

general operating procedure, and for which the levying of taxes or the demand for reimbursement is normally made.

§206. Repealer. All ordinances and parts of ordinances inconsistent herewith be, and the same are hereby repealed.

(Ord. No. 1-1990, 10/02/90).

Part 3

Engineer Review Fees

§301. Administration. The Board of Supervisors of Black Creek Township, Luzerne County, Pennsylvania hereby establishes that in addition to the basic filing fee, at the time set forth below, the developer(s), subdivider(s), or agent(s) therefore shall also pay the following added fees to the Township.

§302. Upon filing an application. The cost of the Township Engineer's review fees which may be charged by the Engineer in such amounts as they shall determine at the time the application is filed. The fees charged by the Township Engineer are hereby established by the Board of Supervisors at the rate of \$67.00 per hour for professional engineering services; \$56.00 per hour for AutoCAD technician and design engineer; and \$43.00 per hour for inspections. The Engineering fees may be changed from time to time as approved by the Township Board of Supervisors.

§303. Upon filing of preliminary and/or final plan. All engineering fees charged by the Primary Township Engineer and Alternate Engineer for review and inspection services performed by then and/or through their office during the course of, or in conjunction with construction and installation of required improvements in the approved subdivision. These charges shall include, but shall not be limited to charges for the following types of services:

- Review of Plan
- Site Inspection
- Preparation of cost estimates for required improvements
- Each single retail or commercial structure on one or more lots will be considered a land development and subject to site plan review.
- Inspection of required improvements during the course of construction and installation of said improvements.
- Final inspection of the subdivisions and/or requirements improvements contained therein.

§304. Upon filing of a preliminary plan and/or final plan. For major subdivision review, in addition to the above-mentioned filing fees at the time of filing preliminary plans, the applicant shall deposit \$300.00 for a minor subdivision plan and \$750.00 for a major subdivision/land development plan with the Township Secretary to cover the cost of Engineering fees for review and inspection in conjunction with construction and installation of required improvements.

- A. In addition to the foregoing fees, the developer(s) subdivider(s), or agent(s) thereof shall also be required to pay to the Township in such amounts and at

such times as the Black Creek Township Planning Commission shall determine and deem appropriate, any and all additional fees, charges or costs that may be charged by the Township Engineer, nor any other municipal agency (other than the Township) for any additional review of plans, additional calculations, additional reports or other such services which may be required or necessitated as a result of any change (s) thereof, either of their own initiative or, as required by the Black Creek Township Planning Commission in order that said application proposed plan or preliminary plan and/or final plan conform or comply with applicable requirements of the Black Creek Township Subdivision and Land Development Ordinance. For major subdivisions the applicant will be responsible for all engineering testing, and inspections as deemed necessary by the Township.

- B. In addition to the foregoing fees, the developer(s), subdivider(s), or agent(s) thereof shall also be required to pay to the Township in such amounts and at such times as the Black Creek Township Planning commission shall determine and deem appropriate, any and all additional fees, charges or costs that may be charged by the Township Engineer, nor any other municipal agency (other than the Township) for any additional review of plans, additional calculations, additional reports or other such services which may be required or necessitated as a result of any change(s) made to the subdivider(s) or agent(s) thereof, either of their own initiative or, as required by the Black Creek Township Planning Commission in order that said application proposed plan or preliminary plan and/or final conform or comply with applicable requirements of the Black Creek Township Subdivision and Land Development Ordinance. For major subdivisions the applicant will be responsible for all engineering testing, and inspections as deemed necessary by the Township
- C. Any required re-inspections due to the developer(s), subdivider(s), or agent(s) failure to meet the design specifications will be charged to the developer(s), subdivider(s) or agents(s) thereof. Fees will be per established schedule.
- D. All applications for subdivisions and/or land/site development will be accompanied by financial securities for the construction, structural integrity, and maintenance of newly constructed public infrastructure improvements that are proposed as part of subdivisions and/or land developments.
- E. Final Subdivision Approval will not be granted until all fees have been paid.

(Res. No. 2-2007, 7/10/07).

EDITOR'S NOTE: This ordinance was revised changing the escrow amounts from \$500.00 to \$300.00 for minor subdivisions and \$750.00 for major subdivisions/land developments to be consistent with the Fee Schedule Resolution adopted by the Supervisors and included in this Chapter as Part 1 above.

CHAPTER 6

LICENSES

Part 1

Contractors; Proof of Registration with the Commonwealth

- §101. Purpose and Intent
- §102. Definitions: Reference to State Law
- §103. Requirements for Contractors Performing Home Improvement Contracts
- §104. Violations and Penalties
- §105. Severability
- §106. Effective Date

Part 2

Transient Retail Business

- §201. Definitions
- §202. License required to Engage in Transient Retail Business
- §203. Application for License
- §204. Investigation; Issuance or Refusal of License
- §205. Custody, Display and Exhibit of License
- §206. Prohibited Acts
- §207. Certain Practices Constitutes Nuisances
- §208. Suspension or Revocation of License
- §209. Penalties

Part 3

Conduct of Business

- §301. License and Permit Defined
- §302. Secretary's Authorization
- §303. Certificate of License
- §304. Application for Permit
- §305. Requirements
- §306. Penalty

CHAPTER 6

LICENSES

Part 1

Contractors; Proof of Registration with the Commonwealth

§101. Purpose and Intent. The purpose and intent of this ordinance is to ensure that contractors who perform Home Improvement Contracts in the Township of Black Creek are registered with the Commonwealth of Pennsylvania as required by State Law, and, therefore, maintain liability insurance as required by the Commonwealth of Pennsylvania.

§102. Definitions: Reference to State Law. The terms "Contractor" and "Home Improvement Contract" as used in this ordinance shall have the same definition as those terms have in the Pennsylvania Home Improvement Consumer Protection Act, Act of October 17, 2008, P.L., 1645 No. 132, as amended.

§103. Requirements for Contractors Performing Home Improvement Contracts. All contractors who seek to perform Home Improvement Contracts in the Township of Black Creek shall, prior to receiving a building or other permit from the Township for any Home Improvement Contracts in the Township, provide proof to the Code Enforcement or Zoning Officer that said contractor is registered with the Commonwealth of Pennsylvania, as required by the Act of October 17, 2008, P.L. 1645, No. 132, as amended, known as the Home Improvement Consumer Protection Act. No contractor performing a Home Improvement Contract in the Township of Black Creek shall be required to register with the Township, obtain a license from the Township, or pay a fee to the Township to meet the requirements of this Ordinance.

§104. Violations and Penalties. Any person, firm or corporation violating Section 82-3 of this Ordinance, upon conviction in a summary proceeding by a District Justice, shall be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), plus costs of prosecution.

§105. Severability. The provisions of this ordinance are declared to be severable. If this ordinance or any section is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this ordinance.

§106. Effective Date. This Ordinance shall take effect immediately upon its adoption.

Part 2

Transient Retail Business

§201. Definitions. The term "transient retail business", as used in this Part, shall mean and include the following:

(a) Engaging in peddling, selling, canvassing, soliciting or taking orders, either by sample or otherwise, for any goods, wares or merchandise, upon any street, alley, sidewalk or public place, or from house to house, within the Township; and

(b) Selling, soliciting or taking orders for any goods, wares, or merchandise, from a fixed location within the Township, on a temporary basis, which shall include, but shall not be limited to, any activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for or in advance of particular yearly holidays.

§202. License required to engage in Transient Retail Business. No person shall engage in any transient retail business within the Township without first having obtained from the Code Enforcement Officer a license for which a fee of Fifty Dollars (\$50.00) for one (1) calendar year or Twenty Five Dollars (\$25.00) for one (1) calendar month, which shall be for the use of the Township, shall be paid. Provided: no license fee shall be required under this section;

(a) From farmers selling their own produce;

(b) For the sale of goods, wares and merchandise, donated by their owners, the proceeds of which are to be applied to any charitable or philanthropic purpose; or

(c) To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products.

Provided further: any person dealing in one or more of the above-mentioned exempted categories, and selling other goods, wares and merchandise not so exempted, shall be subject to payment of the license fee fixed by this section for his or her activities in connection with the sale of goods, wares and merchandise not so exempted. Provided further: the Township may similarly exempt from payment of the license fee persons working without compensation and selling goods, wares or merchandise for the sole benefit of any non-profit corporation. Provided further: every license issued under the provisions of this Part shall be issued on an individual basis to persons engaging in a transient retail business; every individual shall obtain a separate license, issued to him in his name, and the license fee imposed by this section shall be applicable to every individual license.

§203. Application for License. Every person desiring a license under this Part shall first make application to the Code Enforcement Officer for the license. If the person shall also be required to obtain a license from any state or county officer, he or she shall, when making the application, exhibit a valid state license. The applicant shall give his or her name and address; the name of the person by whom he or she is employed; the type of goods, wares

and merchandise he or she wishes to deal with in the transient retail business; the number of persons to be employed by him or her in the Township; and the type and license numbers of all vehicles to be used, if any. The application shall be accompanied by the license fee required by Section 202, and shall include a photograph of the applicant and a police background check performed by the Pennsylvania State Police or the Township Police, if such a department exists at the time of the application.

§204. Investigation; Issuance or Refusal of License. Following the making of the application by the applicant, no license shall be issued until the Code Enforcement Officer has investigated the application, but the waiting period for the purpose of the investigation shall not exceed 24 hours. Following the investigation, the Code Enforcement Officer may refuse the license where the investigation discloses a criminal record or any false or misleading statement on the application. When a license is refused, the Township shall return to the applicant the license fee that had been paid to the Township at the time of making the application, less the costs of the investigation.

§205. Custody, Display and Exhibit of License. Every license holder shall carry the license upon his or her person or shall display it upon his or her vehicle, if he or she is engaged in a transient retail business from house to house or upon any street, alley, sidewalk or public ground, or he or she shall display the license at the fixed location where he or she shall engage in business if doing so from a fixed location. The license holder shall exhibit the license, upon request, to all police officers, Township officials and citizens or residents of the Township.

§206. Prohibited Acts. No person engaged in any transient retail business shall:

- (a) Sell any product or type of product not mentioned in the license.
- (b) Hawk or cry his or her wares upon any street, alley, sidewalk or public ground in the Township, or use any loud speaker or horn or other device for announcing his or her presence by which the public may be annoyed.
- (c) When selling from a vehicle, stop or park the vehicle upon any street or alley in the Township for longer than necessary in order to sell from the vehicle to persons residing or working in the immediate vicinity.
- (d) Engage in any house-to-house activity, except by prior appointment, before 9:00 a.m. or after 5:00 p.m., or in the summer months after 7:00 p.m.

§207. Certain Practices constitutes Nuisances. The practice or custom of going in and upon private residences in the Township by solicitors, peddlers, itinerant merchants or transient retail merchants, regardless of whether they hold a valid license under this Part, not having been requested or invited to do so by the owner or occupant of that private residence, for the purpose of soliciting orders for the sale of goods, wares, or merchandise, or of disposing of, peddling or hawking goods, wares or merchandise is declared to be a nuisance and punishable as such and is also a violation of this Part.

§208. Suspension or Revocation of License. The Code of Enforcement Officer is authorized to suspend or revoke any license issued under this Part when the suspension or revocation is in the interest of the public health, safety, or morals, or for violation of any provision of this Part, or for giving false information upon any application for a license under this Part. Appeals from any suspension or revocation may be made to the Township Supervisors at any time within ten (10) days after suspension or revocation. No part of a license fee shall be refunded to any person whose license has been suspended or revoked.

§209. Penalties. In addition to the penalties set forth in Section 208 above, any person who shall violate provision of this Part shall, upon conviction thereof, be subject to a fine of not less than Three Hundred (\$300.00) Dollars nor more than One Thousand (\$1,000.00) Dollars or imprisonment for a term not to exceed thirty (30) days, or both, at the discretion of the District Justice. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

Part 3

Conduct of Business

§301. License and Permit Defined. "License" and "permit" herein used shall be defined as the right or privilege incident to the conduct of the business or business activity, which right of privilege is granted by the Supervisors of the Township of Black Creek as distinguished from such right or privilege as the said business or businesses activity might have secured from any other governmental agency, either Federal or State.

§302. Secretary's Authorization. The Township Secretary or her designee is hereby directed and authorized:

1. To direct the issuance of licenses and permits following the receipt of applications therefore and subject to the application of such procedure as may be prescribed by various ordinances of the Township of Black Creek.
2. To make demand for the payment of license or permit fees and to require payment thereof onto the Township of Black Creek and to require from applicant for license or permit, evidence of the payment of the license or permit fees paid.
3. To maintain records containing the names and addresses of all applicants, the character of license or permit for which application is made, date upon which such application is made, date upon which such application is granted, date upon which license or permit fees are paid.
4. To make report of all matters incident thereto at least once each month onto the Supervisors of Black Creek Township.

§303. Certificate of License. Upon the grant of license or permit to an applicant, the Secretary shall issue applicant a certificate of license in such manner as shall be determined and provided by the Supervisors of Black Creek Township. Such certificate of license or permit shall be issued in duplicate, the original thereof shall be maintained upon the premises of the property, place, or person, made the subject of the license or permit, and shall be open to public view and subject to inspection by the proper officers of the Township of Black Creek.

§304. Application for Permit. All persons, firms, or corporations engaged in any of the various areas of business hereinafter enumerated, shall on or before the first day of June each year, following adoption of this Part, make application for the license permit by applying in writing to the Secretary, on forms provided for such purpose and shall, as required incident in connection with the filing of said application, make payment of the license or permit fee as herein prescribed, unto the Township, and shall present evidence of such payment to the Secretary, who will make note of such payment upon the application. License or permit fees herein enumerated, shall become due and payable commencing January 1, 2007 and shall be paid no later than March 1st of each year following the

adoption of this Part, and shall be paid on an annual basis each year thereafter as a license or permit fee in the schedule following.

Each year there shall be paid a license or permit fee by every owner or operator of a business within the Township of Black Creek of business who is maintaining thereon or therein, or conducting a business. The fees by maintaining a business shall be established by Resolution from time to time by the Board of Supervisors.

§305. Requirements.

1. *General.* It shall be the duty and obligation of all owners and operators of businesses or business activities made the subject of this Part to make application unto the Secretary and to pay the license and permit fees as provided within the time herein provided for such payment, without the necessity or requirement of any form of notice other than the passage and existence of this Part, and allegation of no notice or knowledge of this Part shall not be accepted as a defense in the prosecution of any violation of this Part.
2. *Liability Insurance.* Contractors working with Black Creek Township are hereby required to obtain liability insurance in the amount of \$500,000.00.
3. *Contractor's Motor Vehicle Stickers.*
 - a. The Contractor working within Black Creek Township shall display a motor vehicle sticker, used by Black Creek Township, on their construction vehicle while working within Black Creek Township. The motor vehicle sticker shall be displayed on the vehicle in a manner consistent with state law.
 - b. A contractor may not transfer a motor vehicle sticker to any other contractor or sub-contractor.
4. *Revocation.* Any Contractor who violates a Township ordinance while working within Black Creek Township shall be subject to revocation of their contractor's license for a period of:
 - a. First Offense: 30 days;
 - b. Subsequent Offense: 90 days
5. *Appeal.* Any person, firm or corporation aggrieved by the operation of terms or conditions of this Part, shall have the right to present an appeal to the Supervisors and to be heard on such by presenting an appeal to the Supervisors not less than two (2) weeks prior to date upon which such aggrieved person is to be heard by the Supervisors. The Supervisors shall have power to review and alter and amend or otherwise change any decision of the Secretary in granting or refusal to grant any license or permit.

§306. Penalty. Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine not exceeding six hundred dollars (\$600.00) and costs, or in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. No. 1-2006, 5/02/06).

CHAPTER 7

FINANCIAL ADMINISTRATION

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- §102. Taxes Imposed
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- §104. Return and Payment of Tax
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- §107. Appeal
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- §304. Expense of Collection, Collector's Compensation
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Supervisors' Realty Transfer Tax

- §401. Legal Authority, Short Title and Effective Date
- §402. Definitions
- §403. Imposition of Tax
- §404. Liability
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- §406. Payment of Tax

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- §409. Lien upon Real Estate
- §410. Disclaimer
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Realty Transfer Tax

- §501. Imposition of Tax
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- §504. Repealer
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Part 6
Street Lights

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- §602. Term and Costs
- §603. Annual Assessments

Part 7
Local Service Tax

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- §702. Definitions
- §703. Levy of Tax
- §704. Exemption and Refund
- §705. Duty of Employers to Collect
- §706. Returns
- §707. Duties for Determining Tax Liability and Payment
- §708. Self-Employed Individuals
- §709. Individuals Engaging in More than One Occupation or Employed in More than One Political Subdivision
- §710. Nonresidents Subject to Tax
- §711. Administration of Tax
- §712. Suits for Collections
- §713. Violations and Penalties
- §714. Interpretation
- §715. Repealer and Severability
- §716. Effective Date

CHAPTER 7

FINANCIAL ADMINISTRATION

Part 1

Earned Income Tax

§101. Definitions. Unless otherwise expressly stated, the following terms and words shall have, for the purpose of this ordinance, the meaning herein indicated:

1. "Association" shall mean a partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.
2. "Business" shall include any enterprise, activity, agency, profession, trust or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, agent, broker, co-partnership, association or other entity.
3. "Compensation earned" or "compensation paid" or "earnings" shall mean all salaries, wages, commissions, bonuses, incentive payments and/or other forms of compensation or remuneration, in cash or in property, received by an individual and paid, directly or through an agent, by an employer for services rendered.
4. "Corporation" shall mean any corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other State, territory or foreign country or dependency.
5. "Employer" shall mean any individual, co-partnership, association, corporation, governmental body or unit or agency or any other entity, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.
6. "Net profits" shall mean the net gain from the operation of a business, profession or enterprise after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used, and without deduction of taxes based on income.
7. "Non-resident" shall include natural person, co-partnership, association, firm or fiduciary (except any corporation which is exempt from this tax under the Act of Assembly 480, approved June 26, 1947, P.L. 1145, as amended). Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
8. "Resident" shall mean an individual, co-partnership, association or other entity domiciled in the Township of Black Creek.

9. "Taxpayer" shall mean a person, whether an individual, co-partnership, association or any other entity required hereunder to file a return on earnings or net profits or to pay a tax thereon.

10. "Income Tax Administrator" shall be such person as may be empowered by said Township Supervisors to administer the provisions of this ordinance.

§102. Taxes Imposed. The following taxes are hereby imposed for general township purposes during the year 1963.

- A. One (1%) per cent of all compensation earned by residents.
- B. One (1%) per cent of all compensation earned by non-residents for work done or services performed or rendered in the Township of Black Creek.
- C. One (1%) per cent of all the net profits of businesses, professions and other activities engaged in or conducted by residents.
- D. One (1%) of the net profits of businesses, professions and other activities engaged in or conducted in the Township of Black Creek by nonresidents.

The taxes levied under (A) and (B) of this Section shall relate to and be imposed upon compensation paid by an employer or on his behalf to any person who is employed by or renders services to him. The taxes levied under (C) and (D) of this Section shall relate to and be imposed upon the net profits of any business profession, or enterprise carried on by any person or owner or proprietor, either individually or in association with some other person or persons.

Such taxes shall be levied with respect to the compensation or net profits earned during the calendar year 1963.

PROVIDED, however, that where the fiscal year of a business, profession or other activity differs from the calendar year, the tax shall be applicable to the net profits earned during the balance of the calendar year 1963.

§103. Declaration.

- A. Net Profits. Every taxpayer who can reasonably be expected to earn taxable net profits during the taxable period or who is employed on a salary, wage, or commission or other compensation basis and can reasonably be expected to earn during the taxable period, taxable earnings not subject to the provisions of Section 204 of this Ordinance relating to collection at source, shall make and file with the Income Tax Administrator on or before the 15th day of April each year, on a form prescribed by the Income Tax Administrator, a declaration of the estimated tax to be withheld at source and such other relevant information as the Income Tax Administrator may require.

- B. Earned Income. Every taxpayer who after January 1, 1963, can reasonably be expected to earn taxable net profits during the taxable period or who is employed on a salary, wage, commission or other compensation basis and can reasonably be expected to earn, during the taxable period, taxable earnings not subject to the provisions of Section 204 of this ordinance relating to the collection at source, shall make and file on or before January 15, 1963, April 15, 1963 or June 15, 1963, whichever of these dates next follows the date on which the taxpayer could first reasonably be expected to earn such net profits or earnings, a declaration similar to that required under the immediate preceding paragraph, Section 203(A).
- C. The taxpayer making the declaration required hereinabove shall, at the time of filing thereof, pay to the Income Tax Administrator on behalf of the Township Supervisors the estimated tax shown as due thereon, providing, however, that he shall have the right to pay the tax in equal installments on or before the remaining quarterly installment dates.
- D. Where the taxpayer who has filed a declaration required hereinabove, shall thereafter reasonably be expected to earn during the taxable period additional taxable net profits or earnings not subject to collection as source, or finds that he has over estimated his net profits or earnings, he may file an amended declaration with the Income Tax Administrator setting forth such relevant information as the Income Tax Administrator may require.
- E. Every taxpayer who, during the taxable period, has earned taxable earnings, shall make and file with the Income Tax Administrator, on a form prescribed by the Income Tax Administrator, on or before the 15th day of the 4th month after the end of the taxable period, a final return showing all such net profits and earnings during the taxable period, the total amount of tax due thereon, the amount of the estimated tax paid under the provision of this Section, the amount of the tax that has been withheld pursuant to the provisions of Section 204 of this Ordinance and the balance of the tax due.
- F. When the taxpayer's return of net profits or net earnings is made on a calendar year basis or on a fiscal year basis, the final return for such portion of taxable period as shall come within such calendar or fiscal year, shall be made and filed with the Income Tax Administrator on or before the 15th day of the 4th month after the end of such calendar or fiscal year.
- G. The percentage of the total net profits of any calendar or fiscal year of a taxpayer beginning or ending within the taxable year to which the tax imposed by this Ordinance shall be applicable, shall be equal to the same percentage of such total net profits as the number of days in any such year within such period bears to the total number of days in any such year.

- H. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
- I. In the event of the death of taxpayer during the taxable period, his personal representatives, or in the absence of a personal representative, his heirs as designated by the Pennsylvania Intestate Act of 1947, as amended, or as hereafter amended or supplemented, shall file his final return within ninety (90) days after the taxpayer's death and pay the tax due or demand refund in the case of overpayment.
- J. In the event that this or a similar Earned Income Tax Ordinance shall not be re-enacted for a like taxable period immediately following the taxable period of this Ordinance, then every taxpayer shall file a final return on or before the 15th day of the 4th month following the end of the current taxable period.
- K. Declaration of estimated tax required by the preceding paragraphs shall not be required from individuals whose estimated gross income from farming for the taxable year is at least two-thirds $\frac{2}{3}$ of the total estimated gross income from all sources for the taxable year.

§104. Return and Payment of Tax.

- A. Every employer within the Township of Black Creek who employs one or more employees on a salary, wage, commission or other compensation, shall deduct at the time of the payment thereof, the tax imposed by this Ordinance on the earnings due to his employee or employees and within thirty (30) days after April 15, 1963, and within thirty (30) days after each quarter thereafter, shall make and file a return with the Income Tax Administrator on a form prescribed by the Income Tax Administrator, setting forth the taxes so deducted and such other relevant information as the Income Tax Administrator on behalf of the Township Supervisors the amount of taxes so deducted.
- B. On or before the 15th day of April of the year 1963, every such employer shall make and file with the Income Tax Administrator on a form prescribed by the Income Tax Administrator.
 - 1. A return similar to form W - 2 of the Internal Revenue Service of the United States Treasury Department showing the total amount of the earnings of his employees during the portion of the preceding calendar year embraced within the taxable period, the total amount of tax deducted and the total amount of tax paid to the Township Supervisors.
 - 2. A return for each employee similar to form W - 2 of the Internal Revenue Service of the United States Treasury Department, showing the total amount of the employee's earnings during the portion of the preceding year embraced within the taxable period, and such other relevant information as the Income Tax Administrator may require. Such employer on or before April 15th of the

year 1963, shall furnish a copy of such return to the employee named in the return.

- C. Every employer who discontinues business prior to the close of the taxable year, shall within thirty (30) days after the discontinuance of business, file the returns hereinabove required and pay the tax due. where discontinuance of business is due to the death of the employer, his personal representative, or in the absence of a personal representative, his heirs, as designated by the Pennsylvania Intestate Act, of 1947, as amended, or as hereafter amended or supplemented, shall within ninety (90) days after the death of the employer file his return and pay the tax due or demand refund in the case of overpayment.
- D. The failure or omission of any employer to make the deductions required by this Section shall not relieve any employee from the payment of the tax or from complying with the requirements of this Ordinance relating to filing of declarations and returns.
- E. If an employer makes a reduction of tax as required by this Section the amount shall constitute in the hands of such employer a trust fund held for the account of the Township Supervisors as beneficial owner thereof and the employee from whose earnings such tax was deducted shall be deemed to have paid such tax held for the account of the Township Supervisors as beneficial owner thereof and the employee from whose earnings such tax was deducted shall be deemed to have paid such tax.
- F. The withholding of earnings and the payment and return thereof by the employer under the provisions of this Section shall not be required in respect to earnings of domestic servants, farm labor and casual labor not in the course of the employer's business. This paragraph shall not be construed to exempt such employees from the requirements of filing a declaration and a return of such earnings and the payment of tax thereon under the provisions of Section.

§105. Administration.

- A. The Township Supervisors may appoint and enter into agreements with a person, corporation, firm or committee for the purpose of acting as agent for said Township Supervisors in the administration and collection of the taxes herein set forth and the enforcement of the provisions of this Ordinance and may delegate, for such purposes, to such person, corporation, firm, or committee such duties and authority as are permissible under the laws of this Commonwealth.
- B. The duties and authority of such person, corporation, firm, or committee shall be as herein set forth, or as shall hereafter be determined by said Township Supervisors.

§106. Collection at Source.

- A. It shall be the duty of the Income Tax Administrator to collect and receive the taxes, fines and penalties imposed by this Ordinance. It shall also be his duty to keep a record showing the amount received by him from each person in respect of another person, the name of such other person, and the date of such receipt.
- B. The Income Tax Administrator shall account monthly to the Township Supervisors the amount of money so received.
- C. The Income Tax Administrator is hereby charged with the administration and enforcement of the provisions of this Ordinance, and is hereby empowered, subject to approval by those responsible for his appointment, to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Ordinance including provisions for the re-examination and correction of declarations and of returns and of payments alleged or found to be incorrect, or as to which an over-payment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this Ordinance.
- D. The Income Tax Administrator, and agents designated in writing by him, are hereby authorized to examine the books, papers and records of any person in order to verify the accuracy of any declarations or return, or if no declaration or return was filed, to ascertain the tax due. Every person is hereby directed and required to give to the Income Tax Administrator or to any agent so designated by him the means, facilities, and opportunity for such examinations and investigations as are hereby authorized.
- E. Any information gained by the Income Tax Administrator, his agents, or by any other official, agent or employee of the Township Supervisors as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this Ordinance or as otherwise provided by law.
- F. Any person aggrieved by any action of the Income Tax Administrator shall have the right to appeal as provided by law.

§107. Appeal.

- A. Any person aggrieved by any action of the Income Tax Administrator shall have the right to appeal as provided by law.
- B. Any suit brought to recover the tax imposed by this Ordinance shall begin within six (6) years after such tax is due or within six (6) years after declaration or return has been filed, whichever date is later, provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

1. Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under the provisions of this Ordinance.
2. In the case of a false or fraudulent declaration or return with the intent to evade tax.
3. Where any person has deducted taxes under the provisions of this Ordinance and has failed to pay the amounts so deducted to the Township Supervisors.

§108. Violation and Penalties.

- A. If for any reason the tax is not paid when due, interest at the rate of six (6%) per cent per annum on the amount of said tax, and an additional penalty of one-half (.5%) per cent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax the person liable therefore shall, in addition, be liable for the costs of collection and interest and penalties herein imposed.
- B. Should any amount of tax not be paid by a taxpayer when due, because of negligence or intentional disregard of the provisions of this Ordinance and the rules and regulations thereunder, without the intent to defraud, then in that event the Income Tax Administrator shall assess and collect five (5%) per centum of the deficiency as an added penalty.
- C. Should any amount of tax not be paid by a taxpayer when due, because of fraud of the taxpayer, then in that event fifty (50%) per centum of the deficiency shall be assessed and collected by the Income Tax Administrator as a penalty; provided, however, that should a penalty be imposed hereunder for fraud, no penalty for failure to file a return shall be imposed for the same deficiency.
- D. In case of any failure to make and file a return required by this Ordinance within the time prescribed by this Ordinance unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the tax: Five (5%) per centum if the failure is not for more than thirty (30) days with an additional five (5%) per centum for each additional thirty (30) days or fraction thereof during which such failure continues, not exceeding twenty-five (25%) per centum in the aggregate. The amount so added to any tax shall be collected at the same time and in the same manner as part of the tax, unless the tax has been before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.
- E. Any person who fails, neglects, or refuses to keep the necessary records and supply the information required by this Ordinance or the rules and regulations pertaining thereto, to make any declaration or return required by this Ordinance; any employer who fails, neglects or refuses to deduct and/or pay the tax deducted from his

employees; any person who refuses to permit the Income Tax Administrator or any agent properly designated by him to examine his books, records and papers and any person who makes any incomplete, false or fraudulent return to avoid the payment of the whole or any part of the tax imposed by this Ordinance shall, upon conviction, thereof in a summary proceeding before any alderman or justice of the peace, be sentenced to pay a fine of not less than Fifty (\$50.00) Dollars or more than Three Hundred (\$300.00) Dollars for each offense and costs and in default of payment of said fine and costs, to be imprisoned in the Luzerne County Jail for a period not exceeding ninety (90) days.

- F. Any person, who, except as permitted by the provisions of Section 206, subsection (a) through (f), inclusive of this Ordinance, divulges any information which is confidential under the provisions of said subsection shall, upon conviction thereof in a summary proceeding before any alderman or justice of the peace, be sentenced to pay a fine of not less than Fifty (\$50.00) Dollars or more than Three Hundred (\$300.00) Dollars for each offense and costs, and in default of payment of the said fine and costs, to be imprisoned in the Luzerne County Jail for a period not exceeding ninety (90) days.
- G. The penalties imposed under this Section shall be in addition to any other penalty imposed by any other Section of this ordinance.
- H. The failure of any person to receive or procure the forms required for making any declaration or return required by this Ordinance shall not excuse him from making such declaration or return.

§109. Disputed Claims. The Income Tax Administrator is hereby authorized to accept payment of the amount of tax claimed by the Township Supervisors in any case where any person disputes the validity or amount of the Township Supervisors claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment of the Income Tax Officer, the amount of the overpayment shall be refunded to the persons who paid, in which event there shall be repaid to Township Supervisors by the Tax Administrator, any commission or fees received for the collection on the amount refunded.

§110. Applicability. The tax imposed by this Ordinance shall not apply:

- A. To any person as to whom it is beyond the legal power of the Township Supervisors to impose the tax herein provided for under the Constitution and Laws of the Commonwealth of Pennsylvania.
- B. To any institution or organization operated for public, religious, education, or charitable purposes, to any institution or organization not organized or operated for private profit or to a trust or a foundation established for any of the said purposes.

C. To the net profits of any corporation, which is subject to the Pennsylvania Corporate Net Income Tax or exempt from the Pennsylvania corporate Net Income Tax, and any foreign corporation which is subject to the Pennsylvania Franchise Tax or exempt from the Pennsylvania Franchise Tax.

This section shall not be construed to exempt any person who is an employer from the duty of collection of the tax at source from his employees and paying the amount collected to the Township Supervisors under the provisions of Section 204 of this Ordinance.

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

EDITOR'S NOTE: This unnumbered Ordinance was adopted on 12/14/62 and became effective on 1/01/63.

Part 2

Local Tax Collection

§201. Statement of Accounts and Finance. The Local Tax Collection Law, pursuant to Section 5511.25 thereof [72 P.S. Section 5511.25], authorizes this Board by Resolution to establish the frequency by which a tax collector within this municipality is to provide a verified statement of accounts and finance for all tax collection for any taxing district, as well as to establish the frequency by which said tax collector shall pay over to the Township's Treasurer all monies collected as taxes.

§202. Frequency of Payment. The frequency for the payment over of taxes collected by the Township tax collector must be made by the close of township business on Thursday of each week during the rebate, face and penalty periods established each year for tax collection and the frequency for the requisite written report for taxes collected will be the 10th day of each month.

§203. Imposition of Late Fees. The Township shall impose a late filing fee consistent and in accordance with Section 5511.25 of the Local Tax Collection Law, to the extent that the collector does not provide the requisite statement as established hereunder.

(Res. No. 1-2001, 5/01, 01).

RESOLUTION NO. 6 OF 2015

**A RESOLUTION OF BLACK CREEK TOWNSHIP, LUZERNE COUNTY,
PENNSYLVANIA, FIXING THE TAX RATE FOR THE YEAR 2016**

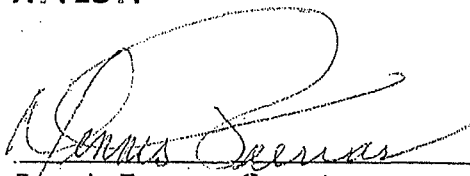
BE IT RESOLVED by the Board of Supervisors of Black Creek Township that a tax is levied on all real property within the Township subject to taxation for the fiscal year 2016 at the tax rate for all general Township purposes of .66 Mills on each dollar of assessed valuation.

BE IT FURTHER RESOLVED that per capita tax is hereby abolished and repealed for the 2016 tax year.

BE IT ALSO RESOLVED that all other taxes are to remain the same including, but not limited to, realty transfer taxes and local service taxes, and any resolution conflicting with this Resolution is hereby repealed insofar as the same affects this resolution.

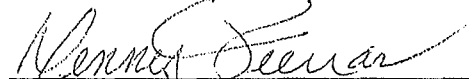
ADOPTED the 1st day of December, 2015.

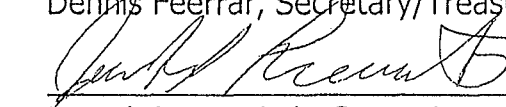
ATTEST:


Dennis Feerrar, Secretary

**BLACK CREEK TOWNSHIP BOARD
OF SUPERVISORS:**


Bonnie Adams, Chairperson


Dennis Feerrar, Secretary/Treasurer


Joseph Lescowitch, Supervisor

Part 3
Per Capita Tax

§301. Imposition of Tax. By Virtue of the provision of the Act of Assembly of December 31, 1965, P.L. 1257, the "Local Tax Enabling Act" as amended, a per capita tax is hereby imposed upon each resident or inhabitant of Black Creek Township over eighteen (18) years of age a per capita tax of Five (\$5.00) Dollars.

EDITOR'S NOTE: By an Ordinance of 1963, a per capita tax was levied on all persons over the age of 21, by authority of the Act of June twenty-fifth, one thousand nine hundred forty-seven (Pamphlet Laws 1145) and its amendments. The tax was set at \$5.00 beginning on May 6, 1980 and the age reduced from 21 to 18 in or around 1980. The law now provides that annual reenactment is not necessary unless the rate of the tax is changed.

§302. Collection by Tax Collector. Such tax shall be collected by the duly elected or appointed Tax Collector of the Township of Black Creek in the same manner and at the same time as other Township taxes are collected, as provided by the Local Tax Collection Law of 1945, as amended and supplemented. The tax Collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law and other Township taxes.

§303. Duplicate Constitutes Warranty for Collection. The entry of the per capita tax in the tax duplicate and the issuance of such duplicate to the Tax Collector shall constitute his warrant for the collection of the per capita tax hereby levied and assessed.

§304. Expense of Collection, Collector's Compensation. The expense of collection and compensation of the Tax Collector shall be paid and allowed as provided in the Local Tax Collection Law of 1945 as amended and supplemented, which compensation shall be the same as shall be fixed from time to time for the collection of other Township taxes.

EDITORIAL NOTE: Section 35 of the Local Tax Collection Law (1945 P.L. 1050, as amended) provides that the respective taxing districts allow the tax collector "actual and needful expenditures for printing, postage, books, blanks and forms."

§305. Repealer. This Ordinance supersedes any previous ordinances relative to per capita tax.

§306. Effective Date. This Ordinance shall go into effect thirty (30) days after final passage and adoption.

EDITOR'S NOTE: This unnumbered Ordinance was adopted 5/06/80.

Part 4

Supervisors' Realty Transfer Tax

§401. Legal Authority, Short Title and Effective Date. This article is enacted under the Act of June 25, 1947, P.L. 1145, of the General Assembly of the Commonwealth of Pennsylvania, as amended, and shall be known as the "Black Creek Township Supervisors Realty Transfer Tax Ordinance", and the tax herein and hereby imposed shall be designated as the "Black Creek Township Supervisors' Real Estate Transfer Tax." The tax levied under this Ordinance shall become effective the 4th day of January, 1967.

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

1. "Association" Any partnership, limited partnership or other form of unincorporated enterprise owned, operated or conducted by two or more persons.
2. "Document" Any deed, instrument or writing whereby any lands, tenements or hereditaments within the Township of Black Creek or any interest or estate therein shall be granted, bargained, sold or otherwise conveyed to the Grantee, Purchaser or any other person, but does not include wills, mortgages, transfers between parent and child or the spouse of such child, and leases.
3. "Grantor" The person named in the document as party from whom the interest in the real estate is passing.
4. "Grantee" The person named in the document as party receiving the interest in the real estate is passing.
5. "Person" Every natural person, co-partnership, association or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" as applied to co-partnerships or associations shall mean the partners or members thereof and as applied to corporations, the tax officers and directors thereof.
6. "Tax" The tax levied, assessed and imposed by this ordinance.
7. "Secretary" The Secretary of the Board of Supervisors of the Township of Black Creek, Luzerne County, Pennsylvania.
8. "Board of Supervisors" The Board of Supervisors of the Township of Black Creek, Luzerne County, Pennsylvania.
9. "Value" In the case of any document granting, bargaining, selling or otherwise conveying any land, tenement or hereditament, or interest or estate therein, the amount of the actual consideration therefor, including liens or other encumbrances thereon and ground rents or a commensurate part of the rent or other encumbrances

thereon and ground rent where such liens or other encumbrances thereon and ground rents, also encumber or are charged against other lands, tenements or hereditaments. Provided, that where such document shall set forth a small or nominal consideration, the "Value" thereof shall be determined from the price set forth or actual consideration for the contract of sale, or in the case of a gift or other document without consideration, from the actual monetary worth of the property granted, bargained, sold or otherwise conveyed, which in either event, shall not be less than the amount of the highest assessment of such lands, tenements or hereditaments for local tax purposes.

10. "Transferring Real Estate" The transfer or change of title and/or possession of real estate from the Grantor to the grantee by the surrender of title and/or possession by the Grantor or his agent, and the entry of constructive entry into possession by the Grantee or his agent, which transfer or change of possession takes place at the site of the Real Estate involved, regardless of where the deed is prepared, executed, delivered accepted, recorded or where settlement is consummated.

§403. Imposition of Tax. An excise tax to provide revenue for general Township purposes is hereby imposed upon the privilege of transferring real estate or any interest or estate therein situated wholly or partly within the Township of Black Creek, Pennsylvania, at the rate of one-half per cent ($1/2$) of the value of the real estate transferred. Where the transfer involves real estate situate partly within and partly without the boundaries of the Township of Black Creek, the tax so levied shall be only on that part of the value apportioned to the part of the said real estate situate within the boundaries of the Township of Black Creek.

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

§405. Certificate of Value Required.

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

C. The Certificate to be attached to said deed shall be in substantially the following form:

CERTIFICATE OF VALUE

Now, _____, it is hereby certified that the value (As defined by the Black Creek Township Supervisors Realty Transfer Tax Ordinance) of the Real Estate transferred by this deed as described herein is \$_____. The amount of the transfer tax is \$_____, and has been paid.

Receipt of \$_____ is hereby acknowledged.

Secretary of the Supervisors or
Recorder of Deeds, Agent

§406. Payment of Tax.

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

§407. Penalty.

All taxes imposed by this Ordinance not paid within ten (10) days after the due date shall bear interest from the due date at the rate of one-half of one per cent (1/2%) per month until paid, and in addition, a penalty of ten per cent (10%) of the tax is hereby imposed for failure to pay said tax within ten (10) days after due date.

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

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

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

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

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

(Ord. No. 12-1967, 12/05/66).

Part 5

Realty Transfer Tax

§501. Imposition of Tax. The Township of Black Creek adopts the provision of Article XI-D of the tax Reform Code of 1971 and imposes a realty tax as authorized under that Article subject to the rate limitations therein. The tax imposed under this Section shall be at the rate of one percent (1%) of the value of the real estate represented by the document.

§502. Administration. The tax imposed under Section 601 and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965 (P.L. 1257, No. 511), as amended, known as "The Local Tax Enabling Act"; provided, that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Township of Black Creek, pursuant to Section 1102-D of the Tax Reform Code of 1971 (72 P.S. 8102-D), authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties.

§503. Interest. Any tax imposed under Section 601 that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. §§ 7101, et seq.), as amended, known as "The Municipal Claims and Tax Liens Act". The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in Section 806, as amended, known as "The Fiscal Code", or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

§504. Repealer.

(a) As of the effective date of this Ordinance, all ordinances or parts thereof, inconsistent with this Ordinance are hereby repealed.

(b) The repealed ordinances, or parts thereof, remain effective for documents that became subject to tax prior to the effective date of this Ordinance.

§505. Effective Date. The provisions of this ordinance shall become effective on and be applicable to any document made, executed, delivered, accepted or presented for recording five days after the enactment of this Ordinance.

Part 6
Street Lights

§601. Contract with Pennsylvania Power and Light Company. Upon the petition of the owners of the majority of the lineal feet frontage along the main streets in the Villages of Nuremberg, Weston and Rock Glen respectively, in the Township of Black Creek requesting the Township to enter into a contract with the Pennsylvania Power and Light Company to light and illuminate the streets or highways, or portions thereof, with electric lights and further requesting that the cost and expenses of the maintenance of such lights shall be assessed annually by an equal assessment on all property benefited by such lighting in proportion to the number of feet the same fronts on the street or highway or portion thereof to be lighted.

§602. Term and Costs. The officers of the Board of Supervisors of Black Creek Township are hereby authorized to enter into a written contract with the Pennsylvania Power and Light Company for boulevard lighting on the streets in the Township of Black Creek for the Villages of Nuremberg, Weston and Rock Glen respectively, for a period of ten (10) years at the following cost:

Village of Nuremberg:	7 60 C.P. lamps @ \$19.80 per lamp per year	\$138.60	
Village of Weston:	100 C.P. lamps @ \$25.20 per lamp per year	\$50.40	
	19-60 C.P. lamps @ \$19.80 per lamp per year	<u>\$336.60</u>	\$387.00
Village of Rock Glen:	15 – 60 C.P. lamps @ \$19.80 per lamp per year	\$297.00	

§603. Annual Assessments. The Township Supervisors, though their Secretary will annually assess the cost and expense of maintenance of said lights by an equal assessment on all properties benefited by such lighting in proportion to the number of feet, the same fronts on the street or highway or portion thereof to be lighted.

- a. **Equitable Reduction.** The Supervisors may provide for an equitable reduction from the frontage of lots at intersections or where from the peculiar or pointed shape of lots an assessment of the full frontage would be inequitable. No such assessment shall be made against any farm land but vacant lots between built-up sections whether tilled or untilled shall not be deemed to be farm lands.
- b. **Properties with Improvements.** And further provided, however, that the assessment per front foot against vacant lots shall be only twenty-five percentum (25%) of the assessment per foot front against property with improvements thereon.

- c. Filing of Assessments. All such assessments for street lighting shall be filed with the township tax collector, who shall give thirty days written or printed notice that the assessments are due and payable, stating the due date to each party assessed either by service on the owner of the property or by mailing such notice to the owner at his last known post office address. The tax collector shall be entitled to the same commission for the collection of such assessments as he is entitled to by law for the collection of the township road tax.
- d. Collection of Assessments. If the assessments or any of them remain unpaid at the expiration of not exceeding sixty days, they shall be placed in the hands of the township solicitor for collection. The solicitor shall collect the same together with five percentum (5%) as attorney's commission, together with interest from the date such assessments were due; and may file a municipal claim against the property of the delinquent owner in like manner as municipal claims are by law filed and collected. If an owner has two or more lots against which there is an assessment for the same year, all such lots shall be embraced in one claim.
- e. Payment of Assessments. All assessments when collected shall be paid over to the township treasurer, who shall receive and shall keep the same in a separate account, and pay out the same only upon orders signed by the chairman of the township supervisors attested by the secretary. The tax collector and treasurer shall make a report to the auditors of the Township annually.

(Unnumbered Ord. 8/07/45)

Part 7
Local Services Tax

§701. Title. This Ordinance shall be known as the "Black Creek Township Services Tax Ordinance".

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

- 1) "Collector" The person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.
- 2) "DCED" The Department of Community and Economic Development of the Commonwealth of Pennsylvania.
- 3) "Earned Income" Compensation as this term is defined in Section 13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.
- 4) "Employer" An individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.
- 5) "He, His or Him" Indicates the singular and plural number, as well as male, female and neuter genders.
- 6) "Individual" Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.
- 7) "Net Profits" The net income from the operation of a business, profession; or other activity, as this term is defined in Section 13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1251, § 13, as amended, 53 P.S. § 6913, as amended.
- 8) "Occupation" Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.
- 9) "Political Subdivision" The area within the corporate limits of the Township of Black Creek.
- 10) "Tax" The local services tax at the rate fixed in Section 803 of this article.

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

§703. Levy of Tax.

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

- 1) emergency services, which shall include emergency medical services, police services and/or fire services;
- 2) road construction and/or maintenance;
- 3) reduction of property taxes; or
- 4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch 85, Subch. F (relating to homestead property exclusion).

The political subdivision shall use no less than twenty-five percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than \$52.00 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

§704. Exemption and Refunds.

A. Exemption. Any person whose total earned income and net profits from all sources within the political subdivision is less than twelve thousand (\$12,000) dollars for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

- 1) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent disability.

- 2) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subparagraph, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

B. Procedure to Claim Exemption.

- 1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.
- 2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the municipality in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under clause (3).
- 3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a

person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this article.

- 4) Except as provided in clause (2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

C. Refunds. The Board of Supervisors, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar (\$1). The Board of Supervisors or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

§705. Duty of Employers to Collect.

A. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of this employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed with the political subdivision.

B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided Paragraph D of this Section, for the purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.

C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

E. The tax shall be no more than fifty-two dollars (\$52) on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.

F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Paragraph B of Section 804 of this article and this section and remits the amount so withheld in accordance with this article.

G. Employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year.

§706. Returns. Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

§707. Dates for Determining Tax Liability and Payment. In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the thirtieth day following the end of each calendar quarter of each such tax year.

§708. Self-Employed Individuals. Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this article and pay the pro rata portion of the tax due to the Collector on or before the thirtieth day following the end of each quarter.

§709. Individuals Engaged in More than One Occupation or Employed in More than One Political Subdivision.

A. The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:

- 1) First, the political subdivision in which a person maintains his or her principal office or is principally employed;
- 2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
- 3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

§710. Nonresidents Subject to Tax. All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§711. Administration of Tax.

A. The Collector shall be appointed by resolution of the political subdivision. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer of self-employed person, together with the date the tax was received.

B. The Collector is hereby charged with the administration and enforcement of this articles and is hereby charged and empowered, subject to municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person

aggrieved by any decision of the Collector shall have the right to appeal to the Court of Common Pleas of Luzerne County as in other cases provided.

C. The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

§712. Suits for Collection.

A. In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.

B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection.

§713. Violations and Penalties. Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

§714. Interpretation.

A. Nothing contained in this article shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

B. If the tax hereby imposed under the provisions of this article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

§715. Repealer and Severability. Except as set forth hereafter, all ordinances or parts of ordinances inconsistent herewith are hereby repealed. Nothing herein shall be construed to

repeal the imposition and collection of an occupation privilege tax, plus applicable penalties and interest, for calendar year 2005 and all prior calendar years, or of an emergency and municipal services tax, plus applicable penalties and interest, for calendar years 2006 and 2007, as the same exist prior to this amendment.

§716. Effective Date. This Ordinance shall go into effect on January 1, 2011.

CHAPTER 7

FINANCIAL ADMINISTRATION

Part 1

Earned Income Tax

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- §102. Taxes Imposed
- §103. Declaration
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- §402. Definitions
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- §711. Administration of Tax
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- §714. Interpretation
- §715. Repealer and Severability
- §716. Effective Date

CHAPTER 8

FIRE PROTECTION AND FIRE PREVENTION

Part 1

Burning and Nuisance

§101. Definitions.

1. **Agricultural Purposes** - Any parcel of land containing ten (10) or more acres, which is used for gain in the raising of agricultural products, livestock, poultry and dairy products.
2. **Code Enforcement Officer** - The person authorized by the Black Creek Township Supervisors to administer and enforce applicable codes and Ordinances of Black Creek Township including provisions of this Ordinance.
3. **Confined Burning** - To ignite, light, set a match to or set fire in a limited restricted, or contained non-combustible container.
4. **Controlled Open Burning** - To ignite, enkindle, light, torch off, set a match to or set a blaze or a fire in open view, uncovered, disclosed, and uncovered, disclosed, and unobstructed.

§102. **Controlled Open Burning.** Controlled open burning shall be permitted in Black Creek Township subject to the following conditions.

1. A person igniting a fire shall not leave the fire unattended until all material is totally burned.
2. The person responsible for igniting an open fire shall take the necessary safety precautions to ensure the fire cannot spread and can easily be extinguished in case of an emergency.
3. Controlled open burning shall be allowed between the hours of 6:00 a.m. to 8:00 p.m., at the close of burning hours, such fires shall be thoroughly extinguished and not permitted to smolder unless written permission is obtained by the Fire Chief.
4. The property where controlled open burning is being conducted must be in an area, which is not less than (100') feet from the nearest residence, excluding that of the property owner.
5. All material burned on the property must be from the same property.

§103. Exemption.

Agricultural. Burning being conducted for agricultural purposes as defined by this ordinance shall be exempt under this Ordinance, except where the Black Creek Township Fire Department, the State or County places a ban on all types of burning.

§104. Confined Burning. Confined burning shall be permitted in Black Creek Township subject to the following conditions:

1. Items to be burned may not include garbage, construction debris, and other materials which creates an odor or black smoke when being burned.
2. Confined burning shall be allowed between the hours of 6:00 a.m. to 8 p.m. At the close of burning hours such fires shall be thoroughly extinguished and not permitted to smolder.
3. The size of the container to be used in confined burning shall not exceed the size of a 55-gallon drum or its equivalent. A container may not include a pit, but may include a masonry type outdoor fireplace.
4. A person igniting a fire shall not leave the fire unattended until all material is totally burned, or unless the burning material is contained in such a manner with a screen cover in order to prevent the fire from spreading.

§105. Enforcement. The Fire Chief, the Township Police Department and the Code Enforcement Office, shall have the power to enforce the provisions of this Ordinance.

§106. Violations and Penalties. Any person who violates any provision of this ordinance, shall upon conviction thereof, be subject to the payment of a fine not to exceed Three Hundred (\$300.00) Dollars, nor be less than One Hundred (\$100.00) Dollars.

(Ord. No. 1-2004, 1/04).

Part 2

Existing Fire Companies

§201. Weston-Black Creek Township Volunteer Fire Company. The Weston Volunteer Fire Company and the Black Creek Township Volunteer Fire Company are an emergency service organization maintaining a service of fire protection to the township whose current population is approx. 1,953.
(Res. No. 1-1985).

§202. Dissolution of Authority of the Black Creek Township Volunteer Fire Company.

Revocation. The Board of Supervisors of Black Creek Township, Luzerne County, Pennsylvania, wishes to suspend the fire fighting activities of the Black Creek Township Volunteer Fire Department and further wishes to revoke any official authority conferred upon the Department, by the Township, as a fire fighting entity within the Township.

Suspension. The Black Creek Township Volunteer Fire Department is hereby suspended from any and all fire fighting activities. Black Creek Township further revokes any authority, either express or implied, previously conveyed upon the black Creek Township Volunteer Fire Department allowing it to act as an agent of the Township. Black Creek Township Volunteer Fire Department, by virtue of this Ordinance, is no longer authorized to act on behalf of the Township in any capacity or for any purposes.

Funding & Contribution. Furthermore, Black Creek Township Volunteer Fire Department shall no longer receive funding or contribution of any type from the Township. Any property or equipment owned by the Township shall be delivered to the Township within thirty (30) days of the date of this Ordinance being enacted.

Assignment. Furthermore, all fire fighting activities within the Township of Black Creek shall be assigned to the Nuremburg/Weston Fire Department.
(Ord. No. 1-2005).

§203. Nuremburg-Weston Volunteer Fire Company. The Township of Black Creek hereby duly recognizes the Nuremberg-Weston Volunteer Fire Company.

Such recognition shall be valid for as long as the Nuremberg-Weston Volunteer Fire Company locates its primary business facility including a garage and other buildings, within the boundaries of the Township of Black Creek.
(Ord. No. 7-1996, 6/04/96).

Part 3
Fire Insurance Escrow

§301. Purpose and Intent. Pursuant to Act 98 of 1992, as amended by Act 93 of 1994, providing that in certain fire losses the insurer, having a policy with respect to such laws, shall transfer insurance proceeds to the Treasurer of Black Creek to be used to pay delinquent taxes and other municipal claims or held as security and used to pay the total cost of removing, repairing or securing the damaged building and providing for fees; setting forth related procedures to implement said acts, and providing for penalties for violation.

Be it ordained and enacted by the Board of Supervisors of Black Creek Township, Luzerne County, Pennsylvania, pursuant to the general powers permitted by the Second Class Township code (53 P.S. Section 65101) and Act 93 of 1994 (40 P.S. 638 et seq.) the following:

§302. Use of Fire Insurance Proceeds.

1. No insurance company, association or exchange (hereinafter "insurer") doing business in the Commonwealth of Pennsylvania shall pay a claim of a named insured for damage to a structure located within the Township of Black Creek, Luzerne County, Pennsylvania where the amount recoverable for fire loss to the structure under all policies exceeds \$7,500.00, unless the insurer is furnished by the Treasurer of the Township of Black Creek with a Certificate pursuant to Section 508(b) of the Insurance Company Law of 1921 as amended by Act 98 of 1992 and Act 93 of 1994 (collectively the "Act") and unless there is compliance with the procedures set forth in Section 508(c) and 508(d) of the Act.
2. Where there are delinquent taxes, assessments, penalties or user charges against the property ("municipal claims"), or there are expenses with the Township has incurred as costs for removal, repair or securing of a building or other structure on the property (collectively "municipal expenses"), the Secretary of the Township shall immediately render a bill for such work, if not already done. Upon written request of the named insured specifying the description of the property, the name and address of the insurer and the date of receipt by the insurer of a loss report of the claim, the Treasurer of the Township shall furnish a Certificate within fourteen (14) days after the request to the insurer either:
 - A. Stating that there are no unpaid municipal claims or municipal expenses against the property; or
 - B. Specifying the nature and amount of such claims or expenses, accompanied by a bill for such amounts.

Tax assessments, penalties and user charges shall be deemed delinquent for this purpose if a lien could have been filed such claims under applicable law. Upon receipt of a Certificate and bill pursuant to subsection A of this section, the insurer shall transfer to the Secretary of the Township an amount from the insurance proceeds sufficient to pay said

sums prior to making payment to the named insured, subject to the provisions of subsection 3 hereof.

3. When all municipal claims and municipal expenses have been paid pursuant to subsection 2 of this section or when the Township treasurer has issued a Certificate described in subsection 2A indicating that there were no municipal claims or municipal expenses against the property, the insurer shall pay the claim of the named insured-provided however, that if the loss agreed by the named insured and the insurer equals or exceeds 60% of the aggregate limits of liability on all fire policies covering the building or structure, the following procedures must be followed:

A. The insurer shall transfer from the insurance proceeds to the Township Treasurer, in the aggregate, \$2,000.00 for each \$15,000.00 of such claim or fraction thereof.

B. If at the time a loss report is submitted by the insured, such insured has submitted to the insurer, with a copy of the Township, a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure in an amount less than the amount calculated under the foregoing transfer formula, the insurer shall transfer to the Secretary of the Township of Black Creek from the insurance proceeds the amount specified in the estimate. If there is more than one insurer, the transfer of proceeds shall be on a pro-rate by all insurers insuring the building or other structure.

C. Upon receipt of the above described portion of the insurance proceeds the Secretary of the Township of Black Creek, Luzerne County, Pennsylvania, shall do the following:

i. Place the proceeds in a separate fund to be used solely as security against the total municipal expenses anticipated by the Township to be required in removing, repairing or securing the building or structure as required by this Ordinance. Such costs shall include, without limitation, any engineering, legal or administrative costs incurred by the Township in connection with such removal, repair or securing or any proceedings related thereto;

ii. After the transfer, the named insured may submit to the Township of Black Creek a contractor's signed estimate of the cost of removing, repairing or securing the building or other structure, in which event the Township Secretary shall, if such estimates deemed by the Township Secretary to be reasonable return to the insured the amount of the funds transferred to the Township of Black Creek in excess of that amount required to pay the municipal expenses;

provided, however, that the Township has not commenced to remove, repair or secure the building or other structure in which case the Township will complete the work;

- iii. Pay to the Secretary of the Township for reimbursement to the Township General Fund, the amount of the municipal expenses paid by the Township.
- iv. Pay the remaining balance in the fund without interest to the named insured upon receipt of a Certificate issued by the Township Secretary that the repair, removal or securing of the building or other structure has been completed in accordance with all applicable Codes and Regulations of the Township.
- v. Nothing in this section shall be construed to limit the ability of the Township to recover any deficiency in the amount of municipal claims or municipal expenses recovered pursuant to this Ordinance, or to insurance proceeds, by an action at law or in equity to enforce the Township Codes or to enter into an agreement with the named insured with regard to such other disposition of the proceeds as the Township named insured with regard to such other disposition of the proceeds as the Township may deem responsible.

§303. Limits of Liability. Nothing in this Ordinance shall be construed to make an insurance company, association or exchange liable for any amount in excess of proceeds payable under its insurance policy or for any other act performed pursuant to this Ordinance or to make the Township or any public official of the Township an insured under a policy of insurance or to create an obligation to pay delinquent property taxes or unpaid removal liens or expenses other than as provided in this Ordinance.

§304. Insurance Company Rights Reserved. An insurance company, association or exchange making payment of policy proceeds under this Ordinance for delinquent taxes or structural removal liens or removal expenses incurred by the Township of Black Creek shall have full benefit of such payment including all rights of subrogation and of assignment.

§305. Construction. This Ordinance shall be liberally construed to accomplish its purpose to deter the commission of arson and related crimes, to discourage the abandonment of property and to prevent urban blight and deterioration.

§306. Notification of Pennsylvania Department of Community and Economic Development. The Secretary of the Township of black Creek shall transmit a certified copy of the Ordinance promptly to the Pennsylvania Department of Community and Economic Development.

§307. Penalty. Any owner of property, any named insured or insurer who violates the provisions of this Ordinance or who shall fail to comply with any of the requirements hereof shall be sentenced upon conviction thereof to pay a fine not greater than \$1,000.00 plus costs and in default of payment of said fine and costs to a term of imprisonment not exceed thirty (30) days. Each day in which an offense shall continue shall be deemed a separate offense.

§308. Severability. The provisions of this Ordinance are severable, if any sentence, clause or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal or inlaid provision been included herein.

§309. Effective Date. This Ordinance shall take effect five (5) days after the adoption thereof.

§310. Repealer. Any Ordinances or parts of Ordinances, in conflict herewith be and the same are hereby repealed.

(Ord. No. 4-2003, 12/02/03).

Part 4

Outdoor Wood Fired Burners

§401. Short Title. This Part shall be known and may be cited as the "Black Creek Township Outdoor Furnace Ordinance".

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

- (a) Outdoor Wood Fired Burner -- means a fuel burning device:
 - (1) designed to burn wood or other approved solid fuels;
 - (2) that the manufacturer specifies for outdoor installation or installation in structures not normally occupied by humans (e.g., garages); and
 - (3) heats building space and/or water via the distribution, typically through pipes, of a fluid heated in the device, typically water or a water/antifreeze mixture.

§403. Installation of Outdoor Wood Fired Burners. Any person desiring to install an Outdoor Wood Fired Burner within the Township shall obtain a permit from the Code Enforcement Officer. The applicant for such a permit shall:

- (a) Present a plan showing all property lines, the locations of all dwellings or occupied buildings on adjoining properties, and the proposed location of the Outdoor Wood Fired Burner. The minimum lot area of the lot on which the outdoor wood fired burner may be located is five (5) acres.
- (b) Locate the Outdoor Wood Fired Burner at least 300 feet from any occupied structure not located on the lot which the outdoor wood fired burner will be located.
- (c) Locate the Outdoor Wood Fired Burner at least 150 feet from all property lines.
- (d) Present evidence that the applicant has obtained a zoning permit for the proposed Outdoor Wood Fired Burner.
- (e) Present evidence that the applicant has obtained a Uniform Construction Code permit for the installation of the Outdoor Wood Fired Burner and its connection to the mechanical system of the structure it will serve.
- (f) Demonstrate that the chimney of the outdoor wood fired burner is the greater of 30 feet in height or five feet in excess of the height of any occupied structure within 300 feet not located on the lot on which the Outdoor Wood Fired Burner will be located.

(g) Provide a copy of the manufacturer's specification and instructions, which the applicant agrees to comply with and not alter at any time.

(h) Demonstrate that the Outdoor Wood Fired Burner has been laboratory tested and listed to appropriate safety standards such as (UL) (Underwriters Laboratories) and ANSI (American National Standard Institute) standards.

(i) Have the application signed by all owners of the lot on which the Outdoor Wood Fired Burner will be located, including the contractor installing the Outdoor Wood Fired Burner.

§404. Use of Outdoor Wood Fired Burners. Each person who owns a lot on which an Outdoor Wood Fired Burner is located and each person who occupies a lot on which an Outdoor Wood Fired Burner is located shall be responsible to insure that the Outdoor Wood Fired Burner is operated in accordance with all requirements of this Part and shall be responsible to obtain an annual permit to continue the use of such Outdoor Wood Fired Burner.

(a) The only substance that may be burned in an Outdoor Wood Fired Burner is clean wood.

(b) No person shall burn any of the following in an Outdoor Wood Fired Burner:

- (1) Any wood that does not meet the definition of clean wood.
- (2) Tires.
- (3) Lawn clippings or yard waste.
- (4) Materials containing plastic.
- (5) Materials containing rubber.
- (6) Waste petroleum products.
- (7) Paints and paint thinners.
- (8) Coal.
- (9) Any type of paper.
- (10) Construction and demolition debris.
- (11) Plywood.
- (12) Particleboard.
- (13) Salt water driftwood.
- (14) Manure.
- (15) Animal carcasses.
- (16) Asphalt products.
- (17) Used cooking oils.

(c) The Outdoor Wood Fired Burner shall at all times be operated and maintained in accordance with the manufacturer's specifications.

(d) The Outdoor Wood Fired Burner shall be maintained and operated in compliance with all emissions of air quality standards promulgated by the U.S. Environmental Protection Administration (EPA).

(e) The emissions from the Outdoor Wood Fired Burner shall not be detectable beyond the lot on which the Outdoor Wood Fired Burner is located, interfere with the reasonable enjoyment of life or property of neighbors, cause damage to vegetation or property of neighbors, or be harmful to human or animal health.

(f) The Outdoor Wood Fired Burner shall not be operated before October 1 or after April 30 of each calendar year.

(g) Commencing on January 1, 2011, prior to August 1 of each calendar year the owner of the lot upon which an Outdoor Wood Fired Burner is located shall apply for an operating permit which shall be valid for the period from September 1 through August 31 of the following calendar year. The owner shall pay all fees imposed by the Township for the application for such operating permit and the inspection of the Outdoor Wood Fired Burner to determine compliance with this Part.

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

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

§407. Penalties. Any person who shall violate any provision of this ordinance shall, upon conviction thereof in an action brought in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) plus costs. Each day that a violation of this Part, or any Section of this Part, continues which shall constitute a separate offense.

Part 5

Requiring Smoke Detectors

§501. Definitions. For purposes of this ordinance, the following words shall have the following meaning:

(a) Dwelling Unit - any building which is wholly or partly used or intended to be used for living or sleeping by human occupants.

(1) Dwelling, Single Family – means a detached building, on a permanent foundation, containing one dwelling unit and designed, constructed, or occupied for exclusive occupancy for one family or household.

(2) Dwelling, Two Family – means a building containing two dwelling units entirely separated from each other by vertical walls or horizontal floor unpierced except for access to the outside or to a common cellar and arranged or used for occupancy by two individual families or households.

(3) Dwelling, Mobile Home – means a transportable, single-family dwelling unit, intended for permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

(4) Dwelling, Multi-Family – means a building containing three (3) or more dwelling units, entirely separated by vertical walls or horizontal floors unpierced except for access to the outside or to a common cellar and arranged or used for occupancy by three or more individual families or households. Low-rise multi-family buildings shall include townhouses, garden apartments and any other housing type, not exceeding three stories in height. Any multi-family building exceeding three stories in height shall contain an elevator.

(b) Smoke Detector – means a device which detects visible or invisible particles of combustion, and is capable of providing a suitable audible alarm of at least eighty-five (85) decibels at ten feet (10'), either ionization or photo-electric type.

§502. Smoke Detectors Required in Dwelling Units. In each dwelling unit, except where the Uniform Construction Code applies, there shall be provided by the owner of the real estate, a minimum of one (1) smoke detector sensing device on each floor, in any common area, and in each bedroom, which has received Underwriters Laboratories approval.

§503. Alarm Requirements. Smoke detector sensing devices shall provide an alarm suitable to warn occupants within each dwelling unit in the event of fire.

§504. Time of Installation. Smoke detectors shall be installed in all dwelling units, by the owner. No later than upon a change of ownership of the real estate upon which the dwelling unit is located or within sixty (60) days of the adoption of this Ordinance, whichever occurs first.

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

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

§507. Penalties. Any person who shall violate any provision of this ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than six hundred dollars (\$600.00), and in default of payment, to imprisonment for a term not to exceed thirty (30) days.

Part 6

Fireworks

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

(a) **Fall Out Zone-** means the maintaining of a safe distance during a Fireworks display between the audience or place where persons gather to observe the Fireworks and the location where the Fireworks are discharged.

(b) **Fireworks-** means any combustible or explosive composition, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation. The definition of Fireworks includes, but is not limited to, firecrackers, skyrockets, roman candles, aerial fireworks, or other fireworks of like construction, and any fireworks containing any explosive or flammable compound.

§602. Manufacturing of Fireworks Prohibited. The manufacturing of Fireworks is prohibited within the Township.

§603. Display or Discharge of Fireworks Permitted. The display or discharge of Fireworks within the Township is only permitted when:

- (a) A permit is first obtained from the Code Enforcement Officer.
- (b) The Firework display is conducted by a certified, trained and experienced Pyrotechnician. The business entity performing, providing or supervising Fireworks must show proof to the Code Enforcement Officer that they are registered with the Pennsylvania Attorney General's Office.
- (c) The Nuremberg-Weston Fire Company must be: (i) notified of the date, time and location of the Fireworks Display, and (ii) present with emergency equipment apparatus during the Fireworks Display.
- (d) A fall out zone of at least 300 feet in diameter must be maintained during a Fireworks display unless the Nuremberg-Weston Fire Company or Code Enforcement Officer believe a greater distance is required in which event the greater distance shall be maintained.
- (e) The Firework's must be discharged in a manner so that they do not cause damage or injury to persons or property.
- (f) The Pyrotechnician and business entity performing, providing and supervising the Fireworks shall adhere to all other requirements imposed by the Nuremberg-Weston Fire Department and the Code Enforcement Officer.

§604. Permit Application. Applications for permits shall be made in writing at least 15 days in advance of the date of the display or discharge of Fireworks. The possession, use and distribution of Fireworks shall only be lawful when performed in accordance with §603 above and under the terms and conditions imposed by the permit. A permit granted hereunder may not be transferred nor extend beyond the dates set forth therein.

§605. Enforcement. The Code Enforcement Officer or the Nuremberg-Weston Fire Chief shall be responsible for the enforcement of this Ordinance.

§606. Violation/Penalties. Any person violating any section of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not more than One Thousand (\$1,000.00) Dollars, and in default thereof, for a term of imprisonment of not more than thirty (30) days.

BLACK CREEK TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA

ORDINANCE NO. 1 of 2014

AN ORDINANCE OF BLACK CREEK TOWNSHIP, LUZERNE COUNTY,
PENNSYLVANIA, AMENDING CHAPTER 8, FIRE PROTECTION AND
PREVENTION, OF THE CODE OF ORDINANCES, TO ADD PART 7,
REIMBURSEMENT OF COSTS FOR EMERGENCY SERVICES

§701. Definitions. As used herein, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Emergency Services - includes any service performed by a volunteer emergency services organization relating to any disaster, hazardous material incident, fire, industrial or private security or fire alarm systems incident, industrial accident, auto accident, or any other situation, incident or event that does or may present a potential danger, hazard or threat to the public health, safety and welfare.

(b) Volunteer Emergency Services Organizations - includes any non-governmental volunteer organizations such as the Nuremberg-Weston Volunteer Fire Company and any other organization located within Black Creek Township that provides or performs volunteer emergency services. This definition includes fire protection services, fire police services, volunteer rescue squads, and volunteer hazardous material response teams.

§702. Authorization of Services and Equipment. The Township authorizes all Volunteer Emergency Services Organizations to provide the labor, personnel, tools, equipment and materials necessary to perform emergency services as authorized by law, statute, rule, regulation, resolution or ordinance within the Township or any other area in which a Volunteer Emergency Services Organization is authorized by the Township or contracted with to provide such services.

§703. Schedule of Fees, Costs and Expenses. Black Creek Township Supervisors may by resolution, from time to time, establish, revise, amend or rescind a schedule of fees for the emergency services, labor, personnel, tools, equipment and materials referred to herein. The current schedule of fees is as follows:

(a) Apparatus

Engine:	\$350.00 Per Hour
Aerial/Ladder:	\$400.00 Per Hour
Rescue:	\$300.00 Per Hour
Squad/Utility/Support	\$150.00 Per Hour

(b) Equipment/Service

SCBA	\$50.00 Each
Hose (per 50')	\$25.00

Gas/Co. Detector	\$50.00 per use
Extinguisher (any class)	\$50.00 per use
Personnel Hours	\$30.00 hour per member
Hand Tools	\$15.00 each
Hydraulic Rescue Tools	\$200.00 each
Scene Lighting	\$75.00 per hour
Oil Absorbent Sheets	\$10.00 each
Portable Pumps	\$30.00 per hour
Power Tools	\$50.00 each
Road Closing/Traffic Control	\$100.00 per hour
Salvage Covers	\$35.00 each
Debris Cleanup/Removal	\$250.00
Flares	\$8.00 each
Ventilation Fans	\$50.00 each
IR Camera	\$100.00 each
Foam	\$60.00 per gallon
Cribbing:	
-Passenger	\$100.00 each
-Class B	\$200.00 each
-Trucks-Class A	\$500.00 each
Stabilization Struts	\$50.00 per use
Latex Gloves	\$2.00 per pair
Ladders	\$35.00 per use
Medical Extrication (w/hydraulics)	\$1,500.00 per patient
Generator	\$50.00 per hour
Hand Lights	\$5.00 per use
Fire Line Tape	\$0.25 per foot

§704. Requirement to Pay for Costs, Fees and Expenses. A person shall be liable for the costs, fees and expenses incurred by a Volunteer Emergency Services Organization that provides emergency services, labor, personnel, tools, equipment and materials unless the person has:

- (a) Paid to the municipality where the volunteer emergency services organization is located, a tax which funds at least in part emergency services;
- (b) Paid to a municipality a tax which funds at least in part emergency services and which municipality has contracted with the volunteer emergency services organization to perform emergency services for a fee paid by the municipality to the volunteer emergency services organization; or
- (c) Paid dues or a monetary contribution to the volunteer emergency services organization within the preceding 12 months from the date that the emergency services were provided.

§705. Reimbursement Procedures.

(a) **Billing, Charges and Invoicing.** Volunteer Emergency Services Organizations may bill, charge or invoice for the costs, fees and expenses associated with providing emergency services, including labor, personnel, tools, equipment, and material.

(b) **Recovery of Costs.** When a person receives a bill or invoice for reimbursement from the charges of a volunteer emergency services organization, the person shall be responsible for its payment. If the person is forwarding the bill or invoice to an insurance carrier, the person must first notify the volunteer emergency services organization that he or she is doing so, which notice must include the name, address, telephone number, insurance policy number, and contact person for the insurance carrier. However, the forwarding of a bill to an insurance carrier shall not relieve a person from the financial responsibility for payment of the bill or invoice.

§706. Enforcement. In the event that any insurance carrier or person fails to pay any bill or invoice within 30 days of the mailing or delivery of such notice of charges, the volunteer emergency services organization who mailed or delivered the bill or invoice may enforce the provisions of this Ordinance by filing a civil action at law in a court of competent jurisdiction for the collection of any amounts due to that volunteer emergency services organization together with statutory interest, court costs, collection fees and/or reasonable attorney's fees. The remedies provided herein shall be in addition to any other relief, remedies or penalties that may be appropriate or provided by law.

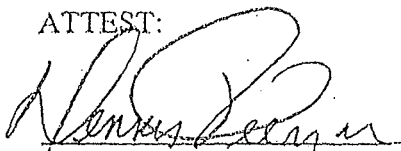
§707. Severability. The provisions of this ordinance are severable. If any provision of this ordinance or its application to any person or circumstance is held invalid, such invalidity shall not affect the other provisions or applications of this ordinance which can be given effect without the invalid provisions or application.

§708. Repealer. Any and all other ordinances, resolutions or parts thereof inconsistent herewith are expressly repealed by the adoption of this ordinance.

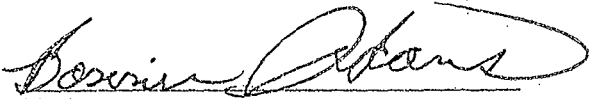
Except as provided above, the provisions of Chapter 8 shall remain the same.

ENACTED and ORDAINED this 13th day of September, 2016.

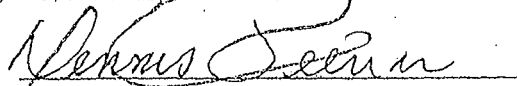
ATTEST:


Secretary

BOARD OF SUPERVISORS OF
BLACK CREEK TOWNSHIP


Chairperson


Vice-Chairperson


Secretary/Treasurer

ORDINANCE NO 204 2013

AN ORDINANCE OF BLACK CREEK TOWNSHIP, LUZERNE COUNTY,
PENNSYLVANIA, AMENDING CHAPTER 8, FIRE PREVENTION AND FIRE
PROTECTION, PART 1, BURNING AND NUISANCE

An Ordinance of Black Creek Township amending Chapter 8, Fire Prevention and Fire Protection, Part 1, Burning and Nuisance, establishing certain exemptions, prohibiting burning during bans and prescribing penalties for violations.

The Supervisors of Black Creek Township do hereby adopt the following amendments to the Code of Ordinances:

**Chapter 8
FIRE PREVENTION AND FIRE PROTECTION**

**Part 1
Burning and Nuisance**

§101. Definitions.

5. Recyclables- Materials consisting of
Containers:

- Glass bottles and jars - (clear, brown, green) does not include window glass, dinnerware or ceramics
- Aluminum and metal food cans
- Aluminum trays and foil
- Aseptic packaging and gable top containers (milk and juice cartons)
- Steel cans and tins

Plastics:

- PET soda, milk, water, and flavored beverage bottles (#1 clear and green plastic resin)
- HDPE detergent and fabric softener containers (#2 colored plastic resin)
- PVC narrow neck containers only (#3 plastic resin); examples include health and beauty aid products, household cleaners
- LDPE grocery containers (#4 plastic resin); examples include margarine tubs, frozen dessert cups, six and twelve pack rings)
- PP grocery containers (#5 plastic resin); examples include yogurt cups, narrow neck syrup and ketchup bottles
- #7 plastic resin grocery - narrow neck containers only

Paper:

- Newspaper, including inserts (remove plastic sleeve)
- Magazines, catalogues and telephone books
- Kraft (brown paper) bags
- Office, computer, notebook and gift wrap paper
- Chipboard (cereal, cake and food mix boxes, gift boxes, etc.)
- Carrier stock (soda and beer can carrying cases)

- Junk mail and envelopes
- Paperback books (does not include hard cover books)
- Cardboard (no waxed cardboard)

6. Rubbish- solids not considered to be highly flammable or explosive including but not limited to rags, old clothes, leather, carpets, treated or painted wood, paper, ashes, furniture, tin cans, glass, masonry and other similar materials.

7. Trash- solid, liquid, or gaseous waste products which are wholly or partly comprised of such materials such as garbage, rubbish, trade waste, industrial, commercial or domestic waste, rags, animal feces, plastic or plastic products, petroleum based products, cans, bottles, containers, tires, greases and magazines.

§103. Exemptions. The following activities are exempt under this Ordinance except for the burning of prohibited items under §105 below or except when Black Creek Township, the Fire Department or Luzerne County places a ban on all types of burning under §106 below:

(a) **Agricultural.** Burning being conducted for agricultural purposes as defined by this Ordinance.

(b) **Wood Fires.** Burning of wood in fireplaces, stoves, heaters or furnaces, safely designed, constructed and installed for such purposes and complying with all applicable laws and ordinances.

(c) **Recreational Wood Fires.** Burning of wood outdoors for recreation, cooking or ceremonial purposes; outdoor gas or electric cooking grills or charcoal burners used for cooking purposes; or decorative chimneys, portable or fixed patio fireplaces and masonry fireplaces.

§105. Prohibited Burning of Material. No person shall burn or permit or allow the burning of any treated or painted wood, recyclables, trash, rubbish, tires, rubber, furniture, tar, plastics, and grass.

§106. Burning Ban. There shall be no confined burning or controlled open burning during a burning ban declared by Luzerne County, Black Creek Township or the Fire Department. Before a burning ban shall take effect, a notice must be placed one time in a newspaper of general circulation within Black Creek Township.

§107. Enforcement; Violations and Penalties

(a) **Violations/Penalties Generally.** Except as otherwise provided below, any person who violates any provision of this Ordinance shall, upon conviction thereof, be subject to the payment of a fine of not less than One Hundred (\$100.00) Dollars and no more than Three Hundred (\$300.00) Dollars; and in default of payment, to imprisonment for a term not to exceed fifteen (15) days. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

(b) **Violations/Penalties During Burning Ban.** In the event that the Fire Chief,

Board of Supervisors or Emergency Management Agencies declare a burning ban for whatever reason, the fines for a violation of this Ordinance during a burning ban shall be Five Hundred (\$500.00) Dollars; and in default of payment, to imprisonment for a term not to exceed thirty (30) days. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

(c) **Enforcement.** The Fire Chief, any police officer and the Code Enforcement Officer shall have the power to enforce the provisions of this Ordinance.

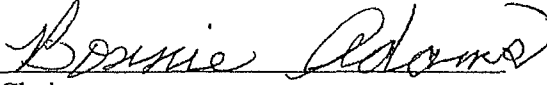
§108. Effective Date. This amendment to the Ordinance shall become effective immediately following its adoption.

This Ordinance is hereby duly enacted and adopted this 4th day of June, 2013.

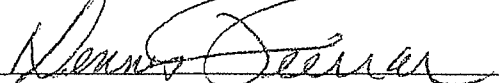
ATTEST:


Secretary

**BLACK CREEK
TOWNSHIP SUPERVISORS:**

By: 
Chairman

By: _____
Vice Chairman

By: 
Supervisor

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CHAPTER 9

FRANCHISES

Part 1

Cable Television

- §101. Preamble
- §102. Grant of Authority
- §103. Limitations and Restrictions of Franchise
- §104. Municipal Rights in Franchise
- §105. Subscriber Rates
- §106. Company Rules
- §107. Conditions of Street Occupancy
- §108. Regulatory Action
- §109. Publication Costs
- §110. Waiver of Objections
- §111. Taxation
- §112. Severability
- §113. Duration of Franchise
- §114. Standards of Service
- §115. Additional Franchise
- §116. Effective Date
- §117. Repealer

CHAPTER 9

FRANCHISES

Part 1 Cable Television

§101. Preamble.

WHEREAS, Cable TV Company (grantee and/or company) is operating a CATV system in black Creek Township (community) pursuant to a resolution which allows the grantee to construct and operate a CATV system in the community; and

WHEREAS, The franchise authority has been advised by the grantee that pursuant to Section 76.12 of the Federal Communications Commission Rules and Regulations, a registration statement is required and must be filed by the grantee; and

WHEREAS, The grantee is desirous of filing such a statement at the earliest possible date to insure continued CATV operation in the community, and

WHEREAS, The Township Council has been advised by the grantee that the cable television franchise shall incorporate into the franchise the right to delete within one year such modifications and amendments of the Federal Communications Commission and Federal or State regulations; and

WHEREAS, The franchising authority has been advised by the grantee of the renewal procedure of the Cable Communications Policy Act of 1984; and

WHEREAS, The legal, character, financial, technical and other qualifications have been fully considered and the qualifications and construction programs and proposals of Cable TV Company have been approved.

§102. Grant of Authority. There is hereby granted to the grantee the continued right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof and additions thereto, in the community, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the community of CATV system for the interceptions, sale and distribution of television and radio signals.

A. Non-exclusive Grant. The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive, and the municipality reserves the right to grant similar uses of said streets, alleys, public ways and places to any person at any time during the period of the franchise.

The within grant by the municipality is subject to the provisions of the laws of the Commonwealth of Pennsylvania, particularly to the provisions of that code which may require that before any conduits, pipe or other structures be erected upon, or in any portion of a municipal road, a permit must be obtained from the State Highway Department for such purpose and such construction is made under the conditions, restrictions and regulations as may be prescribed in such State Highway Department permit. In addition, the within grant by the municipality is subject to the provisions of the municipal ordinances which may require that a permit be obtained before any conduits, pipe or other structures erected upon or in any portion of a road and that such construction be made under the conditions and regulations as may be prescribed by such permits.

B. State Highway Department and Municipal Permits. The within grant by the municipality is subject to the provisions of the laws of the Commonwealth of Pennsylvania, particularly to the provisions of that code which may require that before any conduits, pipe or other structures be erected upon, or in any portion of a municipal road, a permit must be obtained from the State Highway Department for such purpose and such construction is made under the conditions, restrictions and regulations as may be prescribed in such State Highway Department permit. In addition, the within grant by the municipality is subject to the provisions of the Municipal ordinances which may require that a permit be obtained before any conduits, pipe or other structures by erected upon or in any portion of a road and that such construction be made under the conditions, restrictions and regulations as may be prescribed by such permits.

C. Grant of Prescribed Rights. The within grant is further subject to the company obtaining any and all necessary easements, rights of way and other grants from any and all property owners who may be affected by the construction, operation and maintenance of the aforesaid conductors and fixtures.

§103. Limitations and Restrictions of Franchise. The Grantee shall, at all times during the duration of this franchise, be subject to all lawful exercise of the police power of the community and to such other reasonable regulations as the franchising authority shall hereafter provide.

A. Interference. If there is any interference on any television set, radio or other electronic device not on the conductors or fixtures of the company caused by the conductors or fixtures of the company, the company shall immediately, at its own expense, eliminate such interference. If such interference cannot be eliminated within Forty-Eight (48) hours, municipality shall have the right to suspend wholly or partially the operations of the company within the municipality until such interference is eliminated.

B. Building Permits. In addition, company shall apply for and take out any and all building permits required for any construction to be undertaken by said company.

C. Assignments. The franchise or privilege granted hereunder shall be fully and freely assignable, but no assignment to any person, firm or corporation shall be effective until the assignee has filed with the governing body of the municipality and instrument fully executed, reciting the fact of such assignment, and accepting the terms and conditions of the franchise and agreeing to be bound by such terms.

D. Emergency Use of Facilities. The company shall, in the case of any emergency or disaster, make its entire system available without charge, to the municipality, or to any other governmental or civil defense agency that the municipality shall designate.

E. Company Liability Indemnification. It is expressly understood and agreed by and between the company and the municipality that the company shall indemnify and hold the municipality harmless from any loss sustained on account of any claim, demand, suit, judgment or execution whatsoever, resulting from the operations of the company in the construction, operation or maintenance of its CATV system in the municipality. The municipality shall notify the company's representative within ten (10) days after the presentation of any claim or demand, either by suit or otherwise, made against the municipality on account of any damages or losses as aforesaid resulting from the operations of the company. The company shall furnish at least fifteen (15) days prior to its commencement of performance of any act or deed directly or indirectly in pursuance of its franchise, but not less than thirty (30) days from the enactment date of this Ordinance satisfactory evidence in writing that the company has in force and will maintain in force during the term of this franchise, Public Liability Insurance of not less than \$500,000.00 for bodily injury, including death, for any one person, and not less than \$1,000,000.00 for bodily injury, including death, arising out of any one accident and Property Damage Insurance of not less than \$500,000.00, the same to be duly issued by an insurance company or insurance companies authorized to do business in the Commonwealth of Pennsylvania. The municipality shall not and does not, by reason of this Ordinance, assume any liability of the company whatsoever for the injury to persons or damage to property. The aforesaid insurance policy or policies shall insure the municipality and the company with respect to the installations, operation and maintenance of the CATV system. Workman's Compensation Insurance shall be carried and suitable evidence thereof shall be submitted upon request.

§104. Municipal Rights in Franchise

A. Municipal Rules. The right is hereby reserved to the municipality to adopt, in addition to the provision herein contained and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power, provided that such regulations, by ordinance or otherwise, shall be reasonable, and not in conflict with the rights herein granted, and shall not be in conflict with the laws of the Commonwealth of Pennsylvania.

B. Use of System by Municipality. The municipality shall have the right during the life of this franchise, free of charge, where aerial construction exists, of maintaining upon the poles of the company within the municipality limits wire and pole fixtures necessary for police and fire alarm system, such wires and fixtures to be constructed and maintained to the satisfaction of the company in accordance with its specifications.

§105. Subscriber Rates. Subscriber basic service rates shall be in accordance with the rate deregulation provisions of the "Cable Communications Policy Act of 1984".

A. Payment. The company shall pay to the municipality for the privilege of operating its CATV system in the community five percent (5%) of the annual Gross Receipts for basic service only. Termination of operation or failure to undertake operation by the company shall terminate liability under this taxing provision. The company shall make payments to the municipality of the amounts it is obliged to pay hereunder in annual installments within thirty (30) days after January 1.

B. Line Extension Clause.

1. When more than One Hundred Fifty feet (150') of distance from cable to connection is involved, the subscriber shall be charged for installation on the basis of cost of material, labor and equipment as required by franchise. A written agreement between Subscriber and franchise regarding any extra installation cost shall be executed prior to installation of subscriber hookup.
2. The charges for service and connection to commercial establishments such as hotels, motels, apartment houses and the like will be determined by individual contractual arrangements, however, the monthly fee for each family unit of an apartment house cannot exceed the rates as established in the CATV franchise.
3. Franchisees agree to provide without charge for installer service, single hook-ups to the CATV system for each municipal building, fire, police and public and parochial educational facility with the community. Such installations shall be made at such reasonable location as shall be requested by the respective units of government or educational institutions. Any charge for relocation of such installations at the same locations may be made at cost plus ten percent (10%).
4. Custom installation, commercial or residential requiring concealed wiring, underground cable, special location of TV set on premises, etc, to be done on time and material basis; subscriber to be quoted cost in advance.

§106. Company Rules. The company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its rights and perform its obligations under this franchise, and to assure an uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of the laws of the Commonwealth of Pennsylvania or ordinances of Township of Black Creek.

§107. Conditions of Street Occupancy.

- A. Use.** All transmission and distribution structures, lines and equipment erected by the company within the municipality shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys and other public ways and places.
- B. Restoration.** In case of any disturbance of pavement, sidewalks, driveways or other surfacing, the company shall, at its own cost and expense, and in a manner approved by the municipal engineer, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced. Said restoration work shall also be subject to all of the provisions or ordinances of the municipality now in effect or hereinafter enacted.
- C. Relocation.** In the event that at any time during the period of this franchise, the municipality shall lawfully elect to alter or change the grade of any street, alley or other public way, the company upon written notice by the municipality at least Sixty (60) days in advance of proposed action to be taken, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
- D. Placement of Fixtures.** The company, insofar as it is reasonably possible to do so, shall locate its wires, cables, conduits and other television conductors and fixtures on existing utility poles of either the electric or the telephone company. The company shall not place poles or other fixtures where the same will interfere with any gas, electric, or telephone fixtures, water hydrants or mains, and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said streets, alleys and public ways.
- E. Temporary Removal of Wire for Building Moving.** The company shall, on the request of any person holding a building moving permit issued by the municipality, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires

shall be paid by the person requesting the same, and the company shall have the authority to require such payment in advance. The company shall be given not less than Forty-Eight (48) hours advance notice to arrange for such temporary wire changes.

F. Tree Trimming. The company shall have the authority to trim trees overhanging upon the streets, alleys, sidewalks and public places of the municipality so as to prevent the branches of such trees from coming in contact with the wires and cables of the company. All trimming to be done under the supervision and direction of the municipality and at the expense of the company.

§108. Regulatory Action. The performance by the company hereunder is subject to limitations, restrictions or requirements now existing or which may hence forth be imposed by law, rule or order of the FCC or any other government, board, commission or authority of any kind. The company shall not be deemed in breach of any of the requirements of this franchise to the extent that it performs in accordance with or refrains from doing anything prohibited by such law, rule or order and in compliance with the amended Cable Communications Policy Act of 1984.

§109. Publication Costs. The company shall assume the costs of publication of this Ordinance as required by law.

§110. Waiver of Objections. By the adoption of this ordinance, the municipality hereby expressly waives any and all objections it has or may have to the legal right of the company to attach its cables, equipment and transmission lines to the poles of Pa. Power & Light Co., Penelec, Bell Telephone Co., or any other public utilities to grant said right to the company, subject, however, to the company obtaining the necessary permits and grants from the State Highway Department and affected property owners as set forth in Section III of this Ordinance.

§111. Taxation. During the effective term of this franchise, the municipality expressly agrees that it will not enact any ordinance or adopt any resolution which will impose a tax on the company that is discriminatory insofar as said company is concerned, but that the company shall occupy the same status tax wise as any other owner or real or personal property, or owner or operator of any business enterprise within the corporate limits of the municipality.

§112. Severability of Parts Hereof. If any article, section, subsection, provision, regulation, limitation, restriction, sentence, clause, phrase or word in this ordinance is, for any reason declared to be illegal, unconstitutional or invalid, by any court of competent jurisdiction, such decision shall not affect or impair the validity of the ordinance as a whole or any other article, section, subsection, clause, phrase, word or remaining portion of the within Ordinance.

§113. Duration of Franchise. The duration of franchise granted shall be fifteen (15) years from the date of passage of this Ordinance by the Township of Salem provided that the

grantee shall have the option of extending this franchise for an additional period of fifteen (15) years upon application by the grantee not later than six (6) months before the expiration date of the franchise. Provided, however, that such a renewal of this franchise is specifically conditioned upon a review and approval by the Council of the Township of Salem a public proceeding affording due process of the grantees qualifications and performance, the adequacy of the franchise provisions and its consistency with the rules and regulations of the FCC.

§114. Standards of Service. The company shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall occur during a period of minimum use of the system. Upon receipt of a complaint regarding the quality of service, equipment malfunctions and similar matters, the company shall promptly investigate such complaints.

- A. Where possible, the grantee shall investigate such complaints within Twenty-Four (24) hours of its receipt. Resolution of such service complaints shall be made promptly. In addition, the grantee shall maintain a toll free business telephone so operated that complaints and request for repairs or adjustments may be received at any time.
- B. The grantee shall keep a record of all complaints from subscribers. The record shall identify the subscriber, his address and the location and date of the complaint and a technician report on the nature and disposition of the complaint. The said record shall be made available to the governing officials upon request.

§115. Additional Franchise. While LICENSEE recognizes that this franchise is non-exclusive, should TOWNSHIP grant an additional franchise to another multi-channel video provider on terms inconsistent with this franchise, LICENSEE, at its option, shall have right after notice to TOWNSHIP, to incorporate and/or substitute those terms within this agreement and have these additional or substituted terms binding on both parties for the remainder of this agreement.

§116. Effective Date. This Ordinance shall become effective upon passage as provided by law.

§117. Repealer. All ordinances or parts of ordinances conflicting with the provisions of this ordinance are hereby repealed insofar as they are inconsistent with this ordinance.

(Ord. No. 1-1992, 9/14/92).

CHAPTER 10

STREETS AND SIDEWALKS

Part 1

Skateboarding upon Public Rights-of-Way or Property

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- §102. Definitions
- §103. Restricted Areas
- §104. Exceptions
- §105. Violations and Penalties
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Part 2

Road Opening

- §201. Definitions
- §202. Permit Required
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- §204. Responsibility to Contact Utilities
- §205. Refilling of Excavation; Restoration of Surface; Responsibility for Defects Occurring within 2 Years
- §206. Responsibility of Permit Holder for Certain Work; Right of Township to do Certain Work; Change Therefore
- §207. Permittee Responsibilities for Future Relocation of Work
- §208. Payment for Work Done by the Township
- §209. Limitations of Permits
- §210. Revocation of Permits
- §211. Inspection
- §212. Adoption of Specifications
- §213. Maintenance and Performance Bonds
- §214. Insurance Requirements
- §215. Penalty for Violation
- §216. Severability
- §217. Effective Date

CHAPTER 10

STREETS AND SIDEWALKS

Part 1

Skateboarding upon Public Rights-of-Way or Property

§101. Purpose. The purpose of this Ordinance is to serve the protection of the public health, safety, morals and general welfare in Black Creek Township.

§102. Definitions. As used in this Chapter the following shall have the meanings given herein:

- a. **Person** – any natural person whether an adult or a minor;
- b. **Skateboards or roller skates** - a recreational devise or apparel on which small wheels are attached wither to a board like material forming a platform upon which the operator may stand, sit crouch, or to shoes or boots.
- c. **Public right-of-way** – any Township street, road or right-of-way or other area whether private or public property which the traveling public has a general or limited right to use. point

§103. Restricted Areas. It shall be unlawful for any person to operate a skateboard or to use roller skates upon any public right-of-way situate in Black Creek Township including but not limited to sidewalks, streets, parking lots, or alleyways.

§104. Exceptions. Nothing shall prevent the Board of Supervisors or their duly authorized agent to designates specific places or times when skateboarding or roller skating may be permitted associated with festivals, block parties or the like sponsored by civic, charitable, or other such organizations.

§105. Violations and Penalties. Violation of this Ordinance shall continue a summary offense and shall be punished by a fine note exceeding \$300.00 plus costs of prosecution or upon default and payment of fines and costs, by imprisonment in the county Jail for not more than thirty (30) days.

§106. Severability. Each section of this Ordinance is an independent section and the holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall be deemed to effect the validity or constitutionality or any other section of part thereof.

§107. Repealer. Any Ordinance or parts thereof that are inconsistent with this Ordinance are hereby repealed. This Ordinance shall be effective five (5) days after adoption.

(Ord. No. 2/2002, 3/05/02).

Part 2

Road Opening

§201. Definitions. The following words, when used in this Ordinance shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise.

- a) **Excavation** – Any activity within the right-of-way of any street, alley, or cartway which involves cutting, breaking or disturbing the surface thereof. In this Ordinance, the term **Opening** shall have the same meaning as excavation.
- b) **Street** – Any public street, avenue, road, square, alley, highway or other public place located in the Township and established for the use of vehicles, but shall not include State Highways.
- c) **Person** – Any natural person, partnership, firm, association, corporation, or municipal authority.
- d) **Township** – Black Creek Township, Pennsylvania.

In this Ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

§202. Permit Required. It shall be unlawful for any person to make any excavation of any kind in or under the surface of any street without first securing a permit from the Township for each separate undertaking. Application shall be made on a form provided by the Township. However, any person maintaining facilities in, under or about the surface of any street may proceed with an opening without a permit when emergency circumstances demand the work to be done immediately, provided the permit could not reasonably and practically have been obtained beforehand. The person shall thereafter apply for a permit on the first regular business day on which the Township office is open for business, and said permit shall be retroactive to the date when emergency work was begun. All applicants shall pay a Fifty Dollar (\$50.00) fee which fee may be raised or lowered by subsequent resolution. Permit shall be issued for a period not to exceed one (1) year and any application to renew an expired permit shall be treated as a new application including the payment of a new permit fee.

§203. Permit Approval/Disapproval. A permit may be issued to the applicant after all the requirements therefore have been filed. If the application is disapproved, written notice of disapproval together with reasons therefore shall be given to the applicant.

§204. Responsibility to Contact Utilities. The work authorized by the permit is subject to all the provisions of the Act of December 10, 1974, P.L. 852, No. 287, 1 et seq. (73 P.S. § 176 et. seq.) as amended or supplemented from time to time. It shall be the permittee's responsibility to contact the utilities that have recorded their facilities in compliance with said Act.

§205. Refilling of Excavation; Restoration of Surface; Responsibility for Defects Occurring Within 2 Years. Any person who shall execute any street in the Township shall thoroughly and complete refill the opening or excavation in such manner as to prevent any settling thereafter, and shall restore the surface to the same condition as it was before excavation. The surface shall conform to the proper grade and be of the same covering as the part of the thoroughfare immediately adjoining the opening. If within 2 years after the restoration of the surface as herein provided, defects shall appear therein, the applicant shall reimburse the Township for the cost of all necessary repairs to the surface.

§206. Responsibility of Permit Holder for Certain Work; Right of Township to Do Certain Work; Change Therefore. All other work in connection with openings in any street, including excavation, protection, refilling and temporary paving shall be done by or for the person to whom or which the permit has been issued at his or its expense, and all such work shall be subject to the provisions of this Ordinance and to the supervision and approval of the Township, provided that the Township may if it deems it necessary to the proper performance of the work, require that cutting of the surface of streets and the backfilling and resurfacing of all excavations therein shall be done by the Township, in which event the applicant shall pay the actual cost of the work performed by the Township.

§207. Permittee Responsibilities for Future Relocation of Work. If at any time in the future the roadway is widened, reconstructed or the alignment or grades are changes, the Permittee future agrees to change or relocate all or any part of the structures covered by this permit which interfere with the improvement of the roadway at its own cost and expense.

§208. Payment for Work Done by Township. Payment for all work done by the Township under the provisions hereof shall be made by the person made liable therefore under the provisions hereof within thirty (30) days after a bill therefore is sent to such person by the Township. Upon failure to pay such charges within such time, the same shall be collectible by the Township by an action is assumpsit or in the manner provided by law for the manner provided by law for the collection of municipal claims.

§209. Limitations of Permits. Permits are not transferable from one person to another and the work shall not be made in any place or to any extent other than the specifically designated in the permit.

§210. Revocation of Permits. Any permit may be revoked by the Township after oral or written notice to the Permittee, for:

1. Violation of any condition of the permit or of any provisions of this Ordinance.
2. Violation of any provision other applicable ordinance or law relating to the work.
3. Existence of any condition or the doing of any act constituting or creating a nuisance or endangering life or property.

When notice of any such violation or condition shall be served upon the Permittee or his agent engaged in the work, the Permittee must immediately take the necessary corrective measures before proceeding further with any work for which the permit was originally granted.

When, in the opinion of the Township, the Permittee has failed to take the necessary corrective measures and a condition or act constituting or creating a nuisance or endangering life or property exists, the Township may order the work to be performed by the appropriate Township designee or employee and the cost therefore incurred by the Township shall be recovered from the bond the Permittee has filed with the Township. (In the event of no bond or inadequate bond amount), the amount may be recovered by the Township in accordance with Section 8 hereof.

§211. Inspection. The Township make such inspections as it may deem necessary of all work authorized by a permit. The Township is empowered to provide a full-time inspector if necessary to ensure compliance with the provisions of this Ordinance. All inspection costs shall be borne by the Permittee. Such costs shall be based on a schedule of fees adopted by the Township as revised from time to time by adoption of a Resolution. Said inspection fee shall be recovered by the Township in accordance with Section 8 hereof.

§212. Adoption of Specifications. The Township does hereby adopt the specifications contained in Exhibit "A" attached hereto and expressly made a part hereof. the specifications and procedures set forth therein are made applicable to all Permittees under this Ordinance, and the Permittee's application for a permit pursuant to the terms of this Ordinance shall constitute acceptance of all of the terms of the specifications which shall not or in the future be adopted by resolution of the Township Supervisors in association with this Ordinance. The Supervisors of the Township may hereafter by Resolution make changes in or add to the specifications.

§213. Maintenance and Performance Bonds. Applicants for permits shall submit, together with the application, a performance bond in the amount of One Thousand Dollars (\$1,000) for each permit for opening up to one hundred (100) square feet. For opening in excess of one hundred (100) square feet, the bonds shall be in the amount as shall be determined and approved by the Township. In the case of those who maintain utilities under the streets and rights-of-way, of the Township, the performance bond shall be so written as to cover each and every opening made. The performance bond shall guarantee the work performed by the Permittee for a period of 2 years.

§214. Insurance Requirements. Each applicant, prior to the receipt of a permit, shall provide the Township with an acceptable certificate of insurance indicating that he is insured against claims for damage which may arise from or out of the performance of the work, whether such performance be by himself, his subcontractor, or anyone directly or indirectly employed by him. Such insurance shall cover collapse, explosion, hazards, and underground work by equipment on the street and shall include protection against liability arising from completed operations. In order to protect the Township and the Permittee, the Permittee shall provide a certificate of insurance for liability insurance in the amount of Five

Hundred Thousand dollars (\$500,000.00) aggregate for bodily injury, and Two Hundred Fifty Thousand Dollars (\$250,000.00) for each occurrence and Two Hundred Fifty Thousand Dollars (\$250,000.00) for aggregate property damage. Public utilities and authorities may submit annually such evidence of insurance coverage in lieu of individual submissions for each permit.

§215. Penalty for Violation. Any person violating any of the provisions of this Ordinance or any regulations and specifications adopted thereunder shall, upon determination of the civil violations, be required to pay fine not less than Three Hundred Dollars (\$300.00) nor more than Thousand Dollars (\$1,000.00) for each violation. Any person who violation. Any person who violates or permits the violation of this Ordinance shall, in addition to the payment of the fine, be obligated to pay all courts costs including reasonable attorneys' fees incurred by the Township. Each day that a violation is permitted to exist after notice by the Township, shall constitute a separate violation.

§216. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate and distance and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

§217. Effective Date. This Ordinance shall become effective five (5) days after its adoption.

(Ord. No. 5-2002, 5/07/02).

EDITOR'S NOTE: This Ordinance was adopted repealing Ordinance adopted 07/02/74 and titled "Opening or Cutting of Public Streets".

EXHIBIT "A"

OPENING and EXCAVATION CONDITIONS

1. No opening or excavation in any street shall extend beyond the center line of the street before being backfilled and the surface of the street temporarily restored.
2. No more than one hundred (100) feet measured longitudinally shall be opened in any street at any one time, except by special permission of the Township.
3. All utility facilities shall be located sufficiently ahead of trench excavation work to avoid damage to those facilities and to permit their relocation, if necessary.
4. Pipe drains, pipe culverts, or other facilities encountered shall be protected by the Permittee.
5. Survey markers or monuments set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey referenced point or a permanent survey benchmark within the Township shall not be removed or distributed or caused to be removed or disturbed unless permission to do so is first obtained in writing from the Township. Permission shall be granted only upon condition that the Permittee shall pay all expenses incident to the proper replacement of the monument. Any existing survey markers which are removed or displaced by any construction operation shall be reset by a surveyor licensed to practice in the Commonwealth of Pennsylvania, with such work being completed at the Permittee's expense.
6. When work performed by the Permittee interferes with the established drainage system of any street, provisions shall be made by the Permittee to provide proper drainage to the satisfaction of the Township.
7. When any earth, gravel or other excavated material is caused to roll, flow or wash upon any street, the Permittee shall cause the same to be removed from the street within four (4) hours after deposit of such materials, or upon notice from Township to remove such materials. In the event the earth, gravel or other excavated materials so deposited is not removed, the Township shall cause such removal, and the costs incurred by the township shall be recovered from the bond the Permittee filed with the Township.
8. Every Permittee shall place around the project such barriers, barricades, lights, warnings flags and danger signs as necessary for the protection of the public. Barricading shall be in compliance with the regulations as set forth by the Commonwealth of Pennsylvania, Department of Transportation, Bureau of Traffic Engineering, for maintaining and protection of traffic on construction projects and handbook for work area traffic control and any future revisions thereto.

All trenching and excavation shall conform to the requirements of the Pennsylvania Department of Labor and Industry standard for such work. Additional safety requirements may be prescribed by the Township.

Whenever any person fails to provide or maintain the safety devices required by the Township, such devices may be installed and maintained by the Township. The amount or costs incurred shall be paid by the Permittee..

No person shall willfully move, remove, injure, destroy or extinguish any barrier, warning light, sign or noticed erected, placed or posted in accordance with the provisions of this Ordinance.

9. Access to private driveways shall be provided except during working hours when construction operations prohibit provisions of such access. Permittee must notify property owners in advance whenever a driveage is to be blocked. Free access must be provided at all times to fire hydrants.
10. The excavation shall be in two (2) classes; that portion in the area outside the cartway and that portion within the cartway.
 - a. For excavation outside the cartway, excavated materials shall be laid compactly along the side of the trench and kept trimmed up so as to cause as little inconvenience as possible to public travel. In order to expedite the flow of traffic or to abate a dirt or dust nuisance, the Township may require the Permittee to provide toe boards or binds, and if the excavated area is muddy and causes inconvenience to pedestrians, temporary wooden plank walks shall be installed by the Permittee as directed by the Township. If the street is not wide enough to hold the excavated materials without using part of an adjacent sidewalk, the Permittee shall keep a passageway at least one-half (1/2) the sidewalk width open along such sidewalk line.
 - b. For excavation within the cartway, all excavating material shall be wasted and removed from the site. This shall be done at the time of excavation or after excavation backfill has been completed. If excavation material is left at the site or until after completion of the work, all conditions stated in Paragraph 10A above shall be adhered to.
11. Work authorized by a permit shall be performed between the hours of 7:00 a.m. and 7:00 p.m., Monday through Saturday, unless the Permittee obtains written consent from the Township to do work at the other hours. Such permission shall be granted only in case of an emergency or in the event the work authorized by the permits is to be performed in traffic-congested areas.
12. In granting any permit, the Township may attach such other conditions as may be reasonably necessary to prevent damage to public or private property or to prevent the operation from being conducted in a manner hazardous to life or property, or in a

manner likely to create a nuisance. Such conditions may include , but not be limited to:

- a. Limitations on the period of time of the year in which the work may be performed;
 - b. Restrictions as to the size and type of equipment;
 - c. Designation of routes upon which materials may be transported;
 - d. The place and manner of disposal of excavated materials;
 - e. Requirements as to the laying of dust, the cleaning of streets, the prevention of noise and other results offensive or injurious to the neighborhood, the general public or any portion thereof; and
 - f. Regulations as to the use of streets in the course of work.
13. During the progress of the work, gutters, and waterways must be kept open or other provisions made for the removal of storm water. Street intersections may be blocked one-half (1/2) at a time, and the Permittee shall lay and maintain temporary driveways, bridges, and crossings as, in the opinion of the Township, are necessary to reasonable accommodate the traveling public.
14. The Township, as well as the company or corporation owning any municipal or utility company pipes, poles or conduits, must be notified by the Permittee before any such facilities are removed or altered. In case any water or sewer lines, or any utility company gas or electric facilities including service connections and/or appurtenances are damaged, they shall be repaired by the Authorities having control or same and the expense of said repairs shall be paid by Permittee directly.
- It shall be the responsibility of the Permittee to ascertain and verify actual location and evaluation of existing pipelines or buried conduits in the path of the work before commencing excavation.
15. All excavations which are five (5) feet or more in depth or which exceed any State or Federal regulatory agency's stipulated maximum depth for unshored excavations, or where excavations are in unstable materials, excavations shall be shored. All shoring shall meet or exceed OSHA or State Labor Department requirements.
16. Following all excavations, the excavated area shall be restored in accordance with the specifications set forth in the Road Opening Ordinance, the SALDO and those established by the Township Engineer. In addition, all restoration activities shall be performed and materials shall be replaced so that the replaced excavated surface does not deviate from its original height. (The Township may permit deviation on a case-by-basis).

17. Excavation involving the removal of bituminous or concrete paving in streets, private drives and parking area trenching situations shall be accomplished by sawing or cutting the improved surface at the edges of the proposed trench at points one (1) foot on either side of the trench opening at ground surface. Sawing or cutting shall extend to full depth of existing surface. Where existing surfaces are damaged, taken up, undercut, or unraveled by construction excavation operations which extend beyond the original saw or cut marks for removal, the Permittee in restoring such bituminous or concrete surfaces to original condition shall re-saw or cut the surface to a straight and even line six (6) inches beyond the furthest point of damage from the trench centerline.
18. When temperatures fall below 33 degrees F., all grouting and concrete materials entering into the construction are to be preheated and used while warm. When any mortar or cement concrete work is carried out under freezing conditions, the heated area must be maintained for at least twenty-four (24) hours or the installation shall be protected from frost by covering with hay, straw, or similar substance to a depth of at least two (2) feet before auxiliary heat is removed. When areas cannot be appropriately protected by covering with hay or straw and where it is impractical to completely cover the work area with an enclosure and heat the work to at least two (2) feet before auxiliary heat is removed. Where areas cannot be appropriately protected by covering with hay or straw and where it is impractical to completely cover the work area with an enclosure and heat the work to at least 40 degrees F., the work shall be suspended.
19. The trench shall be excavated along the limits proposed by the permit holder and approved by the Township. All trenches shall be vertical sides, no tapering of said shall be permitted unless approved in writing. The width of the trench, unless otherwise approved shall be six (6) inches minimum and eighteen (18) inches maximum on each side of the utility pipe. The bottom of the trench shall be hollowed out so as to allow the body of the pipe to have a bearing throughout on the trench bottom. Ground adjacent to all excavations shall be graded to prevent water running in. Any accumulated water in the excavation shall be removed by pumping or other means approved by the Township prior to the placement of pipes or utilities and before backfill is begun.

ORDINANCE NO. 2 of 2022
BLACK CREEK TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA

The Black Creek Township Board of Supervisors do hereby amend the Black Creek Township Code of Ordinances to include Chapter 10, Part 3, as follows:

CHAPTER 10
STREETS AND SIDEWALKS

Part 3
Driveway/Access Management

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§301. Applicability. This Ordinance shall apply to any person, firm, association or corporation who wished to construct, enlarge, open, pave or resurface any driveway or access drive upon any property owned by or rented by such person, firm, association, or corporation. The same shall not be accomplished without first obtaining a permit from the Township Zoning Officer.

§302. Definitions. The following words, when used in this Ordinance shall have the meanings ascribed to them in this section, except where the context clearly indicates otherwise:

Access Drive – An improved surface for vehicular travel which provides access between a street and a property or parking area. For purposes of this ordinance, "access drive" shall be construed to mean any road, alley, lane or other entrance suitable for use by automobiles for ingress and egress onto a road maintained by either the Township, County, or by the Commonwealth of Pennsylvania for all commercial, industrial, CAFO, and multi-family uses; timber harvest shall be included in these uses and shall not be considered as a "Farm Use".

- Low volume — An access drive used or expected to be used by more than 25 but less than 750 vehicles per day.
- Medium volume —An access drive used or expected to be used by more than 750 but less than 1500 vehicles per day.

- High volume —An access drive used or expected to be used by more than 1500 vehicles per day.
- Timber Harvest – An access drive used or expected to be used in association with the harvesting of timber from a property.

Board – The Board of Supervisors of Black Creek Township, Luzerne County, Pennsylvania.

Chapter 441- Pennsylvania Code, Chapter 441, Access to and Occupancy of Highways by Driveways and Local Roads.

Drainage Structure – Including, but not limited to, pipes, sluices, culverts, inlets, manholes, trench drains, bridges, and swales, intended to convey stormwater.

Driveway – An improved surface for vehicular travel which provides access between a roadway and a lot (except as noted). For purposes of this ordinance, "driveway" shall be construed to mean any road, alley, lane or other entrance suitable for use by automobiles for ingress and egress onto a roadway maintained by either the Township, County, or by the Commonwealth of Pennsylvania for all residential uses (except multi-family) and intermittent agricultural uses (excluding timber harvest).

- Farm use —A unimproved farm driveway which is used or expected to be used intermittently to access fields or similar agricultural areas to support an operational farm and associated farm activities only, as defined by the Black Creek Township Zoning Ordinance. This excludes driveways and access drives associated with barn and livestock areas, chicken houses, hay/ grain/ feed storage, manure storage, “CAFO”, equipment storage, residential dwellings and/or Timber Harvest.
- Minimum use —A residential or other driveway, including other farm activities (except CAFO and Timber Harvest) which is used or expected to be used by not more than 25 vehicles per day.
- Temporary use – A residential or other driveway which is used or expected to be used by not more than 25 vehicles per day for a period not to exceed 30 calendar days.

Improved Surface/Impervious Surface/Impervious Material- Any material other than vegetative cover.

Infiltration Structure- A structure designed to direct storm water runoff into the ground to control storm water runoff, improve water quality and groundwater recharge, and reduce flooding.

Ordinance – Any or all ordinances of Black Creek Township. (Driveway/Access Management, Subdivision and Land Development, Zoning, Storm Water Management, etc.)

PennDOT- The Commonwealth of Pennsylvania Department of Transportation.

Permit – An authorization by Black Creek Township to construct, install, relocate, repair, or

upgrade any driveway or access drive.

Plans – Drawings which show the location, character, type, and dimension of the proposed driveway of access drive, including grading, drainage, and all limits of work. All plans shall be drawn to scale and be prepared and sealed by a Professional Engineer licensed in the Commonwealth of Pennsylvania.

Property Owner – The owner or owners of the property on which the driveway or access drive is located.

Roadway – A public roadway owned and maintained by Black Creek Township, Luzerne County, or the Commonwealth of Pennsylvania, including its' rights-of-way.

Sketches – Drawings which show the location, character, type, and dimension of the proposed driveway or access drive, including proposed improvements. All sketches shall be neatly prepared and generally drawn to scale when possible.

Stormwater Management Ordinance- The Stormwater Management Ordinance of Black Creek Township.

Township – The Township of Black Creek, Luzerne County, Pennsylvania.

Township Engineer - A Professional Engineer, licensed in the Commonwealth of Pennsylvania, employed or contracted by the Township.

Township Inspector – The Township's Inspector may consist of the Zoning Officer, Building Code Officer, Road Foreman, Roadmaster, Public Works Director, or other suitable staff members, including contract staff, as designated by the Township Supervisors.

Township Solicitor – An Attorney, and member of the Pennsylvania Bar Association, employed or contracted by the Township

§303. Application for Permit and Fees

All applications for a "permit" under this ordinance shall be made to the Black Creek Township Zoning Officer on forms to be supplied by the Township and shall be accompanied by a fee as determined by Resolution of the Board of Supervisors of Black Creek Township. The Zoning Officer and/or Township Inspector shall be responsible to ensure compliance with the Ordinance.

The Permit Application shall be submitted to the Township Office. The permit shall be submitted in person or by mail to the Township Secretary.

- (1) Each driveway or access drive shall require a separate fee. For continuity, multiple locations may be listed on the same application/plan.
- (2) Upon receipt of the application, the Township shall investigate the application to determine whether the proposed location achieves compliance with the requirements of this Ordinance, as well as any relevant Zoning and/or Subdivision and Land Development Ordinance provisions.

- (3) The Township shall have the right to review the permit for thirty (30) days.
- (4) In the event of more complex projects, the Township may require review by a Professional Engineer, cost of such review shall be paid by the property owner.
- (5) The permit application shall include the following items:
 - (i) Permit shall be signed by the property owner. Applications signed by contractors, tenants, consultants, etc. shall not be accepted.
 - (ii) Submittals shall include name, phone number, mailing and email address, etc. for the applicant.
 - (iii) Submittal shall identify any consulting engineer(s) responsible for the submittal.
 - (iv) Submittal shall identify all contractor(s) responsible for the work.
 - (v) Submittal shall include four (4) sets of all documents and accompanying sketches/plans. (property owner, contractor, inspector, file)
 - (vi) Submittals shall be on the Township's standard forms (8-1/2" x 11") and accompanied by sketches (8-1/2" x 11") or full-size plans (24" x 36") in the event of more complex projects.
 - (vii) Sketches and plans shall be of sufficient quality and contain sufficient information and dimensions to determine type, size, and location of all proposed improvements, including limits of excavation and restoration.
 - (viii) Plans shall be drawn to scale.
 - (ix) Insurance certificates shall be provided.
 - (x) All fees.

§304. Compliance Requirements.

The following conditions shall apply to permits issued under the provisions of this chapter:

- (1) *Scope of permit.* The permit shall be binding upon the property owner, its agents, contractors, successors, and assigns.
 - (i) The property owner shall be responsible for causing compliance with all terms and conditions of the permit by its employees, agents, and contractors.
 - (ii) The permit shall be located at the work site and shall be available for inspection by any representative of the Township, either during the period of construction for permanent access drives or driveways or during the period of use for temporary access drives or driveways.

- (iii) The permit shall be maintained by the property owner as a permanent record and remain in effect, subject to the permit conditions, as long as the driveway or the facility authorized by the permit exists.
- (iv) The property owner shall be principally liable to the Township for any failure to comply with the permit. The principal liability of the property owner to the Township shall not preclude the Township from bringing any action against the property owner's contractor, subcontractor, engineer, architect, or any other person.
- (v) A permit shall be valid only as long as the traffic volume of the driveway does not exceed the approved driveway classification as set forth below.
- (vi) The Township, in granting a permit, will waive none of its powers or rights to require the future change in operation, removal, relocation, or proper maintenance of any access within Township's right-of-way.
- (vii) This permit does not authorize trimming of trees, removal of obstruction, alteration of slope, etc. within the Township right-of-way beyond the property owner's property boundary.

(2) *Additional restrictions.* All work authorized by the permit shall be subject to the following:

- (i) All applicable laws, rules, and regulations, including but not limited to the following:
 - (A) Act of October 26, 1972 (P. L. 1017, No. 247) (53 P. S. § 1611), concerning environmental control measures related to pollution and the preservation of public natural resources.
 - (B) Act of December 10, 1974 (P. L. 852, No. 287) (73 P. S. § § 176—182), concerning protection of the public health and safety by preventing excavation or demolition work from damaging underground utility facilities.
 - (C) O.S.H.A. construction safety and health regulations, 39 Fed. Reg. 22801 (June 24, 1974) and 29 CFR § 1926.1 *et seq.*
 - (D) 42 U.S.C. § 2000d, as implemented by 49 CFR § 21 and 23 CFR § 230.101 *et seq.*
- (ii) Any rights of any person, including adjoining property owners.
- (iii) The conditions, restrictions, and provisions of the permit.

(3) *Work to conform to Township standards.* The work shall be done at such time and in such a manner as shall be consistent with the safety of the public and shall conform to all requirements and standards of the Township including, but not limited to, PennDOT Publication 408 and 72M. If at any time it shall be found by the Township that the work is

not being done or has not been properly performed, the property owner upon being notified in writing by the Township shall immediately take the necessary steps, at their own expense, to place the work in condition to conform to such requirements or standards. In case any dispute arises between the property owner and the Township inspector, the Township's Inspector shall have the authority to suspend work until the question at issue can be referred to and be decided by the Township Engineer.

(4) *Property owner responsibilities.* Property owner responsibilities shall be as follows:

- (i) The property owner shall be responsible for submitting and signing all permits. Permits signed by persons other than the property owner (ie. tenants, contractors, etc.). shall not be accepted.
- (ii) The property owner shall pay all fees, costs, and expenses incident to or arising from the project, including the cost of related roadway improvements which increased traffic or surface drainage may necessitate. The property owner shall reimburse the Township for any and all inspection costs within 30 days after receipt of the Township's invoice.
- (iii) In the event of failure or neglect by the property owner to perform and comply with the permit or the provisions of this chapter, the Township may immediately revoke and annul the permit and order and direct the property owner to remove any or all structures, equipment, or property belonging to the property owner or its contractors from the legal limits of the right-of-way and to restore the right-of-way to its former condition.
- (iv) In the event the Township determines that such structures, equipment, or property pose a threat to the public safety and the property owner fails to remove the same after notice from the Township to do so, the Township Engineer or Township Solicitor shall be authorized to appear for the Township, and to enter an amicable action of ejectment and confess judgement against the property owner; and Township Engineer and Township Solicitor shall be authorized to issue forthwith a writ of possession without leave of court, all at the cost of the property owner.
- (v) No ditch, trench or excavation shall remain open at the end of any work day and shall be plated or backfilled to prevent hazard. If, in the opinion of the Township Inspector, the ditch, trench, or excavation is a hazard, the property owner shall immediately remedy the situation. In the event that the hazard continues beyond 24 hours, the Township may perform the necessary and required work and shall be reimbursed for the costs by the property owner within 30 days after receipt of the Township's invoice.
- (vi) If the property owner, after making an opening in the surface to place or repair a drainage facility or for any other purpose, fails to restore any portion of the right-of-way to conform with Township specifications upon notice from the Township to do so, the Township may perform the work and the property owner shall reimburse the Township for the costs within 30 days after receipt of the

Township's invoice.

- (5) *Restoration of slopes.* All disturbed slopes or earthen areas shall be restored to their original vegetated condition, or in a manner approved by the Township.
- (6) *Altering drainage prohibited.* Unless specifically authorized by the permit, the property owner shall not:
 - (i) alter the existing drainage pattern or the existing flow of drainage water; or
 - (ii) direct additional drainage of surface water onto or into the Township, County, or State right-of-way or roadway facilities in a way which would have a detrimental effect on the roadway or roadway facilities.
- (7) *Disposition of materials.* Disposition of materials shall comply with the following:
 - (i) The property owner shall keep the improved area free of all material which may be deposited by vehicles traveling upon or entering onto the roadway during the performance of work authorized by the permit.
 - (ii) The property owner shall be responsible for controlling dust conditions created by its operations.
 - (iii) All excess material and material that is not suitable for backfill shall be removed and disposed of outside the right-of-way as the work progresses.
 - (iv) All retained suitable material shall be placed or stored outside the improved area, and in such a manner that there will be no interference with the flow of water in any gutter, drain, pipe, culvert, ditch, or waterway. Nor shall additional retained material be stored or wasted within the right-of-way.
- (8) *Equipment damaging roadway.* Equipment used for the construction of the driveway/ access drive shall conform with the following conditions:
 - (i) To protect the pavement and shoulders, all equipment shall have rubber wheels or runners and shall have rubber, wood, or similar protective pads between the outriggers and the surface, unless otherwise authorized by the permit.
 - (ii) In the event that other than rubber equipped machinery is authorized for use, the pavement and shoulders shall be protected by the use of tire, skids, matting, wood, or other suitable protective material having a minimum thickness of four inches.
 - (iii) If the equipment damages the pavement of shoulders, the Township or its designated contractor shall restore the pavement, shoulders, and/or drainage facilities to their former condition, at the expense of property owner.
- (9) *Traffic protection and maintenance.* Maintenance and protection of traffic shall be carried out in accordance with the requirements of the Township, as set forth in PennDOT

Publication 213.

- (i) The property owner shall be responsible to provide and maintain all necessary precautions to prevent injury or damage to persons and property in accordance with instructions furnished by the Township. A traffic control plan shall be submitted to and approved by the Township Engineer before closing any portion of a lane to vehicular traffic for any period of time.
 - (ii) With the approval of the Township, any approved lane closures shall be limited to times as directed by the Township. Property owner shall be responsible to provide all individuals or contract employees proposed to control traffic. Flaggers shall be provided as specified in the permit and in accordance with Publication 213. All flaggers shall have PennDOT Flagger Certifications. All certifications shall be on file with the Township prior to any proposed lane closure.
 - (iii) Equipment shall not be parked, stored, or offloaded onto the public roadway.
 - (iv) Traffic control devices shall be provided in accordance with PennDOT Publication 213. Any open trench or excavation shall be adequately plated and secured during non-working hours to prevent possible injury to pedestrians and the motoring public.
 - (v) All traffic control devices shall be crash-worthy, of an approved type and maintained in good condition. Home-made signs and barricades are not permitted.
 - (vi) Signs shall conform to the requirements of Publication 213.
- (10) *Restoration.* All disturbed areas, including slopes, shall be restored by the property owner to a condition at least equal to that which existed before the start of any work or the minimum repair detail attached.
- Removal or relocation of any roadway signs, drainage structures and or appurtenances such as guide rail shall be accomplished by the Township at the property owners expense; this includes providing appropriate end treatments on guiderail systems where existing guiderail is being broken/ opened/ relocated by the driveway or access drive.
- (11) *Approval by inspector.* Approval by the Township's inspector of all or part of any permitted work shall not constitute acknowledgment that the work was performed in accordance with the permit, nor shall such approval of the inspector act as a release of the property owner or waiver by the Township of its right to seek performance or restitution by the property owner.
- (12) *Maintenance.* All driveways, access drives, drainage structures and appurtenances, and adjacent areas within the right-of-way shall be continuously maintained by the property owner so as to conform to the permit and so as not to interfere or be inconsistent with the design, maintenance, and drainage of the highway, or the safe and convenient passage of traffic upon the roadway.

(13) *Indemnification.* The property owner shall fully indemnify and save harmless and defend the Township, its agents and employees, of and from all liability for damages or injury occurring to any person or persons or property through or in consequence of any act or omission of any contractor, agent, servant, employee, or person engaged or employed in, about, or upon the work, by, at the instance, or with the approval or consent of the property owner; from any failure of the property owner or any such person to comply with the permit or this ordinance; and, for a period of two years after completion of the permitted work, from the failure of the roadway in the immediate area of the work performed under the permit where there is no similar failure of the roadway beyond the area adjacent to the area of the permitted work.

(14) *Insurance.* The property owner shall submit to the Township copies of their contractor's certificate or certificates of insurance and bonds for workers compensation, public liability, property damage, in form and amount set by resolution, but at no time be less than as listed below, to cover any loss that may be incurred for or on account of any matter, cause, or thing arising out of the permitted construction.

(i) Commercial General Liability (CGL) Insurance including product and completed operations liability insurance covering all claims which may arise from facility owner's performance of the work, whether such performance is by the facility owner or by a subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Proof of insurance shall be submitted to the Township. Insurance coverage shall be statutory unless otherwise noted below.

- \$1,000,000 Commercial General Liability Each Occurrence
- \$3,000,000 Commercial General Liability Aggregate Per Project
- \$1,000,000 Products/Completed Operations Aggregate
- \$1,000,000 Contractual Liability

Property Owner's Contractor shall also purchase and maintain during the life of the Contract, Excess Liability/Umbrella insurance coverage in the amount not less than \$3,000,000.

(ii) Comprehensive Automobile Liability Insurance including Employer's Non- Ownership Liability and Hired Car Liability Insurance to protect themselves and any subcontractors performing the work covered by this Permit from claims for damages, whether such operations be by them or any subcontractor or by anyone directly or indirectly employed by either of them. Proof of insurance shall be submitted to the Township. Insurance coverage shall be statutory unless otherwise noted below.

- \$2,000,000 Combined Single Limit

(iii) Worker's Compensation Insurance including employer's liability coverage (Coverage B). Proof of insurance shall be submitted to the Borough. Insurance

coverage shall be statutory unless otherwise noted below.

- \$100,000 Each Person
- \$500,000 Each Accident
- \$100,000 Disease – Each Employee
- \$2,000,000 Combined Single Limit

The Township shall be designated as an additional insured for all insurance coverages other than Workers' Compensation and Employers' Liability.

Additional insurance acceptable to the Township Solicitor is required in the event that the applicant proposes blasting.

Certificates of Insurance acceptable to the Township shall be filed with the Township prior to the commencement of the work. Said Certificates shall evidence that Property Owner's Contractor has all the insurance coverages required under this Permit and shall contain the provision that the coverage afforded under the policies will not be cancelled until at least thirty (30) days prior written notice has been submitted to the Township.

(15) *Damage to Roadway.* Restoration of roadway shall include the following:

- (i) If there is a failure of the roadway, including slope or any other appurtenance thereto, in the immediate area of the permitted work within two years after the completion of the permitted work and there is no similar failure of the roadway beyond the area adjacent to the area of the permitted work, the property owner shall have absolute responsibility to make all temporary and permanent restoration including restoration of the adjacent area if it has also failed.
- (ii) If the permitted work is the proximate cause of damage to the roadway, including slope or any other appurtenance thereto, beyond the adjacent area, the property owner shall be responsible for all remedial work and shall make all temporary and permanent restoration.
- (iii) Where the property owner has the responsibility to improvements adjacent to the roadway, including slope or any other appurtenance thereto, including instances where a presumption of responsibility has not been rebutted, the property owner shall have the duty to restore the improved area in accordance with the permit. If the property owner fails to restore the improved area properly, the Township will have the authority to do the work at the expense of the property owner. The property owner shall reimburse the Township for the costs within 30 days after receipt of the Township's invoice.

(16) *Use of roadway prohibited.* Prohibited use of the roadway shall be as follows:

- (i) No part of the Township, County, or State right-of-way shall be used for

servicing vehicles, displays or conducting business. The area between the edge of the pavement and the right-of-way line shall be kept clear of all buildings, sales exhibits, business signs, vehicles, service equipment and similar items. Farm Produce Stands shall be exempt from this requirement; however, they shall not pose a hazard to the traveling public or interfere with the clear sight distance on their property or adjoining properties.

- (ii) Improvements on private property adjacent to the right-of-way shall be so located that parking, stopping, and maneuvering of vehicles on the right-of-way will not be necessary in order for vehicles or patrons to be served. New liquid fuel pump islands installed in service stations adjacent to the roadway shall be located at least 12 feet outside the right-of-way, in order for a driveway permit to be issued.

§304. General Requirements.

- 1) *Permit Application – A permit application shall be completed by the property owner. The application shall include all necessary information required including a sketch for any driveway, a plan for any access drive (except timber harvest), and a sketch and accompanying county timber harvest permit for any timber harvest access drive.*

In the event of more complex submissions, including steep driveways (exceeding 10%), shared driveways, driveways exceeding 1000 feet, or driveways proposing in excess of 20,000 square feet of disturbance, the Township may, at its discretion, require a plan.

- 2) *General rule.* Driveways and access shall be located, designed, constructed and maintained in such a manner as not to interfere or be inconsistent with the design, maintenance and drainage of the roadway. Driveways and access drives fall under seven (7) specific categories:

- Driveway – Farm Use
- Driveway - Minimum Use
- Driveway - Temporary
- Access Drive – Low Volume
- Access Drive – Medium Volume
- Access Drive – High Volume
- Access Drive – Timber Harvest

- 3) *General location restrictions.* Driveways and access drives shall be permitted at locations in which:

- (i) Sight distance is adequate to safely allow each permitted movement to be made into or out of the driveway or access drive. See attached sight distance table. Driveways and access drives shall meet the necessary sight distance to the left and right based on the roadways posted speed and roadway grade.

- (ii) The free movement of normal traffic is not impaired.
 - (iii) The driveway or access drive will not create a hazard.
 - (iv) The driveway or access drive will not create an area of undue traffic congestion.
- 4) *Specific location restrictions.* Specific location restrictions shall include the following:
- (i) Driveways and access driveway may not be located at interchanges, ramp areas, or locations that would interfere with the placement and proper functioning of roadway signs, signals, detectors, lighting or other devices that affect traffic control.
 - (ii) The location of a driveway or access drive near a signalized intersection may include a requirement that the property owner provide, new or relocated detectors, signal heads, controller and the like, for the control of traffic movements from the driveway.
 - (iii) Access to a property which abuts two or more intersecting streets or roadways may be restricted to only that roadway which can more safely accommodate its traffic.
 - (iv) Offset driveways or access drives are not encouraged. The Township may require the property owner to locate a driveway or access drive directly across from a roadway, driveway or access drive on the opposite side of the roadway if it is judged that offset driveways will not permit left turns to be made safely or that access across the roadway from one access to the other will create a safety hazard.
 - (v) No driveway or access drive shall be located within 40 feet of an intersection road right-of-way.
 - (vi) No driveway or access drive shall be located within 5 feet of a fire hydrant.
 - (vii) No driveway or access drive shall be located within 25 feet of another driveway on the same property.
 - (viii) No driveway or access drive shall be located within 10 feet of a property line.
- 5) *Shared Driveways.* A driveway or access drive intended to serve more than a single property is hereby prohibited not encouraged. In the event that a shared driveway is utilized, a copy of the right of way or shared use or access agreement must be provided to the Township. In all instances, a shared drive agreement must be signed by all parties thereto.

Although the Township has issued a permit for a shared driveway/access drive, the

Township neither warrants or ensures access to any of the properties listed in the permit. Any issues arising between the parties is a civil matter that will not involve the Township.

- 6) *Number of driveways.* The number and location of entrances which may be granted will be based on usage, interior and exterior traffic patterns, and current design policy of the Township.
- (i) Normally, only one, but no more than two, minimum use driveways will be permitted for a residential property.
 - (ii) Farm driveways shall be exempt from this requirement; farm driveways may be cited at safe locations necessary for field access. Minor grading activities to improve intermittent vegetated field accesses shall not require a farm driveway permit.
 - (iii) Normally, only one, but no more than two, temporary driveways shall be issued for temporary use; additional locations for temporary driveways must be approved by the Board.
 - (iv) Not more than two low, medium, or high-volume access drives will be permitted for commercial, industrial, or multi-family uses.
 - (v) Typically, only one timber harvest access drive shall be located in conjunction with a timber harvest; additional locations for Timber Harvest must be approved by the Board.
 - (vi) If the property frontage exceeds 600 feet, the Township may authorize an additional driveway.
 - (vii) Regardless of frontage, a development may be restricted to a single entrance/exit access drive, served by an internal collector road separated from the traveled way.
- 7) *Approaches to driveways.* Driveway and access drive approaches shall conform to the following standards:
- (i) The location and angle of a driveway or access drive approach in relation to the intersection shall be such that a vehicle entering or leaving the driveway may do so in an orderly and safe manner and with a minimum of interference to traffic.
 - (ii) In general, driveways approaches should be 90 degrees, measured perpendicular to the centerline of the roadway. In no case shall any driveway or access drive exceed an angle of 65 degrees. Access drive approaches shall be 90 degrees.
 - (iii) Where the driveway or access drive approach and Township, County, or State pavement meet, flaring of the approach may be necessary to allow safe, easy

turning of vehicular traffic.

- (iv) Where the Township, County, or State highway is curbed, driveway approaches shall be installed 1 1/2 inches above the adjacent roadway or gutter grade to maintain proper drainage.
- (v) All applications shall be made in conformance with the accompanying geometric design figures and sight distance charts.
- (vi) Upon receipt of the application, the Township Zoning Officer shall investigate the application to determine whether the proposed location achieves compliance with the requirements of this ordinance, relevant Zoning Ordinance provisions.
- (vii) All applications for driveways and access drives accessing a County or State Highway shall include a valid approved Highway Occupancy Permit issued by the County or Commonwealth, as appropriate.
- (viii) All applications for a timber harvest access shall be accompanied by a Timber Harvest Permit issued by the Luzerne County Conservation District.

8) Issuance of Permit

- (i) The Township Inspector shall investigate the application to determine if the application is complete and in compliance with the Ordinance.
- (ii) The Township Inspector shall determine whether a drainage pipe or other appliance and/or further grading is required in order for the Township's roadside drainage to remain unimpeded.
- (iii) The Township Inspector shall also determine whether slopes are such that in order to protect the publicly maintained street or road from earth and/or debris, etc. washing from the driveway onto the publicly maintained street or road, some or all of the driveway in addition to the twenty-five (25) feet most proximate to the publicly maintained street or road must be paved, and if so, such additional requirements shall be added on the permit.
- (iv) The Township Inspector shall require stormwater management facilities and/or infiltration facilities to address all impervious surfaces.
- (v) If the Township Inspector finds that even with the installation of proposed drainage improvements or grading that proper drainage cannot be achieved, the permit shall be refused.
- (vi) Unless the proposal demonstrates such compliance, the permit shall be refused.
- (vii) If the proposed location and design are in compliance with Township ordinances, the Township Zoning Officer shall issue a permit to the applicant.

§306. Time Limit

The driveway must be completed consistent with the approved application within one (1) year following the issuance of the permit and must be approved by the Township Zoning Officer. The driveway shall not be considered completed until the Township Zoning Officer has approved it as being completed in writing.

The Township may grant up to one (1) one (1) year extension to the original permit, for an additional fee, as set by resolution.

Expired permits shall be refiled with the Zoning Officer.

§307. Construction

All driveways and access drives shall be completed in accordance with the provisions of the application and with the following requirements:

- 1) All driveways and access drives shall be reviewed by the Township Zoning Officer to ensure that the proposed location does not impact the unimpeded flow of the Township's roadside drainage. In the event, a culvert is required, all culverts shall be a minimum diameter of 18" and shall be constructed of either SLCPP (smooth-lined corrugated plastic pipe) or RCP (reinforced concrete pipe), CMP (corrugated metal pipe) shall not be permitted unless otherwise approved by the Township Engineer. Due to storm water flow and/or grade restrictions, the Township Inspector may, at their discretion, require the installation of larger structures and/or elliptical pipe culverts. Property owners shall responsible for all maintenance and cleaning of said culverts in conformance with the Township's attached maintenance requirements.
- 2) Installation of culverts and/or bridges in or across "Waters of the Commonwealth" or "Waters of the United States" as part of a driveway or access drive require submittal of an approved permit from the Commonwealth of Pennsylvania, Department of Environmental Protection and/or the United States Army Corps of Engineers.
- 3) All exposed banks created by the installation of the driveway or access drive must be stabilized so as not to erode. An erosion and sedimentation plan shall be available on site, as required.
- 4) No part of any driveway or access drive shall exceed a 12% slope.
- 5) Stone/ Aggregate Driveway - All driveways shall be improved with no less than four (4) inches of PennDOT 2A or 2RC stone base, DSA, AASHTO #1 (aka PA #4) ballast and screenings or equivalent material(s), per the attached detail, or as approved by the Township Engineer. Geotextile grid, grade separation fabric, soil stabilization techniques, etc. may be used, but are not required.
- 6) Paved Driveway - Any driveway exceeding a 5% slope shall be paved to a point 25 feet beyond the edge of the existing roadway. The driveway pavement shall consist of no less than 3" of suitable bituminous pavement or 6" of suitable reinforced concrete pavement placed on the stone base listed above, per the attached detail, or as approved by the Township Engineer.

- 7) Farm Driveway – Any unimproved farm driveway may be improved to a maximum width of 20' and maximum length of 25' to allow a stable location for farm machinery to enter/exit a public roadway, the remaining portion of the driveway shall remain unimproved. This farm driveway shall be constructed and maintained in conformance with that farm's individual NRCS conservation permit, including any and all storm water management required by the NRCS. This driveway is otherwise exempt from stormwater management.
- 8) Temporary Driveway – Any temporary driveway shall be constructed to create a "mud free" access for the duration of the driveway's installation. Depending on the volume of traffic expected the Township may require the use of aggregate or some other type of stabilizing material for the duration of the event. No mud shall be tracked onto the adjoining roadway. This driveway is otherwise exempt from stormwater management. All temporary driveways shall be removed within 14 days of termination of use. Example: Driveway for a Fireman's Carnival (10 day use); Driveway for hot air balloon event (3 day use); Driveway for a Horse Show (4 day event).
- 9) Access Drive - All access drives, regardless of slope, shall be improved with no less than six (6) inches of PennDOT 2A or 2RC stone base, AASHTO #1 (aka PA #4) ballast and screenings and 4-1/2" of suitable bituminous pavement or 6" of suitable reinforced concrete pavement, an approved land development plan, or as approved by the Township Engineer.
- 10) Timber Harvest Drive – All drives used in conjunction with a timber harvest activity shall provide a stabilized entrance in conjunction with the approved Timber Harvest Permit, including but not limited to all erosion control measures. The property owner shall also provide a bond in the amount of not less than \$20,000, or as determined by Resolution of the Board of Supervisors of Black Creek Township, for potential and expected damage resulting from the operation. This bond does not include any other bonding which may be required for utilizing posted roadways in the Township. This bond shall be held by the Township for the duration which this access drive is installed. Any road damage incurred as a result of the timber harvest shall be the responsibility of the property owner to which the timber harvest permit is issued.
- 11) Pavement thickness indicated herein are minimum values and does not preclude residents from installing more significant pavement structures. Additional pavement design and/or pavement structure/thickness may be required, as site conditions warrant; property owners are responsible to consult their own engineer. The Township makes no warranty implied or otherwise with respect to these minimum required pavement thicknesses.
- 12) Recycled Asphalt Pavement (RAP), including millings, and "comingled" materials, including RAP mixed with aggregate and/or soil, is considered "aggregate" not asphalt under this ordinance.
- 13) Stormwater management facilities shall be installed for all impervious surfaces. All stormwater management facilities shall be owned, operated, and maintained by the

property owner. Maintenance shall consist of keeping the inlet grate, piping, and appurtenances, free of debris, etc. All storm water management structures shall remain functional at all times. If the Township determines at any time the stormwater management facilities have been eliminated, altered, or improperly maintained, the property owner shall be advised of corrective measures required and given a reasonable time frame to take necessary corrective action.

- 14) Additional storm water runoff generated from the installation of any new driveway, enlargement of an existing stone/gravel or paved driveway, or overlay of an existing stone/gravel driveway, shall require the installation of storm water management facilities. Credit shall be given for existing stormwater management facilities which manage or infiltrate existing driveway runoff. Maintenance overlays of existing paved driveways and addition of stone/gravel to existing stone/gravel for maintenance purposes shall be exempt.
- 15) For all driveways directing water toward the public right-of-way, a detention basin, storm water collection system, and/or trench drain shall be provided at the radius point of the driveway or access drive. The Township inspector may require the installation of a trench drain, as designated by the Township, for any driveway sloping toward a public roadway. Provision must be made to prevent storm water runoff from running from the driveway to the existing publicly maintained roadway. Residents may utilize the attached Township trench drain detail or submit an alternate design. If the Township Inspector finds that in order to protect the publicly maintained roadway from earth and/or debris, etc. washing from the driveway onto the publicly maintained street or road, the permit holder must pave some or all of the driveway in addition to the twenty-five (25) feet most proximate to the publicly maintained street or road.
- 16) Stormwater generated from:
 - a. all driveways shall provide, at a minimum, 0.40 cubic feet of infiltration volume (or 1 cubic feet of uniformly graded aggregate i.e. PennDOT 2B, #4 Ballast, Rip-Rap, etc.) shall be provided for each 2 square feet of impervious surface installed. Unless determined to be "more complicated" in which case, a stormwater management plan and accompanying design shall be submitted.
 - b. Temporary and Farm driveways are exempt from storm water management.
 - c. All access drives shall be addressed per the approved land development plan. In the event no land development plan exists, a stormwater management plan and accompanying design shall be submitted.
 - d. All timber harvest access drives shall comply with the Timber Harvest permit approved by the Luzerne County Conservation District.
 - e. All designs shall comply with the Black Creek Township Storm Water Management Ordinance.
- 17) Alternate designs which are proposed to vary from the Township's standards may be submitted to the Township for the Township Engineer's review and approval. All design

submittals shall be signed and sealed by a Professional Engineer, licensed by the Commonwealth of Pennsylvania, in accordance with the "Engineer, Land Surveyor and Geologist Registration Law." The Township Engineer may require the submittal of supporting calculations, measurements, surveys, infiltration tests, studies, and/or reports to substantiate the alternate design. The property owner shall be responsible for all review costs incurred by the Township Engineer.

- 18) This Ordinance shall in no way prevent residents from conducting "maintenance activities" such as repairing damaged sections of existing driveways and/or access drives, placing additional aggregate on existing stone/gravel driveways patching, repairing, or sealing and existing bituminous and concrete driveways and/or access drives for the purposes of maintaining the existing impervious surface. Maintenance activities shall be exempt from a permit.
- 19) Construction of new driveways or access drives, conversion of stone/gravel driveways to bituminous or concrete driveways, enlarging of existing driveways or access drives with any surfacing material shall not be considered "maintenance activities" and are not exempt from this Ordinance.
- 20) Upon the driveway being completed in accordance with the above requirements, the Township Zoning Officer shall issue a final completion certificate.

§308. Penalty. A. Except as otherwise provided below, any person who violates any provision of this Chapter shall, upon conviction thereof, be subject to a civil proceeding or summary offense and payment of a summary fine or civil penalty of not less than \$300.00 and not more than \$1,000.00. In addition to the fines, the defendant or violator shall be responsible for court costs and reasonable attorney fees. In default of payment in a summary proceeding, a defendant may also be subject to imprisonment for a term not to exceed 30 days. A separate violation shall arise for each day of a violation and each applicable section of this Chapter.

§309. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Chapter is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate and distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

§310. Repealer. All chapters, ordinances or parts thereof which are inconsistent with this Chapter are hereby repealed to the extent of their inconsistencies.

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

Adopted this 4th day of August, 2022, by the Black Creek Township Board of Supervisors.

ATTEST:

Rachel Lipski
Secretary



BOARD OF SUPERVISORS OF
BLACK CREEK TOWNSHIP

[Signature]
Chairperson

[Signature]
Vice-Chairperson

[Signature]
Secretary/Treasurer

CHAPTER 13

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CHAPTER 13

SEWER AND WATER

Part 1

Public Sewer Connections

§101. Purpose and Intent. It is declared that enactment of this Ordinance is necessary for the protection, benefit and preservation of the health, safety and welfare of inhabitants of this Township.

§102. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms and phrases used in this Ordinance shall be as follows:

1. "Authority" shall mean Twin County Joint Municipal Authority, a municipality authority existing and governed pursuant to provisions of the Municipality Authorities Act (53 Pa. C.S. Ch 56), as amended and supplemented, of the Commonwealth.
2. "Building Sewer" shall mean the extension from the sewage drainage system of any structure to the Lateral of a Sewer.
3. "Commonwealth" shall mean the Commonwealth of Pennsylvania.
4. "Improved Property" shall mean any property within this Township upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure Sanitary Sewage and/or Industrial Wastes shall be or may be discharged.
5. "Industrial Establishment" shall mean any Improved Property located in this Township and used or intended for use wholly or in part, for the manufacturing processing, cleaning, laundering or assembling of any product, commodity or article or any other Improved Property located in this Township, from which wastes, in addition to or other than Sanitary Sewage, shall be discharged.
6. "Industrial Waste" shall mean any and all wastes discharged from an Industrial Establishment, other than Sanitary Sewage.
7. "Lateral" shall mean that part of the Sewer System extending from a sewer to the curb line or, if there shall be no curb line, to the property line or, if no such Lateral shall be provided, then "Lateral" shall mean that portion of, or place in, a Sewer that is provided for connection of any Building Sewer.
8. "Owner" shall mean any Person vested with ownership, legal or equitable, sole or partial, of any Improved Property.

9. "Person" shall mean any individual, partnership company, association, society, trust, corporation, municipality, municipality authority or other group or entity.
10. "Sanitary Sewage" shall mean normal water-carried household and toilet wastes from any Improved Property.
11. "Sewer" shall mean any pipe or conduit constituting a part of the Sewer System and used or usable for sewage collection purposes.
12. "Sewer System" shall mean all facilities, as of any particular time, and in any or all districts established by the Authority, for collecting, transmitting, treating or disposing of Sanitary Sewage and/or Industrial Wastes, situate in or about this Township, and owned by the Authority.
13. "Street" shall mean and shall include any street, road, lane, court, cul-de-sac, alley, public way or public square.
14. "Township" shall mean the Township of Black Creek, Luzerne County, Pennsylvania, a political subdivision of the Commonwealth, acting by and through its Board of Supervisors, or in appropriate cases, acting by and through its authorized representatives.

§103. Use of Public Sewers Required.

- A. The Owner of any Improved Property which is located in this Township and which is adjoining and adjacent to any part of the Sewer System of the Authority shall connect such Improved Property with such Sewer System, in such manner as the Authority may require, within 60 days (or such other longer period of time as may be prescribed by the Authority in its discretion) after notice to such Owner from this Township, or from the Authority on its behalf, to make such connection (either by personal service or by registered or certified mail), for the purpose of discharging all Sanitary Sewage and Industrial Wastes from such Improved Property; Subject, however, to such limitations and restrictions as shall be established herein or otherwise shall be established by the Authority, from time to time.
- B. Notwithstanding the provisions of Section 103(A), this Township shall not require any commercial or industrial business to connect to the Sewer System when such commercial or industrial business is operating a sewer treatment plant under mandate of any agency of the Federal or State Government. This exemption shall last as long as such sewer treatment plant continues to meet the specifications and standards mandated by such Federal or State agency and for forty-five (45) days thereafter. If, during the days immediately subsequent to the day a business sewer treatment plant is determined to be below Federal or State mandates, repairs cannot be made to bring the system back up to satisfactory condition to, and any necessary refurbishing of, the Sewer System shall be borne by such business.

- C. The exemption provided for in Section 103(B) shall not be available in any situation where the business seeking to use it had notice, either actual or constructive, prior to construction of such sewage treatment plant of this Township's intention to construct a sanitary sewer system, and to require that business to connect with the Sewer System.

§104. Limitations and Restrictions.

- A. All Sanitary Sewage and Industrial Wastes from any Improved Property, after connection of such Improved Property with a Sewer shall be required under Section 103, shall be connected into such Sewer; Subject, however, to such limitations and restrictions as shall be established herein or otherwise shall be established by the Authority, from time to time.
- B. No Person shall place, shall deposit or shall permit to be placed or to be deposited upon public or private property within this Township any Sanitary Sewage or Industrial Wastes in violation of Section 103.
- C. No Person shall discharge or shall permit to be discharged to any natural outlet within this Township any Sanitary Sewage or Industrial Wastes in violation of Section 103(A), except where suitable treatment has been provided that is satisfactory to the Authority.

§105. Existing Connections.

- A. No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be used or shall be maintained at any time upon any Improved Property that has been connected to a Sewer or that shall be required under Section 103(A) to be connected to a Sewer.
- B. Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned and, at the discretion of the Authority, shall be cleansed and shall be filled, at the expense of the Owner of such Improved Property, unless otherwise provided for by the Authority, under the direction and supervision of the Authority; and any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned and, if required by the Authority, not cleansed and filled shall constitute a nuisance, and such nuisance may be abated, as provided by law, at the expense of the Owner of such Improved Property.
- C. No privy vault, cesspool, sinkhole, septic tank or similar receptacle at any time shall be connected with a Sewer.

§106. Notice to Make Connection. The notice by this Township, or by the Authority on this Township's behalf, to make a connection to a Sewer, referred to in Section 103, shall include a reference to this Ordinance, including any amendments or supplements at the time in effect, in a written or printed document requiring the connection in accordance with the

provisions of this Ordinance and specifying that such connection shall be made within (60) days (or such other longer period of time as may be prescribed by the Authority in its discretion) from the date such notice is given or served. Such notice may be given or served at any time after a Sewer is in place that can receive and convey Sanitary Sewage and Industrial Wastes for treatment and disposal from the particular Improved Property. Such notice shall be given or served to the Owner by personal service or registered (certified) mail, in accordance with 53 P.S. §67502.

§107. Building Sewers and Connections.

- A. **Permit.** No Person shall uncover, shall connect with, shall make any opening into or shall use, shall alter or shall disturb, in any manner, any Sewer or any part of the Sewer System without first obtaining a permit, in writing, from the Authority.
- B. **Application.** Application for a permit required under Section 106 shall be made by the Owner of the Improved Property served or to be served or by the duly authorized agent of such Owner.

§108. Connection Requirements. No Person shall make or shall cause to be made a connection of any Improved Property with a Sewer until such Person shall have fulfilled each of the following conditions:

1. Such Person shall have notified the designated representative of the Authority of the desire and intention to connect such Improved Property to a Sewer;
2. Such Person shall have applied for and shall have obtained a connection permit as required by Section 106;
3. Such Person shall have given such designated representative of the Authority at least 48 hours' notice of the time when such connection will be made so that the Authority may supervise and inspect or may cause to be supervised and inspected the work of connection and necessary testing; and
4. If applicable, such Person shall have furnished satisfactory evidence to such designated representative of the Authority that any fee charged and imposed by the Authority against the Owner of each improved Property who connects such Improved Property to a Sewer has been paid.

§109. Connection of Multiple Properties. Except as otherwise provided in this Section, each Improved Property shall be connected separately and independently with a Sewer through a Building Sewer. Grouping of more than one Improved Property, or more than one structure discharging sewage on a single Improved Property, on one Building Sewer shall not be permitted, except under special circumstances and for good sanitary reasons or other good cause shown, but then only after special permission of the Authority, in writing, shall have been secured and only subject to such rules, regulations and conditions as may be prescribed by the Authority.

§110. Costs and Expenses. All costs and expenses of construction of a Building Sewer and all costs and expenses of connection of a Building Sewer to a Sewer shall be borne by the Owner of the Improved Property to be connected; and such Owner shall indemnify and shall save harmless this Township and the Authority from all loss or damage that may be occasioned, directly or indirectly, as a result of construction of a Building Sewer or of connection of a Building Sewer to a Sewer.

§111. Designated Connection Site. A Building Sewer shall be connected to a Sewer at the place designated by the Authority and where, if applicable, the lateral is provided.

The invert of a Building Sewer at the point of connection shall be at the same or a higher elevation than the invert of the Sewer. A smooth, neat joint shall be made and the connection of a Building Sewer to the Lateral shall be made secure and watertight.

§112. Failure to Establish Connection. If the Owner of any Improved Property which is located within this Township and which is adjoining or adjacent to the Sewer System, or whose principal building is within 150 feet from a Sewer, after 60 days (or such other longer period of time prescribed by the Authority) notice, in accordance with Section 103, shall fail to connect such Improved Property and use the Sewer System, as required, this Township, or the Authority on its behalf, may make such connection and may collect from such Owner the costs and expenses thereof in the manner permitted by law.

§113. Rules and Regulations Governing Building Sewers and Connections to Sewers.

1. When an Improved Property, at the time connection to a Sewer is required, shall be served by its own sewage disposal device, the existing house sewer line shall be broken on the structure side of such sewage disposal system or sewage disposal device and attachment shall be made, with proper fittings, to continue such house sewer line as a Building Sewer.
2. No Building Sewer shall be covered until it has been inspected and approved by the Authority. If any part of a Building Sewer is covered before so being inspected and approved, it shall be uncovered for inspection at the cost and expense of the Owner of the Improved Property to be connected to a Sewer.
3. Every Building Sewer of any Improved Property shall be maintained in a sanitary and safe operating condition by the Owner of such Improved Property.
4. Every excavation for a Building Sewer shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Any street, sidewalk and other property disturbed in the course of installation of a Building Sewer shall be restored, at the cost and expense of the Owner of the Improved Property being connected, in a manner satisfactory to the Authority.

5. If any Person shall fail or shall refuse, upon receipt of a written notice of the Authority, to remedy any unsatisfactory condition with respect to a Building Sewer within 60 days (or such other longer period of time prescribed by the Authority) of receipt of such notice, the Authority may refuse to permit such person to discharge Sanitary Sewage and Industrial Wastes into the Sewer System until such unsatisfactory condition shall have been remedied to the satisfaction of the Authority.
6. This Township reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a Sewer and with the Sewer System, which additional rules and regulations, to the extent appropriate, shall be constructed as part of this Ordinance.

§114. Enforcement and Penalties.

- A. Any Person who shall violate this Ordinance shall be subject, upon being found liable therefore in an appropriate legal enforcement proceeding commenced by this Township, or the Authority on its behalf, to a penalty of not more than One Thousand (\$1,000.00) Dollars, together with all court and related costs, and reasonable attorney fees, incurred by this Township and the Authority. Each day that a violation shall continue shall be deemed and shall be taken to be a separate offense and the violating party shall be liable as such.
- B. Penalties, fines and costs imposed under provisions of this Ordinance shall be enforceable and recoverable in the manner at the time provided by applicable law.

§115. Effective Date. This Ordinance shall become effective in accordance with law.

§116. Severability. In the Event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this Township that such remainder shall be and shall remain in full force and effect.

§117. Repealer. All ordinances or parts of ordinances and all resolutions or parts of resolutions that are inconsistent with this Ordinance shall be and the same expressly are repealed.

(Ord. No. 2-2003, 9/02/03).

Part 2
On-Lot Sewage System Permits

§201. Preamble.

WHEREAS, the General Assembly of the Commonwealth of Pennsylvania adopted, and the Governor of said Commonwealth approved, under date of January 24, 1966, P.L. 1535, Act No. 537, 35 Purdon's Statutes, Section 750.1 et seq., known as the "Pennsylvania Sewage Facilities Act"; and

WHEREAS, Section 7a. of the Act, 35 P.S. 750.7a may be construed to contain an exemption for all persons constructing a first on-lot sewage disposal system on any tract of land of more than ten (10) acres in size; and

WHEREAS, from experience with the administration of this Act, Black Creek Township has found it desirable to eliminate this exemption; and

WHEREAS, it has previously been judicially determined that local municipalities may adopt more stringent requirements than those set forth in the Act.

§201. Compliance & Penalties.

1. From and after the effective date of this Ordinance, all persons as defined in Act 537, shall be required to comply with the provisions of that Act in connection with making application for and securing a proper permit for the installation of any on-lot sewage disposal system as provided for under the Act or under the rules and regulations of the Department of Environmental Resources (Department of Environmental Protection) promulgated thereunder, regardless of the size of the tract of land upon which said person desires to construct such system.
2. Any person, as defined in the Act, violating any of the provisions of this Ordinance shall be subject to a fine of not less than \$100 and not more than \$200, plus costs, or in default thereof, shall be confined in the Luzerne County Prison for a period not to exceed thirty (30) days.
3. In addition to the remedy for non-compliance set forth in subsection 2 above, it is further provided that all of the civil and equitable remedies set forth in Section 12, 14 and 15 of the Act, 35 P.s. 750.14 and 750.15, shall be applicable to violations of this Ordinance.

(Ord. No. 2-1987, 1/05/87).

Part 3
Guaranteed Sewer Project Note – Series of 2001

§301. Preamble.

WHEREAS, This Township (the "Township") is a political subdivision of the Commonwealth of Pennsylvania (the "Commonwealth") and is a "local government unit" under provisions of the Pennsylvania Local Government Unit Debt Act, 53 Pa.C.S. Chs. 80-82 (the "Act"); and

WHEREAS, Twin County Joint Municipal Authority (the "Authority") is a municipality authorized organized by joint action of this Township and the Township of North Union, Schuylkill County, Pennsylvania (the "North Union Township") (collectively referred to as the "Townships"), an existing under the Municipality Authorities Act of 1945, approved May 2, 1945, P.L. 382, as amended and supplemented, from time to time, of the Commonwealth (the "Authorities Act"); and

WHEREAS, the Authority and the Townships have determined that the Authority shall undertake a project that consists of the design and related preconstruction costs of new sanitary sewage collection, transmission, treatment and disposal system facilities to serve portions of the Townships (collectively, the "Project"), to be financed in part by issuance of such Note (hereinafter mentioned and identified).

§302. Authorization. This Township authorizes and requests the Authority to undertake and complete the Project.

§303. Debt Defined. This Township determines to incur "debt", as such term is defined in the Act, which shall be lease rental debt of this Township pursuant to the Act, in connection with the Project.

§304. Terms and Provisions. Such Debt shall be incurred as such lease rental debt, shall be in the maximum principal amount of \$185,500.00, and shall be evidenced by its several guaranty (53%) of a certain obligation to be issued by the Authority under the Authorities Act consisting of a guaranteed sewer project note, to be known generally as the "Guaranteed Sewer Project Note – Series of 2001", to be dated as provided therein, in the maximum principal amount of \$350,000.00 (the "Note"), which Note shall have the benefit of and shall be secured by, among other things, the several guaranty obligations of the Townships (this Township in the amount of \$185,000.00 and North Union Township, in the amount of \$164,500.00), pursuant to the Guaranty Agreement (hereinafter mentioned and identified).

§305. Lifetime of Note. This Township specifies that a realistic, estimated, useful life of the Project being financed by issuance of the Note is at least 40 years.

§306. Guaranty Agreement.

- A. This Township, together with North Union Township, severally, as guarantors, shall enter into a Guaranty Agreement, to be dated as provided therein (the "Guaranty Agreement"), substantially in the form referred to in Section 6, with the Authority and Summit Bank, or its successor (the "Bank"), as lender under the terms of a Loan Agreement, to be dated as provided therein (the "Loan Agreement"), between the Authority and the Bank, with respect to the Project and the Note, under terms and provisions of which Guaranty Agreement this Township and North Union Township shall severally guaranty (this Township to the extent of 53% and North Union Township to the extent of 47% of all sums due under the Note), unconditionally, for the benefit of the Bank and any subsequent registered owners, from time to time, of the Note, full and prompt payment of principal of the Note in the maximum principal amount of \$350,000.00, together with interest on said principal of the Note at the rate provided for therein, as such shall be due and payable.
- B. The Guaranty Agreement shall be for the life of the Note and shall set forth terms, conditions, provisions, covenants and agreements to be observed by the Townships (both individually and collectively), the Authority and the Bank in relation to the Project and the Note.
- C. The Guaranty Agreement shall be substantially in the form presented to this meeting, which form is approved; and a copy of the Guaranty Agreement, in the form so presented to this meeting and so approved, shall be filed with the Secretary of this Township and shall be made available for inspection at reasonable times by interested persons requesting such inspection.

§307. Duties of the Chairman, Vice Chairman or Secretary of the Board of Supervisors.

1. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary, respectively, of this Township, as appropriate, are authorized and directed to prepare, to certify and to file with the Department of Community and Economic Development (the "Department") of the Commonwealth the debt statement, as such phrase is defined in the Act required by Section 8110 of the Act, in behalf of this Township.
2. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary, respectively, of this Township are authorized and directed to prepare and to execute an appropriate borrowing base certificate for this Township to be appended to such debt statement, as required by Section 8110 of the Act.
3. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary, respectively, of this Township, as appropriate, are authorized, and directed to prepare and to file with the Department appropriate statements required by Section 8026 of the Act that are necessary to qualify all or any portion of the lease rental debt

of this Township that is subject to exclusion as self-liquidating debt for exclusion from the appropriate debt limit as self-liquidation debt.

4. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary, respectively, of the Township, as appropriate, are authorized and directed to execute, to attest and to deliver the Guaranty Agreement, in behalf of this Township, substantially in the form approved in Section 306(C); Subject, however, to applicable provisions of the Act.
5. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary, respectively, of this Township, as appropriate, are authorized and directed to make application to the Department for approval with respect to the Guaranty Agreement, as required by Section 8111 of the Act; and in connection with such application, this Township shall pay or shall cause to be paid to the Department the filing fee required by the Act, the payment of which filing fee is authorized and approved.

§308. Obligations.

1. The maximum several guaranty obligations of this Township with respect to the Note, as set forth in the Guaranty Agreement in the form referred to in Section 306(C), which shall be payable, if and as necessary, shall be as are set forth in Exhibit "A" which is attached hereto and made part hereof.
2. The several guaranty obligations of this Township, shall be payable from the tax and other general revenues of this Township.

§309. Fiscal Year Defined. The phrase "Fiscal Year", as provided in the Guaranty Agreement, as used in such Exhibit "A", shall mean the fiscal year of the Townships.

§310. Covenants.

- A. This Township shall covenant in the Guaranty Agreement and does hereby covenant to and with the Authority and with the Bank, and any subsequent registered owners, as appropriate, from time to time, of the Note, and this Township shall:
 1. Include the amounts payable in respect of its several guaranty pursuant to the Guaranty Agreement, for each Fiscal Year;
 2. Appropriate such amounts from its general revenues for the payment of such several guaranty; and
 3. Duly and punctually pay or cause to be paid from its sinking fund (hereinafter referred to) or any other of its revenues or funds the amount payable in respect of such several guaranty, at the dates and places and in the manner provided in the Guaranty Agreement, according to the true intent and meaning thereof; and for such budgeting, appropriation and payment in

respect of such several guaranty, this Township shall and does pledge, irrevocably, its full faith, credit and taxing power. The foregoing covenants of this Township shall be enforceable specifically.

- B. For the purpose of complying with the foregoing covenant, this Township covenants that it shall budget its several portion (53%) of the amounts set forth in Exhibit "A" which is attached hereto and made part hereof, such amounts being the maximum amounts payable with respect to the Note for the Fiscal Years in which such amounts are payable, and shall appropriate and shall pay over to the Bank such amounts; Subject, however, to provisions of the Guaranty Agreement with respect to credit for certain sums that shall be available for such amounts payable, all as more fully set forth in the Guaranty Agreement.
- C. This Township also shall covenant in the Guaranty Agreement and does hereby covenant that, to the extent sufficient money shall not be available in its then current budget at any time when payments are required under the Guaranty Agreement, and if it shall be unable to incur debt lawfully in the current year for the purpose or to issue tax anticipation notes or otherwise to satisfy its obligations and duly and punctually shall pay or shall cause to be paid its obligations incurred under the Guaranty Agreement, in the manner therein stated, according to the true intent and meaning thereof.
- D. This Township hereby establishes a "sinking fund", as such phrase is defined or applied in the Act, as amended and supplemented from time to time, with respect to its obligations under the Guaranty Agreement with respect to such guaranty, and the Bank is hereby appointed "sinking fund depository" and paying agent", as such phrases are defined or applied in the Act, as amended and supplemented from time to time, to the extent necessary with respect to obligations of this Township under the Guaranty Agreement with respect to such guaranty.

§311. Duties of the Township. The Chairman or Vice Chairman of the Board of Supervisors and the Secretary, respectively, of this Township, as appropriate, are authorized and directed to execute all documents and to do all other acts as may be necessary and proper to carry out the intent and purpose of this Ordinance and the undertakings of this Township under Guaranty Agreement. Reference in this Ordinance to specified officers of this Township shall include and shall be construed to include, if and as applicable, their respective successors in office.

§312. Effective Date. This Ordinance shall become effective in accordance with provisions of Section 8003 of the Act.

§313. Severability. In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of this Township that such remainder shall be shall remain full force and effect.

§314. **Repealer.** All ordinances or parts of ordinances that are inconsistent herewith shall be and the same expressly are repealed.

(Ord. No. 1-2001, 5/08/01).

EXHIBIT "A"

The Maximum Debt Service, as such phrase is defined in the Guaranty Agreement referred to in the Ordinance to which this Exhibit A is attached, on the Note, as such term is defined in the Ordinance to which this Exhibit A is attached, in the maximum principal amount of \$350,000.00, to be issued by Twin county Joint Municipal Authority, is as follows:

SEE FOLLOWING PAGE ^{1 2}

¹ Assumes the Note is issued by the Authority to the Bank on June 18, 2001, with interest payable quarterly on March 1, June 1, September 1 and December 1 of each year, beginning on the entire \$350,000.00 maximum principal amount of the Note, at a fixed interest rate of 3.95%, per annum. The Note matures on December 1, 2003.

² To be shared on a several (and not joint) basis by the Townships as follows:

Black Creek Township	53%
North Union Township	47%

Twin County Joint Municipal Authority - 2001 Sewer Note

Compound Period : Quarterly

Nominal Annual Rate : 3.950 %

Effective annual Rate : 4.009 %

Periodic Rate : 0.9875 %

Daily Rate : 0.01097 %

CASH FLOW DATA

Event	Start Date	Amount	Number of Period	End Date
1 Loan	06/18/2001	350,000	1	
2 Payment	09/01/2001	Interest Only	10 Quarterly	12/01/2003
3 Payment	12/01/2003	350,000	1	

AMORIZATION SCHEDULE - Normal Amortization, 360 Day Year

Date	Payment	Interest	Principal	Balance
Loan 06/18/2001				350,000.00
1 09/01/2001	2,880.21	2,880.21	0.00	350,000.00
2 12/01/2001	3,456.25	3,456.25	0.00	350,000.00
2001 Totals	6,336.46	6,336.26	0.00	
3 03/01/2002	3,456.25	3,456.25	0.00	350,000.00
4 06/01/2002	3,456.25	3,456.25	0.00	350,000.00
5 09/01/2002	3,456.25	3,456.25	0.00	350,000.00
6 12/01/2002	3,456.25	3,456.25	0.00	
2002 Totals	13,825.00	13,825.00	0.00	
7 03/01/2003	3,456.25	3,456.25	0.00	350,000.00
8 06/01/2003	3,456.25	3,456.25	0.00	350,000.00
9 09/01/2003	3,456.25	3,456.25	0.00	350,000.00
10 12/01/2003	3,456.25	3,456.25	0.00	350,000.00
11 12/01/2003	350,000.00	0.00	0.00	350,000.00
2003 Totals	363,825.00	13,825.00	350,000.00	
Grand Totals	383,986.46	33,986.46	350,000.00	

Exhibit A
Page 2 of 2

Part 4

Holding Tanks

§401. Purpose and Policy. The purpose of this Ordinance is to establish procedures for the use and maintenance of existing and new holding tanks designed to receive and retain sewage whether from residential, commercial or recreational uses. It is further ordained to be the policy of Black Creek Township that holding tanks be implemented on as temporary a basis as possible. It is the declared policy of Black Creek Township that enactment of this Ordinance is necessary for the protection, benefit and preservation of the health, safety and welfare of the inhabitants of this Township.

§401. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

- A. "Holding Tank" means a receptacle intended to be watertight, whether permanent or temporary which receives and retains sewage conveyed by a water carrying system and is designed and constructed to facilitate the ultimate disposal of the sewage at another site.
- B. "Township" shall mean Black Creek Township, Luzerne County, Pennsylvania.
- C. "Owner" shall mean any person vested with ownership, legal or equitable, sole or partial, or possession of any real property located in the Township.
- D. "Person" shall mean any individual, partnership, company, association, corporation, or other group or entity.
- E. "Sewage" shall mean any substance that contains any of the waste products or excrement or other discharge from the bodies of human beings and any noxious or deleterious substance being harmful or inimical to the public health, or to animal or aquatic life or to the use of domestic water supply or for recreation.

§403. Rules and Regulations. The installation and operation of holding tanks within the Township shall hereafter be governed by the term of this Ordinance together with rules and regulations, which may be adopted, from time to time, by resolution of the Township.

§404. Permits. Upon and after the enactment of this Ordinance, no holding tank shall be installed nor shall any existing holding tank which has not been pumped of its contents during the six months preceding the enactment of this Ordinance be utilized or otherwise placed in service, by any Owner of the premises upon which said tank is or to be located until said Owner has obtained a permit from the Township.

§405. Plan. The permit application shall be accompanied by a plan setting forth the proposed construction design of the holding tank. Specifications required to be set forth in said plan shall be issued by the Township's Sewage Enforcement Officer or by another

person designated by the Township. Failure to construct in accordance with any plan approved by the Township or its agent shall be deemed a violation of this Ordinance.

§406. Duties of Owner. Owners of property upon which there is installed a holding tank shall:

- A. Permit the inspection of the holding tank as required by the township. Application for a holding tank permit shall be deemed consent by the owner and all subsequent owners of said holding tank for the Township, its agents or employees to go upon the premises upon which the holding tank is located and to make all necessary inspections thereof.
- B. Maintain and operate the holding tank in conformance with this and all other Ordinances and Resolutions of the Township, the provisions of any applicable law, rule or regulation of the Commonwealth of Pennsylvania, its subdivisions, and administrative agencies.
- C. Deliver to the Township a copy of the pumping receipt or a pumping report, within thirty (30) days of any pumping of the holding tank. At a minimum, said receipt or report shall set forth the following:
 1. Date of pumping
 2. Identity of pumper.
 3. Gallons pumped.
 4. Destination of contents' disposal.
- D. Maintain copies of all pumping receipts and pumping records for a period of five years from date of pumping.
- E. No permit for the discharge of sewage onto the surface, into the ground, or into the waters of the Commonwealth of Pennsylvania.

§407. Charges. The owner shall pay to the Township all amounts, which shall be assessed or charged to the Owner and incurred by the Township in association with the enforcement of this Ordinance. It is intended that said charges will include, but not necessarily be limited to, the hourly or other fees as charged by the Township's Sewage Enforcement Officer for inspection, enforcement, or other tasks necessary for the maintenance of the holding tank pursuant to this Ordinance. In addition, the township shall have the right and power to fix, alter, charge and collect rates, assessments and other charges as it shall, from time to time, adopt by Resolution or Ordinance or as the same may be authorized by other applicable law. Payment of all said charges shall be required within thirty (30) days of mailing of said charges to the owner or the posting or notice of said charges upon the premises upon which the holding tank is located and may be collected from one or more or all of the Owners of

said premises. Any charges imposed hereunder may also be charged and collected as municipal liens in accordance with law are incorporated herein as though set forth at length. Each day upon which a violation of this Ordinance shall continue shall be deemed a separate violation subject to separate conviction hereunder.

§408. Repealer. All Ordinance or resolutions or part of Ordinances or resolutions, insofar as they are inconsistent herewith, be and the same are hereby repealed.

§409. Abatement of Nuisance. In addition to any other remedy provided in' this Ordinance or available under law, any violation of this Ordinance shall be reviewed by the Township and if said review shall warrant, be deemed to be a nuisance to be abated by the Township.

§410. Severability. If any sentence, clause, section or part of this Ordinance as for any reason found to be unconstitutional, illegal or invalid, such provisions, sentences, clauses, sections, or parts of the Ordinance, it is hereby declared as the intent of the Township Supervisors, that this Ordinance would have been adopted had such constitutional, illegal or invalid sentence, clause, section or part thereof not been included therein.

(Ord. No. 3-2001, 11/07/01).

Part 5

Articles of Incorporation of the Twin County Joint Municipal Authority

§501. Purpose.

WHEREAS, Black Creek Township, Luzerne County, Pennsylvania, (the "Township"), is a second-class Township organized under the laws of the Commonwealth of Pennsylvania with offices situate at Rock Glen, Pennsylvania, with a mailing address of Box # 3, Rock Glen, Pa 18246; and,

WHEREAS, at the direction of the Commonwealth of Pennsylvania, Department of Environmental Protection, North Union Township, Schuylkill County, Pennsylvania, is required to provide sewerage treatment and collection services for the Village of Nuremberg in conjunction with a similar directive issued to Black Creek Township, Luzerne County, Pennsylvania, to provide similar services to the Village of Weston, Black Creek Township, Luzerne county, Pennsylvania; and,

WHEREAS, the Boards of Supervisors of both Townships have determined after investigation that the only practical method of obtaining financing in order to fulfill those directives and comply with so called Act 537 Plan required by the Commonwealth of Pennsylvania, Department of Environmental Protection, is to form a joint authority to provide for the sewage collection and treatment services to the areas of and around the villages of Nuremberg and Weston situate in North Union Township and Black Creek Township, respectively; and,

WHEREAS, the Municipalities Act of 1945, approved May 2, 1945, P.L. 382, as amended and supplemented, authorizes the two townships to form a joint municipal authority with appointments to be made by both incorporating municipalities to the newly formed joint authority; and,

WHEREAS, both municipalities hereby express their intention to file Articles of Incorporation forming a municipal authority formed jointly by North Union Township and Black Creek Township to be known as "Twin County Joint Municipal Authority".

§502. Articles of Incorporation. In compliance with the requirements of the Act of Assembly approved May 2, 1945, P.S. 382, known as the "Municipality Authorities Act of 1945", as amended and supplemented, and pursuant to an Ordinance duly enacted by the Board of Supervisors of North union Township, Schuylkill County, Pennsylvania, and the Board of Supervisors of Black Creek Township, Luzerne County, Pennsylvania, being the municipal authorities governing those municipalities, expressing the intention and desire of the municipal authorities of said municipalities to organize an Authority under the provisions of said Act, said incorporating municipalities do hereby certify:

1. The name of the Authority is "TWIN COUNTY JOINT MUNICIPAL AUTHORITY".

2. The Authority is formed under provisions of the Act of Assembly approved May 2, 1945, P.L. 382, as amended and supplemented, known as the "Municipality Authorities Act of 1945".
3. No other Authority has been organized under the Act of Assembly approved May 2, 1945, P.L. 382, as amended and supplemented, known as the "Municipality Authorities Act of 1945", or under the Act of Assembly approved June 28, 1935, P.L. 463, as amended and supplemented, and is in existence in or for the incorporating municipalities, except that Black Creek Township, Luzerne County, Pennsylvania heretofore formed the Raccoon Creek Municipal Authority and Articles of Incorporation for said Raccoon Creek Authority were filed by Black Creek Township on the 1st day of August, 1995
4. The names of the incorporating municipalities are:
 - a. North Union Township, Schuylkill County, Pennsylvania
 - b. Black Creek Township, Luzerne County, Pennsylvania
5. The names and addresses of the municipal authorities of said incorporating municipalities are:
 - a. North Union Township, P.O. Box 657, Nuremberg, Schuylkill County, Pennsylvania, 18241;

<u>Office</u>	<u>Name</u>	<u>Address</u>
Chairman,	Allen Mummey	694 Ringtown Road Zion Grove, PA 17985
Vice Chairman, Board of Supervisors	Gary Croll	147 Croll Road Zion Grove, PA 17985
Secretary-Treasurer/Member Board of Supervisors	Dianne Thompson	9 Thompson Lane Zion Grove, PA 17985

- b. Black Creek Township, Box # 3, Rock Glen, PA 18246;

<u>Office</u>	<u>Name</u>	<u>Address</u>
Chairman, Board of Supervisors	Donald Nenstiel	Weston, Pa 18256
Vice Chairman Board of Supervisors	Richard Harrtanft	R.D.# 3, Box 442 Bloomsburg, PA

Secretary-Treasurer/Member, Donald W. Brior
Board of Supervisors

R.D.#,2,
Sugarloaf, PA 18249

6. The names, addresses and terms of office of the first members of the Board of Authority, each of whom is a resident and citizen of the said incorporating municipalities, are as follows:

<u>Name & Address</u>	<u>Term of Office</u>	<u>Appointing Municipality</u>
Gary Croll, 147 Croll Road, Zion Grove, PA	1 year	North Union
Donald C. Klingerman, P.O. Box 143, Nuremberg, PA	2 years	North Union
Michael Bott, 174 Mahanoy St. Nuremberg, PA	3 years	North Union
Eileen Stamm, 301 Mahanoy St. Nuremberg, PA	4 years	North Union
Frank Schrader P.O. Box 129, Weston, PA 18256	5 years	Black Creek
William Lescowitch, P.O. Box 90, Weston PA 18256	5 years	Black Creek

7. There shall be six (6) seats for six (6) members on this Authority, four (4) seats shall be appointed by the Board of Supervisors of North Union Township, Schuylkill County, Pennsylvania and, two (2) seats appointed by Board of supervisors of Black Creek Township, Luzerne County Pennsylvania. All subsequent appointments to said Authority shall be made by the respective municipality at the expiration of the terms of office of the first members of the Board of the Authority set forth above, and shall be for a term of five (5) years. On the first anniversary of the date the Authority sends its first billing notice to users of the collection system (this is not to be interpreted as the mailing date for connection notice nor requests or demands for connection fees), one (1) seat from North Union Township will be deleted. The Authority will then consist of five (5) members, three (3) of whom are to be appointed by the Board of Supervisors of North Union Township and two (2) of whom shall be appointed by the Board of Supervisors of Black Creek Township.
8. The purpose and scope of this Authority shall be to provide sewage collection and sewage treatment services within North Union Township and Black Creek Township, primarily to the Villages of Nuremberg and Weston located respectively therein, and such adjacent areas as are reasonable and practical. The Authority is

also authorized to conduct such other business as is reasonable and practical. The Authority is also authorized to conduct such other business as is reasonably related to and in the furtherance of its sewerage collection and treatment purposes.

§503. Duties of Township; Filing. All proper officers of the Township are hereby authorized to execute, verify and file the appropriate Articles of Incorporation with the Secretary of the Commonwealth of Pennsylvania and to take any other action and do all other things which may be necessary or reasonable in order to perfect the filing of the Articles of Incorporation in the manner herein adopted and approved.

§504. Repealer. All Ordinances or parts of ordinances, insofar as the same shall inconsistent herewith, shall be and the same expressly are repealed.

(Ord. No. 2000-01, 4/05/00).

Part 6

Individual Sewage Disposal Systems

§601. Definitions. For the purposes of this Ordinance, the following words and phrases shall have the meanings ascribed to them in this section.

1. "Sanitary Officer" shall mean the legally designated authority of Black Creek Township or its authorized representative, including the Sewage Enforcement Officer or Code Enforcement Officer.
2. "Individual sewage disposal system" shall mean a sewage disposal system, other than a public or community system, which receives either human excreta or liquid waste, or both, from one or more premises. Included within the scope of this definition are septic tank soil absorption systems privies, and chemical type toilets, and such other types as may be prescribed in regulations.
3. "Permit" shall mean a written permit issued by the sanitary officer, permitting the construction of an individual sewage disposal system under this Ordinance.
4. "Person" shall mean institution, public or private corporation, individual, partnership, or other entity.

§602. Requirements for Individual Sewer Disposal Systems. The following standards shall apply for the installation, alteration, repair or extension of individual sewage systems in the Black Creek Township.

1. General.

- A. No raw sewage, septic tank effluent, or seepage from a soil absorption system shall be discharged to the surface of the ground, or ground surface water, nor shall it be discharged, except as herein after provided, into any rock formation, the structure of which is not conducive to purification of water by filtration.
- B. No installations of individual sewage disposal systems shall be made in low areas or areas which may be subject to flooding.
- C. In areas which a high ground water table or where limestone or any geological formation similarly faulty is covered by less than fifty (50) feet of earth, the final disposal unit shall be a title field. The bottom of the trenches shall be above the water table and at least two (2) feet above the surface of the faulty rock formation.
- D. No bulldozers, trucks, or other heavy machinery shall be driven over the system after installation.

2. Sewer Construction.

- A. No buried or concealed portion of the building sewer, or building drain or branch thereof serving any premises shall be located less than the following minimum distances:

TABLE I

SEWER AND SEPTIC TANK MINIMUM DISTANCES

Property Line _____	10 Feet
Occupied Buildings _____	10 Feet
Buried Water Pipe Under Pressure _____	10 Feet
Domestic Water Supply _____	50 Feet
Buried Water Pipe Under Suction _____	50 Feet

- B. The Portions of any buried sewer more than fifty (50) feet from a well or buried suction line shall be of adequate size and constructed of cast iron, vitrified clay, cement-asbestos or bituminized fiber pipe. Any building drain or building sewer constructed of cast iron or cement and asbestos shall be not less than four (4) inches in diameter, and any building sewer constructed of material other than cast iron or cement-asbestos shall be not less than six (6) inches in diameter.
- C. Bell and spigot of vitrified - clay pipe shall be prepared to form a concentric opening uniform in width around the pipe of which the opening shall be filled with an acceptance sewer joint compound. Cement joints shall be painted on the outside and left smooth on the inside by drawing a swab or scraper through the joint. The line shall have a grade of not less than 1/8 inch per foot. The ten (10) feet of sewer immediately preceding the septic tank shall slope not more than 1/4 inch per foot. No 90° wells shall be permitted, and where the direction of the sewer is changed in excess of 45° accessible cleanouts shall be provided.

3. Septic Tank.

- A. No septic tank shall be located to provide less than the minimum distances as stated in Table I.

- B. The liquid capacity of a septic tank serving a dwelling shall be based on the number of bedrooms contemplated in the dwelling, which is listed in the following table II.

TABLE II

MINIMUM CAPACITIES FOR SEPTIC TANKS

(Provides for Use of Garbage-Grinders, Automatic Washers, and Other Household Appliances)

<u>No. of Bedrooms</u>	<u>Minimum Tank Capacity</u>
2 or less	750 gallons
3	900 gallons
4*	-1,000 gallons

* For each additional bedroom, add 250 gallons.

The liquid capacity of a septic tank shall provide a sewage detention period of not less than twenty-four (24) hours in the tank. Sewage flow shall be computed according to types of establishment and water use. With sewage flows greater than one thousand five hundred (1,500) gallons per day, the liquid tank capacity shall equal one thousand one thousand one hundred twenty-five (1,125) gallons plus seventy-five (75) percent of the daily anticipated sewage flow.

- C. The liquid dept of any septic tank or compartment thereof shall be not less than thirty (30) inches nor greater than six (6) feet.
- D. No tank
- E. Inlet and outlet connections of the tank and of each compartment thereof shall be submerged by means of vented trees or baffles.
- F. The space in the tank between the liquid surface and the top of the tank shall not be less than twenty (20) percent of the total required liquid capacity, except that in horizontal cylindrical tanks this space shall not be less than fifteen (15) percent of the total required liquid capacity.
- G. The inlet baffle of submerged pipe shall extend below liquid level at least six (6) inches. In no case shall this penetration be greater than that allowed for the outlet device. The inlet baffle must extend at least one (1) inch above the crown of the inlet sewer.

- H. The outlet baffles or submerged pipe and the baffle or submerged pipes between compartments shall extend below the liquid surface not less than twelve (12) inches or a distance equal to forty (40) per cent of the liquid dept. The penetration of the outlet baffles or submerges pipes of a horizontal cylindrical tank shall be thirty-five (35) percent of the total liquid dept.
- I. There shall be at least one (1) inch between the underside of the top of the tank and the highest point of the inlet and outlet devices and partitions to provide the required ventilation of the system through the main building stack.
- J. The inlet invert shall be a minimum of three (3) inches above the level of the outlet invert.
- K. The tank shall be watertight, constructed of sound and durable material and not subject to excessive corrosion or decay.
- L. Access to each compartment of the tank for inspection and sludge removal shall be provided by a manhole of at least twenty (20) inch dimension or removable cover. Where the top of the tank is located more than eighteen (18) inches below the finished grade, manholes and inspection holes shall extend to approximately eight (8) inches below the finished grade.
- M. If the septic tank has more than one compartment, the first compartment shall have a liquid capacity equal to at least one-half (1/2) of the total liquid capacity.

4. Subsurface Disposal Field.

- A. The disposal field shall be located in an unobstructed and unshaded area. The distances given below shall be the minimum horizontal separations between the disposal field and the following:

TABLE III

LOCATION SUBSURFACE DISPOSAL FIELD

Any water supply or buried water suction pipe-one hundred (100) feet

Streams-Fifty (50) Feet

Occupied Buildings – Ten (10) Feet

Large Trees – Ten (10) Feet

Property lines or buried pipe distributing water under pressure – Ten (10) Feet

- B. When coarse soil formations are encountered, the 100 feet distance specified in Section 602(4)(A) above shall be increased by the department.
- C. Effluent from the septic tank shall be discharged to the absorption field through a watertight line with a grade of at least $\frac{1}{4}$ inch per foot. Serial distribution of effluent may be required where the grade of the ground surface exceeds six (6) inches in any direction within the area utilized for the absorption field.
- D. When a distribution box is used, it shall have a removable cover and insure equal distribution of effluent to tile field lateral lines. At least two (2) lateral lines shall lead from the box.
 - 1. Each tile field lateral line shall be connected separately to the distribution box and shall not be subdivided.
 - 2. The inverts of all outlets shall be at the same elevation and the inlet invert shall be at least one (1) inch above the outlet inverts.
 - 3. The outlet inverts shall be at least four (4) inches above the bottom of the distribution box for the purpose of securing equal distribution of the septic tank effluent to each tile lateral.
 - 4. In the event that septic tank effluent is discharged to the distribution box by pump or siphon, a baffle shall be installed in the distribution box. The baffle shall be secured to the bottom of the box and shall extend vertically to a point at level with the crown of the inlet pipe. The plane surface of the baffle shall be perpendicular to the inlet floor line.
- E. Minimum seepage area of the disposal field shall be determined by a stabilized percolation rate. The soil shall have an acceptable percolation rate, without interference from ground water or impervious strata below the level of the absorption system.
 - 1. The maximum elevation of the ground water table shall be at least four (4) feet below the surface. Rock formations or other impervious strata shall be at a depth greater than four (4) feet below the bottom of the trench.
 - 2. The percolation time shall be within the range of those indicated in the following table.

TABLE IV

ABSORPTION AREA REQUIREMENTS FOR PRIVATE RESIDENCES

(Provides for the Garbage-Grinder and Automatic-Sequence washing machines)

Percolation – Rate (Time required for water to fall one (1) inch, in minutes).	Required Absorption Area, in square feet per bedroom standard trench and seepage pits.
1 or less	70
2	85
3	100
4	115
5	125
10	165
15	190
30	250
45	300
60	330

1. In every case, sufficient area shall be provided for at least two (2) bedrooms.
2. Absorption area for standard trenches is computed as trench-bottom area.
3. Absorption area for seepage pits is computed as effective sidewall area beneath the inlet.
4. Soils are unsuitable for seepage pits if the percolation rate is thirty (30) minutes or more and are unsuitable for any subsurface leaching system if the percolation rate is sixty (60) minutes or more.

TABLE V

ABSORPTION AREA REQUIREMENTS FOR OTHER ESTABLISHMENTS

Percolation – Rate (Time in minutes for water to fall one (1) inch.	Maximum rate of sewage application (Gallons per square foot per day) for Standard tranches and seepage pits.
1	5.0
2	3.5
3	2.9
4	2.5
5	2.2
10	0.9
11	0.8
15	1.3
30	0.9
45	0.8
60	0.6

1. These figures do not include effluents from septic tanks that receive wastes from garbage-grinders and automatic washing machines.
2. Absorption area for standard trench is computed as trench-bottom area.
3. Absorption area for seepage pits is computed as effective sidewall area beneath the inlet.
4. Soils are unsuitable for seepage pits or leaching systems if the percolation rate is thirty (30) minutes or more.

F. Construction of disposal trenches.

1. Trenches in a disposal field shall be constructed in accordance with the following standards:
 - a. Minimum number of lines per field-two (2)
 - b. Maximum length of individual lines – one hundred (100) feet.
 - c. Minimum bottom width of trench-twelve (12) inches.
 - d. Maximum bottom width of trench-thirty-six (36) inches.
 - e. Minimum dept of tile lines (bottom) – thirty-six (36) inches.
 - f. Maximum dept of tile lines (bottom) – eighteen (18) inches.
 - g. Uniform grade of tile trench-two (2) to four (4) inches per one hundred (100) feet.
 - h. Uniform grade of tile lines two (2) to four (4) inches per one hundred (100) feet.
 - i. Minimum aggregate material under tile-six (6) inches.
 - j. Minimum aggregate material over tile-two (2) inches.
 - k. Spacing of trenches.

TABLE VI

DISTANCES BETWEEN TRANCHES

Trench Width, Inches	Minimum Distance Between Centerline of Trenches, Feet
12 to 18	6
18 to 24	6.25
24 to 30	7.0

-
2. Pipe used for the line between the septic tank and distribution box and between the distribution box and between the distribution box and title laterals to the point when the laterals are separated, shall have watertight joints. Pipes used under driveways or other areas subject to heavy loads shall be bell and spigot cast iron with leaded caulked joints or equal.
 3. Field tile used in the disposal field shall be four (4) inch agricultural drain tile twelve (12) inches in length and shall be laid with $\frac{1}{4}$ inch open joint. Alternate materials may be used if equivalent performance is indicated.
 - a. All open joints shall be protected on top by strips of asphalt treated building paper or by other acceptable means.
 - b. All bends used in the disposal field shall have tight joints at each end of the bend.
 4. Aggregate materials shall be crushed stone, gravel, or similar insoluble, durable, and acceptable material $\frac{1}{2}$ to 2 $\frac{1}{2}$ inches in size. The filter materials shall completely encase the tile.
 5. The top of the aggregate material shall be covered with untreated building paper or a two (2) inch layer of hay or straw to prevent settling of backfill material into the filter material.
 6. The trench above the aggregate material shall be filled over and hand tamped with four (4) to six (6) inches of earth.

F. Seepage Pits.

1. Seepage pits shall be used for disposal of septic tank effluent only when the installation of tile disposal trenches is due to unfavorable soil absorption in top soil mantle, ground water level, topography, and will not reduce the safety of surrounding water supplies. The pit excavation shall terminate at least four feet above the highest known or calculated water table.
2. The location of seepage pits, shall be not less than the stated minimum distances from the following;
 - a. Any water supply well or buried water suction pipe-one hundred (100) feet.

- b. Occupied buildings – twenty (20) feet.
 - c. Property lines and buried pipe distributing water under pressure – ten (10) feet.
 - d. Other seepage pits-three (3) times the diameter of the largest pit (edge to edge).
3. Effective Absorption area of a seepage pit is the vertical-wall area (based on dug diameter) of the impervious strata below the inlet.
- a. Required seepage area shall be determined by the percolation test made in each vertical stratum penetrated. The weighted average of the results shall be computed to obtain figure. Soil strata in which the percolation rates are in excess of 30 minutes per inch shall not be included in computing the absorption area. No allowance shall be made for impervious strata or bottom area.
 - b. All pits shall have a diameter of at least four (4) feet.
4. Construction of all seepage pits shall conform to the following requirements:
- a. To prevent cave-in, the pit shall be lined with brick, stone, or block at least four (4) inches thick, laid in a radial arch to support the pit walls.
 - b. The brick, stone or block shall be laid watertight above the inlet and with open joints below the inlet to provide adequate passage of liquids.
 - c. A minimum annular space of six (6) inches between the lining and with open joints below the inlet to provide adequate passage of liquids.
 - d. The top of the seepage pit shall be constructed to be capable of supporting the over-burden of earth and any reasonable load to which it is subjected. Access to the pit shall be provided by means of a manhole or inspection hole equipped with a watertight cover. The seepage pit may terminate in a conventional manhole top, frame and cover. The top of the seepage pit shall be not less than twelve (12) inches below the ground surface. Where the top is more than eighteen (18) inches below the ground surface, there shall be provided an inspection pipe of not less than four (4) inch diameter extending through the cover to a point above the tank not more than six (6) inches below finished ground level. The top of the inspection pipe shall be provided with a removable watertight cap and its location shall be marked at the ground surface.

§603. Permits.

1. It shall be unlawful for any person to construct, alter, or extend individual sewage disposal systems within Black Creek Township unless he holds a valid permit* issued by the sanitary officer in the name of such person for the specific construction, alteration, or extension proposed.
2. All applications for permits shall be made to the sanitary officer, who shall issue a permit upon compliance by the applicant with provisions of this ordinance and any regulations adopted hereunder.
3. The sanitary officer may refuse to grant a permit for the construction of an individual sewage disposal system where public or community sewerage systems are reasonably available.
4. Applications for permits shall be in writing, shall be signed by the applicant, and shall include the following:
 - a. Name and Address of the applicant.
 - b. Lot and block number of property on which construction, alteration or extension is proposed.
 - c. Complete plan of the proposed disposal facility, with proposed disposal facility, with substantiating data, if necessary, attesting to its compliance with the minimum standards of the sanitary officer.

* The permit issued by the sanitary officer is in addition to the building permit usually required and should be obtained prior to construction, alteration, and extension of the residence or facility to be served.

- d. Such information as may be required by the sanitary officer to substantiate that the proposed construction, alteration, or extension complies with regulations promulgated by the sanitary officer.
5. A complete plan for the purpose of obtaining a permit to be issued by the sanitary officer shall include:
 - a. The number, location, and size of all sewage disposal facilities to be constructed, altered or extended.

- b. The location of water supplies, water supply piping, existing sewage disposal facilities, buildings or dwellings and adjacent lot lines.
 - c. Plans of the proposed sewage disposal facilities to be constructed, altered or extended.
6. Any person whose application for a permit under this ordinance has been denied may request and shall be granted a hearing on the matter before the sanitary officer within 30 days after receipt of the request.

§604. Inspections.

1. The sanitary officer is hereby authorized and directed to make such inspections as are necessary to determine satisfactory compliance with this Ordinance and regulations promulgated hereunder.
2. It shall be the duty of the owner or occupant of a property to give the sanitary officer free access to the property at reasonable times for the purpose of making such inspections as are necessary to determine compliance with the requirements of this ordinance and regulations promulgated hereunder.

§605. Penalties. Any person who violates any provision of this Ordinance, or any provision of any regulation adopted by the political subdivision pursuant to authority granted by this Ordinance shall upon conviction, be punished by a fine of not less than \$25.00 dollars nor more than \$50.00 dollars, or by imprisonment for not less than 3 days nor more than 10 days; and each day's failure to comply shall constitute a separate violation.

§606. Conflict of Ordinances, Effect or Partial Invalidity.

1. In any case where a provision of this Ordinance is found to be in conflict with a provision of any zoning, building, fire, safety, or health Ordinance or code of this township existing on the effective date of this Ordinance which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this ordinance shall be deemed to prevail and such other Ordinance or codes are hereby declared to be repealed to the extent that they may be found in conflict with this Ordinance.
2. If any section, subsection, paragraphs, sentence, clause, or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect; and to this end, the provisions of this ordinance are hereby declared to be severable.

(Ord. No. 5-62, 2/08/1962).

EDITOR'S NOTE: The Sewage Enforcement Officer and Code Enforcement Officer have been added to the definition of Sanitary Officer as part of inclusion of this Ordinance in the Code of Ordinances since the Township has no designated Sanitary Officer, but whose duties are included in the scope of work of the Code Enforcement Officer and Sewage Enforcement Officer.

Part 7

Installation, Change or Alteration of Sewage Disposal Systems

§701. Purpose. The purpose of this Ordinance is to provide for the planning and regulation of community and individual sewage disposal systems consistent with applicable state statutes and regulations, including the Pennsylvania Sewage Facilities Act of January 24, 1966, P.L. (1965) 1535, as amended; To require permits for the installation, change or alteration of such disposal systems; to provide for the inspection of such systems and to provide remedies and prescribe penalties.

§702. Definitions. The definitions set forth in the Pennsylvania Sewage Facilities Act of January 24, 1966, P.L. (1965) 1535, as amended and as hereafter amended are incorporated into this Ordinance and shall have the same meaning as set forth in said Act as amended or hereafter amended.

§703. Requirement for Permit for Sewage System. No person shall install, construct, or request to bid, proposals for construction, or alter, change or modify an individual system or community sewage system, or construct or request bids for construction or install or occupy any building or structure for which an individual sewage system or a community sewage system is to be installed without first obtaining a permit indicating that the site and the plans and specifications of such system are in compliance with this Ordinance, the rules and regulations hereunder, the applicable state laws and regulations thereunder. A sewage permit shall be required in every instance where a person desires to install, construct, alter, modify or change an individual or community sewage system regardless of the size of the tract of land involved or its location in Black Creek Township, Luzerne County, Pennsylvania.

§704. Obtaining a Permit. All permits for the construction, installation, alteration, modification or change of an individual sewage system or community sewage system shall be obtained from the Black Creek Township Sewage Enforcement Officer or such other person lawfully designated by the Township to issue the same and shall be subject to all the conditions that may be required by this Ordinance, the rules and regulations hereunder, the applicable state laws and regulations thereunder. The application form shall require such information as the Township shall deem necessary in accordance with the rules and regulations adopted in accordance with this Ordinance.

§705. Inspection. No part of any installation, construction, alteration, modification Officer or such other person lawfully designated by the Township to inspect the same. The applicant shall notify the Township when the sewage system is completed and ready for inspection. Applicant can cover the installation upon receipt of written approval or, in the absence of written approval or disapproval, at the expiration of ninety-six (96) hours, excepting Sundays and Holidays, from receipt of notice to inspect. The Township can inspect and make tests at any time either before, during, or after construction, installation, alteration, modification or change to said sewage system and can, by Order, require a sewage system to be uncovered at the expense of the applicant if the same has been covered contrary to the foregoing provisions.

§706. Hearings. Upon receipt by applicant of a Notice of Denial or Revocation of a Permit, the applicant may request, in writing, a hearing before the Township, which shall hold such hearing within fifteen (15) days after receipt of such request. At the time, applicant may be represented by counsel, and may present evidence as to why a permit should be issued or retained. No transcript of testimony shall be required but applicant shall be notified in writing, within seven (7) days after the hearing, of the decision and the reasons therefore.

§707. Standards. Construction, installation, alteration, modification or change of individual sewage systems and community sewage systems and the maintenance of individual sewage systems and community sewage systems shall be in accordance with this Ordinance, the rules and regulations promulgated hereunder, the Pennsylvania Sewage Facilities Act, as amended, the applicable standards, rules and regulations adopted in accordance with said Pennsylvania Sewage Facilities Act, as amended, and such other applicable laws and regulations.

§708. Sewage Enforcement Officer. The Township shall designate a properly qualified Sewage Enforcement Officer or such other person properly qualified to receive applications for permits, issue permits, inspect installations and enforce the provisions of this Ordinance.

§709. Application and Inspection Fees. The Black Creek Township Supervisors shall by resolution fix the applicable application and inspection fees and any other fees and costs associated with this Ordinance and its enforcement and may change and modify the same from time to time.

§710. Regulations. The Black Creek Township Supervisors may adopt standards and regulations regulating the subject matter of this Ordinance.

§711. Penalty. Any person who violates any provision of this Ordinance shall upon conviction thereof by summary proceedings be subject to pay a fine of not more than Three-Hundred (\$300.00) Dollars and costs, and, in default of said fine and costs, to undergo imprisonment in the County jail for a period of not more than thirty (30) days.

§712. Abatement of Nuisance. In addition to any other remedies provided by this Ordinance, any violation of this Ordinance shall constitute a nuisance and may be abated by the Township by either seeking appropriate equitable or legal relief from a court of competent jurisdiction.

§713. Severability. The provisions of this Ordinance are severable and if any provisions or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality or unapplicability shall not affect or impair the remaining provisions of this Ordinance.

§714. Repealer. All ordinances or resolutions or parts of ordinances or resolutions, insofar as they are inconsistent herewith, be and the same are hereby repealed.

§715. Effective Date. This Ordinance shall go into effect (10) days after publication.

(Ord. No. 61175, 6/11/75).

CHAPTER 11

HEALTH AND SAFETY

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CHAPTER 11

HEALTH AND SAFETY

Part 1

Administration

Editorial Note: The Township does not have its own Board of Health or Health Officer. The Health Laws are currently enforced and administered in the Township by the Pennsylvania Department of Health and the Department of Agriculture. However, Luzerne County has opted to create a health department, wherein it may be enforcing some of the Health Laws in the future. Nevertheless, it is the intention of the Township that the Health and Safety Codes of this Chapter are to be enforced by the Code Enforcement Officer.

Part 2
Grass, Weeds and Other Vegetation

§201. Unlawful Growths: Declaration as Nuisance; Exemption.

A. No person, firm or corporation, or any agent, servant, representative or employee of any such person, firm or corporation owning or occupying any property within the Township of Black Creek shall permit:

1. Any grass, weeds or any other vegetation whatsoever, not edible or planted for some useful or ornamental purpose, to grow or remain upon such premises so as to:
 - a. Exceed a height of six (6) inches.
 - b. Throw off any unpleasant or noxious odor.
 - c. Conceal any filthy deposit.
 - d. Create or produce pollen.
2. Poison ivy, ragweed or other poisonous plants, or plants detrimental to health, to grow or remain upon such premises in such manner that they shall extend or border upon, or overhang any street, sidewalk, or other public place.

B. Any grass, weeds or other vegetation growing upon any premises in the Township in violation of any of the provisions of Subsection A above is hereby declared to be a nuisance and detrimental to the health, safety, cleanliness and comfort of the inhabitants of the Township.

C. Excluded from application of this provision are wooded areas and open fields or acreage to within one hundred (100) feet of any building or structure.

§202. Cutting and Removal Required By Owner or Occupant. The owner of any premises, as to vacant premises or premises occupied by the owner, or the occupant thereof, in the case of premises occupied by other than the owner thereof, shall trim, cut or remove all grass, weeds or other vegetation growing or remaining upon such premises as often as may be necessary to bring such premises into compliance with the provisions of Section 201; provided, however, that cutting, trimming, or removing such weeds, grass or other vegetation at least twice a month in the months of May, June, July, August, and the removal of the weeds, grass and other vegetation so cut shall be deemed evidence that no violation of this Section shall have been created.

§203. Duties of Owner or Occupant. The Owner of any vacant premises or premises occupied by the owner and the occupant thereof, in the case of premises occupied by other

than the owner thereof, shall remove, trim or cut all grass, weeds or other vegetation growing or remaining upon such premises in violation of any of the provisions of Section 201 of this Ordinance.

§204. Notice to Comply; Noncompliance. The Code Enforcement Officer of the Township is hereby authorized to give notice, by personal service, posting of property or by United States mail, to the owner or occupant, as the case may be, of any premises whereof grass, weeds or other vegetation is growing or remaining in violation of any of the provisions of this Chapter, directing and requiring such owner or occupant to remove, trim or cut such grass, weeds or other vegetation so as to conform to the requirements of this Ordinance within five (5) days after the issuance of such notice. In case any person shall neglect, fail or refuse to comply with such notice within the period of time state therein, the Township may cause such grass, weeds or other vegetation to be removed, trimmed or cut, and the cost thereof, with an additional charge of ten percent (10%), shall be collected by the Township from such person in default, in the manner provided by law.

Any notice issued for a violation of this Part shall be sufficient to constitute notice of any subsequent violation provided that the violation occurs within the same calendar year for the same property owner and the same property.

§205. Violations and Penalties. Any person who shall violate any provisions of this Chapter shall, upon conviction thereof for each violation, be subject to a fine of up to one hundred (\$100.00) dollars, plus costs of prosecution. In default of payment of said fines and costs, such person shall be sentenced to the county jail for a period not exceeding ninety (90) days. Each day shall be a separate offense.

§206. Effective Date. This Ordinance shall become effective thirty (30) days after final enactment or adoption and shall remain in full force and effect until amended revoked.

(Ord. No. 1-1998, 11/04/98).

EDITOR'S NOTE: This Ordinance was revised at the time of inclusion in this Code of Ordinances to reduce the height of grass or weeds from 12 inches to 6 inches and require issuance of only one notice of violation by the Code Enforcement Officer in any calendar year.

Part 3

Hazardous Waste

§301. Purpose. The Board of Supervisors of Black Creek Township determines, declares, and finds that the transportation, processing, treatment, incineration, stabilization, storage and disposal of hazardous waste may create public health hazards, environmental pollution, economic loss, and cause irreparable harm to the public health, safety and welfare and is desirous of protecting the health, safety, and welfare of its residents from the short and long term dangers of the effects of all hazardous waste.

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

1. "Township" is the Township of Black Creek, Luzerne County, Pennsylvania.
2. "Board of Supervisors" is the Board of Supervisors of Black Creek Township, Luzerne County, Pennsylvania.
3. "Person" is any natural person, firm, partnership, association, corporation, company or organization or entity of any kind.
4. "Hazardous Waste" is any toxic waste material (solid, liquid or gaseous), garbage, refuse, sludge from an industrial or other waste-water or sewage plant, sludge from a water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining, or agricultural operation, and from community activities, or any combination of these factors, which either: (a) because of its quantity, concentration or physical, chemical or infectious characteristics, may: (i) cause or significantly contribute to an increase in mortality or morbidity in either an individual or the total population or, (ii) pose a substantial present or potential hazard to human health or the environment when improperly treated, incinerated, stabilized, stored, transported, disposed of, or otherwise managed; or (b) contains sodium by-products or high or low level radioactive material or high or low level radioactive by-products, except that this Ordinance specifically excludes the storage, management and disposition of sodium products by the Township of Black Creek for the maintenance of its municipal roadways.

§303. Offense Defined. A person shall be guilty of an offense if he or she dumps, processes, treats, incinerates, stabilizes, stores, manages and/or disposes of any hazardous waste within the limits of the Township.

§304. Penalty. A person who violates the provisions of this Ordinance shall upon conviction thereof pay a fine of not more than Three Hundred (\$300.00) dollars plus the costs of prosecution, and in default of payment of such fine and costs of prosecution, shall be imprisoned for not more than ten (10) days. Each day's continuance of a violation shall constitute a separate offense. In addition thereto, any person convicted under this Section of the Ordinance, as further penalty for violation, shall be required to pay and/or reimburse the Township for payment of any cost to eliminate or otherwise dispose of the hazardous waste which is the subject matter of such violation, including, but not limited to, all reasonably incurred fees and costs necessary for the elimination and/or disposition of said hazardous waste. In default of payment of such fees and costs, the violator shall be imprisoned for not more than ten (10) days.

§305. Effective Date. This Ordinance shall become effective five (5) days after the adoption hereof.

(Ord. No. 1-1985, 4/01/85).

Part 4
Garbage, Refuse and Junk

§401. Definitions. The following words shall have the meaning hereby ascribed thereto, unless the context clearly indicates a different meaning:

1. "GARBAGE" All table refuse, animal and vegetable, matter, offal from meat, fish and fowl, fruits, vegetables and parts thereof offal and other articles and materials ordinarily used for food which have been unfit for such use or which are for any reason discarded.
2. "REFUSE" All discarded articles or materials, except sewage and liquid wastes, and including garbage, rubbish, trash, ashes, combustible and non-combustible waste, and industrial and commercial waste.
3. "JUNK" Any discarded materials or articles or materials such as is not ordinarily disposed of as rubbish or refuse, and shall include, but not be limited to scrap metal and scrap motor vehicles.
4. "PERSON" Any natural person, association, partnership, firm or corporation.

The singular shall include the plural and the masculine shall include the feminine and the neuter.

§402. Subject Premises. No person shall keep or permit to remain upon his or her premises, or on any private property any garbage, refuse or junk or cast or dispose of same upon any lot or piece of ground within the Township or upon the shores or margins of any stream or any body of water, or in any sewer inlet or upon any sidewalks, streets, alleys or public roads in the said Township, nor may any person use or permit to be used any property or place within the Township as a public or private dump for garbage, refuse or junk without first obtaining permission and authorization from the said Township as herein after provided. The grant of permission shall be conditioned upon compliance with all applicable health and safety laws, ordinances and regulations and upon such reasonable conditions as the Supervisors of the Township may impose.

§403. Exceptions. No person shall dispose of any garbage, refuse or junk in the Township of Black Creek except to an approved dumping area provided or designated by the Supervisors of the Township, as a place for the receiving and disposing of said materials. Said designated dump may be situate within or without the Township.

§404. Approval of Sanitary Land Fill Dump. The Township Supervisors may, after a hearing and determination that it is necessary for the benefit of the health, safety and general welfare of the Township residents, grant permission for the collection and/or the operation of a sanitary land fill dump provided these minimum requirements are met:

1. All orders and regulations of the Pennsylvania Department of Health, and Bureau of Mines and other applicable State agency pertaining to same are complied with.
2. All permits from the necessary State agency are first obtained.
3. All zoning and health requirements of the Township are complied with.
4. Dumping operations shall meet the standards generally recognized for sanitary land fill operations.
5. No garbage, refuse or junk originating outside the Township limits shall be disposed of within the Township, without specific permission first obtained from the Township Supervisors and in no event shall garbage, refuse or junk originating outside the Township of Black Creek, be brought into or disposed of within the Township of Black Creek, be brought into or disposed of within the Township. When permission to bring said material in from outside the Township is granted, it shall specifically state the areas of origin.
6. All permits shall be for a one year period.
7. Permit fees shall be paid by the permittee as follows:
 - a. For operation of a sanitary land fill dump -- \$100.00 per year.
 - b. For the privilege of dumping at a permitted sanitary land fill dump located within the Township -- \$50.00 per year.
8. All vehicles conveying garbage, refuse or junk shall be covered by tarpaulin or otherwise covered or enclosed.
9. The Township Supervisors in granting any permit hereunder may impose other reasonable conditions upon the grant.

§405. Violation. The Township supervisors may revoke any permit during its term for violation of this ordinance or any terms and conditions imposed at the grant of the permit. The Township Supervisors may refuse to grant or renew any permit in their sole discretion under their power to prohibit the keeping, dumping or disposal of said material.

§406. Penalty. Any person who shall violate or fail to comply with any of the provisions of this ordinance, shall, upon conviction thereof, be sentenced to pay a fine or not more than One Hundred Dollars (\$100.00) and the costs of prosecution, and, in default of payment of such fines and costs to imprisonment of not more than thirty (30) days. PROVIDED: Each day's violation of any of the provisions of this ordinance shall constituted a separate and district offense.

§407. Repealer. All ordinances or parts of ordinances not in accordance or consistent with this ordinance are hereby repealed insofar as they are not in accordance herewith.

§408. Severability. In the event any provisions of this ordinance shall be declared invalid, all of the other provisions hereof shall remain valid and in force.

(Ord. 4/07/1969).

ORDINANCE NO. 3 of 2012

AMENDMENT TO CHAPTER 11, HEALTH AND SAFETY, PART 7, ANIMAL NUISANCE
ORDINANCE, SECTION 703, ANIMAL NOISE DISTURBANCE

BE IT ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors, of Luzerne County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that Chapter 11, entitled Health and Safety, Part 7, Animal Nuisance Ordinance, Section 703, Animal Noise Disturbance, shall be amended to read as follows:

§703. **Animal Noise Disturbance.** "It shall be unlawful for any person to own, posses, harbor, control or keep in custody any animal which makes any noise continuously or incessantly for a period in excess of thirty (30) minutes, as heard and verified by the prosecuting officer or official being a Police Officer, Code Enforcement Officer, Animal Control Officer, or County Official/Warden at anytime of the day or night regardless of whether the animal is physically situated in or upon private property."

PURPOSE: It is the intentions of the Board of Supervisors by this Amendment to delete the language of §703 that declared it unlawful for an animal to make such noise intermittently for a period of one (1) hour or more to the disturbance of any person. The language was deleted because it appeared to be vague, subjective, unenforceable and/or subject to abuse. The Amendment also requires the officer or official enforcing the ordinance to verify the violation before citing under that section to ensure legitimacy and avoid abuse.


This Amendment shall take effect immediately upon its adoption.

The remaining sections of the Ordinance, as amended, shall remain the same unchanged, except as otherwise provided herein.

ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors on this the 5 day of June, 2012.

BLACK CREEK TOWNSHIP BOARD OF
SUPERVISORS:


Chairperson


Secretary

§705. Animal Defecation.

(a) **Animal Defecation on Public or Private Property Restricted.** No person having possession, custody or control of any animal shall knowingly or negligently permit any animal to commit any nuisance such as soiling, defiling, defecating or urinating upon any street, driveway, alley, curb, common thoroughfare, sidewalk, passageway, by-pass, public park, public play area, or any place where people congregate or walk, or any public property whatsoever, or on any private property without permission of the owner of that property, or where such condition on private property causes a nuisance to the owner of another property, or to the public.

(b) **Disposal of Animal Feces.** Any person having possession, custody or control of any animal shall immediately remove and properly dispose all feces deposited by such animal in a sanitary method.

§706. Restriction of Certain Animals on Premises. It shall be unlawful for any person to keep animals:

(a) At such a number or amount or in such a condition as to cause a health or safety hazard to the occupant(s) of the premises where the animals are kept, or to an adjoining property owner, or to the public health, safety or welfare.

(b) Any animal which is infected with a transmissible disease.

(c) Any animal which is otherwise detrimental to the public health, safety or welfare.

§707. Duties of Police, Code Enforcement, Animal Control Officer or County Official.

(a) A police officer, code enforcement officer, animal control officer or County official or warden may seize and detain any animal which is found to be in violation of this Part.

(b) An officer or county official may dispose of any animal which poses an immediate threat to the public health, safety or welfare.

(c) An officer or county official is hereby authorized to care for or release any animal to a person or agency that may properly care for any animal seized and detained under this Part until the owner of the animal could be provided notice to claim the animal. The cost of the detention, care and maintenance shall be paid by the owner of the animal at the time of claiming the animal.

(d) In the event an animal running at large is seized and detained in accordance with this Part and the animal does not bear a valid and proper license tag, the officer or official shall make a reasonable effort to ascertain the identity of the person owning or keeping the animal. When such owner or keeper is notified by the officer or official to claim the animal, the owner or keeper shall do so within 24 hours of receipt of such notice. If such owner or keeper is not found within 24 hours, then the detained animal may be placed for adoption, sold, or given to the applicable agency to care for the animal.

(e) In the event the detention of the animal shall be the first time said animal was so detained, upon claiming said animal, the owner may be given a warning by the officer or official who detained said animal and the owner shall pay all reasonable expenses incurred by reason of the animal's detention.

§708. Unlawful or Prohibited Activities.

(a) It shall be unlawful for any person to interfere with an officer or official attempting to carry out his or her duties under this Part.

(b) It shall be unlawful for any person to forcibly cut the leash, chain or other restraining device to take the animal away from an officer or official having in their possession an animal found running at large unaccompanied by the owner or keeper.

(c) If an animal, under the laws of the Commonwealth, must be licensed or is required to wear a license, it shall be unlawful for any person to whom a license certificate has been issued to fail or refuse to produce the license certificate for such animal upon demand of an officer or official identified under this Part.

(d) No animal so caught and detained shall be sold for the purpose of vivisection, or research, or be conveyed in any manner for those purposes.

§709. Injury to Animals.

(a) Except when an animal is in the act of attacking a human being, it shall be unlawful for any person, except an Officer under this Part, to kill, injure or attempt to kill or injure any animal found in the Township.

(b) It shall be unlawful for any person to abandon or attempt to abandon any animal within the municipal boundaries of the Township.

§710. Non-liability of Police and Code Enforcement Officer. No officer or official shall be liable to any person, in damages or otherwise, for any action taken in good faith by said officer or official in attempting to enforce the terms and provisions of this Part.

§711. Violations and Penalties. Any person who shall be convicted before any Magisterial District Judge of violating or failing to comply with any of the terms and provisions of this Part shall be sentenced to pay a fine of not more than Six Hundred (\$600) Dollars, together with costs of prosecution and reasonable attorney fees, and in default of payment of such fine and costs, may be sentenced to imprisonment for a term not to exceed thirty (30) days. The continuation of any violation of this Part shall constitute a separate offense for each successive day of violation. The Magisterial District Judge may also award reimbursement costs to the Township for any temporary detention, care and maintenance of an animal in this or a separate action.

§712. Effective Date. This Ordinance shall become effective immediately upon its adoption.

Part 8
Regulating and Prohibiting of Certain Exotic and Wild Animals

§801. Definitions.

(a) **Animal** means all non-human vertebrate and invertebrate species, whether wild or domestic, commonly considered to be part of the animal kingdom.

(b) **Service Animal** means an animal that is trained under the guidelines of a non-Profit organization to be a helper to assist a handicapped person perform simple everyday tasks.

(c) **Wild or Exotic Animal** means any animal of a species prohibited by Title 50, Code of Federal Regulations, or otherwise controlled by the Commonwealth of Pennsylvania. The terms include any animal, which is wild, fierce, dangerous, noxious, or naturally inclined to do harm. Wild animals, although domesticated, shall also include but not be limited to:

Amphibians: All Venomous frogs, toads, turtles, etc.;

Bear (Ursidae): All bears, including grizzly bears, brown bears, black bears, etc.;

Cat Family (Felidae): All except commonly accepted domestic cats – including lions, pumas, panthers, mountain lions, leopards, jaguars, ocelots, margays, tigers, bobcats, wild cats, etc.;

Crocodylians: All alligators, caimans, crocodiles, gavials, etc.;

Dog Family (Canidae): All except domesticated dogs – including wolf, fox, coyote, dingo or other offspring of domesticated dogs bred with a wolf, fox, coyote, dingo, and any dog which bites, inflicts injury, assaults or otherwise attacks a human being without provocation, or any dog deemed a dangerous dog under Pennsylvania Law, etc;

Pig: All ~~wild~~ or domesticated swine, etc. excluding certified Vietnamese potbellied pigs, in accordance with Section 802(a)(2) below;

Porcupine (Erethizontidae): All porcupines, skunks, etc.;

Primates (Hominidae): All sub-human primates, etc.;

Raccoons (Procyonidae): All raccoons and civets, etc.;

Reptiles: All venomous and constricting snakes (boa constrictors, pythons etc.), venomous lizards, etc.;

Venomous Invertebrates: All venomous spiders, scorpions etc.;

ORDINANCE NO. 2 of 2012

AMENDMENT TO CHAPTER 11, HEALTH AND SAFETY, PART 8, REGULATING AND PROHIBITING OF CERTAIN EXOTIC AND WILD ANIMALS, SECTION 801, DEFINITIONS AND SECTION 802, WILD OR EXOTIC ANIMALS PROHIBITED

BE IT ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors, of Luzerne County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that Chapter 11, entitled Health and Safety, Part 8, Regulating and Prohibiting of Certain Exotic and Wild Animals, is amended as follows:

§801. Definitions.

Pig: All wild or domesticated swine, etc. excluding certified Vietnamese potbellied pigs and pigs permitted as an agricultural use under the applicable zoning Ordinance.

PURPOSE: It is the intentions of the Board of Supervisors by this Amendment to delete any reference to Section 802(a)(2) and permit pigs as an agricultural use under the applicable Zoning Ordinance.

§802. Keeping of Certain Animals Prohibited.

(a) **Wild or Exotic Animals Prohibited.** No person shall keep a wild or exotic animal in any place except: (1) a zoological park; (2) a veterinary hospital (not boarded) or clinic; (3) a humane society; (4) circus, sideshow, or amusement show; (5) facility used for educational or scientific purposes, which provides proper cages, fences and other protective devices adequate to prevent such animals from escaping or injuring the public, or causing a health hazard due to fecal matter, or otherwise; and (6) as permitted under the applicable Zoning Ordinance.

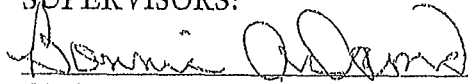
PURPOSE: It is the intentions of the Board of Supervisors by this Amendment to add a reference to the permitting of such animals under the applicable Zoning Ordinance.


This Amendment shall take effect immediately upon its adoption.

The remaining sections of the Ordinance, as amended, shall remain the same unchanged, except as otherwise provided herein.

ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors on this the 5 day of June, 2012.

BLACK CREEK TOWNSHIP BOARD OF
SUPERVISORS:


Chairperson


Secretary

Weasels (Mustelidae): All including weasels, martens, mink, wolverine, ferrets, badgers, otters, ermine, mongoose, etc., excluding domesticated ferrets, in accordance with Section 802(a)(1) below.

§802. Keeping of Certain Animals Prohibited

(a) **Wild or Exotic Animals Prohibited.** No person shall keep a wild or exotic animal in any place except a zoological park, veterinary hospital (not boarded) or clinic, humane society, or circus, sideshow, amusement show or facility used for educational or scientific purposes, which provides proper cages, fences and other protective devices adequate to prevent such animals from escaping or injuring the public, or causing a health hazard due to fecal matter, or otherwise.

(b) **Domesticated Ferrets** are permitted as house pets provided that the following requirements are met:

- (1) Ferrets must be de-scented.
- (2) Ferrets must be spayed or neutered.
- (3) Ferrets are to be vaccinated, except as otherwise provided herein.
- (4) Vaccination documents or a statement from a licensed veterinarian advising against a vaccination shall be furnished upon request.
- (5) No breeding of ferrets is permitted.
- (6) Ferrets are not to be at large when outdoors.

(c) **Vietnamese Potbellied Pigs** are permitted as house pets provided that the following requirements are met:

- (1) The pet owner is to obtain a document from a licensed veterinarian or a nationally recognized registry certifying that the pet is a Vietnamese Potbellied Pig.
- (2) Vietnamese Potbellied Pigs are to be spayed or neutered.
- (3) No breeding of Vietnamese Potbellied Pigs is permitted.
- (4) Vietnamese Potbellied Pigs are to be vaccinated, except as otherwise provided herein. Vaccination documents or a statement from a licensed veterinarian advising against vaccination shall be furnished upon request.

(d) The fostering or keeping of a **service animal** is permitted in a household provided the following requirements are met:

- (1) No more than one service animal is permitted.
- (2) Upon request, the property owner is to furnish documentation certifying that the animal has been trained or is being fostered in accordance with a training program administered by a non-profit organization.

§803. Sale, Exchange, Adoption, or Transfer of Wild or Exotic Animals Prohibited. No person shall sell, offer for sale, adopt, exchange or transfer, with or without charge any wild or exotic animal. This subsection is not intended to apply to persons owning or possessing wild or exotic animals prior to the passage of this Part, provided that the person or persons taking possession of such wild or exotic animal following the sale, adoption, exchange or transfer is/are not a resident of the Township.

§804. Disposition and Impoundment. Any person who keeps a wild or exotic animal in violation of this Part must dispose of the animal by removal of the animal from the Township or by giving the animal to the Township Code Enforcement Officer, a police officer or other designated official of the Township. The officer or official who is given the animal is authorized to release the animal to the wild, to a zoological park, or to dispose of the animal in some humane manner depending on the type of animal. The owner shall either pay directly or reimburse the Township for the cost of removal and/or placement at a park or other facility.

§805. Permitting Wild or Exotic Animals Owned at the Time of Passage of the Part. Any person owning or possessing a wild or exotic animal at the time of enactment of this Part may, pending the approval of the Township Zoning Officer, obtain a permit and non-conforming status for the wild or exotic animal provided that:

- (a) The wild or exotic animal must be within the possession and control of the owner and residing within the Township at the time this Part was publically announced for advertisement of adoption.
- (b) There have been no prior problems or complaints against the owner or possessor resulting in health or safety concerns relating to the wild or exotic animal proposed to be permitted.
- (c) A permit application and non-conforming use application is filed with the Township Zoning Officer within thirty (30) days of the effective date of this Part. Such application is to include:
 - (1) Species, age and sex of the wild animal or exotic animal.
 - (2) A plan for the housing and containment for the wild or exotic animal must be reviewed, inspected and approved by the Township Building Official as adequate to prevent such animal from escaping or injuring the public. (Any changes to the containment plans or facilities already permitted must be submitted to and approved by the Building Official before changes may be implemented).

- (3) A permit fee of One Thousand Dollars (\$1,000.00) per wild or exotic animal shall be paid by the owner or possessor of such animal to the Zoning Officer. A copy of the permit shall also be filed with the applicable police department/agency and the Code Enforcement Officer.
- (4) Upon the death, sale, adoption, exchange, transfer or disposal of a wild or exotic animal, the animal may not be replaced.
- (5) If such wild or exotic animal is to be taken to any public place, it shall not be free to roam and must be controlled by a leash or cage. The permit for such animal must be carried by the owner or possessor.

§806. Enforcement. This Part may be enforced by any office of the Township, any police officer, or code official. The Township Solicitor may assist in any prosecution for a violation of this Part.

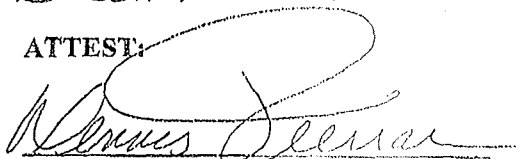
§807. Administration. For the purpose of administering this Part, owner means and includes every person, firm or corporation having a right of property in any animal which is kept, harbored, or cared for within the Township for any length of time no matter how short as well as every person, firm or corporation occupying any premises within the Township which permits any animal to remain on or about its premises for any length of time.

§808. Penalties. Any person who violates any provision of this Part shall be subject to a fine of not more than Six Hundred (\$600.00) Dollars, plus costs and reasonable attorney fees, or thirty (30) days imprisonment or both. Each day that a violation continues shall constitute a separate violation or offense.

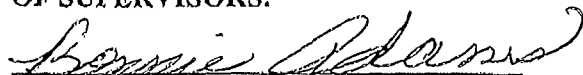
§809. Effective Date. This Ordinance shall become effective immediately upon its adoption.

Part 7 and Part 8 of Chapter 11 of the Code of Ordinances is hereby enacted and adopted by the Black Creek Township Board of Supervisors this 7 day of December, 2010.

ATTEST:


Secretary

BLACK CREEK TOWNSHIP BOARD
OF SUPERVISORS:


Chairperson

ORDINANCE NO. 4 of 2023

AMENDMENT TO CHAPTER 11, HEALTH AND SAFETY, PART 8, REGULATING
AND PROHIBITING OF CERTAIN EXOTIC ANIMALS, SECTION 801, DEFINITIONS
AND SECTION 802, WILD OR EXOTIC ANIMALS PROHIBITED

BE IT ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors, of Luzerne County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that Chapter 11, entitled Health and Safety, Part 8, Regulating and Prohibiting of Certain Exotic and Wild Animals, is amended as follows:

§801. Definitions.

(a) **Wild or Exotic Animal** means any animal of a species prohibited by Title 50, Code of Federal Regulations, or otherwise controlled by the Commonwealth of Pennsylvania. The terms include any animal, which is wild, fierce, dangerous, noxious, or naturally inclined to do harm. Wild animals, although domesticated, shall also include but not be limited to:

Amphibians: All Venomous frogs, toads, turtles, etc.;

Bear (Ursidae): All bears, including grizzly bears, brown bears, black bears, etc.;

Cat Family (Felidae): All except commonly accepted domestic cats – including lions, pumas, panthers, mountain lions, leopards, jaguars, ocelots, margays, tigers, bobcats, wild cats, etc.;

Crocodylians: All alligators, caimans, crocodiles, gavials, etc.;

Dog Family (Canidae): All except domesticated dogs – including wolf, fox, coyote, dingo or other offspring of domesticated dogs bred with a wolf, fox, coyote, dingo, and any dog which bites, inflicts injury, assaults or otherwise attacks a human being without provocation, or any dog deemed a dangerous dog under Pennsylvania Law, etc;

Porcupine (Erethizontidae): All porcupines, skunks, etc.;

Primates (Hominidae): All sub-human primates, etc.;

Reptiles: All venomous and constricting snakes (boa constrictors, pythons etc.),
venomous lizards, etc.;

Venomous Invertebrates: All venomous spiders, scorpions etc.;

Weasels (Mustelidae): All including weasels, martens, mink, wolverine, badgers, otters, ermine, mongoose, etc., excluding domesticated ferrets, in accordance with Section 802(a)(1) below.

§802. Keeping of Certain Animals Prohibited

(a) **Wild or Exotic Animals Prohibited.** No person shall keep a wild or exotic animal in any place except a zoological park, veterinary hospital (not boarded) or clinic, humane society, or circus, sideshow, amusement show or facility used for educational or scientific purposes, which provides proper cages, fences and other protective devices adequate to prevent such animals from escaping or injuring the public, or causing a health hazard due to fecal matter, or otherwise.

(b) Exceptions

- i. **Domesticated Ferrets** are permitted as house pets.
- ii. **Vietnamese Potbellied Pigs** are permitted as house pets.

This Amendment shall take effect immediately upon its adoption.

The remaining sections of the Ordinance, as amended, shall remain the same unchanged, except as otherwise provided herein.

ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors on this the 4 day of May, 2023.

BLACK CREEK TOWNSHIP BOARD OF SUPERVISORS:

Rachel Lipski
Secretary



[Signature]
Chairperson

[Signature]
Vice Chairperson

[Signature]
Supervisor

ORDINANCE NO. 3 of 2012

AMENDMENT TO CHAPTER 11, HEALTH AND SAFETY, PART 7, ANIMAL NUISANCE
ORDINANCE, SECTION 703, ANIMAL NOISE DISTURBANCE

BE IT ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors, of Luzerne County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that Chapter 11, entitled Health and Safety, Part 7, Animal Nuisance Ordinance, Section 703, Animal Noise Disturbance, shall be amended to read as follows:

§703. Animal Noise Disturbance. "It shall be unlawful for any person to own, posses, harbor, control or keep in custody any animal which makes any noise continuously or incessantly for a period in excess of thirty (30) minutes, as heard and verified by the prosecuting officer or official being a Police Officer, Code Enforcement Officer, Animal Control Officer, or County Official/Warden at anytime of the day or night regardless of whether the animal is physically situated in or upon private property."

PURPOSE: It is the intentions of the Board of Supervisors by this Amendment to delete the language of §703 that declared it unlawful for an animal to make such noise intermittently for a period of one (1) hour or more to the disturbance of any person. The language was deleted because it appeared to be vague, subjective, unenforceable and/or subject to abuse. The Amendment also requires the officer or official enforcing the ordinance to verify the violation before citing under that section to ensure legitimacy and avoid abuse.


This Amendment shall take effect immediately upon its adoption.

The remaining sections of the Ordinance, as amended, shall remain the same unchanged, except as otherwise provided herein.

ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors on this the 5 day of June, 2012.

BLACK CREEK TOWNSHIP BOARD OF
SUPERVISORS:


Chairperson


Secretary

§705. Animal Defecation.

(a) **Animal Defecation on Public or Private Property Restricted.** No person having possession, custody or control of any animal shall knowingly or negligently permit any animal to commit any nuisance such as soiling, defiling, defecating or urinating upon any street, driveway, alley, curb, common thoroughfare, sidewalk, passageway, by-pass, public park, public play area, or any place where people congregate or walk, or any public property whatsoever, or on any private property without permission of the owner of that property, or where such condition on private property causes a nuisance to the owner of another property, or to the public.

(b) **Disposal of Animal Feces.** Any person having possession, custody or control of any animal shall immediately remove and properly dispose all feces deposited by such animal in a sanitary method.

§706. Restriction of Certain Animals on Premises. It shall be unlawful for any person to keep animals:

(a) At such a number or amount or in such a condition as to cause a health or safety hazard to the occupant(s) of the premises where the animals are kept, or to an adjoining property owner, or to the public health, safety or welfare.

(b) Any animal which is infected with a transmissible disease.

(c) Any animal which is otherwise detrimental to the public health, safety or welfare.

§707. Duties of Police, Code Enforcement, Animal Control Officer or County Official.

(a) A police officer, code enforcement officer, animal control officer or County official or warden may seize and detain any animal which is found to be in violation of this Part.

(b) An officer or county official may dispose of any animal which poses an immediate threat to the public health, safety or welfare.

(c) An officer or county official is hereby authorized to care for or release any animal to a person or agency that may properly care for any animal seized and detained under this Part until the owner of the animal could be provided notice to claim the animal. The cost of the detention, care and maintenance shall be paid by the owner of the animal at the time of claiming the animal.

(d) In the event an animal running at large is seized and detained in accordance with this Part and the animal does not bear a valid and proper license tag, the officer or official shall make a reasonable effort to ascertain the identity of the person owning or keeping the animal. When such owner or keeper is notified by the officer or official to claim the animal, the owner or keeper shall do so within 24 hours of receipt of such notice. If such owner or keeper is not found within 24 hours, then the detained animal may be placed for adoption, sold, or given to the applicable agency to care for the animal.

(e) In the event the detention of the animal shall be the first time said animal was so detained, upon claiming said animal, the owner may be given a warning by the officer or official who detained said animal and the owner shall pay all reasonable expenses incurred by reason of the animal's detention.

§708. Unlawful or Prohibited Activities.

(a) It shall be unlawful for any person to interfere with an officer or official attempting to carry out his or her duties under this Part.

(b) It shall be unlawful for any person to forcibly cut the leash, chain or other restraining device to take the animal away from an officer or official having in their possession an animal found running at large unaccompanied by the owner or keeper.

(c) If an animal, under the laws of the Commonwealth, must be licensed or is required to wear a license, it shall be unlawful for any person to whom a license certificate has been issued to fail or refuse to produce the license certificate for such animal upon demand of an officer or official identified under this Part.

(d) No animal so caught and detained shall be sold for the purpose of vivisection, or research, or be conveyed in any manner for those purposes.

§709. Injury to Animals.

(a) Except when an animal is in the act of attacking a human being, it shall be unlawful for any person, except an Officer under this Part, to kill, injure or attempt to kill or injure any animal found in the Township.

(b) It shall be unlawful for any person to abandon or attempt to abandon any animal within the municipal boundaries of the Township.

§710. Non-liability of Police and Code Enforcement Officer. No officer or official shall be liable to any person, in damages or otherwise, for any action taken in good faith by said officer or official in attempting to enforce the terms and provisions of this Part.

§711. Violations and Penalties. Any person who shall be convicted before any Magisterial District Judge of violating or failing to comply with any of the terms and provisions of this Part shall be sentenced to pay a fine of not more than Six Hundred (\$600) Dollars, together with costs of prosecution and reasonable attorney fees, and in default of payment of such fine and costs, may be sentenced to imprisonment for a term not to exceed thirty (30) days. The continuation of any violation of this Part shall constitute a separate offense for each successive day of violation. The Magisterial District Judge may also award reimbursement costs to the Township for any temporary detention, care and maintenance of an animal in this or a separate action.

§712. Effective Date. This Ordinance shall become effective immediately upon its adoption.

Part 8
Regulating and Prohibiting of Certain Exotic and Wild Animals

§801. Definitions.

(a) **Animal** means all non-human vertebrate and invertebrate species, whether wild or domestic, commonly considered to be part of the animal kingdom.

(b) **Service Animal** means an animal that is trained under the guidelines of a non-Profit organization to be a helper to assist a handicapped person perform simple everyday tasks.

(c) **Wild or Exotic Animal** means any animal of a species prohibited by Title 50, Code of Federal Regulations, or otherwise controlled by the Commonwealth of Pennsylvania. The terms include any animal, which is wild, fierce, dangerous, noxious, or naturally inclined to do harm. Wild animals, although domesticated, shall also include but not be limited to:

Amphibians: All Venomous frogs, toads, turtles, etc.;

Bear (Ursidae): All bears, including grizzly bears, brown bears, black bears, etc.;

Cat Family (Felidae): All except commonly accepted domestic cats – including lions, pumas, panthers, mountain lions, leopards, jaguars, ocelots, margays, tigers, bobcats, wild cats, etc.;

Crocodylians: All alligators, caimans, crocodiles, gavials, etc.;

Dog Family (Canidae): All except domesticated dogs – including wolf, fox, coyote, dingo or other offspring of domesticated dogs bred with a wolf, fox, coyote, dingo, and any dog which bites, inflicts injury, assaults or otherwise attacks a human being without provocation, or any dog deemed a dangerous dog under Pennsylvania Law, etc.;

Pig: All ~~wild~~ or domesticated swine, etc. excluding certified Vietnamese potbellied pigs, in accordance with Section 802(a)(2) below;

Porcupine (Erethizontidae): All porcupines, skunks, etc.;

Primates (Hominidae): All sub-human primates, etc.;

Raccoons (Procyonidae): All raccoons and civets, etc.;

Reptiles: All venomous and constricting snakes (boa constrictors, pythons etc.), venomous lizards, etc.;

Venomous Invertebrates: All venomous spiders, scorpions etc.;

AMENDMENT TO CHAPTER 11, HEALTH AND SAFETY, PART 8, REGULATING AND PROHIBITING OF CERTAIN EXOTIC AND WILD ANIMALS, SECTION 801, DEFINITIONS AND SECTION 802, WILD OR EXOTIC ANIMALS PROHIBITED

BE IT ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors, of Luzerne County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that Chapter 11, entitled Health and Safety, Part 8, Regulating and Prohibiting of Certain Exotic and Wild Animals, is amended as follows:

§801. Definitions.

Pig: All wild or domesticated swine, etc. excluding certified Vietnamese potbellied pigs and pigs permitted as an agricultural use under the applicable zoning Ordinance.

PURPOSE: It is the intentions of the Board of Supervisors by this Amendment to delete any reference to Section 802(a)(2) and permit pigs as an agricultural use under the applicable Zoning Ordinance.

§802. Keeping of Certain Animals Prohibited.

(a) Wild or Exotic Animals Prohibited. No person shall keep a wild or exotic animal in any place except: (1) a zoological park; (2) a veterinary hospital (not boarded) or clinic; (3) a humane society; (4) circus, sideshow, or amusement show; (5) facility used for educational or scientific purposes, which provides proper cages, fences and other protective devices adequate to prevent such animals from escaping or injuring the public, or causing a health hazard due to fecal matter, or otherwise; and (6) as permitted under the applicable Zoning Ordinance.

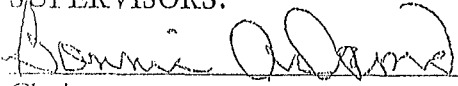
PURPOSE: It is the intentions of the Board of Supervisors by this Amendment to add a reference to the permitting of such animals under the applicable Zoning Ordinance.

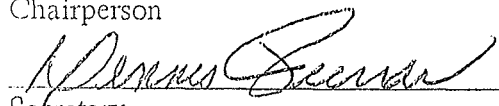
This Amendment shall take effect immediately upon its adoption.

The remaining sections of the Ordinance, as amended, shall remain the same unchanged, except as otherwise provided herein.

ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors on this the 5 day of June, 2012.

BLACK CREEK TOWNSHIP BOARD OF
SUPERVISORS:


Chairperson


Secretary

Weasels (Mustelidae): All including weasels, martens, mink, wolverine, ferrets, badgers, otters, ermine, mongoose, etc., excluding domesticated ferrets, in accordance with Section 802(a)(1) below.

§802. Keeping of Certain Animals Prohibited

(a) **Wild or Exotic Animals Prohibited.** No person shall keep a wild or exotic animal in any place except a zoological park, veterinary hospital (not boarded) or clinic, humane society, or circus, sideshow, amusement show or facility used for educational or scientific purposes, which provides proper cages, fences and other protective devices adequate to prevent such animals from escaping or injuring the public, or causing a health hazard due to fecal matter, or otherwise.

(b) **Domesticated Ferrets** are permitted as house pets provided that the following requirements are met:

- (1) Ferrets must be de-scented.
- (2) Ferrets must be spayed or neutered.
- (3) Ferrets are to be vaccinated, except as otherwise provided herein.
- (4) Vaccination documents or a statement from a licensed veterinarian advising against a vaccination shall be furnished upon request.
- (5) No breeding of ferrets is permitted.
- (6) Ferrets are not to be at large when outdoors.

(c) **Vietnamese Potbellied Pigs** are permitted as house pets provided that the following requirements are met:

- (1) The pet owner is to obtain a document from a licensed veterinarian or a nationally recognized registry certifying that the pet is a Vietnamese Potbellied Pig.
- (2) Vietnamese Potbellied Pigs are to be spayed or neutered.
- (3) No breeding of Vietnamese Potbellied Pigs is permitted.
- (4) Vietnamese Potbellied Pigs are to be vaccinated, except as otherwise provided herein. Vaccination documents or a statement from a licensed veterinarian advising against vaccination shall be furnished upon request.

(d) The fostering or keeping of a **service animal** is permitted in a household provided the following requirements are met:

- (1) No more than one service animal is permitted.
- (2) Upon request, the property owner is to furnish documentation certifying that the animal has been trained or is being fostered in accordance with a training program administered by a non-profit organization.

§803. Sale, Exchange, Adoption, or Transfer of Wild or Exotic Animals Prohibited. No person shall sell, offer for sale, adopt, exchange or transfer, with or without charge any wild or exotic animal. This subsection is not intended to apply to persons owning or possessing wild or exotic animals prior to the passage of this Part, provided that the person or persons taking possession of such wild or exotic animal following the sale, adoption, exchange or transfer is/are not a resident of the Township.

§804. Disposition and Impoundment. Any person who keeps a wild or exotic animal in violation of this Part must dispose of the animal by removal of the animal from the Township or by giving the animal to the Township Code Enforcement Officer, a police officer or other designated official of the Township. The officer or official who is given the animal is authorized to release the animal to the wild, to a zoological park, or to dispose of the animal in some humane manner depending on the type of animal. The owner shall either pay directly or reimburse the Township for the cost of removal and/or placement at a park or other facility.

§805. Permitting Wild or Exotic Animals Owned at the Time of Passage of the Part. Any person owning or possessing a wild or exotic animal at the time of enactment of this Part may, pending the approval of the Township Zoning Officer, obtain a permit and non-conforming status for the wild or exotic animal provided that:

- (a) The wild or exotic animal must be within the possession and control of the owner and residing within the Township at the time this Part was publically announced for advertisement of adoption.
- (b) There have been no prior problems or complaints against the owner or possessor resulting in health or safety concerns relating to the wild or exotic animal proposed to be permitted.
- (c) A permit application and non-conforming use application is filed with the Township Zoning Officer within thirty (30) days of the effective date of this Part. Such application is to include:
 - (1) Species, age and sex of the wild animal or exotic animal.
 - (2) A plan for the housing and containment for the wild or exotic animal must be reviewed, inspected and approved by the Township Building Official as adequate to prevent such animal from escaping or injuring the public. (Any changes to the containment plans or facilities already permitted must be submitted to and approved by the Building Official before changes may be implemented).

- (3) A permit fee of One Thousand Dollars (\$1,000.00) per wild or exotic animal shall be paid by the owner or possessor of such animal to the Zoning Officer. A copy of the permit shall also be filed with the applicable police department/agency and the Code Enforcement Officer.
- (4) Upon the death, sale, adoption, exchange, transfer or disposal of a wild or exotic animal, the animal may not be replaced.
- (5) If such wild or exotic animal is to be taken to any public place, it shall not be free to roam and must be controlled by a leash or cage. The permit for such animal must be carried by the owner or possessor.

§806. Enforcement. This Part may be enforced by any office of the Township, any police officer, or code official. The Township Solicitor may assist in any prosecution for a violation of this Part.

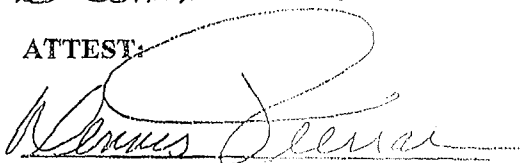
§807. Administration. For the purpose of administering this Part, owner means and includes every person, firm or corporation having a right of property in any animal which is kept, harbored, or cared for within the Township for any length of time no matter how short as well as every person, firm or corporation occupying any premises within the Township which permits any animal to remain on or about its premises for any length of time.

§808. Penalties. Any person who violates any provision of this Part shall be subject to a fine of not more than Six Hundred (\$600.00) Dollars, plus costs and reasonable attorney fees, or thirty (30) days imprisonment or both. Each day that a violation continues shall constitute a separate violation or offense.


§809. Effective Date. This Ordinance shall become effective immediately upon its adoption.

Part 7 and Part 8 of Chapter 11 of the Code of Ordinances is hereby enacted and adopted by the Black Creek Township Board of Supervisors this 7 day of December, 2010.

ATTEST:


Secretary

BLACK CREEK TOWNSHIP BOARD
OF SUPERVISORS:


Chairperson

ORDINANCE NO. 3 of 2012

AMENDMENT TO CHAPTER 11, HEALTH AND SAFETY, PART 7, ANIMAL NUISANCE
ORDINANCE, SECTION 703, ANIMAL NOISE DISTURBANCE

BE IT ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors, of Luzerne County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that Chapter 11, entitled Health and Safety, Part 7, Animal Nuisance Ordinance, Section 703, Animal Noise Disturbance, shall be amended to read as follows:

§703. Animal Noise Disturbance. "It shall be unlawful for any person to own, posses, harbor, control or keep in custody any animal which makes any noise continuously or incessantly for a period in excess of thirty (30) minutes, as heard and verified by the prosecuting officer or official being a Police Officer, Code Enforcement Officer, Animal Control Officer, or County Official/Warden at anytime of the day or night regardless of whether the animal is physically situated in or upon private property."

PURPOSE: It is the intentions of the Board of Supervisors by this Amendment to delete the language of §703 that declared it unlawful for an animal to make such noise intermittently for a period of one (1) hour or more to the disturbance of any person. The language was deleted because it appeared to be vague, subjective, unenforceable and/or subject to abuse. The Amendment also requires the officer or official enforcing the ordinance to verify the violation before citing under that section to ensure legitimacy and avoid abuse.

This Amendment shall take effect immediately upon its adoption.

The remaining sections of the Ordinance, as amended, shall remain the same unchanged, except as otherwise provided herein.

ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors on this the 5 day of June, 2012.

BLACK CREEK TOWNSHIP BOARD OF
SUPERVISORS:


Chairperson


Secretary

§705. Animal Defecation.

(a) **Animal Defecation on Public or Private Property Restricted.** No person having possession, custody or control of any animal shall knowingly or negligently permit any animal to commit any nuisance such as soiling, defiling, defecating or urinating upon any street, driveway, alley, curb, common thoroughfare, sidewalk, passageway, by-pass, public park, public play area, or any place where people congregate or walk, or any public property whatsoever, or on any private property without permission of the owner of that property, or where such condition on private property causes a nuisance to the owner of another property, or to the public.

(b) **Disposal of Animal Feces.** Any person having possession, custody or control of any animal shall immediately remove and properly dispose all feces deposited by such animal in a sanitary method.

§706. Restriction of Certain Animals on Premises. It shall be unlawful for any person to keep animals:

(a) At such a number or amount or in such a condition as to cause a health or safety hazard to the occupant(s) of the premises where the animals are kept, or to an adjoining property owner, or to the public health, safety or welfare.

(b) Any animal which is infected with a transmissible disease.

(c) Any animal which is otherwise detrimental to the public health, safety or welfare.

§707. Duties of Police, Code Enforcement, Animal Control Officer or County Official.

(a) A police officer, code enforcement officer, animal control officer or County official or warden may seize and detain any animal which is found to be in violation of this Part.

(b) An officer or county official may dispose of any animal which poses an immediate threat to the public health, safety or welfare.

(c) An officer or county official is hereby authorized to care for or release any animal to a person or agency that may properly care for any animal seized and detained under this Part until the owner of the animal could be provided notice to claim the animal. The cost of the detention, care and maintenance shall be paid by the owner of the animal at the time of claiming the animal.

(d) In the event an animal running at large is seized and detained in accordance with this Part and the animal does not bear a valid and proper license tag, the officer or official shall make a reasonable effort to ascertain the identity of the person owning or keeping the animal. When such owner or keeper is notified by the officer or official to claim the animal, the owner or keeper shall do so within 24 hours of receipt of such notice. If such owner or keeper is not found within 24 hours, then the detained animal may be placed for adoption, sold, or given to the applicable agency to care for the animal.

(e) In the event the detention of the animal shall be the first time said animal was so detained, upon claiming said animal, the owner may be given a warning by the officer or official who detained said animal and the owner shall pay all reasonable expenses incurred by reason of the animal's detention.

§708. Unlawful or Prohibited Activities.

(a) It shall be unlawful for any person to interfere with an officer or official attempting to carry out his or her duties under this Part.

(b) It shall be unlawful for any person to forcibly cut the leash, chain or other restraining device to take the animal away from an officer or official having in their possession an animal found running at large unaccompanied by the owner or keeper.

(c) If an animal, under the laws of the Commonwealth, must be licensed or is required to wear a license, it shall be unlawful for any person to whom a license certificate has been issued to fail or refuse to produce the license certificate for such animal upon demand of an officer or official identified under this Part.

(d) No animal so caught and detained shall be sold for the purpose of vivisection, or research, or be conveyed in any manner for those purposes.

§709. Injury to Animals.

(a) Except when an animal is in the act of attacking a human being, it shall be unlawful for any person, except an Officer under this Part, to kill, injure or attempt to kill or injure any animal found in the Township.

(b) It shall be unlawful for any person to abandon or attempt to abandon any animal within the municipal boundaries of the Township.

§710. Non-liability of Police and Code Enforcement Officer. No officer or official shall be liable to any person, in damages or otherwise, for any action taken in good faith by said officer or official in attempting to enforce the terms and provisions of this Part.

§711. Violations and Penalties. Any person who shall be convicted before any Magisterial District Judge of violating or failing to comply with any of the terms and provisions of this Part shall be sentenced to pay a fine of not more than Six Hundred (\$600) Dollars, together with costs of prosecution and reasonable attorney fees, and in default of payment of such fine and costs, may be sentenced to imprisonment for a term not to exceed thirty (30) days. The continuation of any violation of this Part shall constitute a separate offense for each successive day of violation. The Magisterial District Judge may also award reimbursement costs to the Township for any temporary detention, care and maintenance of an animal in this or a separate action.

§712. Effective Date. This Ordinance shall become effective immediately upon its adoption.

Part 8
Regulating and Prohibiting of Certain Exotic and Wild Animals

§801. Definitions.

(a) **Animal** means all non-human vertebrate and invertebrate species, whether wild or domestic, commonly considered to be part of the animal kingdom.

(b) **Service Animal** means an animal that is trained under the guidelines of a non-Profit organization to be a helper to assist a handicapped person perform simple everyday tasks.

(c) **Wild or Exotic Animal** means any animal of a species prohibited by Title 50, Code of Federal Regulations, or otherwise controlled by the Commonwealth of Pennsylvania. The terms include any animal, which is wild, fierce, dangerous, noxious, or naturally inclined to do harm. Wild animals, although domesticated, shall also include but not be limited to:

Amphibians: All Venomous frogs, toads, turtles, etc.;

Bear (Ursidae): All bears, including grizzly bears, brown bears, black bears, etc.;

Cat Family (Felidae): All except commonly accepted domestic cats – including lions, pumas, panthers, mountain lions, leopards, jaguars, ocelots, margays, tigers, bobcats, wild cats, etc.;

Crocodylians: All alligators, caimans, crocodiles, gavials, etc.;

Dog Family (Canidae): All except domesticated dogs – including wolf, fox, coyote, dingo or other offspring of domesticated dogs bred with a wolf, fox, coyote, dingo, and any dog which bites, inflicts injury, assaults or otherwise attacks a human being without provocation, or any dog deemed a dangerous dog under Pennsylvania Law, etc;

Pig: All ~~wild~~ or domesticated swine, etc. excluding certified Vietnamese potbellied pigs, in accordance with Section 802(a)(2) below;

Porcupine (Erethizontidae): All porcupines, skunks, etc.;

Primates (Hominidae): All sub-human primates, etc.;

Raccoons (Procyonidae): All raccoons and civets, etc.;

Reptiles: All venomous and constricting snakes (boa constrictors, pythons etc.), venomous lizards, etc.;

Venomous Invertebrates: All venomous spiders, scorpions etc.;

ORDINANCE NO. 2 of 2012

AMENDMENT TO CHAPTER 11, HEALTH AND SAFETY, PART 8, REGULATING AND PROHIBITING OF CERTAIN EXOTIC AND WILD ANIMALS, SECTION 801, DEFINITIONS AND SECTION 802, WILD OR EXOTIC ANIMALS PROHIBITED

BE IT ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors, of Luzerne County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same, that Chapter 11, entitled Health and Safety, Part 8, Regulating and Prohibiting of Certain Exotic and Wild Animals, is amended as follows:

§801. Definitions.

Pig: All wild or domesticated swine, etc. excluding certified Vietnamese potbellied pigs and pigs permitted as an agricultural use under the applicable zoning Ordinance.

PURPOSE: It is the intentions of the Board of Supervisors by this Amendment to delete any reference to Section 802(a)(2) and permit pigs as an agricultural use under the applicable Zoning Ordinance.

§802. Keeping of Certain Animals Prohibited.

(a) Wild or Exotic Animals Prohibited. No person shall keep a wild or exotic animal in any place except: (1) a zoological park; (2) a veterinary hospital (not boarded) or clinic; (3) a humane society; (4) circus, sideshow, or amusement show; (5) facility used for educational or scientific purposes, which provides proper cages, fences and other protective devices adequate to prevent such animals from escaping or injuring the public, or causing a health hazard due to fecal matter, or otherwise; and (6) as permitted under the applicable Zoning Ordinance.


PURPOSE: It is the intentions of the Board of Supervisors by this Amendment to add a reference to the permitting of such animals under the applicable Zoning Ordinance.

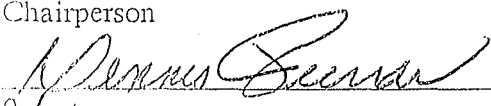
This Amendment shall take effect immediately upon its adoption.

The remaining sections of the Ordinance, as amended, shall remain the same unchanged, except as otherwise provided herein.

ENACTED AND ORDAINED by the Black Creek Township Board of Supervisors on this the 5 day of June, 2012.

BLACK CREEK TOWNSHIP BOARD OF
SUPERVISORS:


Chairperson


Secretary

Weasels (Mustelidae): All including weasels, martens, mink, wolverine, ferrets, badgers, otters, ermine, mongoose, etc., excluding domesticated ferrets, in accordance with Section 802(a)(1) below.

§802. Keeping of Certain Animals Prohibited

(a) **Wild or Exotic Animals Prohibited.** No person shall keep a wild or exotic animal in any place except a zoological park, veterinary hospital (not boarded) or clinic, humane society, or circus, sideshow, amusement show or facility used for educational or scientific purposes, which provides proper cages, fences and other protective devices adequate to prevent such animals from escaping or injuring the public, or causing a health hazard due to fecal matter, or otherwise.

(b) **Domesticated Ferrets** are permitted as house pets provided that the following requirements are met:

- (1) Ferrets must be de-scented.
- (2) Ferrets must be spayed or neutered.
- (3) Ferrets are to be vaccinated, except as otherwise provided herein.
- (4) Vaccination documents or a statement from a licensed veterinarian advising against a vaccination shall be furnished upon request.
- (5) No breeding of ferrets is permitted.
- (6) Ferrets are not to be at large when outdoors.

(c) **Vietnamese Potbellied Pigs** are permitted as house pets provided that the following requirements are met:

- (1) The pet owner is to obtain a document from a licensed veterinarian or a nationally recognized registry certifying that the pet is a Vietnamese Potbellied Pig.
- (2) Vietnamese Potbellied Pigs are to be spayed or neutered.
- (3) No breeding of Vietnamese Potbellied Pigs is permitted.
- (4) Vietnamese Potbellied Pigs are to be vaccinated, except as otherwise provided herein. Vaccination documents or a statement from a licensed veterinarian advising against vaccination shall be furnished upon request.

(d) The fostering or keeping of a service animal is permitted in a household provided the following requirements are met:

- (1) No more than one service animal is permitted.
- (2) Upon request, the property owner is to furnish documentation certifying that the animal has been trained or is being fostered in accordance with a training program administered by a non-profit organization.

§803. Sale, Exchange, Adoption, or Transfer of Wild or Exotic Animals Prohibited. No person shall sell, offer for sale, adopt, exchange or transfer, with or without charge any wild or exotic animal. This subsection is not intended to apply to persons owning or possessing wild or exotic animals prior to the passage of this Part, provided that the person or persons taking possession of such wild or exotic animal following the sale, adoption, exchange or transfer is/are not a resident of the Township.

§804. Disposition and Impoundment. Any person who keeps a wild or exotic animal in violation of this Part must dispose of the animal by removal of the animal from the Township or by giving the animal to the Township Code Enforcement Officer, a police officer or other designated official of the Township. The officer or official who is given the animal is authorized to release the animal to the wild, to a zoological park, or to dispose of the animal in some humane manner depending on the type of animal. The owner shall either pay directly or reimburse the Township for the cost of removal and/or placement at a park or other facility.

§805. Permitting Wild or Exotic Animals Owned at the Time of Passage of the Part. Any person owning or possessing a wild or exotic animal at the time of enactment of this Part may, pending the approval of the Township Zoning Officer, obtain a permit and non-conforming status for the wild or exotic animal provided that:

- (a) The wild or exotic animal must be within the possession and control of the owner and residing within the Township at the time this Part was publically announced for advertisement of adoption.
- (b) There have been no prior problems or complaints against the owner or possessor resulting in health or safety concerns relating to the wild or exotic animal proposed to be permitted.
- (c) A permit application and non-conforming use application is filed with the Township Zoning Officer within thirty (30) days of the effective date of this Part. Such application is to include:
 - (1) Species, age and sex of the wild animal or exotic animal.
 - (2) A plan for the housing and containment for the wild or exotic animal must be reviewed, inspected and approved by the Township Building Official as adequate to prevent such animal from escaping or injuring the public. (Any changes to the containment plans or facilities already permitted must be submitted to and approved by the Building Official before changes may be implemented).

- (3) A permit fee of One Thousand Dollars (\$1,000.00) per wild or exotic animal shall be paid by the owner or possessor of such animal to the Zoning Officer. A copy of the permit shall also be filed with the applicable police department/agency and the Code Enforcement Officer.
- (4) Upon the death, sale, adoption, exchange, transfer or disposal of a wild or exotic animal, the animal may not be replaced.
- (5) If such wild or exotic animal is to be taken to any public place, it shall not be free to roam and must be controlled by a leash or cage. The permit for such animal must be carried by the owner or possessor.

§806. Enforcement. This Part may be enforced by any office of the Township, any police officer, or code official. The Township Solicitor may assist in any prosecution for a violation of this Part.

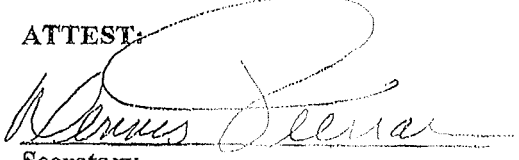
§807. Administration. For the purpose of administering this Part, owner means and includes every person, firm or corporation having a right of property in any animal which is kept, harbored, or cared for within the Township for any length of time no matter how short as well as every person, firm or corporation occupying any premises within the Township which permits any animal to remain on or about its premises for any length of time.

§808. Penalties. Any person who violates any provision of this Part shall be subject to a fine of not more than Six Hundred (\$600.00) Dollars, plus costs and reasonable attorney fees, or thirty (30) days imprisonment or both. Each day that a violation continues shall constitute a separate violation or offense.

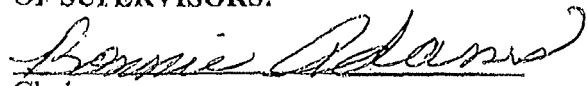
§809. Effective Date. This Ordinance shall become effective immediately upon its adoption.

Part 7 and Part 8 of Chapter 11 of the Code of Ordinances is hereby enacted and adopted by the Black Creek Township Board of Supervisors this 7 day of December, 2010.

ATTEST:


Secretary

BLACK CREEK TOWNSHIP BOARD
OF SUPERVISORS:


Chairperson

ORDINANCE NO 3 of 2013

AN ORDINANCE OF BLACK CREEK TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA, AMENDING CHAPTER 11, HEALTH AND SAFETY, ESTABLISHING A PART 9, DUMPING AND LITTERING PROHIBITED

An Ordinance of Black Creek Township amending Chapter 11, Health and Safety, Part 9, Dumping and Littering Prohibited, declaring dumping and littering illegal, providing appeal rights and notice in certain instances, and prescribing penalties for violations.

The Supervisors of Black Creek Township do hereby adopt the following amendments to the Code of Ordinances:

Chapter 11 HEALTH AND SAFETY

Part 9 Dumping and Littering Prohibited

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

1. BOARD OF SUPERVISORS- The Black Creek Township Board of Supervisors, Luzerne County, Pennsylvania.
2. CONSTRUCTION MATERIALS- includes old, discarded, used, broken or abandoned windows, doors, shingles, siding, wood, tile, flooring, drywall, paneling and the like not intended to be installed on or in a structure.
3. GARBAGE-includes all table refuse, animal and vegetable matter, offal from meat, fish and fowl, fruits, vegetables and parts thereof, offal and other articles and materials ordinarily used for food which have become unfit for such use or which are for any reason discarded.
4. JUNK-includes any discarded materials or articles such as is not ordinarily disposed of as rubbish or refuse such as scrap metal and scrap motor vehicles or parts thereof.
5. HAZARDOUS WASTE- means any toxic waste material (solid, liquid or gas), garbage, refuse, sludge from industrial or other wastewater or sewage plant sludge from a water supply treatment plant or air pollution control facility and other discarded material, including solid, liquid, semi-solid or contained gaseous material resulting from municipal, commercial, industrial, institutional, mining or agricultural operation, and from community activities, or any combination of these factors, which either: (a) Because of its quantity, concentration or physical, chemical or infectious characteristics, may: (1) Cause or significantly contribute to an increase in

mortality or morbidity in either an individual or the total population; or (2) Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, burned, incinerated, transported, disposed of or otherwise managed; or (b) Contains sodium or sodium byproducts or high or low level radioactive material or high or low level radioactive byproducts.

6. PERSON-includes a corporation, firm, company, partnership, trust, organization, association, sole proprietorship or individual.

7. REFUSE-means all discarded articles or materials except sewage and liquid wastes, and including garbage, rubbish, trash, ashes, combustible and noncombustible waste, industrial and commercial waste and construction materials.

8. TOWNSHIP- means Black Creek Township, Luzerne County, Pennsylvania.

§902. Dumping and Littering Prohibited. No person shall:

(a) Throw, deposit, place, or cause to be deposited or placed upon any highway, street, alley, or upon any other public or private property or into or on the waters, creeks, or streams within the Township, any construction materials, waste, sweepings, ashes, garbage, refuse, junk or rubbish, of any kind, or any dangerous or detrimental substance within the limits of the Township.

(b) Allow, permit or authorize any other person to throw, deposit, place, or cause to be deposited or placed upon any highway, street, alley, or upon any other public or private property or on the waters, creeks or streams within the Township, any construction materials, waste, sweepings, ashes, garbage, refuse, junk or rubbish, of any kind, or any dangerous or detrimental substance within the limits of the Township.

(c) Dump, process, treat, store, burn, incinerate, manage or dispose of or allow, consent, permit or authorize anyone to dump, process, treat, store, burn, incinerate, manage or dispose any hazardous waste within the limits of the Township.

§903. Enforcement; Violations and Penalties

(a) **Violations/Penalties.** Any person who violates any provision of this Ordinance shall, upon conviction thereof, be subject to the payment of a fine of Five Hundred (\$500.00) Dollars; and in default of payment, to imprisonment for a term not to exceed fifteen (15) days. A separate offense shall be deemed committed on each day during which a violation occurs or continues.

(b) **Removal.** Any person who is found guilty of violating §902 above shall immediately remove the garbage, refuse, junk, construction materials or hazardous waste or cause it to be removed and disposed of by a licensed waste hauler within Luzerne County, Pennsylvania, or at a facility authorized to accept such waste within Luzerne County, Pennsylvania. In the event that the violator fails to remove the garbage, refuse, junk, construction

materials or hazardous waste, then the Township may remove it at the violators costs and expenses. The Township may institute a civil action against the violator under this Ordinance for the removal costs, together with court costs and attorney fees.

(c) **Enforcement.** Any police officer or the Code Enforcement Officer shall have the power to enforce the provisions of this Ordinance.

§904. Severability. The provisions of this Ordinance are declared to be severable. If this Ordinance or any section is declared by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall have no effect on the remaining provisions of this ordinance.

§905. Effective Date. This amendment to the Ordinance shall become effective immediately following its adoption.

This Ordinance is hereby duly enacted and adopted this 4th day of June, 2013.

ATTEST:

Secretary

**BLACK CREEK
TOWNSHIP SUPERVISORS:**

By:

Chairman

By:

Vice Chairman

By:

Supervisor

CHAPTER 12

MOTOR VEHICLES AND TRAFFIC

Part 1

Stopping, Standing and Parking Regulations

- §101. Stopping, Standing and Parking Outside Business and Residence Districts
- §102. Prohibitions in Specified Places
- §103. Parking on Private Property
- §104. Additional Parking Regulations
- §105. Parking of Commercial Equipment
- §106. Violation and Penalties
- §107. Removal of Vehicle by or at the Direction of Police or Code Enforcement Officer
- §108. Severability
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Part 2

Traffic Regulations

- §201. Maximum Speed Limits
 - §202. One-way Streets Established
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 - §205. Regulation of Traffic on Privately Owned Business Lots which are held open to the Public as Business Invitees
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- Motor Vehicle and Traffic Appendices

Part 3

Removal and Impounding of Certain Vehicles

- §301. Provisions
- §302. Abandoned Vehicle Defined
- §303. Authority to Remove and Impound
- §304. Costs of Towing and Storage
- §305. Notification of Removal and Impounding
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- §307. Effect of Payment of Towing and Storage Charges
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- §309. Severability

Part 4
Motor Vehicle Nuisances

- §401. Definitions
- §402. Motor Vehicle Nuisances Prohibited
- §403. Storage of Motor Vehicle Nuisances Prohibited
- §404. Inspection; Notice to Comply
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- §406. Hearing
- §407. Penalties
- §408. Remedies Not Mutually Exclusive
- §409. Repealer
- §410. Severability
- §411. Effective Date

CHAPTER 12

MOTOR VEHICLES & TRAFFIC

Part 1

Stopping, Standing and Parking Regulations

§101. Stopping, Standing and Parking outside Business and Residence Districts.

- A. General Rule – outside a business or residence district, no person shall stop, park or stand any vehicle, whether unattended, upon the roadway when it is practicable to stop, park or stand the vehicle off the roadway. In the event it is necessary to stop, park or stand the vehicle on the roadway or any part of the roadway, an obstructed width of the highway opposite the vehicle shall be left the free passage of the other vehicles and the vehicle shall be visible from a distance of 500 feet in each direction upon the highway.
- B. Exception for Disabled Vehicles -- this section and Section 102 (relating to prohibitions in specified places) and Section 104 (relating to additional parking regulations) do not apply to the driver of any vehicle which is disabled in such a manner and to such an extent that it is impossible to avoid stopping and temporarily leaving the vehicle in the position.

§102. Prohibitions in Specified Places. Except when necessary to avoid conflict with other traffic or to protect the safety of any person or vehicle, or in compliance with law or the direction of a police officer or official traffic control device, the following prohibitions shall be effect:

- A. Stopping, standing or parking a vehicle is expressly prohibited under the following circumstances:
 - 1. On the roadway side of any vehicle stopped, or parked at the edge, or curb of the Street
 - 2. On any sidewalk.
 - 3. Within any intersection.
 - 4. On any crosswalk.
 - 5. Alongside or opposite any street excavation or obstruction which would obstruct traffic.
 - 6. Upon any bridge or other elevated structure.

7. On public or private property which is expressly reserved for handicapped persons or disabled veterans where said property has been posted in accordance with the regulations of the Pennsylvania Department of Transportation.

8. At any place where official signs prohibit the same.

9. Said signs to be erected by the Township under this Ordinance where deemed necessary to protect the health, safety and welfare of the public.

B. Standing and parking vehicles is expressly prohibited under following circumstances.

1. In front of a public or private driveway.

2. Within fifteen (15) feet of a fire hydrant.

3. Within twenty (20) feet of a crosswalk at an intersection.

4. Within thirty (30) days of any flashing signal, stop sign, yield sign or traffic control signal located at the site of a roadway.

5. Within twenty (20) feet of the driveway entrance to any fire station or when property posted on the side of a Street opposite the entrance of any fire station within seventy-five (75) feet of the entrance.

6. At any place where official signs prohibit same.

§103. Parking on Private Property.

A. No person shall park or leave unattended a vehicle on private property without consent of the owner or other person in control of possession of the property; except in the case of an emergency or disablement of the vehicle, in which case the operator shall arrange for the removal of the vehicle as soon as possible.

B. The provisions of Section 103(A) shall not apply to private parking lots unless such lots are posted to notify the public of any parking restrictions in which case the operator of a vehicle should not violate said posted restrictions. For the purpose of this section, "private parking lot" means a parking lot open to the public and used for parking with or without charge.

§104. Additional Parking Regulations. Every vehicle which is standing or parked on a two-way highway shall be positioned parallel to either the curb or the edge of the highway and in all cases in the direction of authorized traffic movement. The vehicle shall be parked such that the right-hand wheels are within twelve (12) inches of the right-hand curb. Or in the absence of a curb, the vehicle shall be parked such that the left hand wheels are at least

twelve (12) inches from the curb, or in the absence of a curb, as close as practicable to the shoulder of the road.

§105. Parking of Commercial Equipment.

- A. No commercial equipment, including but not limited to trucks, tandems (in excess of one ton capacity), tractor trailers, tractors or other commercial construction, or cargo moving vehicles or equipment shall be parked upon any highway or street within the Township of Black Creek after completion of the normal working day.
- B. Exceptions. The following are exceptions to the restrictions set forth in Section 105(A) above:
 - 1. Any commercial equipment described in this section may legally park for the purpose of delivering goods or rendering services during the normal course of business provided that such vehicle does not substantially impede the flow of vehicular traffic.
 - 2. Vehicles being used for the purpose of road construction shall be permitted to park, stand or stop on any highway or street within the Township of Black Creek when construction is in progress upon said highway or street.

§106. Violation and Penalties.

- A. Violations of Section 102, Subsection A-7 (Handicapped & Disabled Veteran Parking). Any person violating the provisions of Section 102, Subsection A-7 of this Ordinance shall be guilty of a summary offense and upon conviction before a District Justice shall be fined \$50.00 plus costs of prosecution. In default of the payment of any fine, such person shall be liable for imprisonment of not more than ten (10) days in the Luzerne County prison.
- B. Violations of the provisions of Section 105, subsection A-2 of this Ordinance shall be guilty of a summary offense and upon conviction before a District Justice shall be fined \$25.00 plus costs of prosecution. In default of the payment of any fine, such person shall be liable for imprisonment of not more than ten (10) days in the Luzerne County prison.
- C. Violations of all section except Section 102, subsection A7 and any person violating the provisions of any of the sections except Section 102, subsection A7 of this Ordinance shall be guilty of a summary offense and upon conviction before a District shall be fined \$15.00 plus costs of prosecution. In default of the payment of any fine, such personal shall be liable for imprisonment of not more than ten (10) days in the Luzerne County Prison.
- D. Reduced Penalty. In any case where a police officer of the Township of Black Creek shall first give notice of the offense by handling to the offending operator or affixing

securely to the motor vehicle illegally parked hereunder a ticket on which he has noted the time and place of the offense, the nature of the offense and the license registration of the vehicle and bearing the statement that no prosecution shall be instituted for seventy-two (72) hours thereafter, and if during the said seventy-two (72) hour period, the offending operator shall voluntarily appear at the police department of and for Black Creek Township and voluntarily enter a plea of guilty and pay the appropriate fine payable to Black Creek Township then no further prosecution on for said offense shall thereafter be brought, In the alternative, said offender may forward to the office of the Police in and for Black Creek Township by regular mail the appropriate fine and no prosecution for the offense shall be thereafter brought so long as the envelope is postmarked within seventy-two (72) hours of the violation.

§107. Removal of Vehicle by or at the Direction of Police or Code Enforcement Officer.

- A. In addition to the penalties herein provided, whenever any police officer or code enforcement officer finds an attended vehicle in violation of any provisions of this Ordinance, the officer may move the vehicle or cause the vehicle to be moved or require the driver or other person in charge of the vehicle to move the vehicle to a position off the roadway where the vehicle will not interfere unduly with the normal movement of traffic or constituted safety hazard.
- B. In addition to the penalties herein provided, whenever any police officer or code enforcement officer finds an unattended vehicle in violation of any provisions of this Ordinance the officer may remove or cause to be removed to the place of business of the operator of a wrecker or to a nearby garage or other place of safety selected by the Township; that said owner of said vehicle, if known, together with the address, shall be notified in writing of the fact of said removal, and the place of deposit of said vehicle; that said vehicle may be reclaimed and surrendered upon payment of the towing and storing charges.

§108. Severability. The provisions of this Ordinance shall be held illegal, invalid, unconstitutional by any Court of competent jurisdiction, such decision of the Court shall not affect or impair the remaining sections, sentences, clauses or phases of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted has such invalid or unconstitutional section, sentence, clause or phrase not have been included herein. Furthermore, it is the intent of this Ordinance to be supplementary to and not contrary to any laws of the Commonwealth of Pennsylvania or regulations of any of its executive agencies.

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

§110. Effective Date. The Ordinance shall take effect and be enforced from and after its approval as provided by law.

(Ord. No. 3-2002, 3/05/02, revised)

EDITOR'S NOTE: The Ordinance was changed at the time of adoption of the Code of Ordinances to allow for enforcement and administration by the Code Enforcement Officer in addition to a Police Officer and the term Magistrate was changed to District Justice pursuant to the change in title or designation by state law.

Part 2

Traffic Regulations

§201. Maximum Speed Limits. No person shall operate any vehicle upon any portion of a street in the Borough listed in Appendix I-A, that is incorporated by reference into and made a Part of this section, at a greater rate of speed than the maximum prescribed for that Part of the street in that appendix.

§202. One-way Streets established. One-way streets are established as listed in Appendix I-B, which is incorporated by reference into and made a Part of this section. It shall be unlawful for any person to drive a vehicle upon a one-way street other than in the direction established for traffic upon that street.

§203. Stop Intersections established. Those intersections listed in Appendix I-C, which is incorporated by reference into and made a Part of this section are established as stop intersections, and official stop signs shall be erected (or are ratified if previously erected) in such a position as to face traffic approaching the second-named street upon the first-named street at each stop intersection. Every driver of a vehicle who approaches the intersection upon the first-named street, in the direction indicated in each case, shall stop the vehicle as required by Section 3323(b) of the Vehicle Code and shall not proceed into or across the second-named street until he or she has followed all applicable requirements of that section of the law.

§204. Vehicle Weight Limits established. On those streets and portions of streets listed in Appendix I-D, which is incorporated by reference into and made a Part of this section, vehicle weight limits are established by authority granted by Section 4902(a) of the Vehicle Code, and it shall be unlawful for any person to drive on any of those streets or portions of streets, as the case may be, any vehicle or combination having a gross weight in excess of the maximum prescribed for that street or portion of street.

§205. Regulation of Traffic on Privately Owned Business Lots which are held open to the Public as Business Invitees.

(a) As used in this section, the term "public parking lot" shall refer to privately owned business parking lots impliedly or expressly held open to the public as business invitees.

(b) Vehicle traffic upon parking lots is regulated as follows:

(1) No person shall drive a vehicle on a public parking lot at a speed greater than 15 miles per hour.

(2) No person shall drive a vehicle on a public parking lot in other than a safe and prudent manner after having given due regard to the actual and potential hazards then existing, including other motor vehicles, pedestrians and other obstacles such as shopping carts.

(3) Upon written permission given by the land owner, the Borough may erect appropriate signs in a public parking lot to give the public notice of pertinent provisions of this section.

§206. Applicability. This Ordinance shall be enforced in accordance with the provisions of the Vehicle Code of Pennsylvania as it pertains to fines and other penalties.

§207. Severability. Should any provision of this Ordinance be found unconstitutional or otherwise illegal or in any other manner unenforceable, the remaining sections of the ordinance shall remain in full force and effect.

§208. Effective Date. This Ordinance shall take effect five (5) days after enactment thereof.

(Ord. No. 1-2002, 3/05/02).

MOTOR VEHICLE AND TRAFFIC APPENDICES

Appendix I-A Maximum Speed Limits

<u>Street</u>	<u>Between</u>	<u>Speed Limit</u>
Tomhicken Road	Town of Derringer and Black Creek Township line	35 MPH
Tomhicken Road	Town of Derringer and Fern Glen Road	35 MPH
Tomhicken Road	Fern Glen Road and the Town of Gowen	25 MPH
Tomhicken Road	Town of Gowen and Rock Glen Road	35 MPH
Tomhicken Road	Town of Rock Glen and Rock Glen Road	35 MPH
Hazle Street (Weston)	Mahoney Street and dead end	35 MPH
Weston Road (SR. 3024)	Schuylkill County line and Hazle Township line	35 MPH
Tomhicken Road	Old Bridge and Rock Glen Road	10 MPH
Park Street	Tomhicken Road and Mountain Street	15 MPH
Mountain Street	Tomhicken Road and Seiwel Lane	20 MPH
Seiwel Lane	Mountain Street and Rock Glen Road	15 MPH
Rock Glen Road	Columbia County Line and Red Fox Lane	40 MPH
Rock Glen Road	Red Fox Lane and Sugarloaf Township line	35 MPH
Chicks Lane	Scotch Valley Road and Tower Road	15 MPH
Scotch Valley Road	Rock Glen Road and Columbia County line	35 MPH
Tower Road	Chicks Lane and Cedar Head Road	15 MPH
Hill Top Drive	Tower Road and Black Creek Township line	10 MPH
Cedar Head Road	Tower Road and Tank Road	35 MPH
Golf Course Road	Rock Glen Road and Cedar Head Road	25 MPH
Church Road	Golf Course Road and County Road	35 MPH
Red Fox Lane	County Road and Rock Glen Road	10 MPH
Mt. Laurel Trail	County Road and Tank Road	15 MPH
County Road	Rock Glen Road and Sugarloaf Township line	35 MPH

Appendix I-B One-way Streets

<u>Highway</u>	<u>From</u>	<u>To</u>	<u>Direction</u>
Line Street	Hazle Street	Market Street	South

Appendix I-C

Stop Intersections

<u>Stop Signs</u>	<u>Intersections</u>	<u>Through Street</u>	<u>Direction</u>
Nuremberg Mtn. Road	Tomhicken Road - Nuremberg Mtn. Road	Tomhicken Road	Southwest
Nuremberg Mtn. Road	Nuremberg Mtn. Road - Weston By Pass Rd.	Weston By Pass Road	East
Nuremberg Mtn. Road	Nuremberg Mtn. Road - Nuremberg Mtn. Road	Tomhicken Road	Southeast
Weston By Pass Road	Hazle Street - Weston By Pass Road	Hazle Street	East
Spring Street	Spring Street - Hazle Street	Spring Street	South
Line Street	Hazle Street - Line Street	Hazle Street	South
Derringer Street	Hazle Street - Derringer Street	Derringer Street	South
Derringer Street	Hazle Street - Derringer Street	Derringer Street	West
Derringer Street	Hazle Street - Derringer Street	Derringer Street	East
Sigmond Street	Market Street - Sigmond Street	Market Street	East
Sigmond Street	Market Street - Sigmond Street	Market Street	South
Derringer Street	Main Street - Derringer Street	Derringer Street	South
Derringer Street	Main Street - Derringer Street	Derringer Street	East
Sigmond Street	Main Street - Sigmond Street	Main Street	East
Center Street	Weston Rd. (3024) - Center Street	Weston Road	South
Weston Road	Weston Rd. (3024) - Derringer Street	Weston Road	West
Weston Road	Weston Rd. (3024) - Derringer Street	Weston Road	South
Line Street	Weston Rd. (3024) - Line Street	Weston Road	South
Top Street	Top Street - Derringer Street	Derringer Street	West
Top Street	Top Street - Derringer Street	Derringer Street	East
Pineapple Street	Hazle Street - Pineapple Street	Hazle Street	North
Walnut Street	Hazle Street - Walnut Street	Hazle Street	South
Market Street	Market Street - Line Street	Line Street	East
Main Street	Main Street - Line Street	Line Street	East
Main Street	Main Street - Derringer Street	Derringer Street	East
Grove Street	Grove Street - Derringer Street	Derringer Street	East
Grove Street	Grove Street - Line Street	Line Street	North
Main Street	Main Street - Center Street	Center Street	East
Sigmond Street	Sigmond Street - Hazle Street	Hazle Street	North
Tomhicken Road	Tomhicken Road - Rock Glen Road	Rock Glen Road	North

Boulevard Road	Rock Glen Road - Boulevard Road	Rock Glen Road	South
Boulevard Road	Scotch Valley Road - Boulevard Road	Scotch Valley Road	West
Scotch Valley Road	Scotch Valley Road - Rock Glen Road	Rock Glen Road	South
Chicks Lane	Scotch Valley Road - Chicks Lane	Scotch Valley Road	South
Chicks Lane	Chicks Lane - Tower Road	Chicks Lane	North
Tower Road	Tower Road - Chicks Lane	Tower Road	West
Seiwell Lane	Rock Glen Road - Seiwell Lane	Rock Glen Road	North
Mountain Street	Seiwell Lane - Mountain Street	Seiwell Lane	West
Spruce Street	Spruce Street - Rock Glen Road	Rock Glen Road	North
Maple Street	Maple Street - Rock Glen Road	Rock Glen Road	North
Cedar Head Road	Cedar Head Road - Rock Glen Road	Rock Glen Road	South
Cedar Head Road	Tower Road - Cedar Head Road	Cedar Head Road	North
Cedar Head Road	Tower Road - Cedar Head Road	Cedar Head Road	West
Hill Top Drive	Tower Road - Hill Top Road	Tower Road	South
Golf Course Road	Golf Course Road - Cedar Head Road	Cedar Head Road	North
Golf Course Road	Golf Course Road - Cedar Head Road	Cedar Head Road	South
Church Road	Golf Course Road - Church Road	Golf Course Road	South
Tank Road	Tank Road - Cedar Head Road	Cedar Head Road	South
Mountain Laurel Trail	Cedar Head Road - Mt. Laurel Trail	Cedar Head Road	North
Gross Road	Cedar Head Road - Gross Road	Cedar Head Road	North
Gross Road	Cedar Head Road - Gross Road	Cedar Head Road	South
Windfield Village	W. County Road - Winfield Village Road	W. County Road	South
Windy Road	Windy Road - Winfield Village Road	Windfield Village	West
Red Fox Lane	Red Fox Lane - W. County Road	W. County Road	North
Church Road	Church Road - W. County Road	W. County Road	East
Mountain Laurel Trail	Mt. Laurel - Church Road	Church Road	South
Red Fox Lane	Red Fox Lane - Rock Glen	Rock Glen Road	South
W. County Road	W. County Road - Rock Glen Road	Rock Glen Road	West
Gateway Road	Rock Glen Road - Gateway Road	Rock Glen Road	North
Alexander Drive	Alexander Street - Rock Glen Road	Rock Glen Road	North
Hanna Street	Hanna Street - Alexander Drive	Alexander Drive	East
Hanna Street	Dawn Street - Hanna Street	Hanna Street	West
Hanna Street	Dawn Street - Hanna Street	Hanna Street	East
Hanna Street	Dawn Street - Hanna Street	Hanna Street	North

Hanna Street	Dawn Street - Hanna Street	Hanna Street	South
Tammy Lane	Tammy Lane - Hanna Street	Tammy Lane	South
Tammy Lane	Tammy Lane - Dawn Street	Tammy Lane	South
Buck Run Drive	Buck Run Drive - Rock Glen Road	Rock Glen Road	North
MacIntosh Lane	Buck Run Drive - MacIntosh Lane	Buck Run Drive	East
Delicious Drive	MacIntosh Lane - Delicious Drive	MacIntosh Lane	North
Golf Course Road	Golf Course Road - Rock Glen Road	Rock Glen Road	S.W.
Park Street	Park Street - Mountain Street	Mountain Street	South
Pine Street	Pine Street - Mountain Street	Mountain Street	North
Pine Street	Pine Street - Mountain Street	Mountain Street	South
Mountain Street	Mountain Street - Tomhicken Road	Tomhicken Road	East
Falls Street	Falls Street - Tomhicken Road	Tomhicken Road	East
Falls Street	Falls Street - Pine Street	Falls Street	East
Falls Street	Falls Street - Pine Street	Falls Street	North
Falls Street	Falls Street - Pine Street	Falls Street	West
Falls Street	Falls Street - Pine Street	Falls Street	South
Pine Street	Pine Street - Tomhicken Road	Tomhicken Road	East
Park Street	Park Street - Tomhicken Road	Tomhicken Road	East
Brush Street	Brush Street - Pineapple Street	Pineapple Street	East
Stauffer Avenue	Stauffer Avenue - Nuremberg Mtn. Road	Nuremberg Mtn. Road	South
Larock Road	Larock Road - Red Rock Road	Red Rock Road	South

Appendix I-D
Vehicle Weight Limits

Street	Between	Weight limit (tons)
Tower Road	Corner of Hill Top Drive and Tower Road	3 tons
Tower Road	Cedar Head Road and Tower Road	3 tons
Hill Top Drive	Tower Road and Township line	10 tons
Red Rock Road	Cedar Head Road and dead end	10 tons

Part 3
Removal and Impounding of Certain Vehicles

§301. Provisions.

1. Junk yards and salvage yards are prohibited except as allowed by the Zoning Officer or Zoning Hearing Board under the use provisions of the Zoning Ordinance.
2. The possession of an abandoned automobile or parts thereof other than in a fully enclosed building shall be prohibited except in a junk yard or salvage yard, or in an impounding garage or lot authorized by the Board of Supervisors for storage of illegally situated vehicles.

§302. Abandoned Vehicle Defined.

1. "Abandoned Automobile" shall, without limitation, be conclusively presumed to include any motor vehicle as to which one or more of the following conditions exist.
 - a. A vehicle for which a certificate of junk has been issued by the Secretary of Revenue, Commonwealth of Pennsylvania, or the official designated by any other state to issue such certificate.
 - b. The engine or engine parts of which have been removed for more than fifteen (15) days.
 - c. The tires of which have been deflated or wheels removed, for more than seven (7) days.
 - d. A vehicle bearing no official inspection sticker, or a sticker not currently valid, or not bearing a current license tag.
 - e. A vehicle left unattended for more than three (3) days upon any public highway or street where:
 - i. The owner or operator does not reside,
 - ii. The owner or operator is not engaged in any lawful business or visiting the owner or occupier of any property abutting the said highway or street, or
 - iii. Said vehicle is not capable of being moved under its own power.

§303. Authority to Remove and Impound. Any abandoned automobile (vehicle), the possession of which is prohibited under this or any other Ordinance of Black Creek Township, may be removed or caused to be removed by the Code Enforcement Officer,

pursuant to the following provisions of this Ordinance. Any such abandoned automobile may be towed and stored in such storage areas or garages as designated by the Code Enforcement Officer; the designation of same shall be kept currently posted in Township Office.

§304. Costs of Towing and Storage. The charge for towing and storage of an abandoned automobiles shall be the responsibility of the owner of the automobile. The Board of Supervisors shall approve the costs of towing and storage to ensure they are reasonable.

§305. Notification of Removal and Impounding. The Code Enforcement Officer, within 24 hours after abandoned automobile has been removed, shall notify the owner of record of such abandoned automobile by certified mail, return receipt requested, that the vehicle has been impounded; the place from which it was removed; the reason for its removal and impounding; and the place where the vehicle has been impounded. Any notice required by this Ordinance to be given to the alleged owner of an abandoned automobile shall be sufficient if sent to the last known name and address obtained from the Pennsylvania Department of Revenue; any notice required to be given the owner of land shall be sufficient if sent to the name and address obtained from the most recent tax duplicate prepared by the Luzerne County Board of Assessment and Revision of Taxes.

§306. Recovery of Property. Following the effective date of the Ordinance, it shall be the duty of any owner of an abandoned automobile, or the owner, lessee or occupant of the real property upon which there is an abandoned automobile, to remove or cause to be removed said abandoned automobile within a reasonable time, but not more than fifteen (15) days after receipt of notice from the Code Enforcement Officer to do so.

§307. Effect of Payment of Towing and Storage Charges. Each day of violation of Section 306, above, exists shall be deemed a separate offense and punishable as hereinafter provided:

Any person in violation of Section 306, above, shall upon summary conviction before a District Justice, be sentenced to pay a fine of not less than \$10.00, nor more than \$100.00 for each offense, and costs. In default of the payment of a fine, the person so offending may be committed to jail for a period not exceeding five (5) days. Such fines shall be payable to Black Creek Township. Towing and storage charges shall be recoverable in a civil action in the name of Black Creek Township, including the reimbursement of court costs and attorney fees.

§308. Records of Removed and Impounded Vehicles. Black Creek Township shall keep a record of the following:

- a. The names and addresses of all owners of vehicles impounded;
- b. The names and addresses of all owners of vehicles impounded;
- c. The license numbers and such information as may identify the vehicle;

- d. The nature and circumstances of the impounding of the vehicle;
- e. The violation of the law or ordinance on account of which the vehicle was impounded; and
- f. The final disposition of the case.

If the registered owner fails to claim the vehicle within fifteen (15) days of the date of removal thereof, the Code Enforcement Officer may request an investigation by the Secretary of Revenue of the Commonwealth pursuant to the provisions of the Vehicle Code.

§309. Severability. 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 any parts thereof.

EDITOR'S NOTE: This Ordinance was adopted in June of 1970 and is included in this Code for re-adoption as revised.

Part 4
Motor Vehicle Nuisances

§401. Definitions. The following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

1. **Lessee** - Owner for the purpose of this Ordinance when the lessor holds the lessee responsible for maintenance and repairs.
2. **Motor Vehicle** - Any type of mechanical device, propelled by a motor, in which persons or property may be transported upon public streets or highways and including trailers or semi-trailers pulled thereby.
3. **Nuisance** - Any condition, structure or improvement which shall constitute a threat or potential threat to the health, safety or welfare of the citizens of the Township of Black Creek.
4. **Owner** - The actual owner, agent or custodian of the property on which motor vehicles are stored, whether individual or partnership, association or corporation.
5. **Person** - A natural person, firm, partnership, association, corporation or other legal entity.

In this Ordinance, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

§402. Motor Vehicles Nuisances Prohibited. It shall be unlawful for any person, owner or lessee to maintain a motor vehicle nuisance upon the open private grounds of such person, owner or lessee within the Township of Black Creek. A motor vehicle nuisance shall include any motor vehicle, which is unable to move under its own power and has any of the following physical defects:

1. Broken windshields, mirrors or other glass, with sharp edges;
2. One or more flat or open tires or tubes which could permit vermin harborage;
3. Missing door, windows, hood, trunk or other body parts, which would permit animal harborage;
4. Any body parts with sharp edges, including holes resulting from rust;
5. Missing tires resulting in unsafe suspension of the motor vehicle;
6. Upholstery, which is torn or open which could permit animal and/or vermin harborage;

7. Broken headlamps or tail lamps with sharp edges;
8. Disassembled chassis apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.
9. Protruding sharp objects from the chassis;
10. Broken vehicle frame suspended from the ground in an unstable manner;
11. Leaking or damaged oil pan or gas tank which could cause fire or explosion;
12. Exposed battery containing acid;
13. Inoperable locking mechanism for doors or trunk;
14. Open or damaged floor boards, including trunk and firewall;
15. Damaged bumpers pulled away from the perimeter of vehicle;
16. Broken grill with protruding edges;
17. Loose or damaged metal trim and clips;
18. Broken communication equipment antennae;
19. Suspended or unstable supports;
20. Such other defects which could threaten the health, safety and welfare of the citizens of the Township of Black Creek.

§403. Storage of Motor Vehicle Nuisances Permitted. Any person, owner or lessee who has one (1) or more motor vehicle nuisances as defined in Section 402 above may store such vehicle(s) in the Township of Black Creek only in strict compliance with the regulations provided herein. Such person, owner or lessee must, first, apply for a permit for either temporary or permanent storage and pay a fee to the Township of Black Creek such as may be provided from time to time by resolution of the Board of Supervisors. The motor vehicle nuisance(s) must be stored within a garage or other enclosed building or, outside within an opaque fence at least six feet (6') high which is locked at all times when unattended. With the special approval of the Board of Supervisors, motor vehicle nuisances may also be stored outside in an area enclosed by a chain link fence, at least six feet (6') high, screened by shrubbery around the perimeter to the height of the fence, with an unobstructed gate capable of admitting fire or emergency equipment. Such gate capable of admitting fire or emergency equipment. Such gate shall remain locked at all times when unattended. In addition, all gas and oil or of the flammable liquid shall be removed from the motor vehicle

and it shall be kept free of vermin infestation while being stored. The total area of storage of motor vehicle nuisances may not exceed four hundred (400) square feet.

Nothing herein shall be construed to permit the storage of motor vehicle nuisances contrary to the provisions of the Township of Black Creek Zoning Ordinance.

§404. Inspection; Notice to Comply.

- A. The Code Enforcement Officer is hereby empowered to inspect grounds on which motor vehicles are stored to determine if there is compliance with the provisions of this Ordinance. If noncompliance with the provisions of this Ordinance constitute a nuisance, or if any condition, structure or improvement poses a threat to the health, safety or welfare of the public, he shall issue a written notice to be served by registered or certified mail upon the owner of said premises, or, of the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.
- B. Said notice shall specify the condition or structure or improvement complained of, and shall require the owner to commence to remove or otherwise rectify the condition or structure or improvement as set forth therein within ten (10) days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

§405. Authority to Remedy Noncompliance. If the owner of grounds on which motor vehicles are stored does not comply with the notice to abate the conditions, within the time limit prescribed, the time limit prescribed, the Township of Black Creek shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus ten percent (10%) of all costs. The Township of Black Creek, in such event and pursuant to its statutory or otherwise authorized police powers, shall have the right and power to enter upon the offending premises to accomplish the foregoing.

§406. Hearing.

- A. Any person aggrieved by the determination of the Code Enforcement Officer may request and shall then be granted a hearing before the Township Board of Supervisors; provided the appellant files with the Board of Supervisors within ten (10) days after notice of the Code Enforcement Officer's determination.
- B. After such hearing, the Supervisors shall sustain, modify or overrule the action of the Code Enforcement Officer.

§407. Penalties. Any person who shall violate any provision of this Ordinance shall, upon conviction thereof, be sentenced to pay a fine of not less than fifty (\$50.00) dollars nor more than three hundred (\$300.00) dollars; and/or imprisonment for a term not to exceed ninety (90) days. Each day that a violation of this Ordinance continues shall constitute a separate offense.

§408. Remedies Not Mutually Exclusive. The remedies provided herein for the enforcement of this Ordinance, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Board of Supervisors.

§409. Repealer. All Ordinances or resolutions or parts of ordinances or resolutions, insofar as they are inconsistent therewith, are hereby repealed.

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

§411. Effective Date. This Ordinance shall become effective ten (10) days after its adoption.

(Ord. No. 2/1998, 12/01/95, as revised)

EDITOR'S NOTE: The Ordinance was changed at the time of adoption of the Code of Ordinances to allow for enforcement and administration by the Code Enforcement Officer instead of the Zoning Officer and to permit appeals to the Supervisors not the District Justice.

CHAPTER 14

SUBDIVISION AND LAND DEVELOPMENT

SUBDIVISION AND LAND DEVELOPMENT ORDINANCE

FOR BLACK CREEK TOWNSHIP

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ORDINANCE #12 OF
SUBDIVISION REGULATIONS
BLACK CREEK TOWNSHIP

ARTICLE 1

PURPOSE AND AUTHORITY

100 ADOPTION OF REGULATIONS:

THE FOLLOWING RULES AND REGULATIONS FOR THE SUBDIVISION OF LAND IN BLACK CREEK TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA, WERE ADOPTED BY RESOLUTION DATED JUNE 2, BY THE BLACK CREEK TOWNSHIP BOARD OF SUPERVISORS PURSUANT TO ACT OF 1953, P.L. 404 AS AMENDED.

101 GRANT OF POWER:

FOR THE PURPOSE OF ASSURING SITES SUITABLE FOR BUILDING PURPOSES AND HUMAN HABITATION, AND TO PROVIDE FOR THE HARMONIOUS DEVELOPMENT OF THE TOWNSHIP, FOR ADEQUATE OPEN SPACES FOR TRAFFIC, RECREATION, LIGHT AND AIR FOR PROPER DISTRIBUTION OF POPULATION, THEREBY CREATING CONDITIONS FAVORABLE TO THE HEALTH, SAFETY, MORALS, AND GENERAL WELFARE OF THE CITIZENS, THE BOARD OF TOWNSHIP SUPERVISORS IS EMPOWERED TO ADOPT, BY RESOLUTION, LAND SUBDIVISION REGULATIONS. SUCH REGULATIONS MAY INCLUDE DEFINITIONS, DESIGN STANDARDS, PLAN REQUIREMENTS, PLAN PROCESSING PROCEDURES, IMPROVEMENT CONSTRUCTION REQUIREMENTS, AND CONDITIONS OF ACCEPTANCE OF PUBLIC IMPROVEMENTS BY THE TOWNSHIP.

ARTICLE II

200 FOR THE PURPOSE OF THESE REGULATIONS, WORDS USED IN THE PRESENT TENSE INCLUDE THE FUTURE TENSE, AND THE TERM "SHALL AND WILL" ARE ALWAYS MANDATORY. UNLESS OTHERWISE EXPRESSLY STATED, THE FOLLOWING WORDS SHALL HAVE THE MEANING HEREIN INDICATED.

201 AVAILABLE SEWER:

A MUNICIPAL SEWER IS AVAILABLE IF IT IS ONE THOUSAND (1,000) FEET OR LESS FROM THE NEAREST POINT OF A SUBDIVISION.

202 BOARD:

BOARD OF ZONING ADJUSTMENT.

203 BUILDING OR STRUCTURE:

ANY STRUCTURE HAVING A FLOOR SUPPORTED BY COLUMNS OR WALLS AND DESIGNED FOR SHELTER OR HOUSING OF ANY PERSON, ANIMAL OR CHATTEL.

204 BUILDING LINE:

THE LINE WITHIN THE PROPERTY DEFINING THE REQUIRED MINIMUM DISTANCE BETWEEN ANY ENCLOSED STRUCTURE AND THE ADJACENT STREET RIGHT-OF-WAY.

205 CARTWAY:

THAT PORTION OF THE STREET RIGHT-OF-WAY SURFACED FOR VEHICULAR USE. THE WIDTH IS DETERMINED FROM THE FACE OF CURB TO FACE OF CURB.

206 CUL-DE-SAC:

A RESIDENTIAL STREET WITH ONE END OPEN FOR PUBLIC VEHICULAR AND PEDESTRIAN ACCESS AND THE OTHER END TERMINATING IN A VEHICULAR TURN-AROUND.

212 LOT DEPTH:

THE HORIZONTAL DISTANCE BETWEEN THE FRONT LOT LINE
AND THE REAR LOT LINE.

213 OPEN SPACE:

ANY AREA OF LAND WHICH IS PREDOMINANTLY FREE OF
STRUCTURES.

214 PLAN:

A. PLAN - FINAL:

A COMPLETE AND EXACT SUBDIVISION PLAN, PREPARED
FOR OFFICIAL RECORDING AS REQUIRED BY STATUTE, TO
DEFINE PROPERTY RIGHT AND PROPOSED STREETS AND
OTHER IMPROVEMENTS.

B. MASTER PLAN:

THE COMPLETE PLAN, OR ANY OF ITS PARTS, FOR THE
DEVELOPMENT OF THE MUNICIPALITY.

C. PLAN - PRELIMINARY:

A TENTATIVE SUBDIVISION PLAN, IN LESSER DETAIL THAN
A FINAL PLAN, SHOWING APPROXIMATE STREET AND LOT
LAYOUT ON A TOPOGRAPHIC MAP AS A BASIS FOR CONSID-
ERATION PRIOR TO PREPARATION OF A FINAL PLAN.

215 NET ACRE:

THE NUMBER OF SQUARE FEET, EXCLUDING ABOUT THIRTY (30)
PER CENT OF THE TOTAL LAND AREA WHICH IS DEVOTED TO PARKS,
SCHOOLS, CHURCHES, STREETS, ALLEYS, AND OTHER PUBLIC AND
QUASI-PUBLIC USES.

B. COLLECTOR:

STREETS WHICH, IN ADDITION TO GIVING ACCESS TO ABUTTING PROPERTIES, INTERCEPT MINOR STREETS AND PROVIDE ROUTES, CARRYING CONSIDERABLE VOLUMES OF LOCAL TRAFFIC TO COMMUNITY FACILITIES AND TO ARTERIAL STREETS.

C. MINOR STREETS:

STREETS USED PRIMARILY TO PROVIDE ACCESS TO ABUTTING PROPERTIES.

D. MARGINAL ACCESS:

MINOR STREETS PARALLEL AND ADJACENT TO ARTERIAL STREETS, PROVIDING ACCESS TO ADJOINING PROPERTIES AND CONTROL OF INTERSECTION WITH THE ARTERIAL STREETS.

E. ALLEY:

A MINOR RIGHT-OF-WAY PROVIDING SECONDARY VEHICULAR ACCESS TO THE SIDE OR REAR OF TWO (2) OR MORE PROPERTIES.

222 SUBDIVIDER:

THE OWNER OR AUTHORIZED AGENT OF THE OWNER OF THE SUBDIVISION:

223 SUBDIVISION:

THE DIVISION OF A SINGLE LOT, TRACT OR PARCEL OF LAND, OR PART THEREOF, INTO TWO OR MORE LOTS, TRACTS, OR PARCELS OF LAND, INCLUDING CHANGES IN STREET LINES OR LOT LINES FOR THE PURPOSE; WHETHER IMMEDIATE OR FUTURE, OF TRANSFER

FROM THE FRONT LINE OF THE BUILDING TO THE REAR LINE OF THE BUILDING. CORNER LOTS SHALL HAVE A STREET SIDE YARD OF THE SAME DIMENSIONS AS A FRONT YARD.

226 VARIANCE:

WHEN THE SUBDIVIDER CAN SHOW THAT A PROVISION OF THESE REGULATIONS WOULD CAUSE UNNECESSARY HARDSHIP IF STRICTLY ADHERED TO AND WHERE, BECAUSE OF TOPOGRAPHICAL OR OTHER CONDITIONS PECULIAR TO THE SITE, IN THE OPINION OF THE PLANNING COMMISSION, A DEPARTURE MAY BE MADE WITHOUT DESTROYING THE INTENT OF SUCH PROVISIONS, THE PLANNING COMMISSION MAY AUTHORIZE A VARIANCE. ANY VARIANCE SO AUTHORIZED IS REQUIRED TO BE ENTERED IN THE MINUTES OF THE BOARD OF TOWNSHIP SUPERVISORS AND THE REASONING ON WHICH THE DEPARTURE WAS JUSTIFIED.

ARTICLE III

APPLICATION AND PLAN REQUIREMENTS

300 THE PLAN REQUIREMENTS AND APPLICATION PROCEDURE SHALL BE FOLLOWED BY SUB-DIVIDERS AS SET FORTH HEREIN AND SHALL BE SUBMITTED TO THE TOWNSHIP SECRETARY FOR REVIEW PRIOR TO CONSIDERATION BY THE TOWNSHIP PLANNING COMMISSION.

301 PRE-APPLICATION

PREVIOUS TO THE FILING OF AN APPLICATION FOR CONDITIONAL APPROVAL OF A PRELIMINARY SUBDIVISION PLAN, THE SUBDIVIDER SHALL SUBMIT THE FOLLOWING PLANS AND DATA TO THE TOWNSHIP PLANNING COMMISSION.

A PRELIMINARY PLAT WITH IMPROVEMENT PLANS. THIS PLAT SHALL BE SUBMITTED TO THE TOWNSHIP PLANNING COMMISSION FOR REVIEW ACCORDING TO REQUIREMENTS AND STANDARDS CONTAINED HEREIN.

B. PLANNING COMMISSION REVIEW:

THE TOWNSHIP PLANNING COMMISSION SHALL REVIEW THE PLAT SUBMITTED COVERING THE REQUIREMENTS OF THESE REGULATIONS POINT BY POINT, AND SHALL CONSULT WITH THE TOWNSHIP ENGINEER AND OFFICIALS OF ANY OTHER DEPARTMENT OR AUTHORITY CONCERNED.

C. PLANNING COMMISSION ACTION:

THE TOWNSHIP PLANNING COMMISSION SHALL NOTIFY THE SUBDIVIDER OF THE SCHEDULED MEETING PLACE, DATE, TIME AND AGENDA SCHEDULE. WITHIN THIRTY-FIVE (35) DAYS OF THIS SCHEDULED AGENDA REVIEW, THE PLANNING COMMISSION SHALL REPORT TO THE TOWNSHIP SUPERVISORS ON THE SUBDIVISION, RECOMMENDING APPROVAL, CONDITIONAL APPROVAL OR DISAPPROVAL, EACH WITH REASONS FOR ACTION.

D. ACTION OF TOWNSHIP SUPERVISORS:

THE TOWNSHIP SUPERVISORS SHALL ACT ON THE PRELIMINARY PLAN STATING ITS APPROVAL, CONDITIONAL APPROVAL, OR DISAPPROVAL, GIVING REASONS FOR EACH, AND MAY AUTHORIZE IN WRITING SUBMISSION OF A FINAL PLAN FOR APPROVAL.

6. CONTOURS AT VERTICAL INTERVALS OF FIVE FEET,
OR AT SUCH INTERVALS AS MAY BE NECESSARY FOR
STUDY OF THE TRACT AS DETERMINED BY THE TOWN-
SHIP ENGINEER.

7. DATUM TO WHICH CONTOUR ELEVATIONS REFER.

8. BENCH MARKS.

9. EXISTING PHYSICAL FEATURES TO INCLUDE:

A. WATER COURSES, CULVERTS, BRIDGES, AND DRAINS.

B. BUILDINGS, SEWERS, WATER MAINS AND FIRE
HYDRANTS.

C. STREETS AND ALLEYS ON OR ADJACENT TO THE
TRACT, INCLUDING NAME, RIGHT-OF-WAY WIDTHS
AND CARTWAY WIDTHS.

D. ALL OTHER SIGNIFICANT NATURAL AND MAN-MADE
FEATURES.

10. PROPOSED IMPROVEMENTS TO INCLUDE:

A. LOCATION, NAME AND WIDTH OF ALL PROPOSED
STREETS AND ALLEYS AND PAVED CARTWAY WIDTHS.

B. SIDEWALKS AND CROSSWALKS.

C. ALL RIGHTS-OF-WAY AND EASEMENTS.

D. LOT LINES WITH BEARINGS AND DIMENSIONS.

E. BUILDING LINES.

F. RESERVATIONS OF GROUNDS FOR PUBLIC USE.

G. GENERAL DRAINAGE PLAN FOR STORM WATER TO
INCLUDE PROPOSED DIRECTIONS OF FLOW FOR ST
STORM WATER IN RELATION TO NATURAL DRAINAGE
CHANNELS.

OF THE TOWNSHIP PLANNING COMMISSION, ONE (1) PAPER COPY OF ALL PLANS AND OTHER INFORMATION. FOUR (4) COPIES MAY BE SUBMITTED TO MEET REQUIREMENTS "G" OF THIS SECTION. ALL FINAL PLANS AND OTHER EXHIBITS REQUIRED FOR APPROVAL SHALL BE SUBMITTED TO THE TOWNSHIP PLANNING COMMISSION WITHIN SIX (6) MONTHS AFTER APPROVAL OF THE PRELIMINARY PLAN. OTHERWISE, SUCH APPROVAL SHALL BECOME NULL AND VOID UNLESS AN EXTENSION OF TIME BE APPLIED FOR AND GRANTED BY THE TOWNSHIP PLANNING COMMISSION.

B. PLANNING COMMISSION REVIEW:

THE TOWNSHIP PLANNING COMMISSION SHALL NOTIFY THE SUBDIVIDER OF THE SCHEDULED MEETING PLACE, DATE, TIME AND AGENDA SCHEDULE. WITHIN THIRTY-FIVE (35) DAYS OF THIS SCHEDULED AGENDA, THE PLANNING COMMISSION SHALL REPORT TO THE TOWNSHIP SUPERVISORS ON THE SUBDIVISION, RECOMMENDING AN APPROVAL, CONDITIONAL APPROVAL OR DISAPPROVAL, EACH WITH REASONS FOR ACTION. APPROVED FINAL PLANS SHALL BEAR THE SIGNATURES OF THE CHAIRMAN AND THE SECRETARY OF THE PLANNING COMMISSION TO A CERTIFIED STATEMENT THAT ALL PLAN PROCEDURE REQUIREMENTS HAVE BEEN MET.

C. PLANNING COMMISSION ACTION:

FOLLOWING REVIEW BY THE TOWNSHIP PLANNING COMMISSION, ALL FINAL PLANS SHALL BE SUBMITTED BY THE PLANNING COMMISSION TO THE TOWNSHIP SECRETARY AT LEAST TEN (10) DAYS PRIOR TO A REGULAR MEETING OF THE TOWNSHIP SUPERVISORS.

G. DISPOSITION OF PLANS:

ONE (1) COPY OF ALL PLANS SUBMITTED FOR APPROVAL SHALL BE RETAINED BY THE PLANNING COMMISSION, ONE (1) COPY BY THE TOWNSHIP SUPERVISORS, AND THE THIRD COPY SHALL BE RETURNED TO THE SUBDIVIDER. THE COPY TO BE RETAINED BY THE PLANNING COMMISSION SHALL BE ON REPRODUCEABLE LINEN.

306. FINAL PLAN AND DATA FOR APPROVAL:

FOR ANY SUBDIVISION REQUIRING APPROVAL, THE PLAN SUBMITTED:

A. SHALL BE DRAWN ON NEW LINEN TRACING CLOTH AND SHALL BE ON STANDARD SHEETS IN MULTIPLTS OF EIGHTEEN (18) INCHES BY TWENTY-FOUR (24) INCHES WITH A BORDER OF ONE-HALF ($\frac{1}{2}$) INCH ON ALL SIDES EXCEPT THE BINDING EDGE WHICH SHALL BE ONE AND ONE-HALF ($1\frac{1}{2}$) INCHES. MORE THAN ONE SHEET MAY BE USED FOR LARGER TRACTS AND MUST BE INDEXED.

B. SHALL BE DRAWN WITH WATERPROOF BLACK INK AND ALL RECORDS, DATA, ENTRIES, STATEMENTS, ETC. THEREON SHALL ALSO BE MADE WITH THE SAME TYPE OF INK OR REPRODUCEABLE TYPING.

C. SHALL BE DRAWN TO A SCALE OF ONE HUNDRED (100) FEET TO THE INCH OR LARGER.

D. SHALL CONTAIN A TITLE BLOCK IN THE LOWER RIGHT CORNER WITH THE FOLLOWING:

1. NAME UNDER WHICH THE SUBDIVISION IS TO BE RECORDED.
2. DATE OF PLAN, GRAPHIC SCALE, AND LOCATION OF SUBDIVISION.

2. TRACT BOUNDARY LINES; RIGHT-OF-WAY LINES OF STREETS, EASEMENTS AND OTHER RIGHTS-OF-WAYS, AND PROPERTY LINES OF RESIDENTIAL LOTS AND OTHER SITES WITH ACCURATE DIMENSIONS, BEARING OR DEFLECTION ANGLES, AND RADII, ARCS AND CENTRAL ANGLES OF ALL CURVES.
3. NAME AND RIGHT-OF-WAY WIDTH OF EACH STREET OR RIGHT-OF-WAY.
4. LOCATION, DIMENSIONS, AND PURPOSE OF ALL EASEMENTS.
5. NUMBER TO IDENTIFY EACH LOT OR SITE.
6. PURPOSE FOR WHICH SITES OTHER THAN RESIDENTIAL ARE TO BE DEDICATED.
7. BUILDING SETBACK LINE ON ALL LOTS AND SITES.
8. LOCATION AND DESCRIPTION OF SURVEY MONUMENTS.
9. NAMES OF RECORD OWNERS OF ADJOINING UNPLOTED LAND.
10. CERTIFICATION OF SURVEYOR OR ENGINEER AS TO THE ACCURACY OF SURVEY AND PLAT.
11. STATEMENT BY THE OWNER DEDICATING STREETS, RIGHTS-OF-WAY AND SITES FOR PUBLIC USE.
12. PROTECTIVE COVENANTS, IF ANY, IN FORM FOR RECORDING.
13. SUCH OTHER CERTIFICATES, AFFIDAVITS, ENDORSEMENTS OR DEDICATIONS AS MAY BE REQUIRED IN THE ENFORCEMENT OF THESE REGULATIONS.

ARTICLE V
DESIGN STANDARDS

500 APPLICATION OF STANDARDS:

THE FOLLOWING LAND SUBDIVISION PRINCIPLES, STANDARDS, AND REQUIREMENTS SHALL BE APPLIED BY THE TOWNSHIP PLANNING COMMISSION IN EVALUATING THE PLANS FOR PROPOSED SUBDIVISION AND SHALL BE CONSIDERED MINIMUM REQUIREMENTS.

501. LAND REQUIREMENTS:

A. LAND SHALL BE SUITED FOR THE PURPOSE FOR WHICH IT IS TO BE SUBDIVIDED IN ACCORDANCE WITH THE INTEREST AND PURPOSE OF THE MASTER PLAN.

B. LAND SUBJECT TO HAZARDS OF LIFE, HEALTH, AND SAFETY SHALL NOT BE SUBDIVIDED FOR RESIDENTIAL USE UNTIL SUCH HAZARDS HAVE BEEN REMOVED.

502 STREET REQUIREMENTS:

A. PROPOSED STREETS SHALL BE PROPERLY RELATED TO TOWNSHIP, COUNTY, AND STATE ROAD AND HIGHWAY PLANS WHICH HAVE BEEN PREPARED AND OFFICIALLY ADOPTED.

B. STREETS SHALL BE LOGICALLY RELATED TO THE TOPOGRAPHY SO AS TO PRODUCE USABLE LOTS AND REASONABLE GRADES.

C. MINOR STREETS SHALL BE SO LAID OUT AS TO DISCOURAGE THROUGH TRAFFIC, BUT PROVISIONS FOR STREET CONNECTIONS INTO AND FROM ADJACENT AREAS WILL BE OFFERALLY REQUIRED.

D. WHERE A SUBDIVISION ABUTS OR CONTAINS AN EXISTING OR PROPOSED ARTERIAL STREET, THE TOWNSHIP PLANNING COMMISSION MAY REQUIRE A MARGINAL ACCESS STREET.

<u>TYPE OF STREET</u>	<u>TYPE OF DEVELOPMENT</u>	<u>CARTWAY</u>	<u>RIGHT-OF-WAY</u>
MINOR AND MAR- GINAL ACCESS	SINGLE FAMILY LOTS		
	100 FEET OR MORE IN WIDTH OR PLAN OF LESS THAN TWENTY (20)		
	LOTS.	20 FEET	50 FEET
	SINGLE FAMILY LOTS 60-100 FEET IN WIDTH OR MULTI-FAMILY.	28 FEET	50 FEET
COLLECTOR	COMMERCIAL OR INDUS- TRIAL.	28 FEET	50 FEET
	SINGLE FAMILY LOTS 133 FEET IN WIDTH OR GREATER.	24 FEET	60 FEET
	SINGLE FAMILY LOTS 100-133 FEET IN WIDTH.	24 FEET	60 FEET
	SINGLE FAMILY LOTS UNDER 100 FEET, MULTI- FAMILY, COMMERCIAL OR INDUSTRIAL.	32 FEET	70 FEET
ARTERIAL	INTERSTATE, CLASS 1 AND CLASS 2.	AS PRESCRIBED BY THE PENNSYLVANIA DEPART- MENT OF HIGHWAYS.	

2. WHEN ANY STREET OR ALLEY INTERSECTION WILL INVOLVE BANKS OR VEGETATION, EXISTING OR TO BE PLANTED INSIDE ANY LOT CORNER THAT WOULD CREATE A TRAFFIC HAZARD BY LIMITING VISIBILITY, FROM A HEIGHT OF THREE AND ONE-HALF (3½) FEET, FINISHED PAVED AREA, AT THE CENTER LINE OF THE RIGHT-OF-WAY, THE SUBDIVIDER SHALL CUT SUCH GROUND AND/OR VEGETATION IN CONJUNCTION WITH GRADING THE RIGHT-OF-WAY TO PROVIDE A SIGHT LINE OF ONE HUNDRED (100) FEET AT MAJOR STREET INTERSECTIONS AND SEVENTY-FIVE (75) FEET AT MINOR STREET INTERSECTIONS. WHEN A MAJOR AND A MINOR STREET INTERSECT, EACH SHALL RETAIN ITS RESPECTIVE FOOTAGE REQUIREMENTS TO FORM THE SIGHT TRIANGLE.

3. WHERE THE GRADE OF ANY STREET AT THE APPROACH TO AN INTERSECTION EXCEEDS FIVE (5) PERCENT, A LEVELING AREA SHALL BE PROVIDED WITH A TRANSITIONAL GRADE NOT TO EXCEED TWO (2) PERCENT FOR A DISTANCE OF FIFTY (50) FEET FROM THE NEAREST RIGHT-OF-WAY LINE OF THE INTERSECTION.

4. MULTIPLE INTERSECTIONS OF MORE THAN FOUR (4) STREETS SHALL BE AVOIDED.

5. MINIMUM STREET INTERSECTION ANGLES SHALL BE SIXTY (60) DEGREES.

N. STREET OFFSETS:

STREET OFFSETS OF LESS THAN ONE HUNDRED TWENTY-FIVE (125) FEET ARE TO BE AVOIDED.

C. RESIDENTIAL LOTS WHERE SERVED BY BOTH PUBLIC WATER AND SANITARY SEWERS SHALL NOT BE LESS THAN SIXTY (60) FEET WIDE AT THE BUILDING LINE, OR LESS THAN SEVEN THOUSAND TWO HUNDRED (7,200) SQUARE FEET IN AREA PER FAMILY.

D. WHERE LOTS ARE INTENDED FOR THE USE OF TWO (2) FAMILIES, THE MINIMUM LOT AREA SHALL BE INCREASED BY FIFTEEN HUNDRED (1,500) SQUARE FEET; FOR EACH RESIDENTIAL UNIT OF THREE (3) OR MORE FAMILIES THE MINIMUM LOT SIZE SHALL BE INCREASED BY THREE THOUSAND (3,000) SQUARE FEET PER DWELLING UNIT BEYOND THE REQUIREMENTS OF A TWO (2) FAMILY DWELLING.

E. SUBDIVISION OF LAND OTHER THAN FOR RESIDENTIAL PURPOSES SHALL BE SUBJECT TO REVIEW BY THE TOWNSHIP PLANNING COMMISSION AND THE TOWNSHIP ENGINEER IN SO FAR AS SIZE, DEPTH, WIDTH OF LOTS AND PARKING ARE CONCERNED.

F. CORNER LOTS SHALL HAVE AN EXTRA WIDTH OF AT LEAST FIFTEEN (15) PERCENT OF THE ABOVE REQUIRED WIDTHS TO PERMIT APPROPRIATE BUILDING SETBACK TO MEET REQUIRED SIDE YARD REGULATIONS LISTED BELOW FOR ORIENTATION TO BOTH STREETS.

G. THE FRONTAGE WIDTH OF A LOT FRONTING A CUL-DE-SAC SHALL BE DETERMINED AT THE BUILDING LINE. THE SIDE YARD SET BACK REQUIREMENTS WILL BE CALCULATED FROM THE MID-POINT OF THE STRUCTURE ALONG THE AVERAGE LENGTH OF BOTH SIDES OF THE STRUCTURE.

505 BLOCKS:

- A. BLOCK LENGTHS SHALL NOT EXCEED ONE THOUSAND SIX HUNDRED (1,600) FEET NOR BE LESS THAN 500 FEET.
- B. BLOCKS SHALL BE AT LEAST TWO (2) LOTS IN DEPTH EXCEPT FOR REVERSE FRONTAGE.
- C. EXCEPTIONALLY LONG BLOCKS SHALL BE PROVIDED WITH CROSS WALKS WITH A MINIMUM RIGHT-OF-WAY PRESERVATION OF TWELVE (12) FEET AND A FOUR (4) FOOT PAVED WALK.

506 EASEMENTS:

- A. UTILITY EASEMENTS SHALL BE A MINIMUM OF FOURTEEN (14) FEET AND PLACED AT THE SIDE OR REAR LOT LINE: WHEN THE ENGINEER DETERMINES THAT NATURAL CONDITIONS, STREET, OR LOT DESIGN ARE SUITABLE FOR ESSENTIAL SERVICES, AN EASEMENT RESERVATION WILL BE REQUIRED.
- B. ANCHOR EASEMENTS SHALL BE APPROXIMATELY FOUR (4) FEET X THIRTY (30) FEET AND PLACED ON LOT LINES.
- C. AERIAL EASEMENTS SHALL BE A MINIMUM OF FIFTEEN (15) FEET IN WIDTH.

507 SIDEWALKS:

SIDEWALKS AND CROSSWALKS, WHERE REQUIRED, SHALL BE INSTALLED BY THE SUBDIVIDER ALONG PUBLIC STREETS OR WHERE DEEMED NECESSARY FOR PUBLIC SAFETY, AS DETERMINED BY THE TOWNSHIP PLANNING COMMISSION.

508 RESERVED AREAS:

RESERVE STRIPS SURROUNDING THE PROPERTY OR AREAS RESERVED FOR ANY PURPOSES WHICH SHALL MAKE ANY AREA UNPROFITABLE FOR REGULAR OR SPECIAL ASSESSMENTS WILL NOT BE APPROVED BY THE TOWNSHIP PLANNING COMMISSION.

B. STORM SEWERS:

1. STORM SEWERS SHALL BE LOCATED IN THE RIGHT-OF-WAY AT AN EDGE OF THE CARTWAY OR CURB.
2. STORM DRAINS SHALL HAVE A MINIMUM DIAMETER OF FIFTEEN (15) INCHES AND A MINIMUM GRADE OF 0.50 PER CENT.
3. MANHOLES OR CLEANOUTS SHALL BE SPACED AT INTERVALS OF THREE HUNDRED (300) FEET OR LESS FOR PIPES TWENTY-FOUR (24) INCHES AND UNDER; NOT MORE THAN FOUR HUNDRED AND FIFTY (450) FEET FOR PIPES TWENTY-FOUR (24) INCHES AND LARGER, AND AT ALL GRADE CHANGES, ALIGNMENT CHANGES AND PIPE SIZE CHANGES.
4. BRIDGES AND CULVERTS SHALL BE DESIGNED TO SUPPORT THE EXPECTED LOADS, TO CARRY EXPECTED CONSTRUCTION THE FULL WIDTH OF THE RIGHT-OF-WAY WHERE DEEMED NECESSARY BY THE TOWNSHIP PLANNING COMMISSION.
5. DRAINAGE PLANS SHALL BE SUBMITTED FOR APPROVAL WITH PRELIMINARY APPLICATION.
6. INSPECTION OF STORM DRAINAGE SHALL BE MADE BY THE TOWNSHIP ENGINEER.

C. SANITARY SEWERS:

1. INSTALLATION OF SANITARY SEWERS INCLUDING HOUSE LINES, LATERALS, TRUNKS, MANHOLES, AND OTHER APPURTENANCES SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE TOWNSHIP ENGINEER OR AUTHORIZED AGENT AND SAID INSTALLATIONS SUBJECT TO INSPECTION BY THE SAME.

E. CURBING, PAVING AND SIDEWALKS:

**NOTE: THE FOLLOWING SHALL BE ENFORCED ONLY AS
REQUIRED BY THE TOWNSHIP SUPERVISORS.**

1. CURBING:

CURBING SHALL BE OF CONCRETE, EITHER STRAIGHT, BATTERED OR ROLLED. AT THE DISCRETION OF THE TOWNSHIP PLANNING COMMISSION AND AT THE ADVICE OF THE TOWNSHIP ENGINEER MOLDED BITUMINOUS CURBING MAY BE APPROVED BUT ONLY ON SPECIFIC APPLICATION TO SAID COMMISSION.

2. PAVEMENT:

A TWO-AND-ONE-HALF (2½) INCH BITUMINOUS PLANT-MIXED SURFACE SHALL BE PLACED ON THE PREPARED BASE TO MEET THE REQUIREMENTS OF THE SPECIFICATIONS OF THE PENNSYLVANIA DEPARTMENT OF HIGHWAYS, FORM 408.

WHERE A SIX (6) INCH BASE IS AUTHORIZED, A BITUMINOUS SURFACE TREATMENT IN ACCORDANCE WITH AN AT-1 SPECIFICATION COMPLYING WITH THE PENNSYLVANIA DEPARTMENT OF HIGHWAYS FORM 408 MAY BE USED.

WHERE CONCRETE PAVEMENT IS USED, THE STANDARD REQUIREMENTS OF THE PENNSYLVANIA DEPARTMENT OF HIGHWAYS SHALL GOVERN AND ALL WORK SHALL BE PERFORMED IN THE MANNER PRESCRIBED IN THE STANDARD SPECIFICATIONS FOR ROAD CONSTRUCTION OF SAID DEPARTMENT, AND SHALL BE APPROVED BY THE

ARTICLE VII

CONDITIONS OF ACCEPTANCE

700 RECORDING:

WITHIN THIRTY (30) DAYS AFTER THE DATE OF APPROVAL OF THE FINAL PLAT, THE SUBDIVIDER SHALL RECORD ONE (1) APPROVED DUPLICATE COPY OF SAME IN THE OFFICE OF THE COUNTY RECORDER OF DEEDS, AND FILE WITH THE SECRETARY OF THE TOWNSHIP A RECORDER'S CERTIFICATE THAT THE APPROVED PLAN HAS BEEN RECORDED WITH THE PLAT BOOK AND PAGE NUMBER INDICATED AND APPROVAL SHALL NOT BECOME FINAL AND EFFECTIVE UNTIL SUCH CERTIFICATE HAS BEEN FILED.

A. AFTER AN APPROVED SUBDIVISION PLAN SHALL HAVE BEEN OFFICIALLY RECORDED, THE STREETS, PARKS, AND OTHER PUBLIC IMPROVEMENTS SHOWN THEREON SHALL BE SO CONSIDERED TO BE A PART OF THE OFFICIAL MAP OF THE TOWNSHIP.

B. STREETS, PARKS AND OTHER PUBLIC IMPROVEMENTS SHOWN ON A SUBDIVISION PLAN TO BE RECORDED MAY BE OFFERED FOR DEDICATION TO THE MUNICIPALITY BY FORMAL NOTATION THEREOF ON THE PLAT, OR THE SUBDIVIDER MAY NOTE ON THE PLAT THAT ANY SUCH IMPROVEMENTS HAVE NOT BEEN OFFERED FOR DEDICATION TO THE MUNICIPALITY.

C. EVERY STREET, PARK OR OTHER IMPROVEMENT SHOWN ON A SUBDIVISION PLAN SHALL BE DEEMED TO BE A PRIVATE STREET, PARK OR OTHER IMPROVEMENT UNTIL SUCH TIME AS THE SAME SHALL HAVE BEEN OFFERED FOR DEDICATION TO THE MUNICIPALITY AND ACCEPTED BY ORDINANCE OR

ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS BY THE SUBDIVIDER WITHIN A SPECIFIED TIME PERIOD. THE WRITTEN AGREEMENT SHALL INCLUDE A BOND, DEPOSIT OF FUNDS, OR OTHER SECURITIES SUFFICIENT IN AMOUNT, AS SHALL BE DETERMINED BY THE TOWNSHIP ENGINEER, TO COVER THE COST OF SUCH IMPROVEMENTS. IF THE IMPROVEMENTS SHALL NOT HAVE BEEN INSTALLED WITHIN THE TIME REQUIRED AND IN ACCORDANCE WITH THE STANDARDS AND SPECIFICATIONS, SUCH DEPOSIT SHALL BE FORFEITED TO THE MUNICIPALITY. UPON WRITTEN CERTIFICATION BY THE TOWNSHIP ENGINEER THAT SUCH IMPROVEMENTS HAVE BEEN SATISFACTORILY COMPLETED, THE DEPOSIT SHALL BE RETURNED TO THE SUBDIVIDER.

ARTICLE VIII

CERTIFICATES, AFFIDAVITS, APPROVALS

800 THE CERTIFICATES QUOTED BELOW SHALL BE INSCRIBED ON THE PLAN AS QUOTED AND SHALL BE PROPERLY SIGNED AND ATTESTED WHEN THE PLAN IS SUBMITTED TO THE TOWNSHIP PLANNING COMMISSION.

ARTICLE IX

VALIDITY AND PENALTY

900 ANY PERSON, CO-PARTNERSHIP, OR CORPORATION WHO OR WHICH SHALL SUBDIVIDE ANY LOT, TRACT OR PARCEL OF LAND, LAYOUT, CONSTRUCT, OPEN OR DEDICATE ANY STREET, SANITARY SEWER, STORM SEWER, OR WATER MAIN, FOR PUBLIC USE OR TRAVEL OR FOR THE COMMON USE OF OCCUPANTS OF BUILDINGS ABUTTING THEREON, SELL ANY LOT, ERECT ANY BUILDING IN A SUBDIVISION WITHOUT

AMENDMENT TO BLACK CREEK TOWNSHIP ZONING ORDINANCE.

ARTICLE I SECTION 3-B P.39: ANY PERSON, PARTNERSHIP OR CORPORATION WHO OR WHICH SHALL VIOLATE THE PROVISIONS OF THIS ZONING ORDINANCE ENACTED UNDER THIS ACT OR PRIOR ENABLING LAWS SHALL, UPON CONVICTION THEREOF IN A SUMMARY PROCEEDING, BE SENTENCED TO PAY A FINE OF NOT MORE THAN FIVE HUNDRED DOLLARS (\$500.00). IN DEFAULT OF PAYMENT OF THE FINE, SUCH PERSON, THE MEMBERS OF SUCH PARTNERSHIP, OR THE OFFICERS OF SUCH CORPORATION SHALL BE LIABLE TO IMPRISONMENT FOR NOT MORE THAN SIXTY (60) DAYS. EACH DAY THAT A VIOLATION IS CONTINUED SHALL CONSTITUTE A SEPARATE OFFENSE. ALL FINES COLLECTED FOR THE VIOLATION OF THIS ZONING ORDINANCE SHALL BE PAID OVER TO BLACK CREEK TOWNSHIP.

AMENDMENT EFFECTIVE THIS 1st DAY OF JULY, A.D. 1975

ATTEST:

BOARD OF BLACK CREEK TOWNSHIP

BY: *Benjamin Helmer*

CHAIRMAN

Angelo Lelotte Sec



**BOARD OF SUPERVISORS OF THE TOWNSHIP OF BLACK CREEK,
LUZERNE COUNTY
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO. #1 of 2013

AN ORDINANCE GRANTING A NONEXCLUSIVE FRANCHISE RENEWAL TO GANS COMMUNICATIONS, L.P. D/B/A METROCAST COMMUNICATIONS, ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE, AND MAINTAIN A CABLE SYSTEM IN THE TOWNSHIP OF BLACK CREEK, LUZERNE COUNTY, PENNSYLVANIA; AND SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; AND PROVIDING FOR REGULATION AND USE OF THE CABLE SYSTEM.

BE IT ORDAINED, by the Board of Supervisors of the Township of Black Creek:

Section 1. Definitions. For the purpose of this Ordinance, the following words and phrases shall have the meanings set forth in this section.

- (a) "Board of Supervisors" means the governing body of the Township.
- (b) "Cable Service" means: the one-way transmission to Subscribers of video programming, or other programming service; and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. For the purposes of this definition, 'video programming' is programming provided by, or generally considered comparable to programming provided by, a television broadcast station; and, 'other programming service' is information that a cable operator makes available to all subscribers generally.
- (c) "Cable System" means Company's facility located within the Township, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community.
- (d) "Company" means Gans Communications, L.P. d/b/a MetroCast Communications and its permitted successors.
- (e) "Effective Date" means the date of adoption of this Ordinance by the Board of Supervisors.
- (f) "Facilities" means any reception, processing, distribution or transmission component of the Cable System, including cables, conduits, converters, splice boxes, cabinets, manholes, vaults, poles, equipment, drains, surface location markers, appurtenances, fiber, and related facilities maintained by Company.
- (g) "FCC" means the Federal Communications Commission.
- (h) "Franchise" means the rights granted to Company under this Ordinance to construct and operate the Cable System and to provide Cable Services and other services as permitted under applicable law.

- (i) "Person" is any person, firm, partnership, association, corporation, company, or other legal entity.
- (j) "Street" means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or later existing within the Township.
- (k) "Subscriber" means any Person who lawfully receives Cable Service.
- (l) "Term" means the term of this Franchise as set forth in Section 3.
- (m) "Township" means the Township of Black Creek, Pennsylvania.
- (n) "Board of Supervisors" means the governing body of the Township.

Section 2. Grant of authority.

- (a) Grant of nonexclusive authority. The Township grants to Company the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the Streets, all Facilities necessary or desirable for the construction, maintenance, and operation of the Cable System. This Franchise shall be nonexclusive, and the Township may grant franchises to other Persons. Any additional franchises shall contain the same substantive terms and conditions as this Franchise and shall be competitively neutral and nondiscriminatory as compared to this or any other franchise granted by the Township for the operation of a Cable System or other wireline multichannel video distribution system. Company may use the Cable System to deliver non-Cable Services as permitted by applicable law.
- (b) State Franchise. If the Commonwealth of Pennsylvania adopts a state-issued cable franchise, Company may replace this Franchise with a state franchise as provided under the authorizing statute.
- (c) Rules of Company. Company may promulgate rules, regulations, terms and conditions governing its business and services as reasonably necessary to enable Company to exercise its rights and perform its obligation under this Ordinance.

Section 3. Franchise Term. The Term of the non-exclusive Franchise granted under this Ordinance commences upon the Effective Date and shall continue for 15 years, unless renewed, revoked or terminated sooner. So long as Company remains in material compliance with the provisions of this Ordinance, Company, at its option, may extend the term for an additional 15 years by providing written notice to the Township no more than 24 months but not less than 12 months before expiration of the initial term; provided that such a renewal of this Franchise is specifically conditioned upon a review and approval by the Board of Supervisors at a public proceeding affording due process of the Company's qualifications and performance, the adequacy of the franchise provisions and its consistency with the rules and regulations of the FCC. The parties agree that any proceedings undertaken by the Township that relate to the renewal of the Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act.

Section 4. Conditions of street occupancy.

- (a) Location of Facilities. Company shall locate all Facilities so as to minimize interference with the use of the Streets and with the rights and reasonable convenience of adjacent property owners.
- (b) Construction codes and permits. Company shall obtain all necessary permits and shall comply with all ordinances of general applicability before commencing any construction, upgrade or extension of the Cable System, including the opening or disturbance of any Street.
- (c) Repair of Streets and property. Company, at its expense, shall promptly restore any Street or public property damaged by Company during the construction, repair, maintenance or reconstruction of the Cable System.
- (d) Public projects. After reasonable prior notice, Company, at its expense, shall relocate its Facilities as required by the Township due to traffic conditions, public safety, street construction, or other public improvements by the Township. In requiring Company to protect, support, temporarily disconnect, relocate or remove any portion of its property, the Township shall treat Company the same as, and require no more of Company, than any other similarly situated utility. Company shall have the right to seek reimbursement from the Township, under any applicable insurance or government program for reimbursement.
- (e) Building movement. Upon request of any Person holding a moving permit issued by the Township and after reasonable prior notice, Company shall temporarily move its Facilities to permit the moving of buildings. Company may require the requesting Person to pay all costs related to the temporary relocation of Facilities, and may require payment in advance.
- (f) Tree trimming. Company may trim any trees in or overhanging the Streets, alleys, sidewalks, or public easements of the Township as necessary to protect Company's Facilities.

Section 5. Cable System operations and safety.

- (a) Technical standards. Company shall operate the Cable System in compliance with all applicable technical standards promulgated by the FCC.
- (b) Safety requirements. Company shall employ ordinary care and shall maintain in use commonly accepted methods and devices to reduce failures and accidents.
- (c) System maps. Upon request by the Township, Company shall make available to Township representatives for review at Company's office up-to-date as-built maps showing locations of all Facilities in the Streets.
- (d) System maintenance. When feasible, Company shall schedule Cable System maintenance to minimize service interruptions.

Section 6. Service obligations and Cable System extension. Company shall provide Cable Services without discrimination to all Persons residing within 300 aerial feet or 150 underground feet of the Cable System who request Cable Services and who comply with Company's terms and conditions of service.

Company shall extend the Cable System to contiguous areas of the Township not currently served by the Cable System when any such area reaches a household density equal to or greater than 30 households per cable mile. Company is generally not obligated to extend service to residences beyond 300 aerial feet or 150 underground feet from Company's Facilities. Isolated residences requiring more than a standard 300 foot aerial drop or 150 foot underground line may be provided at a premium installation rate if such service has been requested by the resident. Company may request advanced payment for such installation.

Section 7. Service to public buildings. Company shall provide upon request and free of charge one service drop and basic Cable Service to the public schools and municipal buildings listed on Schedule A.

Section 8. Customer service and rates.

- (a) Subscriber Inquiries. Company shall have a publicly listed toll-free telephone number and be operated so as to receive Subscriber complaints and requests during normal business hours. Company shall investigate and promptly resolve customer complaints regarding quality of service or service outages.
- (b) Changes to Rates or Cable Services. Company shall provide Subscribers and the Township with notice of changes to Cable Services or rates in accordance with FCC rules and regulations.

Section 9. Franchise fee. Company shall pay to the Township an annual franchisee fee in an amount equal to five percent (5%) of revenue actually collected by Company for its Basic and Expanded Basic Cable Service in the Township, less uncollected bad debt and any franchise fees. For each year, Company shall deliver the payment to the Township within 30 days after December 31. The Franchise Fee shall be prorated for any partial year. Following reasonable prior notice, the Township may inspect Company's books, records, and reports to verify franchise fee calculations and payments.

Section 10. Insurance and Indemnification.

- (a) Insurance. During the Term, Company shall maintain a comprehensive general liability insurance policy with the following minimum coverage limits:
 - (i) \$1,000,000 for personal injury or death;
 - (ii) \$1,000,000 for property damage; and
 - (iii) \$500,000 automobile insurance/combined bodily injury and property damage.

Each policy of insurance shall contain a statement that the insurer will not cancel the policy or fail to renew the policy for any reason without first giving 30 days' advance written notice to the Township.

- (b) Indemnification. During the Term, Company shall indemnify and hold harmless the Township, its officers, agents and employees ("Indemnitees") from and against any claims, liabilities, damages, losses, and expenses (including, without limitation, reasonable attorney fees) ("Losses"), which may arise out of Company's construction, installation, operation or maintenance of the Cable System, unless such Losses arise from the negligence or intentional misconduct of the Township, its officers, agents or employees.

Section 11. Transfer of Franchise. Company shall not transfer or assign its rights granted under this Ordinance without providing prior written notice to the Township. Prior notice shall not be required for the following: (i) the assignment of, or the granting of a security interest in, the Franchise or the Cable System for the purpose of securing indebtedness; or (ii) the assignment or transfer of the Franchise or the Cable System to an affiliate under common ownership or control with Company.

Section 12. Franchise extension. The Township and Company may extend the Term by mutual agreement, and the existing terms and conditions of this Ordinance shall govern the extended term.

Section 13. Franchise termination. The Township may terminate the Franchise granted under this Ordinance in case of material noncompliance by Company. Material noncompliance shall include:

- (a) A material violation by Company of any term, condition, or provision of this Ordinance that remains uncured within the applicable cure period;
- (b) Failure of Company to comply with any reasonable, material provision of any applicable Ordinance;
- (c) Company becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt, or there is a notice of prospective foreclosure or other judicial sale of all or a substantial part of the Cable System;
- (d) Company abandons the Cable System; or
- (e) Company fails to operate the Cable System for a period of 30 days.

Section 14. Termination procedures. If the Township seeks to terminate the Franchise under Section 13, the Township shall follow the procedures in this section.

- (a) Notice of complaint. The Township shall provide Company with written notice describing with reasonable specificity the alleged noncompliance.
- (b) Opportunity to cure. Company shall have 60 days from receipt of written notice to cure the alleged noncompliance. If Company cures the alleged noncompliance within the 60-day period, the Township shall provide Company with written notice withdrawing the complaint.
- (c) Public hearing. If Company fails to cure the alleged noncompliance within the 60-day cure period, or if Company provides the Township with written notice disputing the complaint, and the parties fail to otherwise resolve the matter, the Township shall schedule a public hearing on the alleged noncompliance. At the public hearing, Company may present testimony, cross-examine witnesses and deliver to the Board of Supervisors all evidence relevant to Company's defense. At the conclusion of the public hearing, the Board of Supervisors may dismiss the complaint, defer action, order appropriate sanctions, or terminate the Franchise in accordance with this section.
- (d) Termination. The Township may, after a duly noticed public hearing, terminate the Franchise for material and willful continuing noncompliance by Company. If Company contests the termination in a court of competent jurisdiction, Company may operate the Cable System in accordance with this Ordinance while the case is pending.

- (e) Removal of Facilities. Upon expiration or termination of the Franchise, Company shall be afforded a six-month period to sell or otherwise dispose of the Cable System. During the six-month period, Company shall operate the Cable System in accordance with this Ordinance. At the expiration of the six-month period, Company has the right to remove its Facilities within a reasonable time.

Section 15. Unauthorized reception of Cable Service; tampering with Facilities.

- (a) It shall be unlawful for any Person without Company's consent to willfully tamper with, remove or injure any of Company's Facilities.
- (b) It shall be unlawful for any Person to make or use any unauthorized connection to any part of Company's Cable System.
- (c) Any Person that violates this subsection regarding theft of service shall be guilty of a misdemeanor and punished by a fine not to exceed \$500.00 for each occurrence or imprisonment for a term not to exceed 90 days or both, such fine and imprisonment as may be imposed by a court of competent jurisdiction.

Section 16. Notices. Notices under this Ordinance shall be in writing and shall be deemed given delivery by hand delivery, certified mail return receipt requested, or overnight courier to the following addresses:

To Township:

Black Creek Township

Attn:

To Company:

Gans Communications, L.P. d/b/a MetroCast Communications
911 Market Street
Berwick, PA 18603
Attn: General Manager

With copy to:

Gans Communications, L.P. d/b/a MetroCast Communications
70 East Lancaster Avenue
Frazer, PA 19355
Attn: General Counsel

A party may designate other addresses for providing notice by providing notice in writing of such addresses.

Section 17. Miscellaneous.

- (a) Severability. If any provision of this Ordinance is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance. The invalidity

of any portions of this Ordinance shall not abate, reduce, or otherwise affect any consideration or other obligation required by Company under the remaining provisions of this Ordinance.

- (b) Complete Agreement. All ordinances and parts of ordinances in conflict with this Ordinance are repealed as of the effective date of this Ordinance, excluding all public utility franchises granted to public utilities (including utilities regulated by the Pennsylvania Public Utility Commission).
- (c) Force Majeure. Company shall not be held in default under, or in noncompliance with, the provisions of this Ordinance, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Company to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor utility poles to which the Company's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary. Furthermore, the parties hereby agree that it is not the Township's intention to subject the Company to penalties, fines, forfeitures or revocation of the Franchise for violations of the Agreement where the violation was a good faith error that resulted in no or minimal negative impact on the Subscribers, or where strict performance would result in practical difficulties and hardship to the Company which outweigh the benefit to be derived by the Township.
- (d) Entire Agreement. This Agreement constitutes the entire agreement between the Company and the Township. Amendments to this Agreement shall be mutually agreed to in writing by the parties, unless otherwise expressly provided herein.
- (e) Governing Law. This Agreement and the rights of the parties under it will be governed by and construed in all respects in accordance with the laws of the Commonwealth of Pennsylvania without regard to principles of conflicts of law.

Section 18. Effective date and acceptance. This Ordinance shall become effective upon adoption by the Township and acceptance by Company. Company shall notify the Township of Company's acceptance of this Ordinance within 30 days of adoption by the Township. The Township may revoke this Ordinance if Company fails to provide timely notice of acceptance.

Passed and adopted this 15 day of MAY, 2013.

ATTEST:

By: [Signature]

Name: [Signature]

Title: [Signature]

TOWNSHIP OF BLACK CREEK,
PENNSYLVANIA

By: [Signature]

Name: BONNIE ADAMS

Title: Chairperson

EXHIBIT A
List of Designated Locations for
Free Drop, Outlet and Basic Cable Service

**BLACK CREEK TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 1 OF 2015

**ORDINANCE AUTHORIZING THE PARTICIPATION OF BLACK CREEK
TOWNSHIP IN THE PSATS UNEMPLOYMENT COMPENSATION GROUP TRUST
PURSUANT TO THE PENNSYLVANIA INTERGOVERNMENTAL COOPERATION
LAW**

WHEREAS, the PSATS Unemployment Compensation Group Trust, originally established in 1980, exists as an intergovernmental cooperative arrangement of municipalities to provide townships and certain other permitted governmental employers of Pennsylvania with a vehicle to pool resources and jointly leverage buying power to develop and maintain unemployment compensation insurance coverage; and

WHEREAS, the governing Declaration and Agreement of Trust for the Trust has been comprehensively updated, amended and restated effective July 16, 2014 (hereinafter "Restated Trust Agreement"); and

WHEREAS, pursuant to the Restated Trust Agreement any municipality wishing to commence participation in the Trust, or continue participation in the Trust after July 16, 2014, is required to take formal action in the form of an enacted ordinance in which the municipality agrees to participate in the Trust in accordance with the amended and updated terms of the Restated Trust Agreement; and

WHEREAS, Black Creek ("the Township") has determined that it is in the best interest of the Township to participate in the Trust in accordance with the terms of the Restated Trust Agreement and to agree to and join in such Restated Trust Agreement; and

WHEREAS, pursuant to the Pennsylvania Intergovernmental Cooperation Law, 52 Pa. C.S.A. §2301 et seq., a municipality may enter into an intergovernmental cooperative agreement upon the passage of an ordinance by its governing body.

The Board of Supervisors of Black Creek Township, Luzerne County, Pennsylvania does hereby **ENACT** and **ORDAIN**:

Section 1. That the Chairman of the Board of Supervisors and Secretary of the Township are hereby authorized to adopt the Restated Trust Agreement and any other agreements necessary for the Township's participation in the Trust.

The Restated Trust Agreement is on file for inspection and review at the Township's offices at 1330 Park Street, Rock Glen, Pennsylvania, 18246. The Restated Trust Agreement may be subsequently modified or amended in accordance with its terms, but in no event shall such modifications or amendments divert any of the trust funds from the purposes of the Trust. The Township may withdraw from the Trust in accordance with the Restated Trust Agreement,

including if the Board of Supervisors determines the modifications or amendments are not in the best interest of the Township.

Section 2. That the participation of the Township in the Trust is authorized for the purpose of pooling resources for the purpose of providing unemployment compensation insurance for Participating Employers at reasonable cost.

Section 3. That, as set forth in greater detail in the Restated Trust Agreement and as otherwise stated herein, the following conditions apply to the participation of the Township in the Trust:

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

Section 4. That the Township agrees to participate in the Trust and may withdraw for any reason and in accordance with the Restated Trust Agreement provided that it has fulfilled all its financial obligations to the Trust upon withdrawal.

Section 5. That the effective date of the Township's agreement to and joinder in the Restated Trust Agreement and the participation of the Township in the Trust pursuant to the terms of the Restated Trust Agreement will be January 5, 2014.

Section 6. That each Participating Employer delegates to the Board of Trustees the powers enumerated in the Restated Trust Agreement.

Section 7. That the organizational structure of the Trust shall consist of a Board of Trustees. Under the Restated Trust Agreement, the Board of Trustees is authorized to, among other things, enter into contracts with third parties to perform various services necessary for the administration of the Trust.

Section 8. That the funds required for the operation of the Trust shall be provided by the Participating Employers through scheduled appropriations as determined by the Board of Trustees.

Section 9. That the Trust is empowered to enter into contracts for policies of group insurance and employee benefits, including Social Security, for employees of the Trust, if any.

Section 10. That as a condition of participating in the Trust, the Township agrees to comply with all of the terms and conditions in the Restated Trust Agreement.

Section 11. That the Secretary of the Township shall provide a certified copy of this Ordinance upon its enactment to the Board of Trustees of the Trust.

Section 12. The Board of Supervisors of the Township is hereby authorized to take any and all such other actions as may be necessary or appropriate to carry out the purposes of this Ordinance and comply with the requirements of the attached Restated Trust Agreement and any duly adopted amendments thereto.

Section 13. The duration of the term of the Township's participation in the Trust and obligations under the Restated Trust Agreement shall continue until withdrawal from the Trust by the Township in accordance with the terms of the Restated Trust Agreement.

Section 14. The Board of Supervisors hereby specifically finds and determines as follows:

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

Section 15. The provisions of this Ordinance are severable and in the event that any provision is held invalid, void, illegal, or unconstitutional by any court, it is the intent of the Governing Body that such determination by the Court shall not affect or render void the remaining provisions of this Ordinance. It is the declared intent of the Governing Body that this

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

Section 16. Nothing in this Ordinance shall be interpreted to affect any rights or liabilities of the Township, or to affect any cause of action, existing prior to the enactment of this Ordinance.

Section 17. This Ordinance shall become effective immediately upon its enactment.

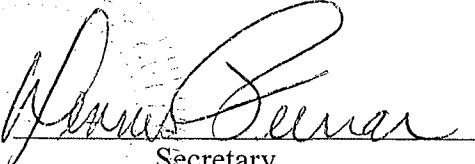
This Ordinance is being enacted pursuant to the provisions of the Pennsylvania Intergovernmental Cooperation Law, Act of July 12, 1972, No. 180, as amended, 53 Pa.C.S. §§2301, et seq.

ENACTED and **ORDAINED** this 5th day of January, 2015.


BOARD OF SUPERVISORS OF
BLACK CREEK TOWNSHIP


Chairman

ATTEST:


Secretary


Vice Chairman


Supervisor

**BLACK CREEK TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2-2015

**ORDINANCE AUTHORIZING THE PARTICIPATION OF BLACK CREEK
TOWNSHIP IN THE PENNSYLVANIA TOWNSHIPS HEALTH INSURANCE
COOPERATIVE TRUST PURSUANT TO THE PENNSYLVANIA
INTERGOVERNMENTAL COOPERATION LAW**

WHEREAS, the Pennsylvania Townships Health Insurance Cooperative Trust ("Trust"), formerly known as the "Board of Trustees Insurance Fund," as referred to in the authorizing statute for the Pennsylvania State Association of Township Supervisors, 53 P.S. § 66406(j)(2), or, more commonly, the "Trustees Insurance Fund," originally established in 1966, exists as an intergovernmental cooperative arrangement of municipalities to provide townships and certain other permitted governmental employers in Pennsylvania with a vehicle to pool resources and jointly leverage buying power to develop, administer, and make available cost-effective medical, prescription, dental, life, disability and/or other employee welfare benefit insurance or self-insured programs for their employees; and

WHEREAS, the governing Declaration and Agreement of Trust for the Trust has been comprehensively updated, amended and restated effective October 15, 2014 (hereinafter "Restated Trust Agreement"); and

WHEREAS, pursuant to the Restated Trust Agreement any municipality wishing to commence participation in the Trust, or continue participation in the Trust after October 15, 2014, is required to take formal action in the form of an enacted ordinance in which the municipality agrees to participate in the Trust in accordance with the amended and updated terms of the Restated Trust Agreement; and

WHEREAS, Black Creek Township ("the Township") has determined that it is in the best interest of the Township to participate in the Trust in accordance with the terms of the Restated Trust Agreement and to agree to and join in such Restated Trust Agreement; and

WHEREAS, pursuant to the Pennsylvania Intergovernmental Cooperation Law, 53 Pa. C.S.A. § 2301 et seq., a municipality may enter into an intergovernmental cooperative agreement upon the passage of an ordinance by its governing body.

The Board of Supervisors of Black Creek Township, Luzerne County, Pennsylvania does hereby **ENACT** and **ORDAIN**:

Section 1. That the Board of Supervisors of Black Creek Township adopts the Restated Trust Agreement and agrees to participate in the Trust in accordance with the amended and updated terms of the Restated Trust Agreement and that the Chairman of the Board of Supervisors and Secretary of the Township are hereby authorized to sign the Restated Trust Agreement and any other agreements necessary for the Township's participation in the Trust.

The Restated Trust Agreement is on file for inspection and review at the Township's offices at 1330 Park Street, PO Box 3, Rock Glen, Pennsylvania, 18246. The Restated Trust Agreement may be subsequently modified or amended in accordance with its terms, but in no event shall such modifications or amendments divert any of the trust funds from the purposes of the Trust. The Township may withdraw from the Trust in accordance with the Restated Trust Agreement, including if the Board of Supervisors of Black Creek Township determines the modifications or amendments are not in the best interests of the Township.

Section 2. That the participation of the Township in the Trust is authorized for the purpose of obtaining high quality, cost-effective medical, prescription, dental, life, disability, vision and/or other employee welfare benefit insurance at a reasonable cost to the Township and its employees.

Section 3. That, as set forth in greater detail in the Restated Trust Agreement and as otherwise stated herein, the following conditions apply to the participation of the Township in the Trust:

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

Section 4. That the Township agrees to participate in the Trust and may withdraw for any reason and in accordance with the Restated Trust Agreement provided that it has fulfilled all its financial obligations to the Trust upon withdrawal.

Section 5. That the effective date of the Township's agreement to and joinder in the Restated Trust Agreement and the participation of the Township in the Trust pursuant to the terms of the Restated Trust Agreement will be March 8, 2015.

Section 6. That each Participating Employer delegates to the Board of Trustees the powers enumerated in the Restated Trust Agreement.

Section 7. That the organizational structure of the Trust shall consist of a Board of Trustees. Under the Restated Trust Agreement, the Board of Trustees is authorized to, among other things, enter into contracts with third parties to perform various services necessary for the administration of the Trust.

Section 8. That the funds required for the operation of the Trust shall be provided by the Participating Employers through scheduled appropriations as determined by the Board of Trustees.

Section 9. That the Trust is empowered to enter into contracts for policies of group insurance and employee benefits, including Social Security, for employees of the Trust, if any.

Section 10. That as a condition of participating in the Trust, the Township agrees to comply with all of the terms and conditions in the Restated Trust Agreement.

Section 11. That the Secretary of the Township shall provide a certified copy of this Ordinance upon its enactment to the Board of Trustees of the Trust.

Section 12. The Board of Supervisors of the Township is hereby authorized to take any and all such other actions as may be necessary or appropriate to carry out the purposes of this Ordinance and comply with the requirements of the Restated Trust Agreement and any duly adopted amendments thereto.

Section 13. The duration of the term of the Township's participation in the Trust and obligations under the Restated Trust Agreement shall continue until withdrawal from the Trust by the Township in accordance with the terms of the Restated Trust Agreement.

Section 14. The Board of Supervisors of Black Creek Township hereby specifically finds and determines as follows:

1. The conditions of the intergovernmental cooperative agreement are set forth in the Restated Trust Agreement incorporated by reference herein.
2. The Township shall participate in the Trust in accordance with the Restated Trust Agreement until it withdraws by giving notice to the Board of Trustees at least ninety (90) days in advance to become effective on either June 30 or December 31 of a given Plan year; or in the case of an initial year of participation in the Trust shall participate for a minimum of one (1) year.
3. The purpose and objectives of the intergovernmental cooperative arrangement, including powers and scope of authority delegated to the Board of Trustees, are set forth in the incorporated Restated Trust Agreement.
4. The manner and extent of financing of the Restated Trust Agreement are that (i) funds to implement the Township's obligations under the Restated Trust Agreement shall come from the normal and usual budgeted amounts for Township employee compensation and employee benefits and (ii) no borrowing is anticipated to be required.
5. The Trust shall be managed by the Board of Trustees pursuant to the terms of the Restated Trust Agreement.
6. All assets and property, real or personal, of the Trust shall be titled to, acquired, managed, licensed or disposed of by the Trust, and its Board of Trustees, in accordance with the terms of the Restated Trust Agreement.

7. The Trust, in accordance with the Restated Trust Agreement, shall be empowered to enter into contracts for policies of group insurance and employee welfare benefits to be offered to Participating Employers for their eligible employee and dependents.

Section 15. The provisions of this Ordinance are severable and in the event that any provision is held invalid, void, illegal, or unconstitutional by any court, it is the intent of the Board of Supervisors of Black Creek Township that such determination by the court shall not affect or render void the remaining provisions of this Ordinance. It is the declared intent of the Board of Supervisors of Black Creek Township that this Ordinance would have been enacted if any provision subsequently declared to be void, invalid, illegal or unconstitutional had not been included at the time of enactment.

Section 16. Nothing in this Ordinance shall be interpreted to affect any rights or liabilities of the Township, or to affect any cause of action, existing prior to the enactment of this Ordinance.

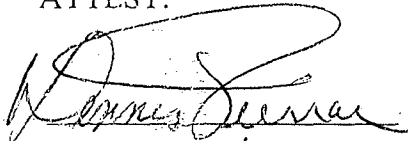
Section 17. This Ordinance shall take effect five (5) days from the date of adoption.

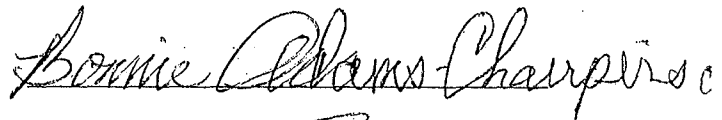
This Ordinance is being enacted pursuant to the provisions of the Pennsylvania Intergovernmental Cooperation Law, Act of July 12, 1972, No. 180, as amended, 53 Pa.C.S. §§ 2301, et seq.

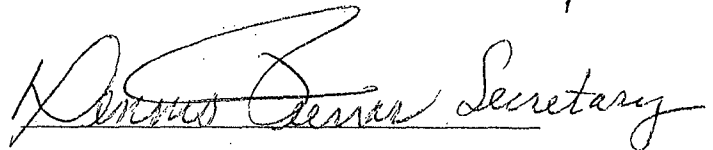
ENACTED and ORDAINED this 3rd day of March, 2015.

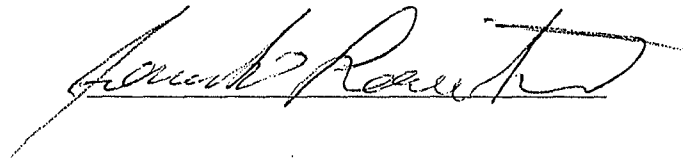
BOARD OF SUPERVISORS OF
BLACK CREEK TOWNSHIP

ATTEST:


Secretary/Treasurer




Secretary



AN ORDINANCE OF BLACK CREEK TOWNSHIP, LUZERNE COUNTY, COMMONWEALTH OF PENNSYLVANIA, ELECTING TO AMEND ITS NON-UNIFORM PENSION PLAN ADMINISTERED BY THE PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM PURSUANT TO ARTICLE IV OF THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW; AGREEING TO BE BOUND BY ALL PROVISIONS OF THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW AS AMENDED AND AS APPLICABLE TO MEMBER MUNICIPALITIES. IT IS HEREBY ORDAINED BY BLACK CREEK TOWNSHIP, LUZERNE COUNTY, AS FOLLOWS:

SECTION I. Black Creek Township (the Township), having established a non-uniform pension plan administered by the Pennsylvania Municipal Retirement System (the System), hereby elects to amend its Non-Uniform Pension Plan administered by the System in accordance with Article IV of the Pennsylvania Municipal Retirement Law, 53 P.S. §881.101 et seq. (Retirement Law), and does hereby agree to be bound by all the requirements and provisions of the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. §895.101 et seq., and to assume all obligations, financial and otherwise, placed upon member municipalities.

SECTION II. As part of this Ordinance, the Township agrees that the System shall administer and provide the benefits set forth in the amended Non-Uniform Pension Plan Document entered into between the Pennsylvania Municipal Retirement Board and the Township effective as of the date specified in the adoption agreement (the Contract).

SECTION III. The Township acknowledges that by passage and adoption of this Ordinance, the Township officially accepts the Contract and the financial obligations resulting from the administration of the Contract.

SECTION IV. Payment for any obligation established by the adoption of this Ordinance and the Contract shall be made by the Township in accordance with the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act. The Township hereby assumes all liability for any unfundedness created due to the benefit structure set forth in the Contract.

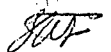
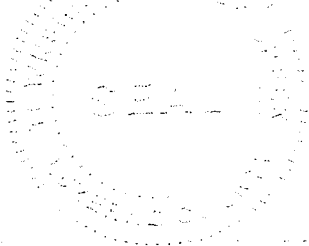
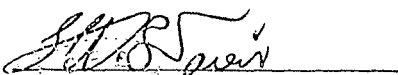
SECTION V. The Township intends this Ordinance to be the complete authorization of the Contract, as amended and it shall become effective as of the date specified in the adoption agreement, which is the effective date of the Contract, as amended.

SECTION VI. A duly certified copy of this Ordinance and an executed Contract shall be filed with the System.

ORDAINED this 2nd day of JULY, 2020

TALLY OF VOTES - YEAS 2 NAYS 0

ATTEST:



ORDINANCE NO. 3 of 7/2/2020

AN ORDINANCE TO IMPLEMENT ACT NO.135 OF 2008
IN BLACK CREEK TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA

IMPLEMENTATION OF PA ACT NO.135-2008

- § 1101. Short Title.
 - § 1102. Black Creek Township's Concurrence with Legislative Findings and Purpose.
 - § 1103. Definitions.
 - § 1104. Initiation of Action.
 - § 1105. Appointment of Conservator.
 - § 1106. Powers and Duties of the Conservator.
 - § 1107. Ownership of Property.
 - § 1108. Incurring Indebtedness.
 - § 1109. Sale of Property.
 - § 1110. Termination of Conservatorship.
 - § 1111. Applicability.
 - § 1112. Effective Date.
-

- § 1101. Short Title.

This Ordinance shall be known and may be cited as the "Black Creek Township" Abandoned and Blighted Property Conservatorship Act".

- § 1102. Black Creek Township's Concurrence with Legislative Findings and Purpose.

Black Creek Township concurs with the General Assembly's findings and. subsequently declares that:

- (1) Black Creek suffers from blighted properties that have been abandoned by their owners.
- (2) Many citizens of this Township are adversely affected by abandoned and blighted residential, commercial and industrial properties, including those citizens who live in proximity to such substandard buildings, as well as those who own property in the vicinity of such buildings.
- (3) Substandard, deteriorating and abandoned residential, commercial and industrial structures are a public safety threat and nuisance and their blighting effect diminishes property values in the Township.



fees, and a developer's fee consistent with the standards for developers' fees established by the Pennsylvania Housing Finance Agency.

"Court" shall mean the Luzerne County Court of Common Pleas.

"Historic Property" shall mean a property which is listed on the National Register of Historic Places or is a contributing property in a national register historic district or is located in a local government ordinance historic district.

"Immediate Family" shall mean a parent, spouse, child, brother, or sister.

"Nonprofit Corporation" shall mean a corporation that has, as one of its purposes, community development activities, including economic development, historic preservation or the promotion or enhancement of affordable housing opportunities.

"Owner" shall mean the holder or holders of title to, or of, a legal or equitable interest in a residential, commercial or industrial building. The term shall include an heir, assignee, trustee, beneficiary, and lessee provided the ownership interest is a matter of public record.

"Party in Interest" shall mean a person or entity who has a direct and immediate interest in a residential, commercial, or industrial building, including:

- (1) The owner.
- (2) A lienholder and other secured creditor of the owner.
- (3) A resident or business owner within 500 feet of the building.
- (4) A nonprofit corporation, including a redevelopment authority, which:

(i) Except as set forth in subparagraph (ii), is located in the municipality where the building is located.

(ii) for a building located in a city of the first class, is located in the city and has participated in a project within a one-mile radius of the location of the building.

- (5) A. municipality or school district in which the building is located.

"Public Nuisance" shall mean a property that, because of physical condition or use, has been declared by the appropriate official a public nuisance in accordance with the local housing, building, health, fire or related code or is determined to be a public nuisance by the Court.

"Substantial Rehabilitation" shall mean repairs to the building where:

- (1) the cost of repairs, replacements, and improvements exceeds 15% of the property's value after completion of all repairs, replacements and improvements; or

(4) If these buildings are not rehabilitated, they are likely to remain abandoned and further deteriorate, resulting in increased costs to the Township and taxpayers to secure and ultimately demolish them.

(5) Providing a mechanism to transform abandoned and blighted buildings into productive reuse is an opportunity for Black Creek Township to modernize, revitalize, grow, and to improve the quality of life for neighbors who are already there.

(6) If the owner of a residential, commercial or industrial building fails to maintain the property in accordance with applicable Township Codes or standards of public welfare or safety, it is in the best interest of the Township and the community for the Court, pursuant to the provisions of this ordinance, to appoint a conservator to make the necessary improvements before the building deteriorates further and necessitates demolition, resulting in the removal of the building from the housing supply or prohibiting future productive economic use.

§1103. Definitions.

The following words and phrases, when used in this ordinance, shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Actively marketed" shall mean that a "for sale" sign has been placed on the property with accurate contact information and the owner has done at least one of the following:

(1) engaged the services of a licensee under the act of February 19, 1980 (P.L. 15, No. 9), known as the Real Estate Licensing and Registration Act, to place the property in a Multiple Listing Service or otherwise market the property.

(2) placed weekly or more frequent advertisements in print or electronic media; or

(3) distributed printed advertisements.

"Building" shall mean a residential, commercial, or industrial building or structure and the land appurtenant thereto.

"Code" shall mean a building, housing, property maintenance, fire, health or other public safety ordinance enacted by Black Creek Township.

"Competent Entity" shall mean a person or entity, including a governmental unit with experience in the rehabilitation of residential, commercial or industrial buildings and the ability to provide or obtain the necessary financing for such rehabilitation.

"Costs of Rehabilitation" shall mean costs and expenses for construction, stabilization, rehabilitation, maintenance and operation or demolition, including reasonable non-construction costs associated with the project, including, but not limited to, environmental remediation, architectural, engineering and legal fees, permits, financing

(2) more than one major building component is being replaced. Major building components include:

- (i) roof structures;
- (ii) ceilings;
- (iii) wall or floor structures;
- (iv) foundations;
- (v) plumbing systems;
- (vi) heating and air conditioning systems; and
- (vii) electrical systems.

§ 1104. Initiation of Action

A. Filing of Petition.

A petition for the appointment of a conservator to take possession and to undertake the rehabilitation of a building located in Black Creek Township may be filed by a party in interest in the Court of Common Pleas of Luzerne County. The proceeding on the petition shall constitute an action in rem.

B. Contents.

The petition submitted to the Court shall include a sworn statement that, to the best of the petitioner's knowledge, the property meets the conditions for the conservatorship set forth in section 5 (d) and to the extent available to the petitioner after reasonable efforts to obtain such information:

(1) A copy of any citation charging the owner with being in violation of Black Creek Township Code requirements or declaring the building to be a public nuisance.

(2) A recommendation as to which person or entity should be appointed conservator.

(3) A preliminary plan with initial cost estimates for rehabilitation of the building to bring it into compliance with all Township Codes and duly adopted plans for the area in the Township where the building is located and anticipated funding sources.

C. Notice of Lis Pendens.

The petitioner shall file a notice of lis pendens in the Office of the Recorder of Deeds for Luzerne County.

D. Notification of Owner, Political Subdivisions and Lienholders.

(1) Upon filing the petition with the Court of Common Pleas of Luzerne County, the petitioner shall notify the current owner of the property, all political subdivisions in

which the property is located and all lienholders of the filing by registered or certified mail to the last known address of each and by posting a copy of the notice on the building.

(2) In the event the registered or certified mail is returned with notation by the postal authorities that that recipient refused to accept the mail, the petitioner may mail a copy to the recipient at the same address by ordinary mail with the return address of the petitioner appearing thereon.

(3) Service by ordinary mail shall be presumed complete if the mail is not returned to the petitioner within 30 days after mailing.

(4) In the event that the registered or certified mail is returned with the notation by postal authorities that it was unclaimed, the notice shall be personally served.

(5) In the event that the personal service is not able to be made after two such attempts, then the petitioner shall mail the petition to the recipient at the same address by ordinary mail with the return address of the petitioner appearing thereon with service by ordinary mail deemed complete if the mail is not returned to the petitioner within 15 days after the mailing.

(6) The petitioner shall also notify the owner and each lienholder of the hearing date and provide notice that the owner and lienholders may petition to intervene in the action.

§ 1105. Appointment of Conservator.

A. General Rule.

The Court shall act upon a petition submitted by holding a hearing within 120 days of receipt of the petition and rendering a decision no later than 30 days after completion of the hearing.

B. Intervention.

A party in interest may intervene in the proceeding and be heard with respect to the petition; the requested relief or any other matter which may come before the Court in connection with the proceeding.

C. Hearing.

At the hearing, any party in interest shall be permitted to present evidence to support or contest the petition.

D. Conditions for Conservatorship.

If a petition is filed under Section 4, the Court may appoint a conservator if all of the following apply:

(1) The building has not been legally occupied for at least the previous 12 months.

(2) The building has not been actively marketed during the 60 days prior to the date of the petition.

(3) The building is not subject to an existing foreclosure action.

(4) The current owner fails to present sufficient evidence that he has acquired the property within the preceding six months. The evidence shall not include instances where the prior owner is a member of the immediate family of the current owner, unless the transfer of title results from the death of the prior owner, or where the current or prior owner is a corporation, partnership, or other entity in which either owner or the immediate family of either owner has an interest in excess of 5%.

(5) The Court finds at least three (3) of the following:

(i) The building or physical structure is a public nuisance.

(ii) The building is in need of substantial rehabilitation and no rehabilitation has taken place during the previous 12 months.

(iii) The building is unfit for human habitation, occupancy, or use.

(iv) The condition and vacancy of the building materially increase the risk of fire to the building and to adjacent properties.

(v) The building is subject to unauthorized entry leading to potential health and safety hazards and one of the following applies:

(a.) The owner has failed to take reasonable and necessary measures to secure the building.

(b.) The Township has secured the building in order to prevent such hazards after the owner has failed to do so.

(vi) The property is an attractive nuisance to children, including, but not limited to, the presence of abandoned wells, shafts, basements, excavations, and unsafe structures.

(vii) The presence of vermin or the accumulation of debris, uncut vegetation or physical deterioration of the structure or grounds has created potential health and safety hazards and the owner has failed to take reasonable and necessary measures to remove the hazards.

(viii) The dilapidated appearance or other condition of the building negatively affects the economic well-being of residents and businesses in close proximity to the

building, including decreases in property value and loss of business, and the owner has failed to take reasonable and necessary measures to remedy the appearance or the condition.

(ix) The property is an attractive nuisance for illicit purposes, including prostitution, drug use, and vagrancy.

E. Appointment.

(1) If the Court determines after a hearing that the property has met the conditions of subsection (d), the court may appoint a conservator and grant such other relief as may be just and appropriate.

(2) The Court shall give first consideration for appointment as conservator to the senior lienholder on the property.

(3) In the event the senior lienholder is found to be not competent or declines the appointment, the Court may appoint a nonprofit corporation or other competent entity. In appointing a conservator, the Court shall:

(i) consider any recommendations contained in the petition or otherwise presented by a party in interest; and

(ii) give preference to the appointment of a nonprofit corporation or governmental unit over an individual.

F. Conditional Relief.

(1) If the Court finds after a hearing that the conditions for conservatorship set forth in subsection (d) have been established, but the owner represents that the violations or nuisance or emergency condition will be abated in a reasonable period, the Court may allow the owner to proceed to remedy the conditions.

(2) If the conditions set forth in paragraph (I) have been Satisfied, the Court shall enter an Order providing that, in the event that the violations or nuisance or emergency conditions are not abated by the owner by a specific date or that other specified remedial activities have not occurred by a specific date or dates, an Order granting the relief requested in the petition shall be entered.

(3) The Court may also require the owner to post a bond in the amount of the repair costs estimated in the petition as a condition to retaining possession of the building.

G. Conservator's Lien.

The conservator may file a lien against the property in an amount based on the costs incurred during the conservatorship. The lien amount may be adjusted from time to time.

H. Immediate Possession.

The conservator shall promptly take possession of the building and other property subject to the conservatorship and shall immediately be authorized to exercise all powers of this Ordinance.

I. Removal by Court.

A conservator may be removed by the Court at any time upon the request of the conservator or upon a showing by a party to the action that the conservator is not carrying out its responsibilities under this Ordinance.

§ 1106. Powers and Duties of the Conservator.

A. Full Powers and Duties.

The conservator shall have all powers and duties necessary or desirable, from time to time, for the efficient operation, management and improvement of the building in order to bring it into compliance with all Township building and housing Code requirements and to fulfill the conservator's responsibilities under this Ordinance. Such powers and duties shall include, but not be limited to, the power to:

(1) Take possession and control of the building, appurtenant land and any personal property of the owner used with respect to the building, including any bank or operating account for the building.

(2) Collect outstanding accounts receivable.

(3) Pursue all claims or causes of action of the owner with respect to the building and all other property subject to the conservator.

(4) Contract for the repair and maintenance of the building. The contracts shall be appropriately documented and included in the reports and accounting which the conservator is required to submit or file under the provisions of this Ordinance. The conservator shall make a reasonable effort to solicit three bids for contracts valued at more than \$25,000.00.

(5) Borrow money and incur credit in accordance with Section 8.

(6) Contract and pay for the maintenance and restoration of utilities to the building.

(7) Purchase materials, goods, and supplies to accomplish repairs and operate the building.

(8) With the Court's approval, enter into new rental contracts and leases for a period not to exceed one (1) year.

(9) Affirm, renew, or enter into contracts providing for insurance coverage on the building.

(10) Engage and pay legal, accounting, appraisal, and other professionals to aid the conservator in the conduct of the conservatorship.

(11) When the building has been designated a historic property, consult with the Township's historical commission or board of historical and architectural review, a local historic preservation organization, or, in the absence thereof, the Pennsylvania Historical and Museum Commission for recommendations on preserving the property's historic character.

(12) Apply for and receive public grants or loans.

(13) Sell the building in accordance with Section 9.

(14) Exercise all authority that an owner of the building would have to improve, maintain, and otherwise manage the building.

B. Affirmative Duty.

While in possession of the building, the conservator shall:

(1) Maintain, safeguard, and insure the building.

(2) Apply all revenue generated from the building consistent with the provisions of this Ordinance.

(3) Develop a final plan for abatement of the conditions which caused the petition to be granted or, if no such feasible final plan can be developed, to develop alternatives, including the closing, sealing, or demolition of all or part of the building.

(ii) When the building has been designated a historic property, rehabilitate architectural features that define the property's historic character.

(iii) When demolition of a property in a historic district is necessary, design any replacement construction on the site to comply with applicable standards under current law.

(4) Implement the final plan referred to in paragraph (3) upon approval by the Court.

(5) Submit a status report to the Court and parties to the status annually or more frequently as the Court may deem appropriate. The status report shall include:

(i) A copy of any contract entered into by the conservator regarding improvement of the building.

(ii) An account of the disposition of all revenue generated from the building.

(iii) An account of all expenses and improvements.

(iv) The status of developing and implementing the final plan pursuant to this subsection.

(v) A description of any proposed actions to be taken in the next six months to improve the building.

C. Hearing on Conservator's Final Plan for Abatement.

(1) At the time the Court appoints a conservator, a hearing date on the conservator's final plan for abatement shall be set within 120 days of the appointment.

(2) Thirty days prior to the date of the hearing, the conservator shall submit the plan to the Court and to all parties to the action.

(3) The plan shall include a cost estimate, a financing plan and either a description of the work to be done for the rehabilitation of the building or, if rehabilitation is not feasible, a proposal for the closing, sealing, or demolition of the building.

(4) The plan shall conform with all existing Township Codes, duly adopted plans for Black Creek Township, and historic preservation requirements.

(5) At the time of the hearing, all parties shall be allowed to comment on the plan, and the Court shall take all comments into consideration when assessing the feasibility of the plan and the proposed financing.

(6) Within fifteen (15) days of the hearing, the Court shall issue a decision approving the plan or requiring that the plan be amended.

(7) If the Court decision requires that the plan be amended, a hearing date shall be set within 60 days from the date of the decision.

D. Accounting.

Upon the implementation of the final plan approved by the Court, the conservator shall file with the Court a full accounting of all income and expenditures during the period of time it took to implement the final plan.

§ 1107. Ownership of Property.

A. Ownership Interest of Conservator.

A conservator appointed under section 5 shall be deemed to have an ownership interest in and legal control of the property for the purposes of filing plans with public agencies and boards, seeking and obtaining construction permits and other approvals and submitting applications for financing or other assistance to public or private entities.

B. Liability of Owner.

Notwithstanding the appointment of a conservator under section 5, nothing in this Ordinance shall be construed to relieve the owner of any civil or criminal liability or of any obligation to pay taxes, municipal liens and charges, mortgages, private liens or other fees or charges, whether incurred before or after the appointment of the conservator and no such liability shall transfer to the conservator.

C. Limitation of Conservator's Environmental Liability.

(1) Notwithstanding any law to the contrary, the conservator shall not be held liable for any environmental damage to the building or the real property upon which the building is located that existed prior to the appointment by the Court of the conservator.

(2) Paragraph (1) does not apply to the owner or any other person or entity regarding the building and its real property that is subject to an appointed conservator under this Ordinance.

§ 1108. Incurring Indebtedness.

A. Borrowing.

From time to time, a conservator may borrow money or incur indebtedness in order to cover the costs of rehabilitation or to otherwise fulfill the conservator's obligations under this Ordinance.

B. Liens.

In order to facilitate the borrowing of funds for the costs of rehabilitation, the Court may grant a lien or security interest with priority over all other liens with the exception of municipal or other governmental liens, provided, however, that prior to granting a priority lien, the Court has found that:

(1) The conservator sought to obtain the necessary financing from the senior lienholder, but the lienholder declined to provide financing for reasonable improvements or other costs of rehabilitation on reasonable terms.

(2) Lien priority is necessary in order to induce another lender to provide financing on reasonable terms.

C. Lien Status of Rehabilitation Expenses.

Should the senior lienholder agree to provide financing for the costs of rehabilitation, any funds lent to cover the costs shall be deemed to be added to the senior lienholder's preexisting first lien.

D. Approval of Financing.

The Court may approve financing for the costs of rehabilitation, the terms of which may include deferred repayment and use restrictions. The terms of the financing may remain with the property after the conservatorship has ended and be assumed by any of the following:

(1) The owner if the owner regains possession of the property under section 10(2).

(2) The buyer who takes title under section 9.

§ 1109. Sale of Property.

A. Sale by Owner or Lienholder.

If a property subject to conservatorship is sold by the owner or foreclosed upon by a lienholder or if any interest therein is transferred, such sale, foreclosure or transfer shall be subject to the conservatorship.

B. Sale by Conservator.

Upon application of the conservator, the Court may order the sale of the property if the Court finds that:

(1) Notice and an opportunity to provide comment to the Court was given to each record owner of the property and each lienholder.

(2) The conservator has been in control of the building for more than six (6) months and the owner has not successfully petitioned to terminate the conservatorship under section 10.

(3) The terms and conditions of the sale are acceptable to the Court, and the buyer has a reasonable likelihood of maintaining the property.

C. Sale Free and Clear

(1) The Court may authorize the conservator to sell the building free and clear of all liens, claims, and encumbrances, provided that the proceeds of the sale are distributed pursuant to subsection (d) at settlement.

(2) In the event that the proceeds of the sale are insufficient to pay all existing liens, claims, and encumbrances, the proceeds shall be distributed according to the priorities set forth in subsection (d) and all unpaid liens, claims, and encumbrances which have not been assumed under section 8 (d) shall be extinguished.

D. Distribution.

The proceeds of the sale shall be applied in accordance with the following priorities to:

to:

- (1) All court costs.
- (2) Municipal or other governmental liens.
- (3) Costs and expenses of sale.
- (4) Principal and interest on any borrowing or incurrence of indebtedness granted priority over existing liens and security interest under section 8 (b).
- (5) Costs of rehabilitation and any fees and expenses incurred by the conservator in connection with the sale or the safeguarding of the property for which the lien authorized under section (5) (g) was filed.
- (6) Valid liens and security interests in accordance with their priority.
- (7) Any unpaid obligations of the conservator.
- (8) Costs incurred by the petitioner in requesting the Court to place property in conservatorship.
- (9) The owner.

E. Owner's Proceeds as Unclaimed Property.

In the event the owner cannot be located, any proceeds from the sale which belong to the owner shall be presumed to be abandoned and unclaimed and shall be subject to the custody and control of the Commonwealth pursuant to Article XIII. 1 of the Act of April 9, 1929 (P.L. 343, No. 176), known as The Fiscal Code.

§ 1110. Termination of Conservatorship.

upon request of a party in interest or the conservator, the Court may order the termination of the conservatorship if it determines:

(1) the conditions that were the grounds for the petition and all other Code violations have been abated or corrected, the obligations, expenses and improvements of the conservatorship, including all fees and expenses of the conservator, have been fully paid or provided for and the purposes of the conservatorship have been fulfilled.

(2) the owner, mortgagee, or lienholder has requested the conservatorship be terminated and has provided adequate assurances to the Court that the conditions that constituted grounds for the petition will be promptly abated, all obligations, expenses and improvements of the conservatorship, including all fees and expenses of the conservator, have been fully paid or provided for and the purposes of the conservatorship have been fulfilled.

(3) the building has been sold by the conservator and the proceeds distributed in accordance with section 9 (d); or

(4) the conservator has been unable, after diligent effort, to present a plan that could be approved under section 6 (b) (3) or to implement a previously approved plan or, for any reason, the purposes of the conservatorship cannot be fulfilled.

§ 1111. Applicability.

A. Applicability. General Inapplicability.

This Ordinance shall not apply to commercial and residential buildings, structures, or land owned by or held in trust for the Federal Government and regulated under the United States Housing Act of 1937 (50 Stat. 888, 42 U.S.C. S 1437 et seq.) and the regulations promulgated under that act.

B. Inapplicability to Service Members.

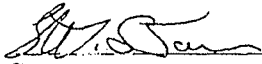
This Ordinance shall not apply if the property owner has vacated the property in order to perform military service in time of war, armed conflict or in order to assist with relief efforts during a Federal or State emergency as a member of the United States Armed Forces or its reserve component.

§ 1112. Effective Date.

This Ordinance shall take effect immediately following its adoption, the date being indicated below.

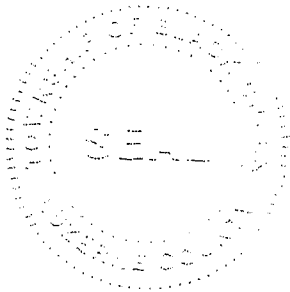
ENACTED AND ORDAINED this 2 day of July, 2020 by the Black Creek Township Council.

ATTEST:


Secretary

BLACK CREEK TOWNSHIP:


President



**BOARD OF SUPERVISORS
BLACK CREEK TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA
ORDINANCE NO. 1 of 12/3/2020**

AN ORDINANCE OF THE TOWNSHIP OF BLACK CREEK, LUZERNE COUNTY, PENNSYLVANIA SETTING FORTH THE DEFINITIONS AND REGULATIONS FOR THE REGISTRATION AND OPERATION OF ATVS, QUADS AND DIRT BIKES WITHIN BLACK CREEK TOWNSHIP, AND PROVIDING PENALTIES FOR VIOLATION; ENFORCEMENT; REPEALER CLAUSE; VALIDITY CLAUSE AND EFFECTIVE DATE.

WHEREAS, Black Creek Township ("Township") is a Second Class Township, governed by the Second Class Township Code, 53 P.S. 65101 et seq., which authorizes the Township to adopt ordinances for the protection of the public health, safety and welfare; and

WHEREAS, the use and operation of ATVs, Quads and dirt bikes within Black Creek Township may create a public nuisance and adversely affect the public's health, safety, and welfare by the creation of excessive noise, dust, and fumes; and

WHEREAS, the purpose of this Ordinance is to provide for the reasonable regulation of ATVs, Quads and dirt bikes within Black Creek Township so as to reduce noise and air pollution, protect the public's health, safety and welfare, and to provide for the peaceful and quiet enjoyment of property; and

WHEREAS, the Board of Supervisors of Black Creek Township desires to enact an ordinance regulating the use of ATVs, Quads, and dirt bikes within Black Creek Township to protect the public health, safety, and welfare of the general public.

NOW, THEREFORE, be it **ORDAINED** and **ENACTED**, and it is hereby ordained and enacted as follows:

SECTION I. Definitions.

ALL TERRAIN VEHICLE (ATV)/QUAD. Any motorized off-road recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain, including but not limited to a multi-track, multi-wheel or low pressure tire vehicle or related 2-wheel, 3-wheel, 4-wheel or belt driven vehicle, or an amphibious machine. The definition of ATV excludes golf carts, construction machines, utility vehicles used for business operations, agriculture, yard work, landscaping, snow removal or otherwise being used in the reasonable maintenance of a person's private property, or motorized vehicles being used for law enforcement, fire, emergency, military or other authorized governmental purposes.

DIRT BIKE. A small motorcycle designed and built with special tires and suspension for riding on unpaved roads and over rough terrain.

OCCUPANT. A person who regularly resides on the property in question.

OPERATE. To use in any manner within the jurisdiction of Black Creek Township, Luzerne County, Pennsylvania.

OWNER. Any person who has legal or equitable title to the property on which an ATV or Dirt Bike is being operated.

PERSON. An individual, group of individuals, partnership, firm, association, or any other entity.

PRIVATE PROPERTY. Any land, rights-of-way, roads, or other real property owned, maintained, or otherwise under the control of any person or entity other than Lehman Township, Luzerne County and not available for general use by the public.

SECTION 2: Registration Requirements.

Registration of vehicles governed by this Ordinance is required in accordance with the registration provisions of the Pennsylvania Snowmobile and All-Terrain Vehicle Law, 75 PA C.S. Section 7701 et seq. Proof of registration in the nature of copies of the registration documents under this law shall be supplied to the Township upon request.

SECTION 3: Compliance with State Law.

Any person who operates an ATV within Black Creek Township shall do so only in full compliance with the provisions of the Pennsylvania Snowmobile and All-Terrain Vehicle Law, 75 PA C.S. Section 7701 et seq., including but not limited to, registration and licensing.

SECTION 4: Operation and Use.

- A. Owner or Occupant. Only the owner or an occupant or their guests or invitees shall be permitted to operate an ATV or dirt bike on private property.
- B. Access Limitation. No person shall go on or cross the land of another to operate an ATV or dirt bike without the written permission of the landowner, which written permission shall be carried on the person of the operator. No person shall use State or Township roads to gain access to the land used for ATV or dirt bike vehicle operation.
- C. Setback Requirements. A person operating an ATV or dirt bike must remain at least one hundred (100') from any adjoining or adjacent property line and must remain at least one hundred fifty feet (150') from an off-site residential dwelling. It shall not be a violation of this Section to operate an ATV within a required setback for the limited purpose of ingress and egress or to load or unload from or onto a driveway, garage or tother structure used for housing ATV's. This exception shall not apply where it is shown that the ingress and egress is excessive, unreasonable, used as a defense where no such defense exists or for some other purpose than storing or loading said ATV. The purpose of this

Section is to afford all ATV owners the opportunity to travel to and from those locations where it is lawful to operate said ATV, one way to and one way from said locations. If the owner requires additional ingress and egress, then owner shall transport said ATV to a location where it does not violate any section of this Ordinance. Nothing in this Section shall preclude strict compliance with all other sections herein.

D. Maximum Numbers, Facilities and Events.

1. The operation of more than four (4) ATVs operating at one time requires an event or facility permit from the Township, provided such event or facility is otherwise a permitted use under applicable Township ordinances.
2. Where one or more structures, a track, a course, or one or more obstacles including dirt mounds, are installed or arranged for use by vehicles regulated under this Ordinance, a facility or event permit shall be obtained from the Township, in those areas where such facilities or events may be permitted under applicable Township ordinances. Otherwise, such facilities and events are prohibited. Proper erosion and sedimentation controls shall be installed prior to use by the vehicles governed under this Ordinance.

E. Hunting Limitation. Except as otherwise permitted by Title 34 of the Pennsylvania Statutes (relating to game), no person shall operate or ride on any ATV or dirt bike with any bow and arrows unless unstrung nor any firearm unless unloaded, in his or her possession.

F. Time Limitations. It shall be unlawful for any person, corporation, partnership, or any other entity to operate an ATV or dirt bike for recreational purposes between the hours of 9 p.m. and 7:00 a.m., prevailing time. Operation of ATVs and dirt bikes will be limited to a one-hour (1) session with a three (3) hour rest before the next operation of the vehicle. The rest period must be provided to prohibit disturbance of the peace within the Township. Operation within this prohibited time period shall be considered a disturbance of the peace with the Township.

G. Noise Limitation. No person shall operate an ATV or dirt bike without an effective and suitable muffling device on its engine which efficiently deadens or muffles the noise of the exhaust. At no point shall the sound intensity produced by a dirt bike exceed 82 decibels of sound at 50 feet on the "A" scale as measured by the SAE standards J-192. At no point shall the sound intensity produced by an ATV exceed 99 decibels of sound when measured at 20 inches in accordance with ANSI SAE standards J-1287.

H. Speed limitation. No person shall operate an ATV or dirt bike at a speed greater than that reasonable and prudent considering the existing conditions.

I. Dust Limitation. No person shall operate any ATV or dirt bike in any manner which creates dust which crosses onto any adjoining or adjacent property. Visible dust, mud or

debris shall not leave the property boundaries of the parcel where vehicles governed by this Ordinance are operated.

- J. Livestock Area Restriction. No person shall operate, allow, or permit the operation of an ATV or dirt bike within 300 feet of any type of livestock
- K. Environmental Sensitive Area Limitation. No person shall operate, allow or permit the operation of an ATV or dirt bike within a stream, creek, waterway, drainage way, wetland, or erosion sensitive area, floodplain, or within 50 feet of such environmentally sensitive area.

SECTION 5. Penalties for Violation.

- A. Violations a Public Nuisance; Persons Liable. A violation of this Ordinance shall be deemed a public nuisance and shall subject the owner of the property and any Person operating an ATV or dirt bike in violation of this Ordinance to summary enforcement proceedings.
- B. Enforcement; First Offense. The Pennsylvania State Police and such persons as may from time to time be designated by the Township are authorized to make an initial determination of a violation of, and to enforce, the provisions of this Ordinance. An initial determination of a violation of this Ordinance shall result in a verbal warning to the occupant, or owner and the operator of the ATV or dirt bike.
- C. Penalties. A second or subsequent violation of this Ordinance shall be subject to summary enforcement proceedings and upon being found guilty thereof shall subject the violator to a fine of \$600.00 for a second offense (following a verbal warning), and \$1,000.00 for a third offense. Upon default in payment of a fine and upon a guilty finding of a third or subsequent offense the violator may be subject to a term of imprisonment up to the maximum allowed by law for a summary offense. Each day that a violation continues or each section of this Ordinance that is found to be violated shall be considered a separate violation.
- D. All offenders convicted of violating this ordinance shall also pay the costs of prosecution and in default of said payment of fines and costs.
- E. Any person guilty of a violation of the within Ordinance may also be subject to civil proceedings for damages and/or injunctive relief by the property owner and any entity injured or damaged by such violation.
- F. Both criminal and civil proceedings may be commenced against a person violating the within Ordinance and commencement of any such proceedings shall not constitute an election of remedies preventing the commencement of the other proceedings against such violator.

SECTION 6. Repealer.

All other ordinances or parts thereof, which are in conflict with this Ordinance, are hereby repealed.

SECTION 7. Validity.

The provisions of this Ordinance are severable, and if any section, clause, sentence, part, or provision thereof shall be held illegal, invalid, or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, clauses, sentences, parts, or provisions of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part, or provision had not been included herein.

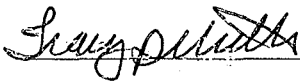
SECTION 8. Effective Date.

This Ordinance shall become effective five days after the adoption hereof.

Adopted 3rd Day of December, 2020.

IN ALL OTHER MANNER NOT INCONSISTENT HERewith, THE BLACKCREEK TOWNSHIP ZONING ORDINANCE WILL REMAIN UNCHANGED.

ATTEST:



Board of Supervisors of Black Creek Township





ORDINANCE NO. 1 of June 3, 2021

AN ORDINANCE OF BLACK CREEK TOWNSHIP, LUZERNE COUNTY, COMMONWEALTH OF PENNSYLVANIA, ELECTING TO AMEND ITS NON-UNIFORM PENSION PLAN ADMINISTERED BY THE PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM PURSUANT TO ARTICLE IV OF THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW; AGREEING TO BE BOUND BY ALL PROVISIONS OF THE PENNSYLVANIA MUNICIPAL RETIREMENT LAW AS AMENDED AND AS APPLICABLE TO MEMBER MUNICIPALITIES. IT IS HEREBY ORDAINED BY BLACK CREEK TOWNSHIP, LUZERNE COUNTY, AS FOLLOWS:

SECTION I. Black Creek Township (the Township), having established a non-uniform pension plan administered by the Pennsylvania Municipal Retirement System (the System), hereby elects to amend its Non-Uniform Pension Plan administered by the System in accordance with Article IV of the Pennsylvania Municipal Retirement Law, 53 P.S. §881.101 et seq. (Retirement Law), and does hereby agree to be bound by all the requirements and provisions of the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act, 53 P.S. §895.101 et seq., and to assume all obligations, financial and otherwise, placed upon member municipalities.

SECTION II. As part of this Ordinance, the Township agrees that the System shall administer and provide the benefits set forth in the amended Non-Uniform Pension Plan Document entered into between the Pennsylvania Municipal Retirement Board and the Township effective as of the date specified in the adoption agreement (the Contract).

SECTION III. The Township acknowledges that by passage and adoption of this Ordinance, the Township officially accepts the Contract and the financial obligations resulting from the administration of the Contract.

SECTION IV. Payment for any obligation established by the adoption of this Ordinance and the Contract shall be made by the Township in accordance with the Retirement Law and the Municipal Pension Plan Funding Standard and Recovery Act. The Township hereby assumes all liability for any unfundedness created due to the benefit structure set forth in the Contract.


SECTION V. The Township intends this Ordinance to be the complete authorization of the Contract, as amended and it shall become effective as of the date specified in the adoption agreement, which is the effective date of the Contract, as amended.

SECTION VI. A duly certified copy of this Ordinance and an executed Contract shall be filed with the System.

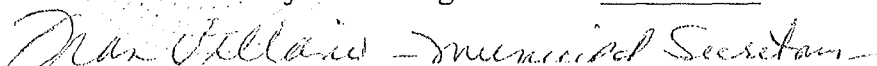
ORDAINED this 3rd day of June, 2021.

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ATTEST:

 DC

Reviewed by PMRS Legal Counsel _____

 Municipal Secretary

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BLACK CREEK TOWNSHIP
ORDINANCE NO. 1 OF 2021 - Dec. 2

AN ORDINANCE OF BLACK CREEK TOWNSHIP, LUZERNE COUNTY,
PENNSYLVANIA, TO ESTABLISH THE COMPENSATION OF TOWNSHIP
SUPERVISORS

BACKGROUND

WHEREAS, the Second Class Township Code (53 P.S. § 65606) sets forth the amount of annual compensation which Supervisors may receive; and

WHEREAS, the Second Class Township Code requires that the amount of annual Township Supervisor compensation be established by ordinance; and

WHEREAS, the Second Class Township Code provides that any change in compensation shall become effective at the beginning of the next term of a Supervisor; and

WHEREAS, the Supervisors of Black Creek Township desire to set the amount of annual compensation that Black Creek Township Supervisors may receive as provided herein.

NOW, THEREFORE, The Supervisors of Black Creek Township ordain as follows:

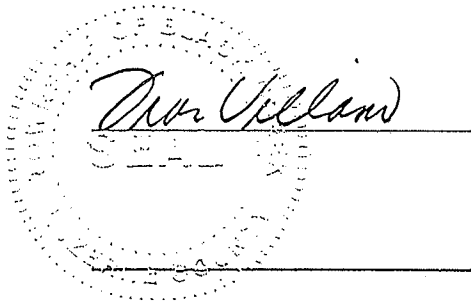
1. **COMPENSATION ESTABLISHED.** Subject to the provisions of Section 4, commencing with the November 2, 2021 general election for Supervisors elected and taking office on and after January 3, 2022, each Supervisor shall receive an annual maximum compensation of One Thousand Eight Hundred Seventy-Five and 00/100 Dollars (\$1,875.00).
2. **PAYMENT.** Subject to the provisions of this Paragraph, payment of Supervisor compensation shall be in twelve (12) consecutive monthly installments, each in the amount of One Hundred Fifty-Six and 25/100 Dollars (\$156.25). Notwithstanding the foregoing, as a condition precedent to receipt of a particular monthly payment, a Supervisor shall be required to attend and be present for the duration of the Supervisor's monthly public meeting for the month in which a payment is to be made. If a Supervisor is not in attendance and present for the entire duration of such monthly meeting, the Township shall be permitted to withhold the monthly Supervisor compensation. Notwithstanding the foregoing, a Supervisor shall be permitted to be absent for two (2) Supervisors monthly meetings each calendar year without his or her compensation being reduced.
3. **SCOPE OF DUTIES; ADDITIONAL COMPENSATION.** The annual compensation paid to each Supervisor shall be considered compensation solely for services rendered by

a Supervisor for the duties imposed by law on Supervisors of Second Class Townships. Should a Supervisor perform services for Black Creek Township in the capacity as roadmaster, laborer, secretary, treasurer, assistant secretary, assistant treasurer or in any employee capacity not otherwise prohibited by the Second Class Township Code, such Supervisor shall be entitled to hourly, daily, weekly, semi-monthly or monthly compensation as determined by the Board of Auditors.

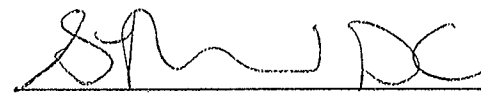
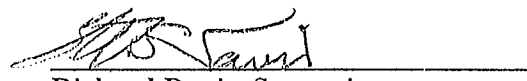
4. PROHIBITION. No Supervisor may receive compensation as an employee for attending meetings of the Board of Supervisors. Notwithstanding anything to the contrary contained herein, this Ordinance shall not apply to any person appointed to fill a vacancy created by the death, resignation and/or removal of a Supervisor who was elected and/or appointed to the office of Supervisor prior to the Effective Date of this Ordinance.
5. EFFECTIVE DATE. The effective date of this Ordinance shall be five (5) days after the date of adoption by the Black Creek Township Supervisors and subject to the provisions of Section 4, above, shall apply to Supervisors, whether newly elected, re-elected or appointed, who take office on or after January 3, 2022.

AND NOW, this Ordinance is adopted this 2nd day of December, 2021.

Attest:



BLACK CREEK TOWNSHIP
SUPERVISORS:


Dr. Saura Rohrbach, Supervisor
Richard Davis, Supervisor

ORDINANCE NO. 3 of 2022
BLACK CREEK TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA

**AN ORDINANCE OF BLACK CREEK TOWNSHIP AMENDING ITS ZONING
ORDINANCE TO REGULATE SHORT TERM RENTALS AND PRINCIPAL AND
ACCESSORY SOLAR ENERGY SYSTEMS**

The Black Creek Township Board of Supervisors do hereby amend Chapter 15 of the Black Creek Township Code of Ordinances as follows:

The following additional words, terms or phrases are added or shall replace the current words, terms or phrases under Section 201 of the zoning ordinance and shall have the meaning indicated herein:

ELECTRICAL FACILITY:

A use devoted to the creation, storage, conversion, distribution, or transmission of electrical energy for use at another location. The term includes a facility which: (a) stores electrical energy and/or discharges it on command by an electrical utility or other entity; (b) stores, converts and/or places electrical energy back into the transmission system; or (c) involves the maintenance of utilities.

SHORT TERM RENTAL:

Any dwelling unit rented for the purpose of overnight lodging for a period of not less than one day and not more than 30 days. The term does not include a hotel, motel, bed and breakfast, or group home.

SOLAR ARRAY CONNECTION:

The low-voltage electric lines which connect Solar Related Equipment.

SOLAR EASEMENT:

A right, expressed as an easement, restriction, covenant, or condition contained in any deed, contract, or other written instrument executed by or on behalf of any landowner for the purpose of assuring adequate access to direct sunlight for solar energy systems.

SOLAR ENERGY:

A radiant energy (direct, diffuse and/or reflective) received from the sun.

SOLAR ENERGY SYSTEM, PRINCIPAL (FORMERLY MAJOR ENERGY SYSTEM):

A facility or area of land principally used to convert solar radiation to electricity or capture solar energy and convert it to electrical energy or power primarily for off-site use. The solar energy

system is a principal use of a lot consisting of one or more free-standing ground, or roof mounted solar collector devices, solar related equipment and other accessory structures and buildings including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures.

SOLAR ENERGY SYSTEM, ACCESSORY (FORMERLY MINOR ENERGY SYSTEM):

A facility or area of land principally used to convert solar radiation to electricity or capture solar energy and convert it to electrical energy or power primarily for on-site use. The solar energy system is an accessory use on the same lot as the principal use and consists of one or more free-standing or ground or roof mounted solar arrays or modules, or solar related requirement, intended to primarily reduce on-site consumption of utility power or fuels for use on-site by the generator.

SOLAR PANEL:

The part or portion of a solar energy system containing one or more receptive cells or modules, the purpose of which is to convert solar energy for use in space heating or cooling, for water heating or for electricity.

SOLAR RELATED EQUIPMENT:

Includes a solar photovoltaic cell, module, panel, or array, or solar hot air or water collector device panels, lines, pumps, batteries, mounting brackets, framing and foundations or other structures used for or intended to be used for collection of solar energy.

The following is added and shall replace Section 317(1) under Section 317, Solar Overlay Districts:

(1) ACCESSORY SOLAR ENERGY SYSTEMS (ASES).

- A. The following regulations are applicable to all Accessory Solar Energy Systems:
 - 1. Accessory solar energy systems are a permitted use in all zoning districts.
 - 2. The ASES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the Township's Building Code, and with all applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the application.

3. All on-site utility, transmission lines, and plumbing shall be placed underground.
4. The ASES shall be designed to use all energy created solely on site.
5. Signage shall comply with the prevailing sign regulations.
6. All solar energy systems should be designed and located to ensure solar access without reliance on and/or interference from adjacent properties.
7. All ASES shall be situated to eliminate concentrated glare onto nearby structures or roadways.

B. Roof Mounted and Wall Mounted Accessory Solar Energy Systems:

1. A roof mounted or wall mounted ASES may be located on a principal or accessory building.
2. ASES mounted on roofs or walls of any building shall be subject to the maximum height-regulations specified for principal and accessory buildings within each of the applicable zoning districts.
3. Wall mounted ASES shall comply with the setbacks for principal buildings in the applicable zoning districts.
4. Solar panels shall not extend beyond any portion of the roof edge.
5. The owner shall provide evidence certified by an appropriately licensed professional that the roof is capable of holding the load of the ASES.

C. Ground Mounted Accessory Solar Energy Systems:

1. Setbacks. A ground mounted ASES shall not be located in the required front yard setback. The minimum setbacks from side and rear property lines shall be equivalent to the principal building setbacks in the applicable zoning district.
2. Height. Freestanding ground mounted ASES shall not exceed twenty (20) feet in height above the ground elevation surrounding the systems.
3. Coverage. All of the components of a ground mounted ASES shall be considered impervious coverage and calculated as part of the lot coverage

requirements for the applicable zoning district.

The following additional uses are included in the R-2 and B-1 Zoning Districts under Article 3, Establishment of Zoning Districts and District Regulations:

SECTION 313 (2) - B-1 GENERAL COMMERCIAL DISTRICT

(2) USES PERMITTED BY SPECIAL EXCEPTION

- Short Term Rental

SECTION 310 (2) - R-2 MULTIFAMILY ZONING DISTRICT

(2) USES PERMITTED BY SPECIAL EXCEPTION

- Short Term Rental

The following sections are added to the Solar Overlay Districts of Section 317 of the zoning ordinance to regulate principal solar energy systems:

- (2) The following is a Conditional Use in all C-1, I-1, B-1, and A-1 zoning districts, in compliance with the provisions contained herein, and all applicable solar regulations.

PRINCIPAL SOLAR ENERGY SYSTEMS (PSES).

- A. Compliance with Industry Standards. The PSES layout, design and installation shall conform to applicable industry standards, such as those of the American National Standards Institute (ANSI), Underwriters Laboratories (UL), the American Society for Testing and Materials (ASTM), , Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electrical Testing Laboratory (ETL), Florida Solar Energy Center (FSEC) or other similar certifying organizations, and shall comply with the PA Uniform Construction Code, regulations adopted by the Pennsylvania Department of Labor and Industry, and with all other applicable fire and life safety requirements. The manufacturer specifications for the key components of the system shall be submitted as part of the permit application.
- B. Installers. PSES installers must meet or exceed one of the following requirements:
- i. Is certified by the North American Board of Certified Energy Practitioners (NABCEP) for solar thermal installation.

ii. Has completed an Interstate Renewable Energy Council (IREC) Institute for Sustainable Power Quality (ISPQ) accredited solar thermal training program or a solar collector's manufacturer's training program and successfully installed a minimum of three solar thermal systems.

C. Maintain Good Working Order. Upon completion of installation, the PSES shall be maintained in good working order in accordance with manufacturer's standards and any other codes under which the PSES was constructed. Failure of the owner to maintain the PSES in good working order is grounds for enforcement action by the zoning officer.

D. Underground Requirements. Solar Project Connections may be located above ground; however, DC voltage Solar Array Connections and AC Solar Facility Connections shall be located underground.

E. Utility Notification. The owner of a PSES shall provide the township with written confirmation that the public utility company to which the PSES will be connected has been informed of the intent to install a grid connected system and approved of such connection.

F. Signage. No portion of the PSES shall contain or be used to display advertising. The manufacturer's name and equipment information or indication of ownership shall be allowed on any equipment of the PSES provided it complies with the nameplate and identification sign requirements of this ordinance.

G. Glare.

i. All PSES shall be placed such that concentrated solar radiation or glare does not project onto nearby properties, structures, buildings, and roadways.

ii. The applicant has the burden of proving that any glare produced does not have a significant adverse impact on neighboring or adjacent uses either through siting or mitigation.

iii. A glare study shall be submitted by the applicant to show compliance with this subsection at the time of the conditional use application.

H. Noise Study. A noise study shall be performed by the applicant and produced at the time of the conditional use application. The noise study shall be performed by an independent noise study expert and paid for by the applicant. The noise study shall address noise produced during construction and during the operation of the PSES. Noise from a PSES may not exceed 50dBA as measured at the lot line of the property where

the PSES is located. This requirement shall be a maximum noise level using a Lmax standard, and not based upon an average.

- I. Buffer, Screening and Landscape Requirements. PSES shall be screened from any adjacent property. The screen shall consist of plant materials which provide an effective visual screen. Street screening shall consist of shrubs, six feet to eight feet high when mature, that shall be planted every 15 feet of property abutting a public right-of-way in a manner to provide an effective visual screen. The exact type and placement type of vegetation shall be approved by the Township. Shrubs shall be planted adjacent to or outside of the road right-of-way. Solar perimeter fence shall be placed between shrubs and solar panels. Perimeter fence shall be placed between shrubs and solar panels. Widespread use of herbicides to control ground cover growth is prohibited. Unless agreed to by the easement or right-of-way holder, ground-mounted PSES shall not be placed within any legal easement or right-of-way location, or be placed within any stormwater conveyance system, or in any other manner that would alter or impede stormwater runoff from collecting in a constructed stormwater conveyance system.
- J. Contact Information. The PSES owner or operator shall provide current contact information to the township which includes a phone number and identifies a responsible person for the township or public to contact regarding emergencies, inquiries, and complaints for the duration of the project. The contact information shall be conspicuously posted on the lot where the PSES is located so that a person would not believe they were trespassing while viewing it.
- K. Emergency Preparedness Plan. The owner or operator shall furnish a written emergency preparedness plan outlining the procedures on how emergencies will be handled. The plan shall include the manner that the owner or operator will coordinate with local emergency service providers in the event of an emergency. The plan shall be reviewed and approved by the local emergency service providers prior to the submission of the application with the township.
- L. Solar Easements. Where a solar easement is proposed by the owner or landowner for a PSES, a written agreement in recordable form constituting a covenant running with the land shall be provided to the township as part of the subdivision or land development. The township shall not be a party to any agreement, nor an intended third- party beneficiary and shall not be responsible for enforcement or maintenance of any solar easement.
- M. SALDO. All PSES shall constitute a subdivision and/or land development.
- N. Decommissioning.

i. The PSES owner is required to notify the township immediately upon cessation or abandonment of the use. The PSES shall be presumed to be discontinued or abandoned if no electricity is generated by the PSES for a continuous period of 12 months.

ii. The PSES owner shall then have six months in which to dismantle and remove the PSES including all solar related equipment or appurtenances related thereto, including but not limited to buildings, cabling, electrical components, transmission lines, foundations, and other associated facilities from the lot. The owner shall also restore the land to its original condition pre-dismantling condition. If the owner fails to dismantle or remove the PSES and restore the land within the six-month time-period, the township may, but shall not be required to, complete the decommissioning and land restoration at the owner's expense.

iii. At the time of issuance of the permit for the construction of the PSES, the owner shall provide financial security to the township to secure the expense of dismantling and removing the PSES and restoration of the land to its original condition. The financial security shall be in the amount of 110 percent of the costs of decommissioning. The decommissioning funds shall be posted and maintain during the life of the project in the form of a performance bond, irrevocable letter of credit or other financial form of security acceptable to Township Supervisors.

iv. An independent and certified professional engineer shall be retained by Township Supervisors at the owner's cost to estimate the total cost of decommissioning without regard to salvage value of the equipment, and the cost of decommissioning net salvage value of the equipment. Thereafter, the owner shall retain an engineer to provide the township with cost estimates of decommissioning after the first year of operation and every fifth year thereafter.

O. Ground Mounted PSES. In addition to the other requirements of this subsection, ground mounted PSES shall also comply with the following:

i. Minimum lot size of 10 acres.

ii. Minimum setback from a front lot line shall be 200 feet, and 100 feet from all other lot lines.

iii. Maximum height of ground mounted solar panels shall be 10 feet above the ground elevation surrounding the system. All PSES components and structural supports for connections shall not exceed the maximum building height of the I-1 Zoning District.

iv. Maximum Building Coverage. The maximum impervious surface of the solar arrays of a ground mounted PSES, regardless of the mounted angle of any solar panels, along with the Solar Related Equipment shall be considered buildings for purposes of this subsection and shall comply with the maximum percentage of building coverage under the I-1 Zoning District.

P. Roof and Wall Mounted PSES. The total height of a building with a roof and/or wall mounted system shall not be more than three feet above the maximum building height specified for a principal building within the I-1 Zoning District.

Q. Stormwater runoff from an PSES shall be managed in accordance with the requirements of the Township Stormwater Management Ordinance. Proof of compliance shall be required at the time of the conditional use application.

R. Insurance. The PSES owner or operator shall maintain a current general liability policy covering:

i. \$1,000,000 of personal or bodily injury to or death of any person.

ii. \$3,000,000 for personal or bodily injury to or death of any number of persons arising from any one occurrence.

iii. \$1,000,000 dollars for any instance of property damage.

iv. An umbrella liability insurance coverage shall also be maintained with coverage to be not less than \$3,000,000 for each occurrence and \$3,000,000 in the aggregate. Certificates of insurance for the above required coverage shall be provided to the township annually.

S. Application. In addition to the information required in zoning permit application, the applicant shall prepare and submit a narrative and survey map at the time of application for a conditional use, which includes:

i. An overview of the project;

ii. The project location;

iii. The approximate generating capacity of the PSES in kilowatt hours;

iv. The approximate number, representative types and height or range of heights of PSES to be constructed, including their generating

capacity, dimensions and respective manufacturers;

v. A description of accessory facilities;

vi. A listing and map of the lots on which the proposed PSES will be located; and

vii. A site plan showing the planned location, lot lines, and setback lines of the PSES and Solar Related Facilities, including access roads.

The following sections are added to the supplemental regulations of Article 6 of the zoning ordinance to regulate short term rentals:

(44) SHORT TERM RENTALS

- A. One off-street parking space shall be provided for each bedroom on the rental property for tenants and their guests. (See Section 511 (3). On-street parking is prohibited.
- B. Use or occupancy of recreational vehicles, trailers, campers and tents is prohibited.
- C. Outdoor overnight sleeping of tenants and their guests is prohibited.
- D. Recreational outdoor fires are prohibited.
- E. Fireworks are prohibited.
- F. When the landowner is residing more than 30 miles from the rental, the landowner shall designate a local person, property manager or agent within 30 miles of the rental, as a local emergency contact person who has access and authority to assume management duties of the rental and take remedial measures. 24-hour contact information of the landowner and the manager or agent shall be provided to the zoning officer as part of the permit application.
- G. The maximum number of overnight tenants and guests shall be limited to two person per bedroom.
- H. The maximum number of guests not staying overnight shall be limited to 50 percent of the maximum number of overnight occupants. The maximum occupancy limit shall be established at the time of application.
- I. Proof of liability insurance shall be provided to the zoning officer as part of the permit application.

The following section is added to the off-street parking requirements of Article 5, Section 511 (3) of the zoning ordinance, Required Spaces:

Section 511. Off Street Parking.

Short Term Rentals: One (1) off-street parking space shall be provided for each bedroom on the rental property for tenants and their guests.

These amendments shall become effective immediately following its adoption. The Black Creek Township Zoning Ordinance is hereby amended to include the above amendments, this 7th day of September, 2022, by the Black Creek Township Board of Supervisors.

ATTEST:


Amattie A. Dau
Secretary

BLACK CREEK TOWNSHIP BOARD OF
SUPERVISORS:

SR DC
Chairperson

Caren Jordan
Vice Chairperson

Donna M. Lupo
Supervisor

ORDINANCE NO. #4 of 2022
BLACK CREEK TOWNSHIP, LUZERNE COUNTY, PENNSYLVANIA

AN ORDINANCE OF BLACK CREEK TOWNSHIP AMENDING ITS ZONING
ORDINANCE IN RELATION TO ENFORCEMENT REMEDIES

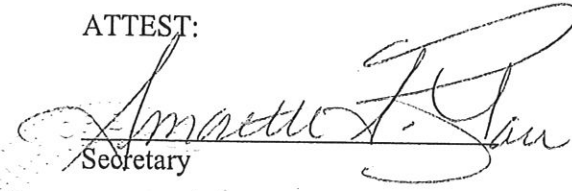
The Black Creek Township Board of Supervisors do hereby amend Chapter 15 of the Black Creek Township Code of Ordinances as follows:

The following is added and shall replace Section 705 (5) B, Enforcement Remedies:

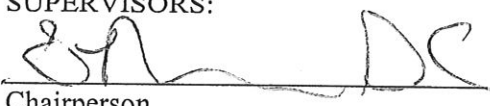
B. Enforcement Remedies. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable thereof in a civil enforcement proceeding commenced by the Township or the Zoning Officer, shall pay a judgment of not less than \$1,000.00 dollars, plus all court costs, including reasonable attorney fees incurred by the Township as a result of said proceedings. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determines that there has been a violation, and further determines that there has been a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation. In such cases, 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. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to the Township.


These amendments shall become effective immediately following its adoption. The Black Creek Township Zoning Ordinance is hereby amended to include the above amendments, this 6th day of October, 2022, by the Black Creek Township Board of Supervisors.

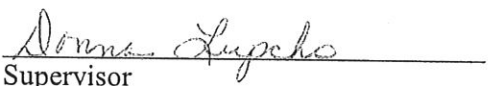
ATTEST:


Secretary

BLACK CREEK TOWNSHIP BOARD OF
SUPERVISORS:


Chairperson


Vice Chairperson


Supervisor