

**Code of Ordinances**  
**of the**  
**Borough of Modena**  
**Chester County, Pennsylvania**

**Published by Authority of the Borough**

Adopted by *Ord. 145-07, 12/11/ 2007*

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**Officials**  
**of the**  
**Borough of Modena**  
County of  
Chester, Pennsylvania

**ELECTED OFFICIALS**

Mayor - Ron McCorkle

Borough Council

President - Clayton Ayers  
- James Corle  
- Debby Patton  
- Blaise Frost  
- Mona Pluck  
- Jerry Roberts  
- Kenneth Lloyd

Tax Collector - Sandy Frost

**APPOINTED OFFICIALS**

Secretary - Sandy Frost  
Treasurer - Sandy Frost  
Solicitor - Hudson Lawrence Voltz, P.C.  
Engineer - The Louis Berger Group, Inc.  
Fire Marshall - Frankie Dowlin  
Project Administrator - Don McDermott  
Auditor - Cynthia Quinn



## FOREWORD

### *History*

This comprises the codification of the ordinances of the Borough of Modena. The Borough of Modena was originally settled in 1739 and was incorporated as a Borough in 1921 from parts of East Fallowfield Township.

The Code of Ordinances of the Borough of Modena was prepared by Keystate Publishers, Inc., and adopted by the Borough of Modena Borough Council on December 11, 2007, by *Ord. 145-07*.

### *Organization*

The Code contains four parts which are (1) the valid current ordinances of the Borough of Modena contained in Chapters 1 through 27, (2) the Appendix, which lists by abstracted title all ordinances of a temporary or "one time" nature, (3) the Table to the disposition of each ordinance ever enacted by the Borough of Modena, and (4) the Index, which is an alphabetical arrangement of subjects.

In the Code each Chapter is separated by a divider tab, and specific ordinances can be located by subject on the contents page at the beginning of each Chapter. The Index may also be used to search for a subject when one is looking for general information on a particular subject, or if it is not known in which Chapter the subject might be found. The Appendix consists of several general categories containing a chronological listing of short subject descriptions along with a reference to the original ordinance and its date of enactment, if known.

The Table to disposition indicates what action has been taken by the Borough of Modena Borough Council with regard to every ordinance ever enacted. An ordinance has either been (1) specifically repealed, (2) superseded by another ordinance, (3) is located in a Chapter of the Code book, or (4) is located in the Appendix. Annual tax rate and budget ordinances are located only in the Table. The Table is a cross reference to the original ordinance books of the Borough of Modena, and to the location within the Code of each ordinance by number.





ORDINANCE NO. 145-07

AN ORDINANCE ADOPTING THE CODE OF ORDINANCES OF THE BOROUGH OF MODENA, CHESTER 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 Borough of Modena hereby ordains:

**Section 1. Adoption.** The "Code of Ordinances, Borough of Modena," as prepared and published for the said Borough of Modena, is hereby adopted as a consolidation, codification and revision of the ordinances of the Borough of Modena. Chapters 1 through 27 thereof contain the text of the body of all general administrative and regulatory ordinances of the Borough of Modena organized as follows:

**TABLE OF CONTENTS**

Chapter 1 . . . . . Administration and Government  
Chapter 2 . . . . . Animals  
Chapter 3 . . . . . [Reserved]  
Chapter 4 . . . . . Buildings  
Chapter 5 . . . . . Code Enforcement  
Chapter 6 . . . . . Conduct  
Chapter 7 . . . . . [Reserved]  
Chapter 8 . . . . . Floodplains  
Chapter 9 . . . . . [Reserved]  
Chapter 10 . . . . . Health and Safety  
Chapter 11 . . . . . Housing  
Chapter 12 . . . . . [Reserved]  
Chapter 13 . . . . . Licenses, Permits and General Business Regulations  
Chapter 14 . . . . . [Reserved]  
Chapter 15 . . . . . Motor Vehicles and Traffic  
Chapter 16 . . . . . [Reserved]  
Chapter 17 . . . . . [Reserved]  
Chapter 18 . . . . . Sewers and Sewer Connections  
Chapter 19 . . . . . [Reserved]  
Chapter 20 . . . . . Solid Waste  
Chapter 21 . . . . . Streets and Sidewalks  
Chapter 22 . . . . . Subdivision and Land Development  
Chapter 23 . . . . . [Reserved]  
Chapter 24 . . . . . Taxation; Special  
Chapter 25 . . . . . [Reserved]  
Chapter 26 . . . . . Water  
Chapter 27 . . . . . Zoning

**APPENDIX**

A . . . . . Annexation of Territory

- B . . . . . Debt and Bond Issues
- C . . . . . Franchises and Services
- D . . . . . Governmental and Intergovernmental Affairs
- E . . . . . Plan Approval
- F . . . . . Public Property
- G . . . . . Sewers
- H . . . . . Streets and Sidewalks
- I . . . . . Water
- J . . . . . Zoning; Prior Ordinances

Table to the Disposition of All Ordinances  
 Table to the Disposition of Significant Resolutions

The Appendix of the volume lists, by subject matter, in chronological order, the titles (or an abstract of title) of enactments of special nature or of historical interest, for the complete text of which the official records of the Borough of Modena shall be authoritative.

**Section 2. Citation and Effective Date.** The codification referred to in Section 1 of this ordinance shall be known and cited officially as the "Borough of Modena Code of Ordinances," and all future ordinances shall make reference thereto. This ordinance shall become effective immediately upon publication of notice of final enactment as required by law.

**Section 3. Saving Clause.** The provisions of the Borough of Modena Code of Ordinances, 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 Borough of Modena Code of Ordinances shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations.

**Section 4. Consolidation and Revision.** As a necessary part of codification, the following provisions are hereby consolidated and revised as indicated:

A. *Consolidations.*

Section	Subject	Ordinance No., Section
		[Reserved]

B. *Revisions.*

Section	Subject	Ordinance No., Section
		[Reserved]

**Section 5. New Enactments, Amendments and Repeals.** As a necessary part of codification, the following ordinances are hereby enacted, amended and repealed as summarized by short title:

A. *New Enactments.*

<b>Section</b>	<b>Subject</b>
§§1-101-1-111	Preliminary Provisions
§§10-201-10-208	Storage of Motor Vehicle Nuisances
§§10-301-10-308	Restricting Open Storage of Personal Property
§§13-101-13-109	Transient Retail Business

*B. Amendments.*

<b>Section</b>	<b>Subject</b>	<b>Ordinance No., Section</b>
§2-102	Violations and Penalties	117B, §2
§2-109	Additional Violation and Penalties	117B, §9
§2-113	Compliance of Nuisance	117B, §13
§2-114	Determination of Dogs as Dangerous	117B, §14
§2-115	Notice Regarding Status of Dangerous Dogs	117B, §15
§2-121	Violation and Penalties	117B, §21
§2-122	Enforcement Responsibilities	117B, §22
§2-207	Enforcement Authority	117B, §32
§2-210	Permit Fees	117B, §35
§2-211	Violation and Penalties	117B, §36
§2-305	Enforcement Authority	117B, §41
§2-306	Violations and Penalties	117B, §42
§4-103	Assignment of Numbers	134, §III
§4-104	Application for Street Address Number	134, §IV
§4-105	Number of Subdivision Lots	134, §V
§4-106	Size and Location of Numbers	134, §VI
§4-107	Violations and Penalties	134, §VII
§4-108	Enforcement	134, §VII
§5-105	Savings and Repeal	117A-05, §5
§5-201	Adopting of Property Maintenance Code	117A-04, §1
§5-202	Amendments	117A-04, §2
§5-203	Savings Clause	117A-04, §4
§6-108	Penalties	142-07, §8
§6-205	Penalty	102, §5; 117

<b>Section</b>	<b>Subject</b>	<b>Ordinance No., Section</b>
§6-302	Penalties	117
§6-403	Penalties	144-07, §3
§6-502	Penalty for Disorderly Conduct	117
§8-202	Issuance of Building Permit	132-06, §2.01
§8-203	Application Procedures and Requirements	132-06, §2.02
§8-210	Fees	132-06, §2.09
§8-211	Enforcement	132-06, §2.10
§8-401	General	132-06, §4.00
§8-502	Application Requirements for Special Permits	132-06, §5.01
§10-108	Penalties	73A, §7; 82; 117
§10-405	Penalties	138-06, §5
§11-106	Penalties	118, §6
§11-205	Violations	118.1, §5
§13-209	Penalties	111, §9; 117
§15-104	Temporary and Emergency Regulations	117
§15-107	Authorization for Use of Speed Timing Devices	117
§15-315	Operation of Parking Meters	117; 123-06
§15-404	Reclamation Costs	117
§15-501	Authority to Remove and Impound Illegally Parking Vehicles	117
§15-507	Effect of Payment of Towing and Impoundment Charges Under Protest	117
§15-508	Records of Vehicles Removed and Impounded	117
§18-108	Violations	99, §8; 117
§18-320	Penalties	117
§20-102	Containers for Collection	25, §2; 71A, Art. II, §2
§20-107	Penalties	25; 71A, Art. II, §3; 117
§20-209	Violations and Penalties	131, §9
§20-210	Enforcement	131, §10
§20-301	Dumpsters Required	125, §1

Section	Subject	Ordinance No., Section
§20-302	Registration Fee	125, §2
§20-305	Penalties	125, §5
§21-107	Penalties	117
§24-201	Title	78A; 78A-05, §1
§24-202	Definitions	78A, §1; 78A-05, §§II, III, and IV
§24-203	Levy	78A, §3; 78A-05, §V
§24-204	Duty of Employers	78A, §4; 78A-05, §VI
§24-205	Returns	78A, §5
§24-206	Exemptions	78A, §6
§24-207	Refunds	78A, §7
§24-208	Self-Employed Individuals	78A, §8
§24-212	Fine and Penalty	78A, §12; 117
§26-103	Special Provisions	136, §3
§26-105	Penalties	136, §5

C. *Repeals.*

Ord./Res.	Subject
	[Reserved]

**Section 6. Adoption of Standard Codes by Reference.** As a necessary part of codification, the following ordinances are hereby enacted by reference as standard codes summarized by short title:

Section	Short Title
	[Reserved]

**Section 7. Land Use Amendments.** The Borough of Modena Code of Ordinances is hereby amended as is more fully shown in the complete text of Chapter 27 thereof which is attached hereto and made part hereof by reference hereto as if fully set out at length herein, with deletions shown by ~~strike-through~~ and additions shown by underline, all of which is briefly summarized hereinafter.

A. *New Provisions.* The following provisions are new provisions which are being added to the Code, are underlined throughout the text, and are summarized as follows:

Section	Subject
	[Reserved]

B. *Revised Provisions.* The following provisions of the Code are revised, the text of which indicates deletions by ~~strike-through~~ and additions shown by underline, and are summarized as follows:

Section	Subject	Ordinance No., Section
[Reserved]		

C. *Repealed Provisions.* The following provisions of the Code are repealed, the text of which indicates deletions by ~~strike-through~~, and are as follows:

Section	Subject	Ordinance No., Section
[Reserved]		

**Section 8. Procedural Changes.** The following minor procedural changes have been made to existing Borough of Modena ordinances:

- A. Grammatical and spelling errors have been corrected where necessary;
- B. Minor changes have been made to correct obsolete terms and usages;
- C. The penalty provisions have been revised where necessary to comply with the Pennsylvania Borough Code, Vehicle Code, Municipalities Planning Code and the Local Tax Enabling Act.

**Section 9. 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 \_\_\_, Article \_\_\_, Section \_\_\_, Subsection \_\_\_ is hereby amended [revised] to read as follows..."
- B. Additions - "Chapter \_\_\_, Article \_\_\_, Section \_\_\_, Subsection \_\_\_ is hereby amended by the addition of the following..."
- C. Repeal - "Chapter \_\_\_, Article \_\_\_, Section \_\_\_, Subsection \_\_\_ is hereby repealed in its entirety."

**Section 10. Responsibility for Code of Ordinances.** It shall be the responsibility of the Borough of Modena Secretary to maintain an up-to-date certified copy of the Code of Ordinances. This copy shall be the official copy of the Borough of Modena Code of Ordinances and shall be available for public inspection.

**Section 11. 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 Borough of Modena. Whosoever shall violate this Section shall be guilty of an offense under §4911, "Tampering with Public Records or Information," of the Crimes Code, 18 Pa.C.S.A. §4911, and shall be prosecuted under that Section of the law.

**Section 12. Severability of Parts of Codification.** It is hereby declared to be the intention of the Borough of Modena 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.

ENACTED AND ORDAINED this 11 day of December, 2007.

ATTEST:

Borough of Modena

/s/ Sandy Frost  
Secretary

/s/ Clayton Ayers  
President, Borough Council

APPROVED this 11 day of December, 2007.

/s/ Ronald E. McCorkle  
Mayor





## Fee Resolution

BE IT RESOLVED, that the Borough of Modena is setting up a clear and precise list of all borough charges.

BE IT RESOLVED, the Borough of Modena, by resolution will set into place a list of all Borough charges to become part of the day to day operation. This list will be for the use of the Borough of Modena and its authorized contractor, or agents.

NOW, THEREFORE, BE IT RESOLVED THAT, the Council of the Borough of Modena authorizes the use of this list.

<b>Subject</b>	<b>Fees</b>
<b>Residential Fees</b>	
The following permits are required for all new residential construction	
a. Site plan review and approval by Borough Engineer (this verifies compliance with Stormwater Management, slopes, driveways etc.)	\$100
a1. Zoning fee	\$50
b. Building	\$200 + .30sf
c. Electrical as described on application	\$100 min
for first 25 outlets	\$30
every 10 outlets thereafter	\$12
communication ports	\$48
appliances; per amps	
0>1.0	\$12 each
1.0>5.0	\$15 each
5.0>10	\$20 each
10>25	\$25 each
25>40	\$30 each
Up to 200 amp service	\$48 each
Sub-panels	\$75 each
d. Plumbing	\$100 min.
first \$1,000 in value	\$50
\$1,000 thereafter	plus \$20/\$1,000
d1. Lateral (pipe work from structure to lateral without hookup but including air test)	\$100

<b>Subject</b>	<b>Fees</b>
e. Mechanical	\$100 min.
first 1,000 in value	\$50
1,000 thereafter	plus \$20/\$1,000
f. State compliance fee	\$4

Note: Sanitary sewer hookup fee for

Residential units	\$3,000
Commercial/Industrial	\$4,000

Note: The above fees shall include relative inspections. Re-inspections shall be billed at \$50 each regardless of subsection.

Residential building additions, the following permits are required

a. Zoning fee	as above
b. Building permit	\$150 + .30sf
c. thru f.	as above

Renovations of existing structures.

d. Zoning fee	as above
e. Building permit	\$150 + .30sf
f. thru e.	as above
g. State fee	\$4

Property Maintenance fee

C/O inspection residential dwelling	\$50 per unit
Re-inspection of same unit	\$50 each

Driveways within Borough right of way \$75

Road opening permits \$75 up to 4 s.f.

For openings greater than 4 s.f. cost shall be calculated at \$10/s.f. +\$75

Commercial/Industrial fees shall remain as listed except change 1% to 2% of value and eliminate the plus engineering cost. Any engineering shall be as requested and paid for by the applicant when directed by the Code Official.

Field survey by code department shall be billed at	\$33/hr.
A yearly registration fee for rental properties	\$100
Any property with more than one unit will be subject to a yearly fee	\$100 per unit
Dumpster yearly registration fee	\$100

<b>Subject</b>	<b>Fees</b>
Residential garage sale permit (two days no Sunday)	\$15
Sewer rates See sewer <i>Ord. 100</i>	
Returned checks	\$35 plus bank charges
Finance rate for collections shall be 1.5% a month, and all fees for collection	
Cost to secure any property	\$300 plus cost of material used, \$75 per hour after 2 hours and any dumping charges
Any Borough employee/equipment, used to correct a violation, or contracted by Borough resident	
Employee	\$25 per hr. min. 3 hrs.
Pick-up truck	\$40 per hr. min, 2 hrs.
Dump truck	\$50 per hr. min. 2 hrs.
Weed eater	\$20 per hr. min. 2 hrs.
Mower	\$20 per hr. min. 2 hrs.
Loader/mower	\$100 per hr. min. 3 hrs.
Back hoe	\$100 per hr. min. 3 hrs.
Skid loader	\$100 per hr min. 3 hrs.
Dumping fees (same as local land fill)	
Towing (charges will be amount charged by towing company).	
All court cost will be reimbursed to the Borough	
Court appearance of any Borough employee or official	
codes	\$50 per hr. min. 2 hrs.
any other employee	\$20 per hr. min. 2 hrs.
Borough official	\$25 per hr. min. 2 hrs.
Trash fee for residential (billed per unit)	\$180
Parking in a no parking zone	\$50
Parking in fire zone (tow vehicle)	\$100 (plus towing charge)
Zoning hearing	\$1,500
Appeals hearing (property maintenance)	\$900
Rehabilitation plan review	\$500
Building plan review fee	\$1,000

**Subject****Fees**

Commercial and/or Industrial  
(All fees shall be the same as residential except if listed)

New construction	\$600 general construction \$100 for every 1,000 sq. ft.
Additions	\$300 + 0.25 per sq. ft.
Internal alterations	\$200 + 1% of cost
Sewer hook-up fee	\$4,000
Certificate of occupancy for one inspection, all follow-ups as above	\$250 + \$75 per building
Vender daily permit	\$25
Vender yearly permit	\$500
See <i>Ord. 100</i> for sewer rates	
Commercial garage sales daily	\$50
A yearly registration fee for rental property	\$100 for each tax parcel and each unit rented on the parcel

(*Res. 192, 3/5/2007*)

# **Chapter 1**

## **Administration and Government**

### **Part 1 Preliminary Provisions**

- §1-101. Short Title
- §1-102. Citation of Code of Ordinances
- §1-103. Arrangement of Code
- §1-104. Headings
- §1-105. Tenses, Gender and Number
- §1-106. Construction
- §1-107. Normal Numbering
- §1-108. Special Numbering Problems
- §1-109. Amending Code
- §1-110. Altering Code
- §1-111. Penalties

### **Part 2 Borough Council**

#### **A. Meetings**

- §1-201. Time, Day and Place of Regular Meetings
- §1-202. Advertised Meetings
- §1-203. Rules of Parliamentary Procedure

### **Part 3 Elected Officials**

#### **A. Compensation of Council Members and Mayor**

- §1-301. Compensation of Elected Officials

#### **B. Tax Collector**

- §1-311. Compensation of Tax Collector

### **Part 4 Warrantless Arrests Authorized**

- §1-401. Right of Arrest
- §1-402. Additional Procedures
- §1-403. Amendments to Statutory Provisions
- §1-404. Effect on Other Authorized Arrest

### **Part 5**

## **Fire Department**

### **A. Authorized Activities**

§1-501. Firemen's Activities

### **B. Firefighters' Relief Association**

§1-511. Recognition of Firemen's Relief Association

§1-512. Certification to Auditor General

§1-513. Annual Appropriation

## **Part 6 Board of Health**

### **A. Health Officer**

§1-601. Health Officer

### **B. Secretary of Board of Health**

§1-611. Secretary, Board of Health

## **Part 7 Attorney Fees Authorized for Collection of Municipal Claims**

§1-701. Fees

**Part 1****Preliminary Provisions****§1-101. Short Title.**

The short title of this Code of Ordinances prepared and published for the Borough of Modena shall be the "Borough of Modena Code of Ordinances."

*(Ord. 145-07, 12/11/2007)*

**§1-102. Citation of Code of Ordinances.**

The Borough of Modena Code of Ordinances may be cited by Section number. The approved short form is "Code." Thus, "Code, §27-101" refers to §101 of Chapter 27 of this Code of Ordinances.

*(Ord. 145-07, 12/11/2007)*

**§1-103. Arrangement of Code.**

1. This Code is divided into Chapters which are subdivided as follows:
  - A. Subchapters, identified by capital letters, beginning with a Chapter title and number.
  - B. Parts, identified by Arabic numerals, beginning with a Part title and number.
  - C. Subparts, identified by Arabic numerals, beginning with a title.
2. The Sections of the Code are subdivided as follows:
  - A. Subsections, identified by Arabic numerals.
  - B. Paragraphs, identified by capital letters.
  - C. Subparagraphs, identified by Arabic numerals enclosed within parentheses.
  - D. Clauses, identified by lower case letters enclosed within parentheses.
  - E. Subclauses, identified by Arabic numerals followed by a parenthesis.
  - F. Items, identified by identified by lower case letters followed by a parenthesis.
  - G. Subitems, identified by small Roman numerals.

*(Ord. 145-07, 12/11/2007)*

**§1-104. Headings.**

Chapter, Subchapter, Part, Subpart, Section, Subsection, Paragraph, Subparagraph, Clause, and Subclause headings contained in the Code may not be deemed to govern, limit, modify or affect the scope, meaning or intent of the Code. The headings of Sections, Subsections or other divisions of this Code are intended as mere captions to indicate the contents of the Section, Subsection or other division and shall not be deemed to be taken as titles of such Section, Subsection or other division, nor as any part of said Section, Subsection or other division unless expressly so provided.

(Ord. 145-07, 12/11/2007)

### §1-105. Tenses, Gender and Number.

Except as may be otherwise stated in any provision of this Code, the present tense includes the past and future tenses, and the future the present; the masculine gender includes the feminine and neuter, the feminine includes the masculine and neuter, and the neuter includes the masculine and feminine; and the singular includes the plural, and the plural the singular.

(Ord. 145-07, 12/11/2007)

### §1-106. Construction.

1. Except as may be otherwise specifically provided by any provision of this Code, the Statutory Construction Act of 1972, 1 Pa.C.S.A. §1501 *et seq.*, shall be applied in construing this Code.

2. *Effect of Repeal or Expiration of Code Section.*

A. The repeal of a Code Section or ordinance, or its expiration by virtue of any provision contained therein, shall not affect any right accrued or any offense committed, any penalty or punishment incurred, or any proceeding commenced before the repeal took effect or the ordinance expired.

B. When any ordinance repealing a former Code Section, ordinance, clause or provision shall itself be repealed, such repeal shall not be construed to revive such former Code Section, ordinance, clause or provision, unless it shall be expressly so provided.

3. *Saving Clause.* The provisions of this Code, so far as they are the same as those ordinances and regulations in force immediately prior to the adoption of this Code, are intended as a continuation of such ordinances, resolutions and regulations and not as a new enactment. The provisions of this Code shall not affect any suit or prosecution pending or to be instituted to enforce any of the prior ordinances or regulations. Except as specifically stated in this Code or in the ordinance adopting this consolidation, codification and revision of the ordinances and regulations of the Borough of Modena, it is the intention of the Borough Council that no ordinance or regulation of the Borough be amended, revised or repealed by implication.

4. *Resolutions.* The provisions of this Code of Ordinances may contain resolutions, that is, actions of the Borough Council of the Borough of Modena (in written form and designated "resolution") which did not require prior public notice in accordance with the provisions of the Borough Code, 53 P.S. §45101 *et seq.*, at the time of their passage by the Borough Council. Such "resolutions" are included herein for ease of reference and the Borough Council does not intend by their inclusion herein to require prior public notice before amending, revising or repealing such resolution or resolutions as may have been included herein in the future. It is the intention of the Borough Council that such actions of the Borough Council that may be included in this Code and specifically cited and designated as a resolution shall not become an ordinance (requiring prior public notice before amendment, revision or repeal) by the simple fact of inclusion in this Code.

(Ord. 145-07, 12/11/2007)



**§1-107. Normal Numbering.**

1. *Chapters.* Chapters are numbered sequentially in Arabic throughout this Code.

2. *Parts.* Parts are numbered sequentially in Arabic throughout this Code.

3. Whenever other divisions are necessary, Chapters shall be divided into Subchapters, Parts into Subparts and designated with the Chapter or Part number followed by a capital letter. For instance, Chapter 1 may be divided into Subchapters 1A and 1B.

4. *Sections.* Sections are numbered sequentially throughout a Chapter and a Part such that the first number or numbers is the Chapter number, followed by a hyphen, followed by the Part number, followed by the Section number within the Part. For example, "§1-101" designates Chapter 1, Part 1, Section 1. Similarly, "§27-305" designates Chapter 27, Part 3, Section 5.

5. *Internal Divisions of Sections.* Whenever internal divisions are necessary, Sections shall be divided into Subsections, Subsections into Paragraphs, Paragraphs into Subparagraphs, Subparagraphs into Clauses, and Clauses into Subclauses, and Subclauses into Items, designated as follows:

1. Subsection.
  - A. Paragraph.
    - (1) Subparagraph.
      - (a) Clause.
        - 1) Subclause.
          - a) Item.
            - i. Subitem

(Ord. 145-07, 12/11/2007)

**§1-108. Special Numbering Problems.**

1. *Addition of New Units Between Existing Units.* If it becomes necessary to introduce a new Chapter, Part or Section between existing Chapters, Parts or Sections, the new Chapter, Part or Section shall be designated by the addition of a capital letter suffix to the preceding Chapter, Part or Section number. Thus, a Chapter introduced between Chapters 5 and 6 would be Chapter 5A and Sections in that Chapter would be numbered, for instance, "§5A-101." If it becomes necessary to introduce a Part between existing Parts 5 and 6 the new Part would be Part 5A and Sections in that Part would be numbered, for instance, "§5-5A01." A new Section introduced between existing Sections 5 and 6 would be "§5-105A." When a number of new Parts or Sections have been introduced the Chapter or Part shall be renumbered.

2. If it becomes necessary to introduce a Subsection between Subsections, for instance, Subsections .5 and .6, the new Subsection would be numbered Subsection .5-A.

3. If it becomes necessary to introduce a unit smaller than a Subsection between existing unites, the entire Subsection shall be revised and renumbered.

4. *Vacated Numbers.* Whenever a number is vacated by a revocation or repeal, the remaining elements in the overall unit shall retain their old numbers until the overall unit is completely revised. Prior to revision, the vacated number may be marked:

“[Reserved].”

(Ord. 145-07, 12/11/2007)

### §1-109. Amending Code.

1. All ordinances passed subsequent to the adoption of this Code which amend, repeal or in any way affect this Code shall be numbered in accordance with the numbering system of this Code and printed for inclusion herein. In the case of repealed Chapters, Parts, Sections, Paragraphs, Clauses or other part or provision hereof, by subsequent ordinance, such repealed portions may be excluded from this Code by omission from reprinted pages affected thereby. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code and subsequent ordinances omitted are readopted as a new Code by the Borough Council.

2. Amendment to any provision of this Code shall be made by specific reference to the Chapter, Part, Section and/or Subsection number of this Code in the following language:

A. *Amendment or Revision.* “Chapter \_\_\_, Part \_\_\_, Section \_\_\_, Subsection \_\_\_, is hereby amended (revised) to read as follows . . . .” The amended or revised provisions may then be set out in full as desired.

B. *Addition.* “Chapter \_\_\_, Part \_\_\_, Section \_\_\_, Subsection \_\_\_, is hereby amended by the addition of the following . . . .” The new provision shall then be set out in full as desired.

C. *Repeal.* “Chapter \_\_\_, Part \_\_\_, Section \_\_\_, Subsection \_\_\_, is hereby repealed in its entirety.”

3. It is the intention of the Borough Council that the numbering scheme of this Code be adhered to in enacting future ordinances. In the event that any ordinance or other enactment be adopted which does not conform to the numbering system of this Code, it is the intention of the Borough Council that such enactment be renumbered in the process of supplementing, revising or updating this Code to conform to the numbering scheme of this Code. The Borough Council hereby acknowledges and confirms that the numbering scheme herein is for ease of reference and that the renumbering of any enactment when added to this Code shall not in any manner affect the validity of said enactment.

(Ord. 145-07, 12/11/2007)

### §1-110. Altering Code.

It shall be unlawful for any person to change or amend by addition or deletion any part or portion of this Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever, except by ordinance or resolution or other official act of the Borough Council.

(Ord. 145-07, 12/11/2007)

### §1-111. Penalties.

1. *Penalty Where No Penalty Provided.* Whenever in this Code or in any ordinance of the Borough any act is prohibited or is declared to be unlawful, or whenever in this

Code or other ordinance the doing of any act is declared to be unlawful, and no specific penalty is provided therefor:

A. *Violations of Health, Safety and Welfare Provisions.* For violations of ordinances adopting building, housing, property maintenance, health, fire or public safety codes; and for ordinances regulating water services, water pollution, air pollution and noise, the following penalty shall be provided:

(1) Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

B. *Other Violations.* All other penalties, except for penalties in Chapter 15, "Motor Vehicles and Traffic" (based on the Vehicle Code, 75 Pa.C.S.A. §101 *et seq.*), penalties and ordinances adopted under the authority of the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, earned income tax ordinances adopted under the Local Tax Enabling Act, 53 P.S. §6913, and ordinance adopted under authority of the Sewage Facilities Act, 35 P.S. §750.1 *et seq.*, should provide, generally:

(1) Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

2. The imposition of a penalty under the provisions of this Code shall not prevent the revocation of any permit or license or the taking of other punitive or remedial action where called for or permitted under the laws of the Commonwealth of Pennsylvania and the United States of America. In addition, the Borough may institute injunctive, mandamus or any other appropriate action or proceeding at law or in equity for the enforcement of this Code. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

(Ord. 145-07, 12/11/2007)



**Part 2****Borough Council****A. Meetings****§1-201. Time, Day and Place of Regular Meetings.**

The regular meetings of the Borough Council of the Borough of Modena shall convene on every first Monday of each month at 7:30 p.m., in the Borough Building.

(*Ord. 117, 2/6/1984*)

**§1-202. Advertising Meetings.**

All regular and special meetings shall be advertised as required by law.

(*Ord. 117, 2/6/1984*)

**§1-203. Rules of Parliamentary Procedure.**

The Borough Council may, by resolution, establish such rules of parliamentary procedure for the conduct of its meetings as it deems appropriate. In the event no such resolution is adopted, then *Robert's Rules of Order* shall be utilized in the conduct of meetings.

(*Ord. 117, 2/6/1984*)



**Part 3****Elected Officials****A. Compensation of Council Members and Mayor****§1-301. Compensation of Elected Officials.**

The compensation of elected Borough officials including Council members and the Mayor, shall be established from time to time by resolution.

*(Ord. 117, 2/6/1984)*





**B. Tax Collector****§1-311. Compensation of Tax Collector.**

1. From and after the passage of this Part the compensation to be paid to the Collector of Taxes in the Borough of Modena shall be a sum of money equal to 5 percent of the amount collected by said collector.

2. The said collector may deduct the said 5 percent compensation on the taxes collected by him and report to the Borough for the balance due to the Borough.

*(Ord. 8, 4/3/1922)*



**Part 4****Warrantless Arrests Authorized****§1-401. Right of Arrest.**

1. Pursuant to 42 Pa.C.S.A. §8902, effective January 17, 1996, a police officer shall, upon view, have the right of arrest without warrant for certain summary offences, upon probable cause, when there is ongoing conduct that imperils the personal security of any person or endangers public or private property provided such arrests are authorized by rules promulgated by the governmental body employing the police officer.

2. If a police officer has probable cause to believe that there is a violation of one or more of the four offenses listed below, that the defendant's conduct is ongoing, that the conduct constituting the crime is based upon the police officer's view of the conduct; and if the conduct imperils the personal security of any person or endangers public or private property, the officer shall have the right to arrest a defendant without a warrant.

3. The four summary offences pursuant to Title 18 as follows;

A. 18 Pa.C.S.A. §5503, disorderly conduct.

B. 18 Pa.C.S.A. §5503, public drunkenness.

C. 18 Pa.C.S.A. §5503, obstructing highways and other public passages.

D. 18 Pa.C.S.A. §5503, purchase, consumption, possession or transportation of liquor or malt or brewed beverages (underage drinking).

(*Ord. 141-07, 4/2/2007, §1*)

**§1-402. Additional Procedures.**

Any officer making an arrest under these guidelines shall also follow those procedures set forth in the Pennsylvania Rules of Criminal Procedure, and in particular Pa.R.Crim.P. 441, said rule currently providing as follows:

“(A) When a defendant has been arrested without a warrant, the defendant shall be either released from custody pursuant to paragraph (B) or taken before the proper issuing authority under paragraph (C).

“(B) When the defendant has been arrested without a warrant, the arresting officer shall promptly release the defendant from custody when the following conditions have been met:

“(1) the defendant poses no threat of immediate physical harm to any other person or to himself or herself; and

“(2) the arresting officer has reasonable grounds to believe that the defendant will appear as required.

“A citation shall be issued to the defendant at the time of release and thereafter the case shall proceed in accordance with Rules 405-409 as if the proceedings had been instituted by issuing a citation to the defendant.

“(C) When the defendant has not been released from custody under paragraph (B),

“(1) the defendant shall be taken without unnecessary delay before the issuing authority where a citation shall be filed against the defendant, and

“(a) the defendant shall enter a plea.

“(b) If the defendant pleads guilty, the issuing authority shall impose sentence. If the defendant pleads not guilty, the defendant shall be given an immediate trial unless:

“(i) the Commonwealth is not ready to proceed or the defendant request a postponement or is not capable of proceeding, and in any of these circumstance, the defendant shall be given the opportunity to deposit collateral for appearance on the new date and hour fixed for trial; or

“(ii) the defendant’s criminal record must be ascertained before trial as specifically required by stature for purposes of grading the offenses charged, in which event the defendant shall be given the opportunity to deposit collateral for appearance on the new date and hour fixed for the trial, which shall be after the issuing authority’s receipt of the required information.

“(2) If the defendant is under 18 years of age and cannot be given an immediate trial, the issuing authority promptly shall notify the defendant and defendant’s parents, guardian, or other custodian of the date set for the summary trial, and shall release the defendant on his or her own recognizance.

*“Comment: This rule was amended in 2005 to require the arresting police officer to promptly arrange for the defendant’s release if the two criteria set forth in paragraph (B) are met. “Reasonable grounds” as used in paragraph (B)(2) would include such things as concerns about the validity of the defendant’s address, the defendant’s prior contacts with the criminal justice system, and the police officer’s personal knowledge of the defendant.”*

*(Ord. 141-07, 4/2/2007, §2)*

#### **§1-403. Amendments to Statutory Provisions.**

The Borough Council recognizes that Pa.R.Crim.P. and 42 Pa.C.S.A. §8902 may be amended from time to time. It is the intention of Borough Council that the police officers follow the terms of the rule or stature that is currently in effect as if the date of the arrest, whether or not these guidelines have been formerly amended to comply with any rule or stature changes.

*(Ord. 141-07, 4/2/2007, §3)*

#### **§1-404. Effect on Other Authorized Arrest.**

It is not the intention of the Borough Council to modify, restrict or otherwise prohibit a police officer under contract with the Borough from making other warrantless arrest for summary offenses where such arrest have been expressly authorized by any other rule or stature.

*(Ord. 141-07, 4/2/2007, §4)*

**Part 5****Fire Department****A. Authorized Activities****§1-501. Firemen's Activities.**

Be it is hereby resolved by the Modena Borough Council to grant authorization to the Modena Fire Company No.1, including volunteer junior firemen, to engage in fund raising activities, such as fairs, carnivals, bingo, banquets, barbecues, donkey baseball and other similar fund raising activities the fire company (ambulance corps) officers deem necessary for the efficient operation of the company.

*(Ord. 122, 1/5/1987, §204)*



**B. Firefighters' Relief Association****§1-511. Recognition of Firemen's Relief Association.**

1. The following association is hereby recognized as actively engaged in providing fire protection and emergency services in the Modena Borough:

Modena Firemen's Relief Association.

The above-named association have been formed for the benefit of their members and their families in case of death, sickness, temporary or permanent disability or accident suffered in the line of duty.

2. The above-named association of the Modena Borough is designated the proper association to receive such funds as are due and payable to the Modena Borough Treasurer by the Treasurer of the State of Pennsylvania from the tax on premiums from foreign fire insurance companies.

(*Ord. 143-07, 8/6/2007, §1*)

**§1-512. Certification to Auditor General.**

The Modena Borough shall annually certify to the Auditor General of the Commonwealth the name of the active association and the percentage of service they contribute to the protection of the Modena Borough. Such certification shall be on forms prescribed by the Auditor General.

(*Ord. 143-07, 8/6/2007, §2*)

**§1-513. Annual Appropriation.**

There is annually appropriated from the Modena Borough Treasury all such sums of money that may hereafter be paid into the Modena Borough Treasury by the Treasurer of the State of Pennsylvania on account of taxes paid on premiums of foreign fire insurance companies pursuant to the Municipal Pension Plan Funding Standard Recovery Act, the Act of December 18, 1984, P.L. 1005, No. 205, 53 P.S. §895.701 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania. Such monies received by the Modena Borough Treasurer from the State Treasurer shall be distributed to the duly recognized association, within 60 days of receipt. The funds shall be distributed on the basis of the percentage of service established in the certification to the Auditor General and with other provisions of the Act.

(*Ord. 143-07, 8/6/2007, §3*)





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**Part 6****Board of Health****A. Health Officer****§1-601. Health Officer.**

1. There shall be an office to be filled by one person in the Borough of Modena who shall be called the "Health Officer."

2. The term of the said office shall be the period of 1 year from the first day of January of each year.

3. The President of Council shall appoint one person to fill the said office.

4. The said Health Officer shall be subject to instructions and orders of the Board of Health and the President of Council.

*(Ord. 15, 8/7/1922; as amended by Ord. 117, 2/6/1984)*



**B. Secretary of Board of Health****§1-611. Secretary, Board of Health.**

1. From and after the passage of this Part 6B the office of Secretary of the Board of Health shall be created.

2. Council shall elect one person to fill the said office for a period of 1 year from the first day of January, 1923.

3. The term of office of the said officer shall be the period of 1 year.

(*Ord. 14, 8/7/1922; as amended by Ord. 117, 2/6/1984*)



**Part 7****Attorney Fees Authorized for Collection of Municipal Claims****§1-701. Fees.**

The Borough of Modena hereby adopts the following fee schedule to be paid to legal counsel for representation in proceedings to recover any delinquent municipal claim. The Borough of Modena approves these fees and finds them fair and reasonable for the services to be rendered and shall impose them upon the property owner in proceedings to recover delinquent municipal claims, together with any additional out of pocket costs for necessary expenses.

<b>Action</b>	<b>Legal Fees</b>
Open file and send demand letter	\$135
File lien and send second letter	\$125
Prepare and file Writ of Scire Facias	\$125
Re-issue writ	\$25
Prepare and mail correspondence per Pa. R.C.P. 237.1	\$25
Motion for alternate service	\$175
Motion for summary judgement	\$175
Prepare and file default judgment	\$125
Prepare and file writ of execution for	
Sheriff sale	\$600
With sale	\$400
Charge for check which does not clear	\$25
Misc. litigation: hourly rate not to exceed	\$135 per hour

*(Ord. 135, 4/1/1996)*



## **Chapter 2**

### **Animals**

#### **Part 1**

##### **General Provisions**

- §2-101. Unlawful Acts
- §2-102. Violations and Penalties
- §2-103. Definition
- §2-104. Unlawful to Allow Dogs to Run at Large
- §2-105. Seizing of Dogs
- §2-106. Licensed Dogs
- §2-107. Unlicensed Dogs
- §2-108. Threatening Dogs
- §2-109. Additional Violation and Penalties
- §2-110. Notice of Seizure
- §2-111. Disposal of Unredeemed Animals
- §2-112. Nuisance by Animal
- §2-113. Complaints of Nuisance
- §2-114. Determination of Dogs as Dangerous
- §2-115. Notice Regarding Status of Dangerous Dogs
- §2-116. Muzzling of Dogs Which Have Bitten
- §2-117. Biting by Dangerous Dogs
- §2-118. Confinement of Dangerous Dogs
- §2-119. Insurance or Bond Required for a Dangerous Dog
- §2-120. Liability of Parents for Children's Dangerous Dogs
- §2-121. Violation and Penalties
- §2-122. Enforcement Responsibilities
- §2-123. Procedures and Regulations to Be in Conformity with Dog Law

#### **Part 2**

##### **Keeping of Certain Animals**

- §2-201. Purpose; Greater Restrictions
- §2-202. Definitions and Word Usage
- §2-203. Kinds of Animals Permitted
- §2-204. Keeping of Animals Regulated
- §2-205. Household Pets
- §2-206. Limitation on Number of Animals
- §2-207. Enforcement Authority
- §2-208. Application for a Permit to Exceed the Number of Permitted Animals
- §2-209. Powers and Duties of Officer; Issuance of Permit
- §2-210. Permit Fees
- §2-211. Violations and Penalties

#### **Part 3**

## **Excessive Noise**

- §2-301. Purpose; Greater Restrictions
- §2-302. Definitions
- §2-303. Regulated Animals
- §2-304. Prohibited Acts
- §2-305. Enforcement Authority
- §2-306. Violations and Penalties



**Part 1****General Provisions****§2-101. Unlawful Acts.**

No person owning, harboring, keeping or in charge of any animal shall cause, suffer or allow such animal to soil, defile, defecate on or commit any nuisance on any common thoroughfare, sidewalk, passageway, bypath, play area, park or any place where people congregate or walk, or on any public property whatsoever, or on any private property without the permission of the owner of said property. The restriction set forth in this Section shall not apply to the portion of the street lying between the curblines, which shall be used to curb such animal under the following conditions:

A. The person who so curbs such animal shall immediately remove all feces deposited by such animal by any sanitary and reasonable manner.

B. The feces removed from the aforementioned designated area shall be disposed of in a sanitary manner by the person owning, harboring, keeping or in charge of any animal curbed in accordance with the provisions of this Part.

(Ord. 117B, 1/7/2002, §1)

**§2-102. Violations and Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(Ord. 117B, 1/7/2002, §2; as amended Ord. 145-07, 12/11/2007)

**§2-103. Definition.**

As used in this Part, the following terms shall have the meanings indicated unless a different meaning already appears from the context:

*Dangerous or vicious dog* -

(1) Any dog which, according to records of the appropriate authority, has bitten a human being or inflicted severe injury on a human being without provocation on public or private property.

(2) Any dog which, according to the records of the appropriate authority, has killed a domestic animal without provocation while off the owner's property.

(3) Attacked a human being without provocation.

(4) Any dog owned or harbored primarily in part for the purpose of dogfighting or any dog trained for dogfighting.

(5) Any dog which has been used in the commission of a crime.

(6) Any dog which, according to the records of the appropriate authority, has either or both of the following:

(a) A history of attacking human beings and/or domestic without provocation.

(b) A propensity to attack human beings and/or domestic animals without provocation. A propensity attack may be proven by a single incident of the context described in subparagraphs (1), (2), (3), or (4) above.

*Owner* - any person, partnership or corporation owning, keeping or harboring one or more animals. An animal shall be deemed to be harbored if it is fed or sheltered for 3 consecutive days or more.

*Potentially dangerous dogs* -

(1) Any dog when unprovoked chases or approaches a person upon the street, sidewalk or any public or private property in a menacing fashion or apparent attitude of attack.

(2) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise threaten the safety of human beings or domestic animals.

(3) Any dog which, on three separate occasions within a 12-month period, has been observed in the Borough of Modena by authorized personnel and reported as being unrestrained or uncontrolled off its premises.

*Running at large* - running about loose on the street, public highway, alley, park or any other public land or upon property of persons other than the owners of the dog or dogs, unleashed and unaccompanied by the owner or custodian or by any member of his family or by any servant or agent of the owner of such dog or dogs.

*Severe injury* - any physical injury that results in broken bones or disfiguring lacerations or such an injury as would be identified as "serious bodily injury" under the Pennsylvania Crimes Code, 18 Pa.C.S.A. §101 *et seq.*, and case law, i.e., such injury which creates a substantial risk of death or which causes serious, permanent disfiguration or protracted loss or impairment of the function of a bodily member or organ.

(Ord. 117B, 1/7/2002, §3)

#### **§2-104. Unlawful to Allow Dogs to Run at Large.**

It shall be unlawful for the owner of any dog or dogs to allow or permit such dog or dogs to run at large in the Borough of Modena.

(Ord. 117B, 1/7/2002, §4)

#### **§2-105. Seizing of Dogs.**

Any authorized animal control officer, police officer or other authorized agent for the Borough of Modena may seize any dog found at large in the Borough of Modena. Such dogs are to be impounded in a licensed kennel.

(Ord. 117B, 1/7/2002, §5)

#### **§2-106. Licensed Dogs.**

Any authorized animal control officer, police officer or other authorized agent for the Borough of Modena shall notify the owner of a licensed dog by registered or certified

mail, with return receipt, that the dog is impounded and will be disposed of in 5 days if not claimed. Five days after the return receipt has been received and the dog has not been claimed the dog may be sold or destroyed.

*(Ord. 117B, 1/7/2002, §6)*

#### **§2-107. Unlicensed Dogs.**

Unlicensed dogs that are seized shall be held in such kennel for 48 hours and if not claimed may be sold or destroyed.

*(Ord. 117B, 1/7/2002, §7)*

#### **§2-108. Threatening Dogs.**

Dogs that, in the opinion of any police officer or animal control officer, constitute a threat to public health and welfare may be killed by the police or animal control officer.

*(Ord. 117B, 1/7/2002, §8)*

#### **§2-109. Additional Violation and Penalties.**

1. The first two times a dog is seized, the owner shall pay a fine of \$100 to the Borough of Modena together with reasonable fees incurred by the Borough for keeping the animal in a kennel.

2. Any person allowing a dog to run at large a third time in violation of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. *[Ord. 145-07]*

*(Ord. 117B, 1/7/2002, §9; as amended by Ord. 145-07, 12/11/2007)*

#### **§2-110. Notice of Seizure.**

In the event that a dangerous, vicious or potentially dangerous dog is found running at large within the Borough of Modena, said dog may be seized on sight either in the daytime or at nighttime by any authorized animal control officer, police officer or other authorized agent for the Borough and impounded. In such event the owner or custodian of said dog or dogs shall be notified of impoundment by registered mail or by personal service and shall be given a period of 10 days to redeem such dog upon payment of all cost assessed against such animal including the cost of boarding the dog during the period of impoundment, and on payment of the penalty hereafter set forth for the violation of this Part.

*(Ord. 117B, 1/7/2002, §10)*

#### **§2-111. Disposal of Unredeemed Animals.**

In the event that the owner or custodian of any dog seized and held under the terms of this Part shall not redeem such dog within 10 days of the date of service of notice or posting of notice the Borough by its proper officials, shall have authority to dispose of said dog by destruction in some humane manner or to sell the same by public or private sale to such person or persons as may desire to purchase the same to the benefit of the

Borough of Modena.

(*Ord. 117B*, 1/7/2002, §11)

**§2-112. Nuisance by Animal.**

1. No person shall keep or harbor any dog in the Borough of Modena so as to create offensive odors, excessive noise or unsanitary conditions which are a menace to the health, comfort or safety of the public or otherwise permit the commission or existence of a nuisance as herein defined.

2. Any dogs which, by frequent and habitual, howling, screeching, yelping or baying or in any way or manner, injures or disturbs the quiet of any person or the community or which disturbs or endangers the comfort, repose or health of persons is hereby declared to be committing a nuisance and it shall be unlawful for any owner or person having custody of such animal to harbor it or permit it to commit such a nuisance.

(*Ord. 117B*, 1/7/2002, §12)

**§2-113. Complaints of Nuisance.**

1. Any person who observes an animal committing a nuisance upon the premises of a person other than its owner or on a public street on a public sidewalk may file with the magisterial district judge a signed complaint, upon oath, specifying the objectionable conduct of the animal and the name and residence of the owner or other person harboring said animal. [*Ord. 145-07*]

2. Upon receipt of an affidavit of complaint, signed by one or more residents of the Borough made under oath before an individual authorized by law to take sworn statements and setting forth the nature and the date of the act, the owner of the animal, the address of the owner and description of the animal doing such act, the designation of such dangerous dog shall automatically be changed to "dangerous."

3. Any police officer or animal control officer who observes an animal committing those acts referred to in subsection .1 above shall institute summary proceedings by citation.

(*Ord. 117B*, 1/7/2002, §13; as amended by *Ord. 145-07*, 12/11/2007)

**§2-114. Determination of Dogs as Dangerous.**

1. Any of the characteristics in the definition of "dangerous or vicious dogs," as defined in this Part, automatically characterizes a dog as dangerous and no hearing is required. However, if any owner disagrees with the facts used to designate the dog as dangerous, he or she may request a hearing under the provisions of subsections .3, .4, and .5 of this Section.

2. Any of the characteristics in the definition of "dangerous or vicious dogs," as defined in this Part, automatically characterizes a dog as dangerous and no hearing is required. A record of each dog characterized as potentially dangerous, including the name and address of the owner and the breed and age of the dog, shall be kept with the Borough Control Officer. Such dogs must be confined or leashed at all times.

A. Upon receipt by the Borough Council of three affidavits of complaint against a potentially dangerous dog signed by one or more residents of the

Borough, made under oath before an individual authorized by law to take sworn statements and setting forth the nature and the date of the act, the owner of the animal, the address of the owner and the description of the animal doing such act, the designation of such potentially dangerous dog shall automatically be changed to "dangerous."

3. A determination hearing shall be conducted by the Borough Council whenever there is cause to believe that a dog may be a dangerous animal as defined in this Part. Said hearing shall be conducted within 5 days of serving notice to the owner by certified letter.

A. Pending the outcome of such hearing, the dog must be securely confined in a humane manner either on the premises of the owner or with a licensed veterinarian.

4. The Borough Council shall determine whether to declare the animal to be a dangerous animal based upon evidence and testimony presented at the time of the hearing by the owner, witnesses to any incident(s) which may be considered germane to such a determination, Health Department personnel, animal control personnel, police or any other person possessing information pertinent to such determination.

5. The Borough Council shall issue written findings within 5 days after the determination hearing. The owner or possessor of the animal found to be dangerous by the hearing has the right to appeal the decision within 30 days of receiving such decision to the magisterial district judge. [Ord. 145-07]

6. *Determination of Dogs as Dangerous.* No dog may be declared dangerous if the threat injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.

(Ord. 117B, 1/7/2002, §14; as amended by Ord. 145-07, 12/11/2007)

#### **§2-115. Notice Regarding Status of Dangerous Dogs.**

The owner or keeper shall notify the Borough within 24 hours if a dangerous dog is loose or unconfined, has attacked another animal or has attacked a human being or has died, been sold or given away. If the dog has been sold or given away, the owner or keeper shall provide the Borough with the name, address and telephone number of the new owner, who must comply with the requirements of this Part.

(Ord. 117B, 1/7/2002, §15; as amended by Ord. 145-07, 12/11/2007)

#### **§2-116. Muzzling of Dogs Which Have Bitten.**

Any dog which is characterized as a dangerous dog as a result of having bitten someone shall only be permitted in public subject to a muzzle.

(Ord. 117B, 1/7/2002, §16)

#### **§2-117. Biting by Dangerous Dogs.**

Any dangerous dog which has subsequently been identified as involved in a second biting incident will have its license suspended and the owner or custodian will have to immediately have the dangerous dog moved from the Borough or seized by the animal

control officer or delivered directly to the custody of the Chester County ASPCA.  
(*Ord. 117B, 1/7/2002, §17*)

**§2-118. Confinement of Dangerous Dogs.**

1. While on the owner's property, a dangerous dog must be confined indoors or in a securely enclosed and locked area suitable to prevent the animal from escaping. Such pen or structure must have minimum dimensions of 5 by 10 feet and must have secure sides and a secure top. If it has no bottoms secured to the sides, the sides must be imbedded into the ground no less than 2 feet. Enclosure must also provide protection from the elements for the dog.

2. The owner or keeper shall display a sign on his or her premises warning that there is a dangerous dog on the property. The sign shall be visible and capable of being read from a distance of 50 feet.

3. A dangerous dog may be off the owner's premises if it is restrained by a substantial chain or leash not exceeding 6 feet in length and under the control of a responsible person. In circumstances where a dangerous dog has bitten someone, the dog must be muzzled, and the muzzle must be made in such a manner that it will not cause injury to the dog or interfere with its vision or respiration but must be prevented from biting any person or animal.

(*Ord. 117B, 1/7/2002, §18*)

**§2-119. Insurance or Bond Required for a Dangerous Dog.**

1. The owner or keeper of a dangerous dog shall present the Borough proof that the owner or keeper has liability insurance in the amount of at least \$50,000 covering a 12-month period during which licensing is sought. This policy shall contain a provision naming the Borough as an additional insured for the sole purpose of the Borough being named by the insurance company of any cancellation termination or expiration of the policy.

2. In lieu of the insurance identified above, the owner or keeper of a dangerous dog may elect to post a bond payable in the amount of \$50,000 with the Borough to insure payment of damages or injuries which may be caused by owner's or keeper's dangerous dog.

(*Ord. 117B, 1/7/2002, §19*)

**§2-120. Liability of Parents for Children's Dangerous Dogs.**

If the owner or the keeper of a dangerous dog within the Borough is a minor, the parent and/or guardian of minor(s) shall be responsible for compliance with the requirements of this Part and shall be liable for injuries and damages sustained by any person or domestic animal caused by the unprovoked attack of the dog.

(*Ord. 117B, 1/7/2002, §20*)

**§2-121. Violations and Penalties.**

1. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of

imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. [*Ord. 145-07*]

2. In addition, any person violating provisions of this Part relating to dangerous dogs shall be subject to the following:

A. Forfeiture of their bond.

(*Ord. 117B, 1/7/2002, §21; as amended by Ord. 145-07, 12/11/2007*)

#### **§2-122. Enforcement Responsibilities.**

The police department serving the Borough shall, in addition to the animal control enforcement officer, also have authority to enforce the provisions of this Part. However, the specific requirement of licensure are the responsibility of the designated animal control officer identified by the Borough of Modena.

(*Ord. 117B, 1/7/2002, §22; as amended by Ord. 145-07, 12/11/2007*)

#### **§2-123. Procedures and Regulations to Be in Conformity with Dog Law.**

The procedures identified in this Part are to be consistent with and are intended to incorporate by reference the procedure as set forth in the Dog Law, 3 P.S. §459-101 *et seq.* To the extent necessary, the Borough Council will adopt rules and regulations by resolution to address any additional necessary procedures, particularly if the Borough should, in accordance with the Dog Law, determine that it will take over all aspects of enforcement of the Dog Law pursuant to procedures available for such by Boroughs in the Commonwealth of Pennsylvania. Nothing in this Section shall be construed to prohibit regulations supplementing the terms and provisions of the aforementioned Dog Law, to the extent permitted by law.

(*Ord. 117B, 1/7/2002, §23*)





**Part 2****Keeping of Certain Animals****§2-201. Purpose; Greater Restrictions.**

1. This Part is enacted to regulate the maintenance, keeping or possession of animals within the Borough of Modena in order to promote the health, safety and general welfare of its inhabitants.

2. Where the provisions of this Part impose greater restrictions than those of any other statute, ordinance, regulation or resolution, the provisions of this Part shall be controlling. Where the provisions of any other statute, ordinance, regulation or resolution, impose greater restrictions than this Part, the provision of such other statute, ordinance, regulation or resolution shall be controlling.

(Ord. 117B, 1/7/2002, §26)

**§2-202. Definitions and Word Usage.**

1. The following definitions shall apply in the interpretation and enforcement of this Part:

*Animal* - any domestic animal or fowl, any wild animal or any household pet, including birds, fish, reptiles and insects.

*Domestic animal* - any animal normally or ordinarily domesticated or raised in this area or climate as livestock or for work or breeding purposes or normally or ordinarily kept as a household pet.

*Household pet* - any dog, cat or other domestic animal normally and ordinarily kept in or permitted to be at large in the dwelling of its owner.

*Keeper* - any person, firm or corporation owning or actually keeping, having, using, or maintaining any of the animals herein referred to.

*Officer* - any police officer or duly appointed animal control officer or code enforcement officer, or his or her designee.

*Menagerie* - a collection of animals kept in cages or exhibition by a full-time professional trainer.

*Owner* - any person having a right of property or having custody of any animal, or any person who harbors or permits an animal to remain on or around his or her property.

*Person* - any person, firm, partnership, association or corporation.

*Wild animal* - any animal including bird, fowl, reptile or insect not normally or ordinarily domesticated, not normally or ordinarily raised in this area and climate as livestock or for work or breeding purposes, or not capable of being kept as a household pet.

2. In this Part the singular shall include the plural, the plural shall include the singular and the masculine shall include the feminine.

(Ord. 117B, 1/7/2002, §27)

**§2-203. Kinds of Animals Permitted.**

Any person is permitted to maintain, keep or possess within the Borough of Modena, subject to the numerical limitations of §2-206, any of the following animals, which classification shall be strictly construed:

A. Cage birds. (The term includes parakeets, parrots, canaries, finches, lovebirds, myna birds and other birds ordinarily kept in cages in households: it excludes wild birds captured or rescued and kept in cages, as well as poultry.)

B. Cats.

C. Dogs.

E. Ferrets.

F. Frogs.

G. Gerbils.

H. Goldfish and carp.

I. Guinea pigs.

J. Hamsters.

K. Lizards.

L. Mice, white.

M. Rabbits, restricted to European-type rabbits commonly kept as pets.

N. Rats, white.

O. Salamanders, any tailed amphibian.

P. Snakes, nonpoisonous.

Q. Toads.

R. Tropical fish, limited to those customarily maintained in a household aquarium, except piranhas.

S. Turtles.

T. Vietnamese pot-bellied pig.

*(Ord. 117B, 1/7/2002, §28)*

**§2-204. Keeping of Animals Regulated.**

It shall be unlawful for any person to keep any domestic animals, except household pets, except as provided in this section:

A. The keeper of every such animal shall confine the same in an enclosure sufficient to prevent such animal from running at large, and such enclosure shall be of a size and construction conducive to the animal's health, and adequate sanitary drainage facilities shall be provided.

B. Every keeper of any animal shall cause the litter and droppings therefrom to be collected daily in a container or receptacle that when closed shall be rat-proof and fly-tight and after every such collection shall cause such container or receptacle to be kept closed. At least once a week every such keeper shall cause all litter and droppings so collected to be deposited in such a manner as not to permit the presence of fly larvae.

C. Every keeper of any animal shall cause all feed provided therefor to be stored and kept in a rat-proof and fly-tight building, box, container or receptacle. (Ord. 117B, 1/7/2002, §29)

**§2-205. Household Pets.**

It shall be unlawful for any person to keep any household pet except as provided in this Section:

A. If any such pet shall be kept in a dwelling owned or occupied by its owner, such owner shall be required to follow such procedures and practices as to the number of such pets to be kept there and as to sanitation to ensure that no public nuisance shall be created or maintained and no threat to the health of persons living in the dwelling or elsewhere than in such dwelling shall be created.

B. If any such pet shall be kept in an enclosure outside such dwelling, the provisions of §2-204 of this Part, insofar as the same applies to domestic animals, shall be applicable to the keeping of such household pet.

(Ord. 117B, 1/7/2002, §30)

**§2-206. Limitation on Number of Animals.**

Except for species of fish, it shall be unlawful to keep more than three animals 3 months of age or older on any premises regardless of the number of owners unless said premises is a zoo, petting zoo, menagerie, kennel, aviary, cattery, pet shop or veterinary clinic which has received zoning approval to operate as such, as well as the appropriate licenses and/or certifications required for said operation.

(Ord. 117B, 1/7/2002, §31)

**§2-207. Enforcement Authority.**

Enforcement of the provisions of this Part will be jointly shared by the police department serving the Borough, the animal control officer and Codes Department, as defined by "officer" in the definitions. The officer is hereby authorized to enter upon any premises within the Borough of Modena for the purpose of investigating possible violation(s) of this Part.

(Ord. 117B, 1/7/2002, §32; as amended by Ord. 145-07, 12/11/2007)

**§2-208. Application for a Permit to Exceed the Number of Permitted Animals.**

1. The application for a permit for the keeping of more than three animals from the permitted list shall have attached thereto a registered veterinarian's health certificate for each animal to be covered by the permit, shall be verified by an affidavit and shall set forth the following:

- A. The type and number of animals to be covered by the permit.
- B. The purpose of keeping such animals.
- C. The period of time for which the permit is requested.
- D. A description of the quarters in which the animals will be kept and the facilities for sanitation and disposal of animal wastes.
- E. The circumstances, if any, under which the animals will be removed from

their quarters.

F. Biographical information about the applicant and any other person to be placed in charge of the animals.

G. Such additional information as the officer may require.

2. In addition to such verified information, the officer shall consider all other relevant conditions including, but not limited to:

A. The odor emanating or likely to emanate from the premises to persons off the premises.

B. The noise emanating or likely to emanate from the premises to persons off the premises.

C. The attitude of the applicant's neighbors to the proposed permit.

D. The security with which the animals will be restrained.

E. Prior complaints regarding animals at the premises.

(*Ord. 117B, 1/7/2002, §33*)

**§2-209. Powers and Duties of Officer; Issuance of Permit.**

1. The officer shall have the power to review or cause to be reviewed each application for a permit and may either approve or reject such application or require modification of the application. When the officer has approved the application, he/she shall issue the permit. The permit shall be personal and not transferable and shall be issued for a calendar year or part thereof. The officer shall also have the power to revoke the permit for cause.

2. The officer shall also have the power to make such rules and regulations as he/she shall deem necessary to carry out the purpose of this Part. He/she shall be responsible to determine whether any person is violating any provisions of this Part or the rules and regulations adopted hereunder. In making such determination the officer shall consider the following standards:

A. All animals and animal quarters shall be kept in a clean and sanitary condition with adequate ventilation.

B. The permittee shall use every reasonable precaution to assure that the animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any means.

C. Animals that are enemies by nature or are temperamentally unsuited shall not be quartered together or so near each other as to cause the animals fear or to be abused, tormented or annoyed.

D. Animals shall be maintained on the premises so as to eliminate offensive odors or excessive noise.

E. Animals shall not permit any condition causing disturbance of the peace and quiet of his/her neighbors.

F. Animals must be maintained in quarters so constructed as to prevent their escape. The permittee assumes full responsibility for recapturing and animal that escapes from his/her premises. The permittee shall make adequate provisions and safeguards to protect the public from the animals.

G. Every person shall conform to all present and future laws of the Commonwealth of Pennsylvania and the United States of America, the ordinances of the Borough of Modena and the rules and regulations that may accompany this Part in any way connected with animals, specifically including anti-cruelty laws.

H. Any and all animals must be kept healthy and free from sickness and disease at all times. Should the officer question the health of any animal, he/she shall have the authority to require an examination of a doctor of veterinary medicine with such examination to be at the owner's expense.

I. The permittee shall be responsible and liable for the actions of all persons employed by or otherwise associated with him/her as such actions relate to the permittee's obligation to comply with this Part.

J. Every owner and occupant of a structure or property shall be responsible for the extermination of insects, rodents, vermin or other pests in all areas of the premises.

(*Ord. 117B, 1/7/2002, §34*)

#### **§2-210. Permit Fees.**

The applicant for any permit to exceed the limitation of permitted animals contained in §2-206 shall at the time of his/her application pay the Borough of Modena a nonrefundable fee in an amount as established from time to time by resolution of Borough Council to cover the cost of processing the permit application and the issuance of the permit. Upon issuance the permit shall be for the calendar year or part thereof and thereafter renewable for a like fee for each calendar year or part thereof.

(*Ord. 117B, 1/7/2002, §35; as amended by Ord. 145-07, 12/11/2007*)

#### **§2-211. Violations and Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each prohibited animal and each animal in excess of the maximum limit of animals shall constitute a separate violation, and each day that a violation of this Part continues shall constitute a separate offense. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 117B, 1/7/2002, §36; as amended by Ord. 145-07, 12/11/2007*)



**Part 3****Excessive Noise****§2-301. Purpose; Greater Restrictions.**

1. This Part is enacted to regulate animal noise disturbances within the Borough of Modena in order to promote the health, safety, peace, tranquility and general welfare of its inhabitants.

2. Where the provisions of this Part impose greater restrictions than those of any other statute, ordinance, regulation or resolution, the provisions of this Part shall be controlling. Where the provisions of any other statute, ordinance, regulation or resolution impose greater restrictions than this Part. The provision of such other statute, ordinance, regulation or resolution, shall be controlling.

(Ord. 117B, 1/7/2002, §37)

**§2-302. Definitions.**

The following definitions shall be added and apply in the interpretation and enforcement of this Part:

*Animal* - any domestic animal or fowl, any wild animal or any household pet including birds.

*Domestic Animal* - any animal normally or ordinarily domesticated or raised in this area or climate as livestock or for work or breeding purposes or normally or ordinarily kept as a household pet.

*Keeper* - any person, firm or cooperation owning or actually keeping haying using or maintaining any of the animals herein referred to.

*Officer* - any police officer or duly appointed animal control officer.

*Person* - any person, firm, partnership, association or cooperation.

*Wild Animal* - any animal, including, bird, fowl, feline or canine not normally or ordinarily domesticated, not normally or ordinarily raised in this area and climate as livestock or for work or breeding purposes, or not capable of being kept as a household pet.

(Ord. 117B, 1/7/2002, §38)

**§2-303. Regulated Animals.**

This Part shall apply to the following animals:

A. Cage birds (the term includes parrots, other tropical birds and other birds ordinarily kept in cages in household.)

B. Cats.

C. Dogs.

D. Vietnamese pot bellied pigs.

(Ord. 117B, 1/7/2002, §39)

**§2-304. Prohibited Acts.**

It shall be unlawful for any person to allow any regulated animal, as described above, to bark, bay, cry, grunt, screech, squawk, squeal, yowl or make any other noise either continuously and/or incessantly for a period of 10 minutes or more or make such noise intermittently for ½ hour or more when such noise disturbs the peace and tranquility of others, regardless of whether the animal is physically situated in or upon private property.

(*Ord. 117B*, 1/7/2002, §40)

**§2-305. Enforcement Authority.**

The provisions of this Part will be enforced by the police department serving the Borough as defined by “officer” in the definitions. The officer is hereby authorized to enter upon any premises within the Borough of Modena for the purpose of investigating possible violation(s) of this Part.

(*Ord. 117B*, 1/7/2002, §41; as amended by *Ord. 145-07*, 12/11/2007)

**§2-306. Violations and Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 117B*, 1/7/2002, §42; as amended by *Ord. 145-07*, 12/11/2007)



## **Chapter 3**

**[Reserved]**



## **Chapter 4**

### **Buildings**

#### **Part 1**

#### **Street Address Numbers**

- §4-101. Applicability
- §4-102. Definitions
- §4-103. Assignment of Numbers
- §4-104. Application for Street Address Number
- §4-105. Number of Subdivision Lots
- §4-106. Size and Location of Numbers
- §4-107. Violations and Penalties
- §4-108. Enforcement



**Part 1****Street Address Numbers****§4-101. Applicability.**

This Part applies to all principal buildings within the Borough of Modena, Chester County, and each tract, lot or parcel of land.

(*Ord. 134, 12/5/1995, §I*)

**§4-102. Definitions.**

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

*Accessory building* - a subordinate building, the use of which is customarily incidental to that of the principal building and is used for an accessory use and is located on the same lot.

*Principal buildings* - any building or structure erected on a tract, lot or parcel of land on which any use is carried out, except an accessory building. Including a dwelling, place of business or industry, or any other use requiring a location identity.

(*Ord. 134, 12/5/1995, §II*)

**§4-103. Assignment of Numbers.**

1. Street address numbers shall be assigned to each building, tract, lot or parcel of land, placed on file in the Borough office and assigned to the owners or occupants of such buildings, tract, lot or parcel of land by the Zoning Officer or other designated official of the Borough, or by such other person as may be designated by resolution of the Borough Council. Once assigned, all such properties shall be designated for all purposes by the number assigned, and thereafter all persons shall take due notice thereof and comply with the provisions of this Part, when applicable.

2. The Zoning Officer or other designated official of the Borough, or such other person as may be designated, shall have the power and duty to correct any errors with respect to assignment of street address numbers, as and when such errors are discovered.

(*Ord. 134, 12/5/1995, §III; as amended by Ord. 145-07, 12/11/2007*)

**§4-104. Application for Street Address Number.**

The owner or occupant of each tract, lot or parcel of land to which no street address number has previously been assigned shall, upon purchase, acquisition or occupancy thereof or within 7 days of discovery that no such number has been assigned, make application to the Zoning Officer or other designated official of the Borough or his designated agent for assignment of such number, and thereon the Zoning Officer or other designated official of the Borough shall assign a correct street address number to the property.

(*Ord. 134, 12/5/1995, §IV; as amended by Ord. 145-07, 12/11/2007*)

**§4-105. Number of Subdivision Lots.**

1. The Zoning Officer or other designated official of the Borough shall be responsible for assigning proper street address number sequences to each lot which is created as a result of a subdivision or resubdivision, said numbers shall be in proper municipal sequence in relation to the number assigned to other lots fronting on the same street and shall be properly recorded on the subdivision plan and the Borough file. [Ord. 145-07]

2. When the assignments required under subsection .1 hereof has been completed and signed by the Zoning Officer or other designated official of the Borough, they shall be appended to the final subdivision plan and thereby incorporated therein by reference. No subdivider shall sell or convey any lot or dwelling unit or other building or structure upon said lot or lease or otherwise permit the use and occupancy thereof without first complying with all of the terms of this Part. [Ord. 145-07]

3. The requirements for application for street address number and display thereof shall be a condition precedent to the submission of any application for a certificate of occupancy.

(Ord. 134, 12/5/1995, §V; as amended by Ord. 145-07, 12/11/2007)

**§4-106. Size and Location of Numbers.**

1. In order to comply with this Part, street address numbers shall be Arabic in design, shall have a minimum height of 4 inches with a minimum stroke width of ½ inch and shall be mounted in a secure fashion by one or more of the approved manners. The numbers shall be sufficiently legible as to contrasting background, arrangement, spacing, size and uniformity of numerals so that the numbers may be read with ease during daylight hours by a person possessing normal vision, if he views the numbers from the center line of the facing street. The numbers shall be so placed that trees, shrubs and other obstructions do not block the line of sight of the numbers from the center of the street to any appreciable degree. Auxiliary numbers shall be mounted at a height between 4 feet and 10 feet upon the adjacent grade or exterior landing beneath, but never higher than 15 feet above adjoining grade. [Ord. 145-07]

A. *Approved Manners.*

(1) Occupancies with mailboxes at the end of driveways shall display numbers on both sides of the mailbox or support post. When mailboxes are placed on the opposite side of the facing street from the occupancy, auxiliary numbers shall be provided in addition to the mailbox numbers. When two or more mailboxes are placed side by side together in a row then numbers shall be placed on the fronts of the mailboxes.

(2) Occupancies without mailboxes at the end of driveways shall place numbers in the general vicinity of the main entrance or path of travel which leads to the main entrance and shall be visible from the center line of the facing street.

(3) Those occupancies with no mailboxes which are built down long driveways or occupancies not visible from the street shall have a marker or post of noticeable size placed at the driveway entrance. If more than one occupancy share the driveway, then each occupancy shall be so numbered.

2. Occupancies with shared driveways shall also display auxiliary numbers at or near the main entrance of the structure according to specifications herein.

(*Ord. 134, 12/5/1995, §VI; as amended by Ord. 145-07, 12/11/2007*)

#### **§4-107. Violations and Penalties.**

1. The absence of street numbers, or the insecure fastening or absence of any numeral thereof, or the use of any street address number not assigned by the Zoning Officer or other designated official of the Borough, or the failure of a street address number to meet the elevation requirements or the visibility requirements shall be a violation of this Part. Upon discovery of such violation, a notice of violation shall be sent by certified mail to the property or occupant, or shall be posted in a prominent place upon the property by the Zoning Officer or other designated official of the Borough or his agent, or shall be personally served on the property owner or occupant or his agent. Such notice shall specify the specific provision of this Part violated and shall require compliance with the provisions of this Part within 15 days from the service or posting of the notice of violation. [*Ord. 145-07*]

2. Any person, firm or corporation who shall fail to comply with the notice of violation or who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. [*Ord. 145-07*]

3. Every violator of the provisions of this Part shall be deemed guilty of a separate offense for each and every day such violation shall continue and shall be subject to the penalty imposed by this section for each and every such offense.

4. After the issuance by the Zoning Officer or other designated official of the Borough of a notice of violation of the provisions of this Part and the posting of such notice of violation on the premises, each day such violation shall continue shall be deemed a separate offense subject to a like fine and penalty. [*Ord. 145-07*]

(*Ord. 134, 12/5/1995, §VII; as amended by Ord. 145-07, 12/11/2007*)

#### **§4-108. Enforcement.**

The final authority for determining and assigning the street number or numbers to be used upon any particular property, as well as the enforcement of this Part, shall be in the office of the Zoning Officer or other designated official of the Borough, his agent or such other person as provided for in §4-103 of this Part.

(*Ord. 134, 12/5/1995, §VII; as amended by Ord. 145-07, 12/11/2007*)





## **Chapter 5**

### **Code Enforcement**

#### **Part 1**

##### **Uniform Construction Code**

- §5-101. Election to Enforce Pennsylvania Construction Code Act
- §5-102. Adoption of Uniform Construction Code
- §5-103. Administration and Enforcement
- §5-104. Board of Appeals
- §5-105. Savings and Repeal
- §5-106. Fees

#### **Part 2**

##### **Property Maintenance Code**

- §5-201. Adoption of Property Maintenance Code
- §5-202. Amendments
- §5-203. Savings Clause



**Part 1****Uniform Construction Code****§5-101. Election to Enforce Pennsylvania Construction Code Act.**

The Borough of Modena hereby elects 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.

*(Ord. 117A-05, 1/12/2005, §1)*

**§5-102. Adoption of Uniform Construction Code.**

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 the Borough of Modena.

*(Ord. 117A-05, 1/12/2005, §2)*

**§5-103. Administration and Enforcement.**

Administration and enforcement of the code within the Borough of Modena shall be undertaken in any of the following ways as determined by the Borough Council of the Borough of Modena from time to time by resolution:

A. By the designation of an employee of the Borough of Modena to serve as the municipal code official to act on behalf of the Borough.

B. By the retention of one or more construction code officials or third-party agencies to act on behalf of the Borough of Modena.

C. By agreement with one or more other municipalities for joint administration and enforcement of this Part through an intermunicipal agreement.

D. By entering into a contract with another municipality for the administration and enforcement of this Part on behalf of the Borough of Modena.

E. By entering into an agreement with the Pennsylvania Department of Labor and Industry for plan review, inspections and enforcement of utility and miscellaneous use structures.

*(Ord. 117A-05, 1/12/2005, §3)*

**§5-104. Board of Appeals.**

A Board of Appeals shall be established by resolution of the Borough Council of the Borough of Modena in conformity with the requirements of the relevant provisions of the code, as amended from time to time, and for the purpose 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.

*(Ord. 117A-05, 1/12/2005, §4)*

**§5-105. Savings and Repeal.**

1. All building code ordinances or portions of ordinances which were adopted by the Borough of Modena on or before July 1, 1999, 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. [*Ord. 145-07*]

2. All building code ordinances or portions of ordinances which are in effect as of the effective date of this Part and whose requirements are less than the minimum requirements of the code are hereby amended to confirm with the comparable provisions of the code.

3. All relevant ordinances, regulations and policies of the Borough of Modena governed by the code shall remain in full force and effect.

(*Ord. 117A-05, 1/12/2005, §5; as amended by Ord. 145-07, 12/11/2007*)

**§5-106. Fees.**

Fees assessable by the Borough of Modena for the administration and enforcement undertaken pursuant to this Part and the code shall be established by the Borough Council by resolution from time to time.

(*Ord. 117A-05, 1/12/2005, §6*)

**Part 2****Property Maintenance Code****§5-201. Adoption of Property Maintenance Code.**

A certain document, three copies of which are on file in the office of the Borough Secretary of Borough of Modena, being marked and designated as the International Property Maintenance Code 2006 as published by the International Code of Council, and all appendixes and is hereby adopted as the Property Maintenance Code of the Borough of Modena, in the State 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 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 of the Borough of Modena are hereby referred to, adopted and made part hereof, as if fully set out in this Part, with the additions, insertions, deletions and charges, if any, prescribed in §5-202 of this Part.

(Ord. 117A-07, 12/11/2007, §1)

**§5-202. Amendments.**

The following Sections are hereby revised:

A. *Section 101.1.* Borough of Modena.

B. *Section 103.5.* Property owner shall be responsible for the fees for activities and services performed by this Department in carrying out its responsibilities under this code. Violation penalties shall be subject to a fine of not less than \$100 nor more than \$1,000 each day that a violation continues after due notice has been served.

C. *Section 302.4.* 12 inches.

D. *Section 303.14.* January 1 to December 31.

E. *Section 602.3.* January 1 to December 31.

F. *Section 602.4.* January 1 to December 31.

(Ord. 117A-07, 12/11/2007, §2)

**§5-203. Savings Clause.**

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 of action acquired or existing, under any act or ordinance hereby repealed; nor shall any or legal right or remedy of any character be lost, impaired or affected by this Part.

(Ord. 117A-07, 12/11/2007, §5)



## **Chapter 6**

### **Conduct**

#### **Part 1 Curfew**

- §6-101. Definitions and Interpretation
- §6-102. Purposes
- §6-103. Curfew; Exceptions
- §6-104. Parent Not to Permit Violation
- §6-105. Procedure upon Violation
- §6-106. Procedure in Case of Repeated Violations or Other Factors Interfering with Enforcement
- §6-107. Police Discretion in Age Determination
- §6-108. Penalties

#### **Part 2 Public Consumption of Alcohol**

- §6-201. Public Drinking Prohibited
- §6-202. Intent to Consume Prohibited
- §6-203. Open Containers of Alcohol Prohibited
- §6-204. Right to Private Property Protected
- §6-205. Penalty

#### **Part 3 Littering**

- §6-301. Littering Prohibited
- §6-302. Penalties

#### **Part 4 Fireworks Display**

- §6-401. General Provisions
- §6-402. Display and Discharge
- §6-403. Penalties

#### **Part 5 Disorderly Conduct**

- §6-501. Disorderly Conduct Prohibited
- §6-502. Penalty for Disorderly Conduct





**Part 1****Curfew****§6-101. Definitions and Interpretation.**

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

*Minor* - person under the age of 18 years.

*Parent* - any natural parent of a minor, as herein defined, or a guardian, or any adult person responsible for the care and custody of a minor. When used in this Part, "parent" shall mean one or both parents.

*Public place* - any public street, alley, sidewalk, park, playground, public building or vacant lot in Modena Borough.

*Remain* - to stay behind, to tarry and to stay unnecessarily upon the streets, including the congregating of groups (or of interacting minors) totaling two or more persons in which any minor involved would not be using the streets for emergencies or ordinary purposes such as mere passage of going home.

2. In this Part, the singular shall include the plural, the plural shall include the singular; and the masculine shall include the feminine and the neuter.

(Ord. 142-07, 8/6/2007, §1)

**§6-102. Purposes.**

This is a curfew ordinance prescribing, in accordance with prevailing community standards, regulations for the conduct of minors on streets at night, for the protection of younger children in Modena Borough from each other and from other persons on the streets during nighttime hours, for the enforcement of parental control and responsibility for the children, for the protection of the public from nocturnal mischief by minors and for the reduction of the incidence of juvenile criminal activity, all for the good of minors, for the furtherance of family responsibility, and for the public good, safety and welfare.

(Ord. 142-07, 8/6/2007, §2)

**§6-103. Curfew; Exceptions.**

It shall be unlawful for any minor to be or remain in or upon any public highway, park or other public place within Modena Borough, or in any enclosure or vehicle which is on or in close proximity to any such public place within Modena Borough, between the hours of 9 p.m. and 6 a.m. on the following day. Exceptions to the above are as follows:

A. Minor accompanied by parent, guardian or other person having legal care or custody of such minor.

B. Minor possessing a written statement dated that day and signed by the parent guardian, or other person having legal care or custody of such minor, which statement specifies the time, place, purpose and necessity of the minor being in a public place contrary to this Part.

C. Minor lawfully employed making it necessary to be on or in highways, streets, parks, etc., as stated above and possessing a current letter certifying the same and signed by employer, parent or guardian.

D. Minor on an emergency errand.

E. Minor traveling to and from church, school, or municipal activity with parental permission statement as in paragraph .B above.

*(Ord. 142-07, 8/6/2007, §3)*

#### **§6-104. Parent Not to Permit Violation.**

It is hereby made unlawful for any parent, guardian or the person having legal care or custody of a minor to allow or permit such minor to violate any provision of this Part without legal justification therefore.

*(Ord. 142-07, 8/6/2007, §4)*

#### **§6-105. Procedure upon Violation.**

Any minor found upon the streets, alleys, parks or public places within Modena Borough in violation of §6-102 shall be taken into custody by the contract police or legally deputized individual, be delivered to his parent(s), guardian or person having legal custody of said minor, and be given a copy of this Part. A report shall be filed and kept in a book for that specific purpose. If said parent, guardian, or person having legal custody of said minor shall again allow him to be on the streets, alleys, parks, or public places in violation §6-102, said parent, guardian or person having legal custody of said minor so offending shall, upon the second offense, be called along with offender and be so advised once again as to the penalty provisions contained in this Part. Upon the third violation, said parent, guardian, or person will be cited for the violation.

*(Ord. 142-07, 8/6/2007, §5)*

#### **§6-106. Procedure in Case of Repeated Violations or Other Factors Interfering with Enforcement.**

Any minor who shall violate this Part more than three times may, at the discretion of the proper Modena Borough official, be reported to a society or organization the purpose of which is to take charge of incorrigibles and delinquents, and proceedings shall then be taken in the proper court for the permanent welfare of such minor and a like procedure may be taken in cases where the arrest of the parent is not effective, or where for any other reason the provision of §6-102 of this Part cannot be made effective by the imposition of fines and penalties.

*(Ord. 142-07, 8/6/2007, §6)*

#### **§6-107. Police Discretion in Age Determination.**

The police officers with the contract for police coverage, or their designee, for Modena Borough, in taking minors into custody, shall use their discretion in determining age and in doubtful cases may require positive proof of age. Until such proof is furnished, the officer's judgment shall prevail.

*(Ord. 142-07, 8/6/2007, §7)*

**Part 2****Public Consumption of Alcohol****§6-201. Public Drinking Prohibited.**

No person shall drink any alcoholic or malt beverages in any vehicle or otherwise upon the streets, sidewalks, parks, public parking lots, school or church properties, or upon any private parking lots or any other private areas open to public use in the Borough of Modena.

(*Ord. 102, 10/6/1980, §1*)

**§6-202. Intent to Consume Prohibited.**

No person shall carry or possess any alcoholic or fermented malt beverage with intention of consuming the same upon the streets; sidewalks, parks, public parking lots, school or church properties, or upon any private parking lots or any other private parking areas open to public use in the Borough of Modena.

(*Ord. 102, 10/6/1980, §2*)

**§6-203. Open Containers of Alcohol Prohibited.**

The possession of any opened bottle, can or container containing an alcoholic or fermented malt beverage in a motor vehicle or otherwise upon any street, sidewalk, park, public parking lot or any other private parking lot, school or church property, or upon any private parking lot or any other private areas open to public use in the Borough of Modena shall be presumed to be with the intent to consume such beverage.

(*Ord. 102, 10/6/1980, §3*)

**§6-204. Right of Private Property Protected.**

No provision of this Part shall be construed in derogation of the rights of the owner or tenant of any private property to legally use said premises or to grant permission to others for the lawful use thereof upon said premises.

(*Ord. 102, 10/6/1980, §4*)

**§6-205. Penalty.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 102, 10/6/1980, §5; as amended by Ord. 117, 2/6/1984; and by Ord. 145-07, 12/11/2007*)



**Part 3****Littering****§6-301. Littering Prohibited.**

It shall be unlawful for any person, firm or corporation or any agent thereof to place, throw, store, accumulate or maintain, or cause to be placed, thrown, stored, accumulated or maintained any used cans, papers, paper boxes, used lumber, rubbish, debris, animal matter, garbage, empty bottles or other containers upon any property within the Borough of Modena or on or near any alley, highway or stream located in said Borough, except in accordance with any Borough ordinance dealing with the collection of garbage, refuse, trash, or solid waste.

*(Ord. 117, 2/6/1984)*

**§6-302. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

*(Ord. 117, 2/6/1984; as amended by Ord. 145-07, 12/11/2007)*



**Part 4****Fireworks Display****§6-401. General Provisions.**

1. *Scope.* The manufacture of fireworks is prohibited within Modena Borough. The display or discharge of consumer or display fireworks shall comply with the requirements of the Fireworks Law, 35 P.S. §1271 *et seq.*, and the provisions of the International Fire Code, 2006 edition, as amended, supplemented or replaced, implemented by the Uniform Construction Code [Chapter 5, Part 1].

2. *Permit Required.* A permit shall be obtained from the Borough for the display or discharge of consumer and display fireworks in compliance with the provisions of the Fireworks Law, 35 P.S. §1271 *et seq.*, and the provisions of the International Fire Code, 2006 edition, as amended, supplemented or replaced, implemented by the Uniform Construction Code [Chapter 5, Part 1].

3. *Permit Application.* Application for permits shall be made in writing at least 15 days in advance of the date of the display. Application for said permits shall be made pursuant to the procedure in the International Fire Prevention Code, 2006 edition, as amended, supplemented or replaced. The possession, use and distribution of fireworks for such display shall be lawful under the terms and conditions approved with the permit and for that purpose only. A permit granted hereunder shall not be transferable, nor shall any such permit be extended beyond the dates set out therein.

4. *Definitions.*

A. *Consumer Fireworks.*

(1) Any combustible or explosive composition or any substance or combination of substances intended to produce visible and/or audible effects by combustion and which is suitable for use by the public that complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and which complies with the provisions for “consumer fireworks” as defined in the American Pyrotechnics Association (APA) Standard 87-1, or any successor standard.

(2) The term does not include devices as “ground and hand-held sparkling devices,” “novelties” and “toy caps” in APA Standard 87-1, the sale, possession and use of which shall be permitted at all times throughout this Borough.

B. *Display Fireworks.* As provided in 27 CFR §555.11 (relating to meaning of terms).

(Ord. 144-07, 8/6/2007, §1)

**§6-402. Display and Discharge.**

1. *General.* It shall be a violation of this Part for any person to conduct a public or private display of consumer fireworks and display fireworks within Modena Borough except in accordance with a permit issued upon application as provided in §6-401.3 of this Part. Every such display shall be handled by a competent operator and shall be of

such a character and so located, discharged or fired as, in the opinion of the officer of Modena Borough charged with enforcement of the International Fire Code, or such other officer of Modena Borough as may be designated from time to time, in writing, after proper inspection, to not be hazardous to property or endanger any person or persons. After such privilege shall have been granted, possession and use of consumer fireworks and display fireworks for such display shall be lawful for that purpose only. No permit shall be transferable.

2. *Bond for Display.* The permittee shall furnish a bond in an amount deemed adequate by the Borough Council but not less than \$500, conditioned for the payment of all damages which may be caused either to a person or persons or to property by reason of the permitted display, and arising from any acts of the permittee, the permittee's agent, employees or subcontractors.

3. *Seizure of Fireworks.* Any police officer with authority in Modena Borough shall take, remove or cause to be removed at the expense of the owner, all stocks of consumer fireworks or display fireworks or combustibles offered or exposed for sale, store, or held in violation of this Part or the Fireworks Law, 35 P.S. §1271 *et seq.* The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.

(*Ord. 144-07, 6/8/2007, §2*)

#### **§6-403. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 144-07, 6/8/2007, §3; as amended by Ord. 145-07, 12/11/2007*)



**Part 5****Disorderly Conduct****§6-501. Disorderly Conduct Prohibited.**

Disorderly conduct, as defined in the Pennsylvania Crimes Code, 18 Pa.C.S.A. §5503, is hereby prohibited within the Borough of Modena. A person is guilty of disorderly conduct if they:

- A. Engage in fighting or in threatening, violent or tumultuous behavior.
- B. Make unreasonable noise.
- C. Use obscene language, or makes an obscene gesture.
- D. Create a hazardous or physically offensive condition by any act which serves no legitimate purpose of the actor.

Provided: as used in this Section, the word "public" means affecting or likely to affect persons in a place to which the public or a substantial group has access. Among the places included are streets, alleys and sidewalks, transport facilities, schools, prisons, apartment houses, places of business or amusement, any neighborhood, or any premises which are open to the public.

*(Ord. 117, 2/6/1984)*

**§6-502. Penalty for Disorderly Conduct.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

*(Ord. 117, 2/6/1984; as amended by Ord. 145-07, 12/11/2007)*



**§6-108. Penalties.**

Any person who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days.

*(Ord. 142-07, 8/6/2007, §8; as amended by Ord. 145-07, 12/11/2007)*



## **Chapter 7**

**[Reserved]**



## **Chapter 8**

### **Floodplains**

#### **Part 1 General Provisions**

- §8-101. Intent
- §8-102. Applicability
- §8-103. Abrogation and Greater Restrictions
- §8-104. Warning and Disclaimer of Liability

#### **Part 2 Administration**

- §8-201. Building Permits Required
- §8-202. Issuance of Building Permit
- §8-203. Application Procedures and Requirements
- §8-204. Review by County Conservation District
- §8-205. Review of Application by Others
- §8-206. Changes
- §8-207. Placards
- §8-208. Start of Construction
- §8-209. Inspection and Revocation
- §8-210. Fees
- §8-211. Enforcement
- §8-212. Appeals

#### **Part 3 Identification of Floodplain Areas**

- §8-301. Identification
- §8-302. Description of Floodplain Areas/District
- §8-303. Changes in Identification of Area
- §8-304. Boundary Disputes

#### **Part 4 General Technical Requirements**

- §8-401. General
- §8-402. Special Requirement for the AE Area/District
- §8-403. Design and Construction Standards
- §8-404. Development Which May Endanger Human Life
- §8-405. Special Requirements for Manufactured Homes

#### **Part 5 Activities Requiring Special Permits**

- §8-501. General
- §8-502. Application Requirements for Special Permits
- §8-503. Application Review Procedures
- §8-504. Special Technical Requirements

**Part 6**  
**Existing Structures in Identified Floodplain Areas**

- §8-601. Existing Structures
- §8-602. Improvements

**Part 7**  
**Variances**

- §8-701. General
- §8-702. Variance Procedures and Conditions

**Part 8**  
**Definitions**

- §8-801. General
- §8-802. Specific Definitions



**Part 1****General Provisions****§8-101. Intent.**

The intent of this Chapter is to:

- A. Promote the general health, welfare and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its government units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with Federal and State floodplain management requirements.

*(Ord. 132-06, 10/18/2006, §1.00)*

**§8-102. Applicability.**

1. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough, unless a building permit has been obtained from the Building Permit Officer.

2. A building permit shall not be required for any minor repairs to existing building or structures.

*(Ord. 132-06, 10/18/2006, §1.01)*

**§8-103. Abrogation and Greater Restrictions.**

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

*(Ord. 132-06, 10/18/2006, §1.02)*

**§8-104. Warning and Disclaimer of Liability.**

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

2. This Chapter shall not create liability on the part of the Borough or any officer or employee thereof for any flood damages that result from reliance on this Chapter or

any administrative decision lawfully made thereafter.  
(*Ord. 132-06, 10/18/2006, §1.03*)

**Part 2****Administration****§8-201. Building Permits Required.**

Building permits shall be required before any construction or development is undertaken within any area of the Borough.

(*Ord. 132-06, 10/18/2006, §2.00*)

**§8-202. Issuance of Building Permit.**

1. The Building Permit Officer 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 and ordinances.

2. Prior to the issuance of any building permit, the Building Permit Officer shall review the application for permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act, 35 P.S. §750.1 *et seq.*; the Pennsylvania Dam Safety and Encroachments Act, 32 P.S. §693.1 *et seq.*; the Pennsylvania Clean Streams Act, 35 P.S. §691.1 *et seq.*; the U.S. Clean Water Act, §404, 33 U.S. C. §1344. No permit shall be issued until this determination has been made.

3. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Borough, and until all required permits or approvals have been first obtained from the Department of Environmental Protection. [*Ord. 145-07*]

4. In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development, Bureau of Community Planning, shall be notified by the Borough prior to any alteration or relocation of any water Course.

(*Ord. 132-06, 10/18/2006, §2.01; as amended by Ord. 145-07, 12/11/2007*)

**§8-203. Application Procedures and Requirements.**

Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the Borough. Such application shall contain the following:

- A. Name and address of applicant.
- B. Name and address of owner of land on which proposed construction is to occur.
- C. Name and address of contractor.
- D. Site location, including address.
- E. Listing of other permits required.
- F. Brief description of proposed work and estimated cost, including a breakout of the flood related cost and the market value of the building before the flood damage occurred.

G. A plan of the site showing the exact size and location of the proposed construction, as well as, any existing building and structures.

H. If any proposed construction or development is located entirely or partially within any identified Floodplain Area, applicants for building permits shall provide all the necessary information in sufficient detail and clarity to enable the Building Permit Officer to determine that:

(1) All such proposals are consistent with the need to minimize flood damage and conforms to the requirements of this and all other applicable codes and ordinances.

(2) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage.

(3) Adequate drainage is provided so as to reduce exposure to flood hazard.

I. Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in §8-502) as may be required by the Building Permit Officer to make the above determination:

(1) A complete building permit application form.

(2) A plan of the entire site, clearly and legibly drawn at a scale of 1 inch being equal to 100-feet or less, showing the following:

(a) North arrow, scale, and date.

(b) Topographic contour lines, if available.

(c) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.

(d) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development.

(e) The location of all existing streets, drives, and other access ways.

(f) The location of any existing bodies of water or watercourses, identified Floodplain Areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.

(3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following;

(a) The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929 or North Atlantic Vertical Data of 1988.

(b) The elevation of the 100-year flood.

(c) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a 100-year flood.

(d) Detailed information concerning any proposed floodproofing measures.

(4) The following data and documentation;

(a) Documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District, when combined with all other existing and anticipated development, will not increase the elevation of the 100-year flood more than 1 foot at any point.

(b) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the 100-year flood.

(c) Such statement shall include a description of the type and extent of floodproofing measures which have been incorporated into the design of the structure and/or the development.

(d) Detailed information needed to determine compliance with §8-403.E, "Storage," and §8-404, "Development which May Endanger Human Life," including:

1) The amount, location and purpose of any dangerous materials or substances which are intended to be used, produced, stored or otherwise maintained on site.

2) A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in §8-404 during a 100-year flood.

(e) The appropriate component of the Department of Environmental Protection "Planning Module for Land Development." [Ord. 145-07]

(f) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control. [Ord. 145-07]

(Ord. 132-06, 10/18/2006, §2.02; as amended by Ord. 145-07, 12/11/2007)

#### **§8-204. Review by County Conservation District.**

A copy of all applications and plans for any proposed construction or development in any identified Floodplain 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.

(Ord. 132-06, 10/18/2006, §2.03)

#### **§8-205. Review of Application by Others.**

A copy of all plans and application for any proposed construction of development in any identified Floodplain Area to be considered for approval may be submitted by the Building Permit Officer to any other appropriate agencies and/or individuals (e.g., Planning Commission, Borough Engineer, etc.) for review and comment.

(Ord. 132-06, 10/18/2006, §2.04)

#### **§8-206. Changes.**

After the issuance of a building permit by the Building Permit Officer, 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 Building Permit Officer. Request for any such change shall be in writing, and shall be submitted by the applicant to the Building Permit Officer for consideration.

*(Ord. 132-06, 10/18/2006, §2.05)*

#### **§8-207. Placards.**

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

*(Ord. 132-06, 10/18/2006, §2.06)*

#### **§8-208. Start of Construction.**

1. Work on a proposed construction and/or development shall begin within 6 months and shall be completed within 12 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 Building Permit Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footing, piers, or foundations, erection of temporary forms, the installation of the piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

2. Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Building Permit Officer to approve such a request.

*(Ord. 132-06, 10/18/2006, §2.07)*

#### **§8-209. Inspection and Revocation.**

1. During the construction period, the Building Permit Officer or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinance. He shall make as many inspections during and upon completion of the work as are necessary.

2. In the discharge of his duties, the Building Permit Officer shall have the authority to enter the building, structure, premises or development in the identified floodprone area, upon presentation of proper credential, at any reasonable hour to enforce the provisions of this Chapter.

3. In the event the Building Permit Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Building Permit Office shall revoke the building permit and report such fact to the Borough Council for whatever action it considers necessary.

4. A record of all such inspections and violations of this Chapter shall be

maintained.

(*Ord. 132-06, 10/18/2006, §2.08*)

#### **§8-210. Fees.**

Applications for a building permit shall be accompanied by a fee, payable to the Borough based upon the estimated cost of the proposed construction as determined by the Building Permit Officer in an amount as established from time to time by resolution of the Borough Council.

(*Ord. 132-06, 10/18/2006, §2.09; as amended by Ord. 145-07, 12/11/2007*)

#### **§8-211. Enforcement.**

1. *Notices.* Whenever the Building Permit Officer or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provision of this Chapter, or of any regulation adopted pursuant thereto, the Building Permit Officer shall give notice of such alleged violation as hereinafter provided. Such notice shall (A) be in writing; (B) include a statement of the reasons for its issuance; (C) allow a reasonable time not to exceed a period of 30 days for the performance of any act it requires; (D) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the law of this State; (E) contain an outline of remedial action which, if taken, will effect compliance with the provisions of this Chapter.

2. *Penalties.* Any person who fails to comply with any or all of the requirements or provisions of this Chapter or who fails or refuses to comply with any notice, order of direction of the Building Permit Officer or any other authorized employee of the Borough shall be guilty of an offense, and upon conviction thereof, shall be sentenced to pay of fine of not less than \$25 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equality for the proper enforcement of this Chapter. The imposition of a fine or penalty for any violation, or noncompliance or to permit it to continue and all such persons shall be required to correct or remedy such violations and noncompliance within a reasonable time. Any development initiated or any structure or building constructed, reconstructed, enlarged, altered or relocated in noncompliance with this Chapter may be declared by the Borough Council to be a public nuisance and abatable as such.

(*Ord. 132-06, 10/18/2006, §2.10; as amended by Ord. 145-07, 12/11/2007*)

#### **§8-212. Appeals.**

1. Any person aggrieved by an action or decision of the Building Permit Officer concerning the administration of the provisions of this Chapter may appeal to the Council. Such appeal must be filed, in writing, within 30 days after the decision of action of the Building Permit Officer.

2. Upon receipt of such appeal, the Council shall set a time and place, within not

less than 10 or more than 30 days, for the purpose of consideration the appeal. Notice of the time and place at which the appeal will be considered shall be given to all parties.

3. Any person aggrieved by any decision of the Council may seek relief therefore by appeal to Court, as provided by the laws of the Commonwealth including the Pennsylvania Floodplain Management Act, 32 P.S. §679.101 *et seq.*

(*Ord. 132-06, 10/18/2006, §2.11*)



be on the appellant.

(*Ord. 132-06*, 10/18/2006, §3.03)

**Part 3****Identification of Floodplain Areas****§8-301. Identification.**

The identification Floodplain Area shall be those areas of Modena Borough, Chester County, Pennsylvania, which are subject to the 100-year flood, as identified in the Chester County Flood Insurance Study (FIS) dated September 29, 2006, and the accompanying maps as prepared for by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof including all digital data developed as part of the Flood Insurance Study.

(Ord. 132-06, 10/18/2006, §3.00)

**§8-302. Description of Floodplain Areas/District.**

The identified Floodplain Area shall consist of the following two specific areas/districts:

A. *FW (Floodway Area)*. The area identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by the FEMA. The terms shall also include Floodway Areas which have been identified in other available studies or sources of information for those Floodplain Areas where no floodway has been identified in the Flood Insurance Study.

B. *FF (Flood-Fringe Area)*. The remaining portions of the 100-year floodplain in those areas identified as an AE Zone in the Flood Insurance Study, where a floodway has been delineated.

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

(Ord. 132-06, 10/18/2006, §3.01)

**§8-303. Changes in Identification of Area.**

The identified Floodplain Area may be revised or modified by the Council where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency (FEMA).

(Ord. 132-06, 10/18/2006, §3.02)

**§8-304. Boundary Disputes.**

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

**Part 4****General Technical Requirements****§8-401. General.**

1. In the identified Floodplain Area, the development and/or use of any land shall be permitted provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and ordinances in force in the Borough.

2. Within any Floodway Area, no new construction or development shall be permitted that would cause any increase in the 100-year flood elevation.

3. Within any AR Area/District, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the 100 year flood more than 1 foot at any point.

4. Within any identified Floodplain Area, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Protection. [*Ord. 145-07*]

5. Within any identified Floodplain Area, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse.

6. Within any identified Floodplain Area, the elevation of the lowest floor (including, basement) of any new or substantially improved residential structure shall be 1½ feet or more above the 100-year flood elevation, or be flood proofed up to that height.

7. Within any identified Floodplain Area, the elevation of the lowest floor (including, basement) of any new or substantially improved nonresidential structure shall be 1½ feet or more above the 100-year flood elevation or be flood proofed up to that height.

A. Any nonresidential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least 1½ feet above the 100-year flood elevation, shall be flood proofed in a completely or essentially dry manner in accordance with the W1 or W2 space classification standards contained in the publication entitled "Floodproofing Regulations" published by the U.S. Army Corps of Engineers (June 1972), or with some other equivalent standard. All plans and specifications for such flood proofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above-referenced standards.

8. Enclosed areas below the lowest floor (including basement) are prohibited. (*Ord. 132-06, 10/18/2006, §4.00; as amended by Ord. 145-07, 12/11/2007*)

**§8-402. Special Requirement for the AE Area/District.**

Within any AE Area/District, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, increase the elevation of the 100-year flood more than 1 foot at any point.

(Ord. 132-06, 10/18/2006, §4.01)

### **§8-403. Design and Construction Standards.**

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

A. *Fill.* If fill is used, it shall:

(1) Extend laterally at least 15 feet beyond the building line from all points.

(2) Consist of soil or small rock materials only. Sanitary landfills shall not be permitted.

(3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling.

(4) Be no steeper than 1 vertical to 2 horizontal feet, unless substantiated data, justifying steeper slopes, are submitted to, and approved by the Building Permit Officer.

(5) Be used to the extent to which it does not adversely affect adjacent properties.

B. *Uniform Construction Code Coordination.* The standards and specifications contained 34 Pa.Code, Chapters 401-405, as amended, and not limited to the following provisions shall apply to the above and other Sections and subsections of this Chapter, to the extent that they are more restrictive and/or supplement the requirements of this Chapter:

(1) International Building Code (IBC) 2003 or the latest edition thereof: §§801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

(2) International Residential Building Code (IRC) 2003 or the latest edition thereof: §§R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

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

D. *Streets.* The finished elevation of all new streets shall be no more than 1-foot below the regulatory flood elevation.

E. *Storage.* All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in §8-404, "Development which May Endanger Human Life," shall be stored at or above the regulatory flood elevation and/or floodproofed to the maximum extent possible.

F. *Placement of Buildings and Structures.* All buildings and structures, shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of floor water.

G. *Anchoring.*

(1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

(2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

H. *Floors, Walls and Ceilings.*

(1) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural change to the building.

(2) Plywood used at or below the regulatory flood elevation shall be of a "marine" or "water-resistant" variety.

(3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.

(4) Windows, doors, and other components at or below the regulatory flood elevation shall be made of metal or other water-resistant material.

I. *Paints and Adhesives.*

(1) Paints or other finishes used at or below the regulatory flood elevation shall be of "marine" or water resistant quality.

(2) Adhesives used at or below the regulatory flood elevation shall be of a "marine" or water resistant quality.

(3) All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or water resistant paint or other finishing material.

J. *Electrical Components.*

(1) Electrical distribution panels shall be at least 3 feet above the 100-year flood elevation.

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

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

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

(Ord. 132-06, 10/18/2006, §4.02)

**§8-404. Development Which May Endanger Human Life.**

1. In accordance with the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq.*, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved

structure which:

A. Will be used for the production or storage of any of the following dangerous materials or substances.

B. Will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises.

C. Will involve the production, storage, or use of any amount of radioactive substances.

D. Shall be subject to the provisions of this Section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- (1) Acetone.
- (2) Ammonia.
- (3) Benzene.
- (4) Calcium carbide.
- (5) Carbon disulfide.
- (6) Celluloid.
- (7) Chlorine.
- (8) Hydrochloric acid.
- (9) Hydrocyanic acid.
- (10) Magnesium.
- (11) Nitric acid and oxides of nitrogen.
- (12) Petroleum products (gasoline, fuel oil, etc.)
- (13) Sulphur and sulphur products.
- (14) Pesticides (including insecticides, fungicides and rodenticides).
- (15) Phosphorus.
- (16) Radioactive substances, insofar as such substances are not otherwise Potassium regulated.
- (17) Sodium.

2. Within any identified Floodplain Area, any new or substantially improved structure of any kind described in subsection .1, above shall be prohibited within the area measuring 50 feet landward from the top-of-bank of any watercourse.

3. Where permitted within any identified Floodplain Area, any new or substantially improved structure of the kind described in subsection .1, above, shall be:

A. Elevated or designed and constructed to remain completely dry up to at least 1½ feet above the 100-year floor.

B. Designed to prevent pollution from the structure or activity during the course of a 100-year flood.

C. Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication "Floodproofing

Regulations" (U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

*(Ord. 132-06, 10/18/2006, §4.03)*

**§8-405. Special Requirements for Manufactured Homes.**

1. Within any identified Floodplain Area, all manufactured homes and any additions thereto shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.

2. Where permitted within any identified Floodplain Area, all manufactured homes and additions thereto shall be:

A. Placed on a permanent foundation.

B. Elevated so that the lowest floor of the manufactured home is 1½ feet or more above the elevation of the 100-year flood.

C. Anchored to resist flotation, collapse, or lateral movement.

*(Ord. 132-06, 10/18/2006, §4.40)*





**Part 5****Activities Requiring Special Permits****§8-501. General.**

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Floodplain Management Act, 32 P.S. §679.101 *et seq.*, the following activities shall be prohibited within any identified Floodplain Area unless a special permit has been issued by Modena Borough.

A. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:

- (1) Hospitals.
- (2) Nursing homes.
- (3) Jails or prisons.

B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvements to an existing manufactured home park or manufactured home subdivision.

(*Ord. 132-06, 10/18/2006, §5.00*)

**§8-502. Application Requirements for Special Permits.**

Applicants for special permits shall provide five copies of the following items:

- A. A written request including a completed building permit application form.
- B. A small scale map showing the vicinity in which the proposed site is located.
- C. A plan of the entire site, clearly and legibly drawn at a scale of 1 inch being equal to 100 feet or less, showing the following:
  - (1) North arrow, scale and date.
  - (2) Topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of 2 feet.
  - (3) All property and lot lines, including dimensions and the size of the site expressed in acres or square feet.
  - (4) The location of all existing streets, drives, other access ways, and parking areas, with information concerning widths, pavement types and construction, and elevations.
  - (5) The location of all existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities, and any other natural and man-made features affecting, or affected by, the proposed activity or development.
  - (6) The location of the floodplain boundary line, information and spot elevations concerning the 100-year flood elevations, and information concern-

ing the flow of water including direction and velocities.

(7) The location of all proposed buildings, structures, utilities, and any other improvements.

(8) Any other information which the Borough considers necessary for adequate review of the application.

D. Plans of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

(1) Sufficiently detailed architectural or engineering drawings, including floor plans, sections, and exterior building elevations, as appropriate.

(2) For any proposed building, the elevation of the lowest floor, including basement and, as required, the elevation on any other floor.

(3) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the 100-year flood.

(4) Detailed information concerning any proposed flood-proofing measures.

(5) Cross-section drawings for all proposed sanitary a storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

(1) Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents.

(2) Certification from a registered professional engineer, architect, and landscape architect that the proposed construction has been adequately designed to protect against damage from the 100-year flood.

(3) A statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person, which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a 100-year flood, including a statement concerning the effects such pollution may have on human life.

(4) A statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on 100-year flood elevations and flows.

(5) A statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the 100-year flood elevation and the affects such materials and debris may have on 100-year flood elevations and flows.

(6) The appropriate component of the Department of Environmental Protection "Planning Module for Land Development." [Ord. 145-07]

(7) Where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Protection to implement and maintain erosion and sedimentation control. [Ord. 145-07]

(8) Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Protection under §302 of the Floodplain Management Act, 32 P.S. §679.101 *et seq.* [Ord. 145-07]

(9) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a 100-year flood.

(Ord. 132-06, 10/18/2006, §5.01; as amended by Ord. 145-07, 12/11/2007)

### **§8-503. Application Review Procedures.**

Upon receipt of an application for a special permit by Modena Borough the following procedure shall apply in addition to those of Part 2:

A. Within 3 working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendation. Copies of the application shall also be forwarded to Modena Borough Planning Commission and Modena Borough Engineer for review and comment.

B. If an application is received that is incomplete, Modena Borough shall notify the applicant in writing, stating in what respect the application is deficient.

C. If Modena Borough decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.

D. If Modena Borough approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community and Economic Development, by registered or certified mail, within 5 working days after the date of approval.

E. Before issuing the special permit, Modena Borough shall allow the Department of Community and Economic Development 30 days, after receipt of the notification by the Department, to review the application and decision made by Modena Borough.

F. If Modena Borough does not receive any communication from the Department of Community and Economic Development during the 30-day review period, it may issue a special permit to the applicant.

G. If the Department of Community and Economic Development should decide to disapprove an application, it shall notify Modena Borough and the applicant, in writing, of the reasons for the disapproval, and Modena Borough shall not issue the special permit.

(Ord. 132-06, 10/18/2006, §5.02)

### **§8-504. Special Technical Requirements.**

1. In addition to the requirements of Part 4 of this Chapter, the following minimum requirements shall also apply to any proposed development requiring a special permit. If there is any conflict between any of the following requirements and those in Part 4 of this Chapter or in any other code, ordinance, or regulation, the more restrictive provision shall apply.

2. No application for a special permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained

in a manner which will:

A. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located and constructed so that:

(1) The structure will survive inundation by waters of the 100-year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the 100-year flood elevation.

(2) The lowest floor elevation will be at least 1½ feet above the 100-year flood elevation.

(3) The occupants of the structure can remain inside for an indefinite period of term and be safely evacuated at any time during the 100-year flood.

B. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

3. All hydrologic and hydraulic analyses shall be undertaken only professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computation, etc. shall be submitted in sufficient detail to allow a thorough technical review by Modena Borough and the Department of Community and Economic Development.

*(Ord. 132-06, 10/18/2006, §5.03)*

**Part 6****Existing Structures in Identified Floodplain Areas****§8-601. Existing Structures.**

The provisions of this Chapter do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of §8-602 shall apply.

*(Ord. 132-06, 10/18/2006, §6.00)*

**§8-602. Improvements.**

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

A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the 100-year flood.

B. No expansion or enlargement of an existing structure shall be allowed within any AE area that would, together with all other existing and anticipated development, increase the 100-year flood elevation more than 1 foot at any point.

C. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of 50 percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Chapter.

D. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than 50 percent of its market value, shall be elevated and/or flood proofed to the greatest extent possible.

E. Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "repetitive loss" shall be undertaken only in full compliance with the provisions of this Chapter.

F. The requirements of 34 Pa.Code, Chapters 401-405, as amended, and the 2003 IRC (§§R102.7.1, R105.3.1, R105.3.1.1 and Appendices E and J) or the latest revision thereof and the 2003 IBC (§§101.3, 3403.1 and Appendix G) or the latest revision thereof shall also be utilized in conjunction with the provisions of this Section.

*(Ord. 132-06, 10/18/2006, §6.01)*



**Part 7****Variances****§8-701. General.**

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

(Ord. 132-06, 10/18/2006, §7.00)

**§8-702. Variance Procedures and Conditions.**

Requests for variances shall be considered by Modena Borough in accordance with the procedures contained in §8-212 and the following:

A. No variance shall be granted for any construction, development, use or activity within any Floodway Area that would cause any increase in the 100-year flood elevation.

B. No variance shall be granted for any construction, development, use or activity within any AE area that would, together with all other existing and anticipated development, increase the 100-year flood elevation more than 1 foot at any point.

C. Except for possible modification of the 1½ foot freeboard requirement involved, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by special permit, Part 5 or to "Development Which May Endanger Human Life," §8-404.

D. If granted, a variance shall involve only the least modification necessary to provide relief.

E. In granting any variance, Modena Borough shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Chapter.

F. Whenever a variance is granted, Modena Borough shall notify the applicant in writing that:

(1) The granting of the variance may result in increased premium rates for flood insurance.

(2) Such variances may increase the risks to life and property.

G. In reviewing any request for a variance, Modena Borough shall consider, at a minimum, the following:

(1) That there is good and sufficient cause.

(2) That failure to grant the variance would result in exceptional hardship to the applicant.

(3) That the granting of the variance will (a) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense, (b) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable State or

local ordinances and regulation.

H. A complete record of all variance requests and related actions shall be maintained by Modena Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 100-year flood.

*(Ord. 132-06, 10/18/2006, §7.01)*



**Part 8****Definitions****§8-801. General.**

Unless specifically defined below, words and phrases used in this Chapter shall be interpreted so as to of this Chapter its most reasonable application.

(Ord. 132-06, 10/18/2006, §8.00)

**§8-802. Specific Definitions.**

*Accessory use or structure* - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

*Basement* - any area of the building having its floor below ground level on all sides.

*Building* - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

*Completely dry space* - a space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

*Development* - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

*Essentially dry space* - a space which will remain dry during flooding, except for the passage of some water vapor or minor seepage the structure is substantially impermeable to the passage of water.

*Flood* - a temporary inundation of normally dry land areas.

*Floodplain area* - a relatively fiat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse: and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

*Floodproofing* - any combination of structural and nonstructural additions changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floodway* - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Chapter, the floodway shall be capable of accommodating a flood of the 100-year magnitude.

*Historic structure* - any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior.

D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior.

(2) Directly by the Secretary of the Interior in states without approved programs.

*Identified Floodplain Area* - the Floodplain Area specifically identified in this Chapter as being inundated by the 100-year flood.

*Land development* - any of the following activities:

A. The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

(1) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure.

(2) The division or allocation of land or space, whether initially or cumulative, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

B. A subdivision of land.

*Lowest floor* - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable nonelevation design requirements of this Chapter.

*Manufactured home* - a structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

*Manufactured home park* - a parcel of land under single ownership, which has been planned and improved for the placement of two or more manufactured homes for nontransient use.

*Minor repair* - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or

rearrangement of parts of a structure affecting the exit way requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

*New construction* - structures for which the start of construction commenced on or after June 2, 1982, and includes any subsequent improvements thereto.

*One hundred-year flood* - a flood that, on the average, is likely to occur once every 100 years (i.e., that has 1 percent chance of occurring each year, although the flood may occur in any year).

*Person* - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

*Recreational vehicle* - a vehicle which is (A) built on a single chassis; (B) not more than 400 square feet, measured at the largest horizontal projections; (C) designed to be self-propelled or permanently towable by a light-duty truck; (D) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Regulatory flood elevation* - the 100-year flood elevation plus a freeboard safety factor of 1½ feet.

*Repetitive loss* - flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds 25 percent of the market.

*Special permit* - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

*Structure* - anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

*Subdivision* - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs, or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

*Substantial damage* - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent or more of the market value of the structure before the damage occurred.

*Substantial improvement* - any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of

the actual repair work performed. The term does not, however, include either:

A. Any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.

B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

*Uniform Construction Code (UCC)* - the Statewide building code adopted by the Pennsylvania General Assembly in 1999 applicable to new construction in all municipalities whether administered by the municipality, a third party or the Department of Labor and Industry. Applicable to residential and commercial buildings, the code adopted, the International Residential Code (IRC) and the International Building Code (IBC), by reference, as the construction standard applicable with the Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

(Ord. 132-06, 10/18/2006, §8.01)

## **Chapter 9**

**[Reserved]**



## **Chapter 10**

### **Health and Safety**

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- §10-103. Nuisances Unlawful
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**Part 1****Nuisances Detrimental to Public Health****§10-101. Enforcement.**

Under the direction of the Board of Health, the Health Officer, in his official capacity, shall be in charge of the enforcement of this Part and he shall act as prosecutor in all cases of violation of the health laws, ordinances, rules and regulations or prosecution for the abatement of nuisance detrimental to the public health. In the absence of a Health Officer enforcement of this Part shall be the duty of the Mayor or the Health Committee of the Borough Council.

(*Ord. 73A, 4/1/1960, §2; as amended Ord. 4/1/1968*)

**§10-102. Duty of Health Officer.**

It shall be the duty of the Health Officer to make stated sanitary inspection of the streets and alleys and premises in the Borough at such times as the Board of Health may direct and to report to the Board of Health all nuisances detrimental to public health. He shall also, at the direction of the Board of Health, upon the complaint of citizens and property owners or otherwise, make special investigations of alleged nuisances and report concerning the same to the Board of Health. He shall serve all notices of abatement issued by the Board of Health, perform such other duties regarding the abatement of nuisances as the Board of Health may direct and shall execute the orders of the Board of Health, and shall in the performance of his duties have the power and authority of a policeman.

(*Ord. 73A, 4/1/1960, §3*)

**§10-103. Nuisances Unlawful.**

No person shall maintain or permit to be maintained on any property owned or occupied by him within the Borough any condition productive of a nuisance detrimental to the public health or which may be so declared by the Board of Health, and upon receipt of a notice from the Board of Health that such a condition exists on a property owned or occupied by him, it shall be his duty to abate the nuisance created thereby to the satisfaction of the Board of Health, within the time limit specified in said notice.

(*Ord. 73A, 4/1/1960, §4*)

**§10-104. Stagnant Water.**

No person shall permit any body of water that has or may become stagnant to remain on the premises owned or occupied by him. Upon receipt of a notice from the Board of Health that such a condition exists upon a property owned or occupied by him, it shall be his duty to abate the nuisance created thereby to the satisfaction of the Board of Health, within the time limit specified in such notice.

(*Ord. 73A, 4/1/1960, §5*)

**§10-105. Offensive Liquids Forbidden on Streets.**

No person shall run, cast or deposit, either by means of a drain or otherwise, upon

any street or alley in the Borough any kitchen slops, wash water, soap suds or any other nauseous or offensive liquid or substance.

(*Ord. 73A, 4/1/1960, §6*)

**§10-106. Additional Nuisances.**

The following uses of and activities upon real property in the Borough of Modena are hereby declared to be nuisances and are hereby prohibited:

A. The use of any premises as a trash or garbage dump.

B. The depositing, accumulating, dumping of any amount of trash or garbage upon the premises of another, or in any streams or other bodies of water, or on highways, or upon public property.

C. The burning or setting fire to trash, rubbish, refuse or garbage brought upon or accumulated or stored on any premises from any other location or locations.

D. Any use of or activity upon property that by reason of flames, smoke, odors, fumes, noise or dust unreasonably interferes with the reasonable use, comfort and enjoyment of a neighbor's property or endangers the health or safety of the occupants of a neighboring property; offensive use shall not include farming or other allied occupation heretofore in existence and practiced within the Borough of Modena.

E. Abattoir, glue factory, fireworks factory, fertilizer plants, bone yard, chemical works or any other obnoxious or new offensive business or factory.

(*Ord. 82, 7/13/1970, §1*)

**§10-107. Dumps Defined.**

For the purpose of this Part, a trash or garbage dump shall be considered the accumulation or storage of trash, refuse, rubbish or garbage which has been accumulated on, brought upon or conveyed to a premises from sources or locations other than the premises upon which said trash, refuse, rubbish or garbage is stored or accumulated, whether the owner of such premises is compensated for said dumping or not.

(*Ord. 82, 7/13/1970, §2*)

**§10-108. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 73A, 4/1/1960, §7; as amended by Ord. 82, 7/13/1970; by Ord. 117, 2/6/1984; and by Ord. 145-07, 12/11/2007*)

**Part 2****Storage of Motor Vehicle Nuisances****§10-201. Definitions.**

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

*Lessee* - owner for the purpose of this Part when the lessor holds the lessee responsible for maintenance and repairs.

*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.

*Nuisance* - any condition, structure, or improvement which shall constitute a danger or potential danger to the health, safety, or welfare of the citizens of the Borough.

*Owner* - the actual owner, agent or custodian of the property on which motor vehicles are stored, whether individual or partnership, association, or corporation.

*Person* - a natural person, firm, partnership, association, corporation, or other legal entity.

2. In this Part, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

(Ord. 145-07, 12/11/2007)

**§10-202. Motor Vehicle 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 Borough. 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:

- A. Broken windshields, mirrors or other glass, with sharp edges.
- B. One or more flat or open tires or tubes which could permit vermin harborage.
- C. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
- D. Any body parts with sharp edges including holes resulting from rust.
- E. Missing tires resulting in unsafe suspension of the motor vehicle.
- F. Upholstery which is torn or open which could permit animal and/or vermin harborage.
- G. Broken head-lamps or tail-lamps with sharp edges.
- H. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.
- I. Protruding sharp objects from the chassis.
- J. Broken vehicle frame suspended from the ground in an unstable manner.

- K. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- L. Exposed battery containing acid.
- M. Inoperable locking mechanism for doors or trunk.
- N. Open or damaged floor boards including trunk and fire-wall.
- O. Damaged bumpers pulled away from the perimeter of vehicle.
- P. Broken grill with protruding edges.
- Q. Loose or damaged metal trim and clips.
- R. Broken communication equipment antennae.
- S. Suspended on unstable supports.
- T. Such other defects which could threaten the health, safety and welfare of the citizens of the Borough.

(Ord. 145-07, 12/11/2007)

**§10-203. Storage of Motor Vehicle Nuisances Permitted.**

1. Any person, owner or lessee who has one or more motor vehicle nuisances as defined in §10-202 above may store such vehicle(s) in the Borough 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 Borough pursuant to a resolution of the Borough Council. The motor vehicle nuisance(s) must be stored within a garage or other enclosed building or, outside within an opaque fence at least 6 feet high which is locked at all times when unattended.

2. With the special approval of the Borough Council motor vehicle nuisances may also be stored outside in an area enclosed by a chain link fence, at least 6 feet 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 shall remain locked at all times when unattended. In addition, all gas and oil or other 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 200 square feet.

3. Nothing herein shall be construed to permit the storage of motor vehicle nuisances contrary to the provisions of the Borough Zoning Ordinance [Chapter 27].

(Ord. 145-07, 12/11/2007)

**§10-204. Inspection of Premises; Notice to Comply.**

1. The Zoning Officer, or other person designated by Borough Council, is hereby empowered to inspect private property on which motor vehicles are stored to determine if there is compliance with the provisions of this Part. If noncompliance with the provisions of this Part constitutes 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, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.

2. 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 10 days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

*(Ord. 145-07, 12/11/2007)*

**§10-205. Authority to Remedy Noncompliance.**

If the owner of grounds on which motor vehicles are stored does not comply with the notice to abate the nuisance, within the time limit prescribed, the Borough shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus 10 percent of all costs. The Borough, 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.

*(Ord. 145-07, 12/11/2007)*

**§10-206. Hearing.**

1. Any person aggrieved by the decision of the Zoning Officer, or other person designated by Borough Council, may request and shall then be granted a hearing before the Borough Council; provided, he files with the Borough Council within 10 days after notice of the decision of the Zoning Officer, or other person designated by Council, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The hearing shall commence not later than 30 days after the date on which the petition was filed unless postponed for sufficient cause.

2. After such hearing, the Borough Council shall sustain, modify or overrule the action of the Zoning Officer, or other person designated by Borough Council.

*(Ord. 145-07, 12/11/2007)*

**§10-207. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

*(Ord. 145-07, 12/11/2007)*

**§10-208. Remedies Not Mutually Exclusive.**

The remedies provided herein for the enforcement of this Part, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Borough Council.

*(Ord. 145-07, 12/11/2007)*



**Part 3****Restricting Open Storage of Personal Property****§10-301. Definitions.**

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

*Lessee* - owner for the purpose of this Part when the lessor holds the lessee responsible for maintenance and repairs.

*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 Borough.

*Owner* - the actual owner, agent or custodian of the property on which machinery, equipment or materials are stored, whether individual or partnership, association, or corporation.

*Person* - a natural person, firm, partnership, association, corporation, or other legal entity.

2. In this Part, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

(Ord. 145-07, 12/11/2007)

**§10-302. Storage of Nuisances Prohibited.**

It shall be unlawful for any person to store or maintain abandoned, unused, stripped, damaged and generally unusable appliances, machinery or equipment, or construction materials in the open on private property. Such storage shall constitute a nuisance and/or health hazard if any of the following conditions exist:

- A. Broken glass or metal parts with sharp or protruding edges.
- B. Containers which are conducive to the harboring and growth of vermin or animals.
- C. Storage in any manner which would allow the equipment, machinery, material or any parts thereof to easily shift, tilt, or fall from its original storage position.
- D. Containers of any liquid or material of a hazardous or potentially hazardous nature, including, but not limited to, gasoline, oil, battery acids, refrigeration agents, and poisons.
- E. Any other condition which shall threaten the health, safety or welfare of the citizens.
- F. Refrigerators with the doors remaining attached.

(Ord. 145-07, 12/11/2007)

**§10-303. Storage Requirements.**

1. Storage of such items as listed in §10-302 hereof on private property shall be permitted only in strict compliance with the regulations provided herein or with stricter

regulations in other Borough ordinances, or in State or Federal laws. Each person, owner or lessee desiring to store items described in §10-302, shall apply for a permit for either temporary or permanent storage and pay a fee to the Borough pursuant to a resolution of the Borough Council. Such nuisance(s) must be stored within a garage or other enclosed building or, outside, within an opaque fence at least 6 feet high which is locked at all times when unattended.

2. With the special approval of the Borough Council nuisances may also be stored outside in an area enclosed by a chain link fence, at least 6 feet 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 shall remain locked at all times when unattended. In addition, the appliances, machinery, equipment, or construction materials shall be kept free of vermin infestation while being stored; and all gas, oil or other potentially hazardous substances shall be removed. The total area of storage of such nuisances may not exceed 200 square feet.

3. Nothing herein shall be construed to permit the storage of appliance, machinery, equipment, or material nuisances contrary to the provisions of the Borough Zoning Ordinance [Chapter 27].

*(Ord. 145-07, 12/11/2007)*

**§10-304. Inspection of Premises; Notice to Comply.**

1. The Zoning Officer, or other person designated by Borough Council, is hereby empowered to inspect private property on which appliances, machinery, equipment, and/or various construction materials are stored to determine if there is compliance with the provisions of this Part. If noncompliance with the provisions of this Part constitutes a nuisance, or if any condition, structure, or improvement poses a danger 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, if the owner's whereabouts or identity be unknown, by posting the notice conspicuously upon the offending premises.

2. Said notice shall specify the condition considered to be a hazard and/or nuisance and shall require the owner to commence to remove or otherwise rectify the condition as set forth in the notice within 10 days of mailing or posting of said notice, and thereafter, to fully comply with the requirements of the notice within a reasonable time.

*(Ord. 145-07, 12/11/2007)*

**§10-305. Authority to Remedy Noncompliance.**

If the owner of property on which appliances, machinery, equipment, and/or construction materials are stored does not comply with the notice to abate the nuisance, within the time limit prescribed, the Borough shall have the authority to take measures to correct the conditions and collect the cost of such corrections plus 10 percent of all costs. The Borough, 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.

*(Ord. 145-07, 12/11/2007)*



**§10-306. Hearing.**

1. Any person aggrieved by the decision of the Zoning Officer, or other person designated by Council, may request and shall then be granted a hearing before the Borough Council; provided, he files with the Borough Council within 10 days after notice of the decision of the Zoning Officer, or other person designated by Borough Council, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The hearing shall commence not later than 30 days after the date on which the petition was filed unless postponed for sufficient cause.

2. After such hearing, the Borough Council shall sustain, modify or overrule the action of the Zoning Officer, or other person designated by Borough Council.

*(Ord. 145-07, 12/11/2007)*

**§10-307. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

*(Ord. 145-07, 12/11/2007)*

**§10-308. Remedies Not Mutually Exclusive.**

The remedies provided herein for the enforcement of this Part, or any remedy provided by law, shall not be deemed mutually exclusive; rather they may be employed simultaneously or consecutively, at the option of the Borough Council.

*(Ord. 145-07, 12/11/2007)*



**Part 4****Disturbing Noises****§10-401. Intent and Purpose.**

The Council of the Borough of Modena, finding that excessive levels of sound are detrimental to the physical, mental and social well-being of the people as well as to their comfort, living conditions, general welfare and safety and being therefore a public health and welfare hazard, hereby declares it to be necessary to provide for the greater control and more effective regulation of excessive sound and the sources of excessive sound within the Borough of Modena.

(Ord. 138-06, 3/6/2006, §1)

**§10-402. Noise Disturbance.**

1. The term “noise disturbance” as used in this Part is defined as any sound which (A) endangers or injures the safety or health of humans or animals, (B) annoys or disturbs a reasonable person of normal sensitivities, or (C) endangers or injures personal or real property.

2. *Noise Standards.*

A. The following shall apply to specified uses and properties within the Borough, between the hours of 10 p.m. and 6 a.m., plus all day Sunday and legal holidays.

(1) There shall be no nonresidential off-street loading operation.

(2) There shall be no outside operation for nonresidential purposes of any powered equipment, mobile refrigeration unit, powered hand tool, fork lift, tractor, or other similar vehicle except for business districts or industrial districts, lawn maintenance, snow removal, or emergency services or emergency repairs.

(3) Other than police, fire, public service, or ambulance operators, no person shall sound any horn, bell, gong, siren or whistle or make other unnecessary loud noises except when reasonably required to prevent accidents.

(4) There shall be no outdoor loudspeakers or similar amplification which may be heard beyond the property line.

B. The restrictions established in paragraph A above shall not be applied to agricultural operations on properties within the Borough. Agriculture shall be defined as activities which involve the raising of food, plants, poultry, and livestock including, but not limited to, crop production and nurserying.

C. For any proposed or existing use of land in which potential or actual noise impacts need amelioration, the means to ameliorate such impacts shall be proposed by the applicant and reviewed by the Borough on a case-by-case basis. The use of berms, existing and installed vegetation, fencing or similar enclosure, etc., shall be considered by the Borough and, where deemed suitable, may permit modification or waiver of restrictions in paragraph A above.

(Ord. 138-06, 3/6/2006, §2)

**§10-403. Violations.**

It shall be illegal within the Borough for any person or persons to make any noise continuously and/or incessantly for a period of 10 minutes or make such noise intermittently for ½ hour or more which results in a noise disturbance to any person at any time of the day or night regardless of whether the noise disturbance is physically situated in or upon private property, said noise disturbance being a nuisance.

(*Ord. 138-06, 3/6/2006, §3*)

**§10-404. Exceptions.**

This Part shall not be deemed to prohibit or otherwise declare unlawful any agricultural operation protected from the nuisance suits by Act 1982, June 10, P.L. 454, No. 133, 53 P.S. §951 *et seq.*

(*Ord. 138-06, 3/6/2006, §4*)

**§10-405. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 138-06, 3/6/2006, §5; as amended by Ord. 145-07, 12/11/2007*)

# Chapter 11

## Housing

### Part 1 Certificates of Occupancy

- §11-101. Occupancy Certificate Required
- §11-102. Application
- §11-103. Inspection
- §11-104. Fee
- §11-105. Revocation of Certificate of Occupancy
- §11-106. Penalties

### Part 2 Annual Fee on Rental Units

- §11-201. Annual Fee on Rental Units
- §11-202. Establishment of Fee
- §11-203. Registration of Rental Units
- §11-204. Amendment of Fee
- §11-205. Violations



**Part 1****Certificates of Occupancy****§11-101. Occupancy Certificate Required.**

No dwelling, apartment or livable quarters may be occupied, when previously vacated, unless the owner or landlord of said property shall first apply for an occupancy certificate. Such certificate shall be issued by the health, housing and codes officer upon verification that the terms of this Part have been complied with by the applicant.

(*Ord. 118, 8/3/1998, §1*)

**§11-102. Application.**

The following information shall be required from said owner or landlord thereof. However, the application form shall be limited thereto:

- A. Owner of premises or agent.
- B. Location of premises.
- C. Names of all tenants occupying the property at the time of issuance of the occupancy certificate with the number of tenants under the age of 18 years.
- D. Number of rental units.
- E. Number of occupants.
- F. Condition of dwelling/apartment/ quarters.
- G. Condition of heating system and type (i.e., oil, gas or electric).
- H. Condition of the electrical system and type (i.e., fuses or circuit breaker and amps to house )
- I. Condition of plumbing.
- J. Number of bathroom facilities per unit.
- K. Number of fire escapes and type (i.e., wood or metal).

(*Ord. 118, 8/3/1998, §2*)

**§11-103. Inspection.**

No permit shall be issued for occupancy unless the premises shall first be inspected by the Zoning Officer, or other designated official by Borough Council, and found to be in livable and habitable condition. In addition, no occupancy certificate shall be issued so long as the applicant shall have any outstanding overdue debt to the Borough of Modena such as, but not limited to, unpaid water, sewer or trash bills, or any fines.

(*Ord. 118, 8/3/1998, §3*)

**§11-104. Fee.**

The fee for the issuance of the occupancy certificate shall be in such amount as shall be designated by Borough Council from time to time. All fees shall be paid not less than 5 days prior to the date of property inspection.

(*Ord. 118, 8/3/1998, §4*)

**§11-105. Revocation of Certificate of Occupancy.**

1. The Modena Borough Code official shall be authorized to recommend to the Modena Borough Council revocation of a certificate of occupancy, issued under the Borough of Modena Zoning Ordinance [Chapter 27] and/or the International Property Maintenance Code [Chapter 5, Part 2], if he or she determines that the certificate is issued in error or on the basis of incorrect information supplied, or that the structure or portion of the structure is in violation of the codes or any other Borough ordinance.

2. The code official shall recommend to the Modena Borough Council revocation of a certificate of occupancy if he or she determines that the use authorized by the certificate has been discontinued for 6 months or more and is no longer in operation.

3. If the code official determines that a certificate of occupancy should be recommended to the Modena Borough Council for revocation, he or she shall serve a written notice of that fact to the holder of the certificate in accordance with §107.3 of the International Property Maintenance Code.

4. The permit holder, within 30 days of receipt of the written notice shall be afforded a hearing before the Modena Borough Council whereby the Modena Borough Council will act as finder of fact and after hearing evidence on the matter will determine whether or not to accept the code official's recommendation to revoke the certificate of occupancy at issue. Written notice of the Borough Council's decision will be rendered to the permit holder within 30 days of the hearing.

5. No certificate of occupancy permit will be revoked prior to the expiration of the 30-day period or hearing before the Modena Borough Council, whichever is the later occurring event. The failure of a permit holder to appear and present evidence at the hearing will constitute a waiver of the permit holder's right to the hearing and a decision as to revocation may be made without testimony from, or evidence presented by, the permit holder.

(*Ord. 118, 8/3/1998; as added by Ord. 139-06, 12/18/2006*)

**§11-106. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 118, 8/3/1998, §6; as amended by Ord. 145-07, 12/11/2007*)



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**Part 2****Annual Fee on Rental Units****§11-201. Annual Fee on Rental Units.**

All rental units within the Borough boundary limits, be they single-family, multi-family, apartment, condominium or town homes, when offered for rental or occupied as a rental unit, shall be subject to an annual fee as authorized by the Borough Code at 53 P.S. §46202 *et seq.*

(*Ord. 118.1, 12/18/2006, §1*)

**§11-202. Establishment of Fee.**

The fee shall be set at a reasonable rate in conjunction with the costs of operation for Borough personnel including, but not limited to, conduct rental unit inspections, enforcement, issuance of certificates of occupancy, travel and other expenses of the fee, within the Borough limits.

(*Ord. 118.1, 12/18/2006, §2*)

**§11-203. Registration of Rental Units.**

Property owners offering their premises for rental as dwelling units to prospective tenants are required to register their premises under *Ord. 118* [Chapter 11, Part 1] for purposes of identifying those properties offered for rent, and the collection of the fee, within the Borough limits.

(*Ord. 118.1, 12/18/2006, §3*)

**§11-204. Amendment of Fee.**

The fee may be amended on an annual basis as part of the Borough budget, and as costs of administration increase or decrease.

(*Ord. 118.1, 12/18/2006, §4*)

**§11-205. Violations.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$100 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 118.1, 12/18/2006, §5; as amended by Ord. 145-07, 12/11/2007*)



## Chapter 12

[Reserved]



## Chapter 13

### Licenses, Permits and General Business Regulations

#### Part 1

##### Transient Retail Business

- §13-101. Definitions
- §13-102. License Required; Conditions of Issuance; Fee
- §13-103. Exceptions
- §13-104. License Application
- §13-105. Issuance of License; Custody, Display and Exhibit
- §13-106. Prohibited Act
- §13-107. Supervision; Records and Reports
- §13-108. Denial, Suspension and Revocation of License; Appeal
- §13-109. Penalties

#### Part 2

##### Garage Sale Permits

- §13-201. Short Title
- §13-202. Definitions
- §13-203. Permits Required
- §13-204. Permit Fees
- §13-205. Recurrent Sales
- §13-206. Duty to Provide Parking Facilities
- §13-207. Day of Sale
- §13-208. Consecutive Days of Sale
- §13-209. Penalties



**Part 1****Transient Retail Business****§13-101. Definitions.**

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

*Legal holiday* - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas.

*Person* - any natural person, partnership, association, corporation, or other legal entity.

*Transient retail business* -

A. Engaging in peddling, soliciting, or taking orders, either by sample or otherwise, for any goods, wares, or merchandise upon any street, alley, sidewalk, or public ground, or from house to house, within the Borough.

B. Selling, soliciting, or taking orders for any goods, wares, or merchandise, from a fixed location within the Borough, on a temporary basis, which shall include, but not be limited to, such activities conducted at the time of special occasions or celebrations, for seasonal purposes, or for yearly holidays.

2. The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine and the neuter.

(Ord. 145-07, 12/11/2007)

**§13-102. License Required; Conditions of Issuance; Fee.**

No person shall engage in any transient retail business within the Borough without first having obtained from the Zoning Officer, or other person designated by Borough Council, a license, for which a fee, which shall be for the use of the Borough, shall be charged, said fee to be in such amount established, from time to time by resolution of the Borough Council.

(Ord. 145-07, 12/11/2007)

**§13-103. Exceptions.**

1. No license fee shall be charged:

A. To farmers selling their own produce.

B. For the sale of goods, wares, and merchandise, donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.

C. To any manufacturer or producer in the sale of bread and bakery products, meat and meat products, or milk and milk products.

D. To children under the age of 18 years who take orders for and deliver newspapers, greeting cards, candy, bakery products and the like, or who represent the Boy Scouts or Girl Scouts or similar organizations.

E. To the seeking or taking of orders by insurance agents or brokers licensed

under the insurance laws of the Commonwealth of Pennsylvania.

F. To a person who has complied with the provisions of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

G. For taking orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license or business privilege tax at their chief place of business.

2. But all persons exempted hereby from the payment of the license fee shall be required to register with the Zoning Officer, or other person designated by Borough Council, and obtain a license without fee; provided, any person dealing in one or more of the above mentioned exempted categories, and dealing with other goods, wares, or merchandise not so exempted, shall be subject to the payment of the license fee fixed by this Section for his activities in connection with the sale of goods, wares, and merchandise not in such exempted categories. Provided, further, the Zoning Officer, or other person designated by Borough Council, may similarly exempt from payment of the license fee, but not from registering with him, persons working without compensation and selling goods, wares, or merchandise for the sole benefit of a nonprofit corporation. Provided, further, every license issued under the provisions of this Part shall be issued on an individual basis to any person or persons engaging in such business; every individual shall obtain a separate license, issued to him in his name, and the license fee hereby imposed shall be applicable to every such individual license, except that a representative of a charitable organization may obtain licenses for the applicants.

(Ord. 145-07, 12/11/2007)

#### **§13-104. License Application.**

Every person desiring a license under this Part shall first make application to the Zoning Officer, or other person designated by Borough Council, for such license. He shall, when making such application, exhibit a valid license from any State or county officer, if such license is also required. The applicant shall state:

- A. His criminal record, if any.
- B. Name and address of the person by whom he is employed.
- C. Type of goods, wares, and merchandise he wishes to deal with in such transient retail business.
- D. Length of time for which license is to be issued.

(Ord. 145-07, 12/11/2007)

#### **§13-105. Issuance of License; Custody, Display and Exhibit.**

Upon receipt of such application and the prescribed fee, the Zoning Officer, or other person designated by Borough Council, if he shall find such application in order, shall issue the license required under this Part. Such license shall contain the information required to be given on the application therefor. Every license holder shall carry such license upon his person if engaged in transient retail business from house to house or upon any of the streets, alleys, sidewalks, or public grounds, or shall display such license at the location where he shall engage in such business if doing so at a fixed location. He shall exhibit such license, upon request, to all police officers, municipal



officials, and citizens or residents of the Borough.

(Ord. 145-07, 12/11/2007)

**§13-106. Prohibited Act.**

No person in any transient retail business shall:

A. Sell any product or type of product not mentioned in his license.

B. Hawk or cry his wares upon any of the streets, alleys, sidewalks, or public grounds in the Borough.

C. When operating from a vehicle, stop or park such vehicle upon any of the streets or alleys in the Borough for longer than necessary in order to sell therefrom to persons residing or working in the immediate vicinity.

D. Park a vehicle upon any of the streets or alleys in the Borough for the purpose of sorting, rearranging, or cleaning any of his goods, wares, or merchandise or of disposing of any carton, wrapping material, or stock, wares or foodstuffs which have become unsalable through handling, age or otherwise.

E. Engage in any business activity, except by prior appointment, at any time on a Sunday or legal holiday or at any time before 9 a.m. or after 7 p.m. on any day of the week other than a Sunday or legal holiday.

(Ord. 145-07, 12/11/2007)

**§13-107. Supervision; Records and Reports.**

The Zoning Officer, or other person designated by Borough Council, shall supervise the activities of all persons holding licenses under this Ordinance. He shall keep a record of all licenses issued hereunder and shall make a report thereof each month to the Borough Council.

(Ord. 145-07, 12/11/2007)

**§13-108. Denial, Suspension and Revocation of License; Appeal.**

The Zoning Officer, or other person designated by Borough Council, is hereby authorized to deny, suspend or revoke any license issued under this Part when he deems such denial, suspension or revocation to be beneficial to 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 hereunder. Appeals from any suspension, revocation or denial of a license may be made to the Borough Council at any time within 10 days after such suspension, revocation or denial and a hearing shall be held within 30 days of the petition for appeal. No part of a license fee shall be refunded to any person whose license shall have been suspended or revoked.

(Ord. 145-07, 12/11/2007)

**§13-109. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a

separate offense.

*(Ord. 145-07, 12/11/2007)*

**Part 2****Garage Sale Permits****§13-201. Short Title.**

This Part shall be known as the "Garage Sale Ordinance" of the Borough of Modena.

(Ord. 111, 4/5/1982, §1)

**§13-202. Definitions.**

*Garage sale or sales* - any sale of household or personal property conducted from a residence or from a premises not regularly used as a commercial retail outlet, and advertised as a garage sale, attic sale, yard sale, barn sale, porch sale, or similar designation, and having as its primary purpose the sale and delivery and disposition of used household furnishings or personal property.

*Permit officer* - the Zoning Officer of the Borough of Modena.

(Ord. 111, 4/5/1982, §2)

**§13-203. Permits Required.**

It shall be unlawful to advertise or conduct any garage sale in the Borough of Modena unless a permit therefor shall first have been obtained from the permit officer. Said permits must be obtained 30 days prior to the day of proposed sale.

(Ord. 111, 4/5/1982, §3)

**§13-204. Permit Fees.**

A fee for the issuance of a permit for a garage sale shall be established by the Borough Council and may be changed from time to time by resolution of the Council.

(Ord. 111, 4/5/1982, §4)

**§13-205. Recurrent Sales.**

Garage sales shall be permitted in said Borough no more than two times per year at any one premises and no less than 2 months shall elapse between said sales.

(Ord. 111, 4/5/1982, §5)

**§13-206. Duty to Provide Parking Facilities.**

The vendor who organizes a garage sale, or the owner of the premises upon which the sale is held, shall have a duty to provide adequate parking facilities for all anticipated customers and shall see to it that no traveled portion of any public highway is in any way blocked, partially or otherwise, or that the flow of traffic is impeded thereon in any way.

(Ord. 111, 4/5/1982, §6)

**§13-207. Day of Sale.**

Garage sales may be held only on Monday through Saturday from 8 a.m. to 9 p.m. and no garage sales shall be held on Sundays.

(*Ord. 111, 4/5/1982, §7*)

**§13-208. Consecutive Days of Sale.**

A garage sale shall not under any circumstances extend for more than 2 consecutive days.

(*Ord. 111, 4/5/1982, §8*)

**§13-209. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 111, 4/5/1982, §9; as amended by Ord. 117, 2/6/1984; and by Ord. 145-07, 12/11/2007*)

## Chapter 14

[Reserved]



## Chapter 15

### Motor Vehicles and Traffic

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**Part 1****General Regulations****§15-101. Definitions and Interpretation.**

Words and phrases, when used in this Chapter, shall have the meanings ascribed in the Vehicle Code, 75 P.S. §101 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, unless the context clearly indicates a different meaning.

*Legal holidays* - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas.

In this Part, the singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine.

(Ord. 117, 2/6/1984)

**§15-102. Manner of Adopting Permanent Traffic and Parking Regulations.**

All traffic and parking regulations of a permanent nature shall be enacted as ordinances, as parts of ordinances, as amendments to ordinances, or as amendments to this Chapter.

(Ord. 117, 2/6/1984)

**§15-103. Continuation of Prior Regulations.**

The provisions of this Chapter, so far as they are the same as those of ordinances in force immediately prior to the adoption of this Chapter, are intended as a continuation of such ordinances and regulations and not as new enactments. The provisions of this Chapter shall not affect any act done or liability incurred, nor shall they affect any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under any such ordinances or regulations as aforesaid.

(Ord. 117, 2/6/1984)

**§15-104. Temporary and Emergency Regulations.**

The Mayor shall have the following powers to regulate traffic and parking temporarily and in time of emergency:

A. In the case of fire, flood, storm or other emergency, to establish temporary traffic and/or parking regulations.

B. In the case of emergency or to facilitate public works, or in the conduct of parades, processions or public events, to restrict or prohibit traffic and/or parking in limited areas for periods of not more than 72 hours.

Such temporary and emergency regulations shall be enforced by the police department serving the Borough in the same manner as permanent regulations. Any person who shall operate or park a vehicle or tractor in violation of any such regulations, or who shall move, remove, destroy, injure or deface any sign or marking erected, posted or made to give notice of any such regulation, shall, upon conviction thereof, be subject to the penalty set forth in the law or elsewhere in this Chapter 15

for a violation of such nature, and, in case of a violation for which no specific penalty is set forth in the law or elsewhere in this Chapter, to a fine of not more than \$25 together with costs of prosecution. [*Ord. 145-07*]

(*Ord. 117, 2/6/1984; as amended by Ord. 145-07, 12/11/2007*)

**§15-105. Experimental Regulations.**

The Borough Council may, from time to time by resolution, designate places upon and along the highways in the Borough of Modena where for a period of not more than 90 days, specific traffic and/or parking regulations, prohibitions and restrictions shall be in force and effect, and shall designate such locations by proper signs and markings. Such regulations, prohibitions and restrictions shall be effective as if they had been specified in this Chapter. No person shall operate or park a vehicle or tractor in violation of any such regulation, prohibition or restriction, and no person shall move, remove, destroy or deface any sign or marking erected, posted or made by authority of this Section. Any person who shall violate any provision of this Section shall, upon conviction thereof, be subject to the penalty set forth in the law or elsewhere in this Chapter for a violation of such nature, and in case of a violation for which no specific penalty is set forth in the law or elsewhere in this Chapter, to a fine of not more than \$25 together with costs of prosecution; provided, the purpose of this Section is to allow for the test and experimental determination of the feasibility and desirability of permanent changes in the ordinances of the Borough relative to traffic and parking.

(*Ord. 117, 2/6/1984*)

**§15-106. Authority of Police Officers.**

The police officers of the Borough of Modena are hereby given authority to direct traffic on the highways of the Borough and at intersections thereof.

(*Ord. 117, 2/6/1984*)

**§15-107. Authorization for Use of Speed Timing Devices.**

The police department serving the Borough is hereby authorized to use all mechanical or electrical speed timing devices for the determination of speed of a motor vehicle as are approved or will be approved by the Department of Transportation of the Commonwealth of Pennsylvania, including but not limited to E.S.P. and Vascar systems. [*Ord. 145-07*]

This Section authorizes the use of said devices upon all highways within the Borough, be they Borough, County or State highways, and does also hereby elect to exercise all powers granted to "local authorities" under the Vehicle Code of the Commonwealth of Pennsylvania, 75 P.S. §101 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

(*Ord. 117, 2/6/1984; as amended by Ord. 145-07, 12/11/2007*)

**Part 2**

**Traffic Regulations**

**§15-201. Motor Vehicles Not to Be Driven on Sidewalks.**

No person shall drive any vehicle except a human powered vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway. Any person who shall violate any provision of this Section shall, upon conviction thereof be sentenced to pay a fine of \$25 together with costs of prosecution.

*(Ord. 117, 2/6/1984)*

**§15-202. Speed Limits Established.**

The following speed limits are hereby established:

Street	Between	Speed Limit
All streets and alleys		25 mph

Any person who shall operate a vehicle at a speed in excess of that established therefor, upon any highway or portion thereof as specified in this Section, shall, upon conviction thereof, be sentenced to pay a fine of \$35 and, for exceeding a maximum speed limit by more than 5 miles per hour, shall pay an additional fine of \$2 for each mile per hour in excess of 5 miles per hour over the maximum speed limit.

*(Ord. 117, 2/6/1984)*

**§15-203. Traffic Signals at Certain Intersections.**

At the following intersections, official traffic signals shall be erected (or are hereby ratified if heretofore erected), and traffic at such intersections shall be directed by such signals:

[Reserved]

Any driver of a vehicle who shall disobey the directions of any traffic signal shall, upon conviction thereof, be sentenced to pay a fine of \$25 together with costs of prosecution.

*(Ord. 117, 2/6/1984)*

**§15-204. Right Turn on Red Signal Prohibited at Certain Intersection.**

It shall be unlawful for the driver of any vehicle traveling on the first-named street at any of the following intersections, in the direction or directions hereby indicated in each case to make a right turn when his or her vehicle is facing a steady red traffic signal:

Street	Intersecting Street	Direction of Travel

[Reserved]

Any person who shall violate any provision of this Section shall, upon conviction thereof, be sentenced to pay a fine of \$25 together with costs of prosecution.

*(Ord. 117, 2/6/1984)*

**§13-205. Stop Intersections.**

The following intersections are hereby established as stop intersections, and official stop signs shall be erected (or are hereby ratified if heretofore erected) in such a position as to face traffic approaching the second-named street upon the first-named street, in the direction or directions hereby indicated. It shall be unlawful for all vehicles approaching any such intersection upon the first-named street, in the direction or directions hereby indicated, to not come to a full stop, within a reasonable distance, before entering any such intersection:

<b>Stop Street</b>	<b>Through Street</b>	<b>Direction of Travel</b>
Baker Street	Brandywine Avenue	East
Brandywine Avenue	Hephzebah Road	North
Brandywine Avenue	Union Street	South
Mary Street	Baker Street	North [Ord. 130]
Mary Street	Woodland Street	South
Meredith's Court	Union Street	East
Modena Road	Union Street	North and south
Mortonsville Road	Union Street	North and south
Woodland Avenue	Brandywine Avenue	East and west

Any driver of a vehicle who shall violate any provision of this Section, shall, upon conviction thereof, be sentenced to pay a fine of \$25 together with costs of prosecution. (Ord. 117, 2/6/1984; as amended by Ord. 130, 1/7/1991)

**§15-206. Yield Intersections.**

The following intersections are hereby established as yield right-of-way intersections and official yield signs shall be erected (or are hereby ratified if heretofore erected) in such a position as to face traffic approaching the second-named street upon the first-named street. All vehicles approaching any such intersection upon the first-named street shall yield the right-of-way to any vehicle in the intersection or approaching on the second-named street so closely as to constitute an immediate hazard during the time that the driver of such vehicle is moving across or within such intersection:

<b>Yield Highway</b>	<b>Through Highway</b>	<b>Direction of Travel</b>
	[Reserved]	

Any driver of a vehicle who shall violate any provision of this Section, shall, upon conviction thereof, be sentenced to pay a fine of \$25 together with costs of prosecution. (Ord. 117, 2/6/1984)

**§15-207. Through Streets Established.**

The following streets are hereby established as through streets, and the driver of a vehicle upon approaching any such street at any intersection thereof (except for

intersections where there are now or shall hereafter be located official traffic control signals) shall come to a full stop, within a reasonable distance, before entering any such through street:

<b>Street</b>	<b>Between</b>
Brandywine Avenue, North	Entire length
Modena Road	Entire length
Mortonville Road	Entire length
Union Street	Modena Road to North Brandywine Avenue

Any driver of a vehicle who shall violate any provision of this Section, shall upon conviction thereof, be sentenced to pay a fine of \$25 together with costs of prosecution. (Ord. 117, 2/6/1984)

**§15-208. One-Way Streets.**

The following are hereby established as one-way streets with operation of vehicles thereupon to be in the direction hereby indicated:

<b>Streets</b>	<b>From</b>	<b>To</b>	<b>Direction of Travel</b>
		[Reserved]	

Any person who shall violate a provision of this Section, shall, upon conviction thereof, be sentenced to pay a fine of \$25 and costs of prosecution. (Ord. 117, 2/6/1984)

**§15-209. Traffic to Keep Right of Certain Structures and Barriers.**

All vehicular traffic shall keep to the right of the following structures or barriers located in the center of the specified intersections:

<b>Structure</b>	<b>Intersection</b>
	[Reserved]

Any person who shall violate any provision of this Section shall, upon conviction thereof, be sentenced to pay a fine of \$25 together with costs of prosecution. (Ord. 117, 2/6/1984)

**§15-210. U-Turns Prohibited on Certain Streets or Portions Thereof.**

It shall be unlawful for the driver of a motor vehicle to make a U-turn on any of the following streets or portions of streets:

<b>Street</b>	<b>Between</b>
	[Reserved]

Any person who shall violate any provision of this Section shall, upon conviction thereof, be sentenced to pay a fine of \$25 together with costs of prosecution.

(Ord. 117, 2/6/1984)

**§15-211. Gross Weight Limits Established.**

The following weight limits are hereby established, and it shall be unlawful for any person to drive any motor vehicle or other vehicle, trailer or tractor-trailer combination having a gross weight in excess of that herein prescribed, upon any of the following streets or portions thereof where such streets or portions thereof have been posted with notice of such maximum weight:

Street	Between	Maximum Gross Weight
[Reserved]		

Provided: the aforesaid weight limit shall not apply to any motor vehicle or other vehicle, trailer or tractor-trailer combination making deliveries or picking up goods, wares, material or merchandise at or on premises located in any such street or portion thereof, listed above, or any motor vehicle or other vehicle, or trailer or tractor-trailer combination for which a special permit to operate on any such street or portion thereof shall have been issued by the Chief of Police. Provided further, the provisions of this Section shall not apply to the driving of vehicles hauling food or household goods, public utility vehicles, firefighting equipment, garbage and rubbish vehicles, or school and public transportation buses.

Any person who shall violate any provision of this Section shall, upon conviction thereof, be sentenced to pay a fine of \$75 plus \$75 for each 500 pounds, or part thereof, in excess of 3,000 pounds over the maximum allowable weight limit, together with costs of prosecution.

(Ord. 117, 2/6/1984)

**§15-212. Trucks Prohibited on Certain Streets/Exceptions.**

It shall be unlawful for any person to operate any truck, which shall mean a motor vehicle designed, used or maintained primarily for the transportation of property, freight, or merchandise, upon any of the following streets, or portions thereof, as herein designated:

Street	Between
Woodland Avenue	Brandywine Avenue and Borough line

Any person who shall violate any provision of this Section shall, upon conviction thereof, be sentenced to pay a fine of \$25 together with costs of prosecution; provided, nothing in this Section shall make it unlawful to operate a truck upon any street or portion thereof, listed above for delivery and pickup of goods, wares, material or merchandise, at or on premises located at any such street or portion thereof.

(Ord. 117, 2/6/1984)

**§15-213. Trucks to Travel in Low Gear.**

All trucks are to use low gear when traveling on the following streets or portions thereof:

**Street****Between**

[Reserved]

Any person who shall violate any provision of this Section, shall, upon conviction thereof, be sentenced to pay a fine of \$25 together with costs of prosecution.

(Ord. 117, 2/6/1984)

**§15-214. Local Traffic Only on Certain Streets.**

The following streets or portions of streets are hereby designated as being for local traffic only:

**Street****Between**

[Reserved]

Any person who shall use as a through street, the streets or portions thereof hereby designated as being for local traffic only shall, upon conviction thereof, be sentenced to pay a fine of \$25 together with costs of prosecution; provided, local traffic, as used herein, shall mean access to and egress from properties and businesses or parking facilities located along said streets.

(Ord. 117, 2/6/1984)

**§15-215. Unlawful to Operate Motor Vehicles on Streets Closed for Construction or Repair.**

It shall be unlawful for any person to operate any vehicle upon any street that is under construction, resurfacing or repair, in disregard of any official sign, barricade or notice that the same is closed to vehicular traffic. Any person who shall violate any provision of this Section shall, upon conviction thereof, be sentenced to pay a fine of \$25 together with costs of prosecution.

(Ord. 117, 2/6/1984)

**§15-216. Play Streets Authorized.**

1. The Mayor is hereby authorized to designate as play streets, whenever and for whatever period of time he shall deem advisable, any portion of any street whereon sledding and coasting shall be permitted. Such street shall be set apart for this purpose under the direction of the Mayor.

2. No person shall operate any motor vehicle upon any play street at any time when such street shall be so designated, except in case of emergency, with special permission of the Police Officer in charge, who shall first clear such play street of all persons using such street for the purpose for which it was set aside.

3. Any person who shall violate any provision of this Section shall, upon conviction thereof, be sentenced to pay a fine of \$25 together with costs of prosecution.

(Ord. 117, 2/6/1984)





### Part 3

#### General Parking Regulations

##### **§15-301. Parking Without Lights Authorized.**

The boundary limits of the Borough of Modena are hereby established as a zone in which motor vehicles may remain standing without lights, and all highways within such boundary limits are hereby designated as highways where motor vehicles may remain standing without lights.

*(Ord. 117, 2/6/1984)*

##### **§15-302. Loading and Unloading.**

The loading and unloading of goods, wares and merchandise is hereby restricted to such length of time as is absolutely necessary for the purpose of loading or unloading of such goods, wares and merchandise. For the purpose of enforcement of this Section, such loading or unloading of any vehicle shall not be considered as parking; provided, without having first obtained permission from the Chief of Police to do so, no person shall load or unload a vehicle from any place upon any street or alley in the Borough where parking is prohibited; or shall allow a vehicle to remain, for loading or unloading, in any place upon any street or alley where parking is limited as to time, for longer than the time for which parking is permitted; or shall load or unload upon any street or alley in such a way that one lane for vehicular traffic shall not be kept open at all times. Where such permission is granted by the Chief of Police, he may, at his discretion, block off the portion of the street or alley affected by such loading or unloading.

*(Ord. 117, 2/6/ 1984)*

##### **§15-303. Angle Parking Required on Portions of Certain Streets.**

Only angle parking shall be permitted on the following portions of the streets:

Street	Between
	[Reserved]

On all streets or portions thereof where angle parking is now or shall hereafter be authorized, all vehicles parked thereon shall be parked with the front thereof nearest the curb.

*(Ord. 117, 2/6/1984)*

##### **§15-304. Vehicles to Be Parked Within Marked Spaces; Parking Prohibited in Certain Marked Areas.**

1. Wherever a particular parking space shall be lined or marked off on any street or alley or upon the adjacent curb, every vehicle parked shall be parked within the lines marking such parking space. All vehicles parked on streets or alleys whether parking spaces are marked or not shall be parked only in the direction of the permitted traffic flow.

2. Parking shall be prohibited at all times by any vehicle which in any way will

block the intersection of any street or alley or the entrance or exit of any street or alley. Parking shall at all times be prohibited within the painted line area adjacent to any fire hydrant; within the painted line area marking the permissible distance to park from any intersection; in any area where erected signs or painted lines indicate a “No Parking” area; in any manner so as to block any private or public driveway or access way to a parking lot or parking facility or other facility of the Borough.

(Ord. 117, 2/6/1984)

**§15-305. Parking Prohibited at All Times in Certain Locations.**

Parking shall be prohibited at all times in the following locations:

Street	Side	Between
Brandywine Avenue	Both	Entire length (except as provided in §15-307)
Woodland Avenue	Both	North and east of Brandywine Avenue

(Ord. 117, 2/6/1984)

**§15-306. Parking Prohibited at Certain Times on Certain Streets and Alleys.**

1. Parking is hereby prohibited on the following streets and alleys of the Borough at any and all times between the hours of [insert times]:

Street	Side	Between	Hours
[Reserved]			

2. For street sweeping purposes, parking will be prohibited on certain streets at certain times according to a schedule which will be published in a local newspaper and posted at prominent locations in the Borough.

(Ord. 117, 2/6/1984)

**§15-307. Parking Time Limited in Certain Locations.**

It shall be unlawful to park any vehicle or allow the same to remain parked, for more than the indicated length of time in any of the following locations:

Street	Between	Side	Time Limit
Brandywine Avenue	In front of Post Office	East	5 minutes

(Ord. 117, 2/6/1984)

**§15-308. [Insert Time] Parking Limit for Certain Types of Vehicles.**

No person shall park any truck of the weight classification of the Commonwealth of Pennsylvania of V-plate capacity or heavier, or any tractor or trailer, or tractor-trailer combination, or allow the same to remain parked, on any street or alley in the Borough, for a period longer than \_\_\_\_\_ (\_\_\_\_\_) [minutes or hours].

(Ord. 117, 2/6/1984)

**§15-309. Special Purpose Parking Zones Established; Parking Otherwise Prohibited.**

The following are hereby established as special purpose parking zones, and it shall be unlawful for any person to park any vehicle or tractor or to allow the same to remain parked, in any such zone, except as specifically provided for such zone:

Street	Between	Side	Purpose
		[Reserved]	

(Ord. 117, 2/6/1984)

**§15-310. Parking for Repairs.**

The parking of any motor vehicle, tractor or trailer, or combination thereof, upon streets and highways of the Borough for repairs, whether upon the traveled or untraveled portion thereof, shall be temporary only and limited to times for emergency repairs. This Section shall not be construed to permit parking for repairs at locations where parking is otherwise prohibited.

(Ord. 117, 2/6/1984)

**§15-311. Trailer Parking Restricted.**

It shall be unlawful for any person to park a trailer (which shall mean a vehicle without motive power, designed to carry property of passengers or designed and used exclusively for living quarters wholly on its own structure, and to be drawn by a motor vehicle or tractor and including, but not limited to, house trailers, boat trailers, and rental handling trailers), upon any street or highway in the Borough, without having attached to such trailer a means of mechanical traction constructed or designed for the purpose of drawing such trailer.

(Ord. 117, 2/6/1984)

**§15-312. Penalties.**

Any person, firm or corporation who shall violate any provision of the Part, §§15-302 through 15-311, shall be fined, together with costs of prosecution, \$50.

(Ord. 117, 2/6/1984; as amended by Ord. 123-06, 4/3/2006)

**§15-313. General Parking Rules.**

1. At any time it shall be unlawful to permit any vehicle to stand in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directional of a policeman or traffic control device:

- A. In any alley.
- B. In any crosswalk.
- C. In any place where the vehicle would block the use of a private driveway.
- D. In any restricted area.
- E. In any place where the vehicle would obstruct a traffic lane.
- F. Double parked along side another vehicle.

G. Across lines.

H. In any prohibited area.

I. Within 15 feet of a fire hydrant.

J. Within 20 feet of any intersection.

K. Within 30 feet of a stop sign.

L. Within 20 feet of the driveway entrance to any fire department station and on the side of the street opposite the entrance to any such station within 75 feet of such entrance.

M. With the left side of such vehicle next to the curb, except on one-way streets; \$15, this amount is still governed by Vehicle Code under 75 Pa.C.S. §3354(F)(a).

N. In any restricted area requiring permits or decals without such permits or decals properly placed and made visible.

2. Any person, firm or corporation violating any provision of this Section shall be fined, together with cost of prosecution, as follows.

A. Fifty dollars for those violations in subsection .1.A through .1.C.

B. Fifty dollars for those violations in subsection .1.D and .1.E.

C. Fifty dollars for those violations in subsection .1.F and .1.G.

D. Fifty dollars for those violations of in subsection .1.H through .1.L.

E. Fifteen dollars for violation in subsection .1.M.

F. Fifty dollars for violations in subsection .1.N.

3. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

(*Ord. 117, 2/6/1984; as added by Ord. 123-06, 4/3/2006*)

#### **§15-314. Loading Zone Violations.**

1. It shall be unlawful for the driver of a vehicle to stand a passenger vehicle for a period of time longer than is necessary for the loading or unloading of passengers, not exceeding 1 minute, and for the driver to stand any freight carrying vehicle for a period of time longer than is necessary to load, unload and deliver materials in any place designated as a loading zone and marked as such.

2. Any person, firm or corporation who shall violate this provision shall be fined \$50 together with the costs of prosecution.

(*Ord. 117, 2/6/1984; as added by Ord. 123-06, 4/3/2006*)

#### **§15-315. Operation of Parking Meters.**

1. Except in a period of emergency determined by an officer of the fire or police department serving the Borough, or in compliance with the directions of a police officer or traffic control sign or signal when any vehicle shall be parked in any parking space alongside or next to which a parking meter is located, the operator of such vehicle shall, upon entering the said parking place immediately deposit or cause to be deposited in said meter such proper coin of the United States as is required for such parking meter and as is designated by proper coin or coins, shall set in operation the timing

mechanism on such meter in accordance with the directions properly appearing thereon, and failure to deposit of proper coin, and to set the timing mechanism in operation when so required, shall constitute a violation of this Part. Upon the deposit of such coin (and the setting of the timing mechanism in operation when so required), the parking space be lawfully occupied by such a vehicle during the period of time which has been prescribed for the part of the street in which said parking space is located, provided that any person placing a vehicle in a parking meter space adjacent to a meter which indicates that unused time has been left in the meter by the previous occupant of the space shall not be required to deposit a coin as long as his occupancy of said space does not exceed the indicated unused parking time. If said vehicle shall remain parked in any such parking space beyond the time limit set for such parking space, and if the meter shall indicate such illegal parking, than, and in the event, such vehicle shall be considered as parking overtime and beyond the period of legal parking time, and such parking shall be deemed a violation of this Section. [*Ord. 145-07*]

2. Any person, firm or corporation who shall violate this provision shall be fined \$50 together with costs of prosecution.

(*Ord. 117, 2/6/1984; as added by Ord. 123-06, 4/3/2006; and as amended by Ord. 145-07, 12/11/2007*)

**§15-316. Leaving Ignition Keys in Unattended Vehicle.**

1. No person driving or in charge of a motor vehicle shall permit it to stand unattended in any public place, or in any used or new car lot without first stopping the engine, locking the ignition and removing the ignition key from the vehicle.

2. Whenever any police officer shall find a motor vehicle standing unattended with the ignition key in the ignition, in violation of this provision, such police officer is authorized to remove such key from such vehicle and to deliver such key to the police officer in charge of the police station.

3. The registered owner of a vehicle found in violation of this Section shall be held prima facie responsible for any such violations.

4. Any person, firm or corporation violating any of the provisions of this Section shall be fined \$50 together with cost of prosecution.

(*Ord. 117, 2/6/1984; as added by Ord. 123-06, 4/3/2006*)



**Part 4****Unlicensed, Uninspected and Dismantled Vehicles****§15-401. Parking and Storage of Unlicensed and Uninspected Vehicles on Streets and Alleys Restricted.**

It shall be unlawful for any owner of any type of motor vehicle requiring a registration plate and a State inspection sticker under the applicable provisions of the Vehicle Code,<sup>1</sup> to park or store or permit the same to be parked or stored on any public street or public alley within the limits of the Borough for a period in excess of 48 hours, if said motor vehicle does not have attached to it a current valid registration plate and a current valid State inspection sticker required under the applicable provisions of the Vehicle Code.

(Ord. 117, 2/6/1984)

**§15-402. Dismantled Vehicles Not to Be Stored or Parked on Streets and Alleys.**

It shall be unlawful for any owner of any motor vehicle requiring a registration plate and a state inspection sticker under the applicable provisions of the aforesaid Vehicle Code, to park or store or to permit to be parked or stored any such motor vehicle on any street or alley within the Borough when such motor vehicle is to any extent partially dismantled and inoperable.

(Ord. 117, 2/6/1984)

**§15-403. Removal of Vehicle.**

1. Any police officer may remove or cause to be removed to a nearby garage or other place of safety, a vehicle in violation of any provision of this ordinance. Prior to removal of such vehicle bearing a registration plate by which the last registered owner of the vehicle can be determined, notice shall be sent by certified mail to the last registered owner of the vehicle informing him that unless the vehicle is moved to a suitable location within 5 days of the date the notice is mailed, the vehicle will be removed and held at a suitable facility where it may be reclaimed. If the vehicle does not bear an identifiable registration plate, the notice may be secured to the vehicle.

2. Within the 5-day period, the owner shall be given, if requested, an opportunity to explain to police officers or the department why the owner believes the vehicle should not be removed. If the police officers or department decide that the vehicle shall be moved, the owner shall be given an additional 48 hours to move the vehicle or have it moved.

(Ord. 117, 2/6/1984)

**§15-404. Reclamation Costs.**

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<sup>1</sup>75 P.S. §101 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

In order to reclaim his vehicle, the owner shall pay towing and storage costs, plus a \$50 fee of which \$25 shall be transferred to the Pennsylvania Department of Transportation by the garage to which the vehicle was taken.

(*Ord. 117, 2/6/1984; as amended by Ord. 145-07, 12/11/2007*)

**§15-405. Penalty.**

Any person who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of \$50 together with all costs of disposing of the vehicle under provisions of the Vehicle Code, 75 P.S. §7301 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

(*Ord. 117, 2/6/1984*)



**Part 5****Removal and Impoundment of Illegally Parked Vehicles****§15-501. Authority to Remove and Impound Illegally Parked Vehicles.**

The police department serving the Borough is hereby authorized to remove and impound, or to order the removal and impoundment of any vehicle parked upon any street, alley, highway or public property in the Borough in violation of any provision of the law or of any ordinance of the Borough; provided, no vehicle shall be removed for overtime parking.

(*Ord. 117, 2/6/1984; as amended by Ord. 145-07, 12/11/2007*)

**§15-502. Approved Storage Garages.**

The Borough Council shall have authority to designate, from time to time, one or more garages as approved storage garages, to serve as a pound for the storage of such impounded vehicles.

(*Ord. 117, 2/6/1984*)

**§15-503. Towing and Storage Charges.**

Every such approved storage garage shall have authority to charge the owner of record of every such impounded vehicle the towing and storage charges that shall be fixed and approved by resolution of the Borough Council.

(*Ord. 117, 2/6/1984*)

**§15-504. Garage to Post Bond.**

Every such approved storage garage shall furnish a bond in an adequate amount as shall be fixed by the Borough Council, for the indemnifying of the owner of any such impounded vehicle against the loss thereof, or injury or damage thereto, while in the custody of the keeper of the pound.

(*Ord. 117, 2/6/1984*)

**§15-505. Notification to Owners of Impounded Vehicles.**

1. Within 48 hours from the time of removal of any vehicle under authority granted by this part, notice of the fact that such vehicle has been impounded shall be sent by the Pennsylvania Department of Transportation to the owner of record of such vehicle and all lienholders of record. Such notice shall include the make, model, title number, vehicle identification number and registration plate number if known, the location the vehicle is held, notification of the right to reclaim said vehicle within 30 days after the date of the notice upon payment of a fee of \$25, towing and storage charges, and notification that failure to reclaim said vehicle is deemed consent to the disposition of the vehicle and of all lienholders to dissolution of their laws.

2. If the identity of the last registered owner and of all lienholders cannot be determined with reasonable certainty, the contents of the notice set forth above shall be published one time in one newspaper, of general circulation in the area where the

vehicle was abandoned. Notice by publication shall be the responsibility of the storage garage.

*(Ord. 117, 2/6/1984)*

**§15-506. Effect of Payment of Towing and Impoundment Charges Without Protest.**

The payment of any towing and impounding charges, authorized by this Part shall, unless such payment shall have been made under protest, be final and conclusive, and shall constitute a waiver of any right to recover the money so paid.

*(Ord. 117, 2/6/1984)*

**§15-507. Effect of Payment of Towing and Impoundment Charges Under Protest.**

In the event that any towing and impounding charges, authorized by this Part, shall be paid under protest, the offender shall be entitled to a hearing before a magisterial district judge or court of record having jurisdiction, in which case the defendant shall be proceeded against and shall receive such notice as is provided for by the Vehicle Code<sup>2</sup>, in other cases of summary offenses, and shall have the same rights as to appeal and waiver of hearing.

*(Ord. 117, 2/6/1984; as amended by Ord. 145-07, 12/11/2007)*

**§15-508. Records of Vehicles Removed and Impounded.**

The police department serving the Borough shall keep a record of all vehicles impounded, and it shall be able at all reasonable times to furnish the owners or agents of the owners thereof, information as to the place of storage of such vehicles.

*(Ord. 117, 2/6/1984; as amended by Ord. 145-07, 12/11/2007)*

**§15-509. Owner or Operator of Vehicle Remains Liable for Fine or Penalty.**

The payment of towing and storage charges shall not operate to relieve the owner or operator of any vehicle from liability for any fine or penalty for the violation of any law or ordinance on account of which such vehicle was removed and impounded.

*(Ord. 117, 2/6/1984)*

**§15-510. Restrictions upon Removal of Vehicles.**

No vehicle shall be removed under the authority of this part if, at the time of the intended removal thereof, the owner or person for the time being in charge of such vehicle is present and expresses a willingness and intention to remove such vehicle immediately.

*(Ord. 117, 2/6/1984)*

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<sup>2</sup>75 P.S. §§101-9701, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

**Part 6****Snow and Ice Emergency****§15-601. Definitions.**

The following words when used in this Part shall have the following meanings unless the context clearly indicates a different meaning:

*Chains* - full chains, strap chains or other types of chains mounted on both rear wheels of a motorized vehicle.

*Snow* - any precipitation depositing any accumulation on the streets, including snow, sleet, hail, ice and freezing rain.

*Snow removal condition* - state of street conditions that are hazardous and dangerous to vehicular and pedestrian traffic, as so declared by the Mayor or such person designated by the Mayor.

*Snow tires* - tires having treads designed for use in snow, which tires must be in such condition as to serve the purpose for which they are designed.

*Vehicle* - any self-propelled motorized vehicle licensed to travel upon the streets, roads and highways of the Borough.

(Ord. 117, 2/6/1984)

**§15-602. Declaration of Snow Removal Condition.**

A snow removal condition is hereby declared to exist in the Borough whenever snow falls so that, in the opinion of the Mayor, or such person designated by the Mayor, the street conditions are hazardous and dangerous to vehicular and pedestrian traffic because of snow accumulation. The Mayor, or such person designated by the Mayor, shall have authority to declare a snow removal condition, notice of which shall immediately be issued to local radio and news services. In either instance, a snow removal condition is presumed to continue for a period of 24 hours following the accumulation of snow, or until such period of time as designated by the Mayor.

(Ord. 117, 2/6/1984)

**§15-603. Unattended Vehicles Prohibited During Emergency.**

During such time as a snow removal condition is in effect, it shall be a violation of this Part for any person, firm, organization or entity to park, abandon or leave unattended any vehicle on any streets, roads and highways and their adjacent right-of-ways within the boundaries of the Borough that have been publicly designated for snow removal or plowing.

(Ord. 117, 2/6/1984)

**§15-604. Certain Streets Designated for Snow Removal.**

The following streets within the Borough are hereby designated for snow removal or plowing, and parking thereon shall be prohibited while a snow removal condition is in effect:

Street	Between
North Brandywine Avenue	Entire length
South Brandywine Avenue	Entire length

(Ord. 117, 2/6/1984)

**§15-605. Snow Tires or Chains Required.**

During such time as a snow removal condition is in effect any person, firm, organization or entity operating or causing to be operated a vehicle which is not equipped with snow tires or chains upon any street, road or highway within the boundaries of the Borough resulting in such vehicle becoming stalled or incapable of moving under its own power, or who leaves such vehicle abandoned or unattended on any street, road or highway within the boundaries of the Borough as a result of its inability to move under its own power because of its failure to be equipped with snow tires or chains, shall be in violation of this Part and shall be subject to the penalties and fines set forth in §15-607.

(Ord. 117, 2/6/1984)

**§15-606. Placement of Signs Along Highways Affected; Information on Existence of Emergency.**

In order to assist the operators of motor vehicles and tractors in determining the highways affected by this Part, the Mayor or the Chief of Police shall place around the utility poles on the highways or portions thereof designated in §15-604 of this Part signs reading as follows: "Snow/Emergency/Route/ Snow Tires or/Chains Required/No Parking/ During Emergency/Vehicles/Towed Away." The Mayor or the Chief of Police shall also, through radio, newspaper or other available media, disseminate information as to the existence of such an emergency.

(Ord. 117, 2/6/1984)

**§15-607. Penalties.**

1. During such time as a snow removal condition is in effect, any person who shall park a vehicle anywhere upon or along any of the streets of the Borough that have been publicly designated for snow removal or plowing shall be guilty of a violation of this Part and, upon conviction thereof, shall be sentenced to pay a fine of \$15 together with costs of prosecution.

2. Any person who shall operate a vehicle upon any street of the Borough, if such vehicle shall become stalled during such time as a snow removal condition is in effect, and if such stalling shall have been by reason of the failure to have such vehicle equipped as prescribed in §15-605 of this Part, shall be guilty of a violation of this Part, and, upon conviction thereof, such person shall be sentenced to pay a fine of \$25 together with costs of prosecution.

(Ord. 117, 2/6/1984)

## Chapter 16

[Reserved]



## **Chapter 17**

**[Reserved]**





## Chapter 18

### Sewers and Sewer Connections

#### Part 1 Mandatory Connection

- §18-101. Definitions
- §18-102. Mandatory Sewer Connection
- §18-103. Connections at Expense of Owners
- §18-104. Construction and Use of Private Devices for Sanitary Sewage Disposal Prohibited
- §18-105. Fees and Permits
- §18-106. Enforcement of Connections
- §18-107. One Hundred Fifty-Foot Limitation
- §18-108. Violations

#### Part 2 Sewer Rents and Fees

##### A. Rents and Fees

- §18-201. Definitions
- §18-202. Connection Fee
- §18-203. Annual Rent
- §18-204. Time of Payment of Fees and Rents
- §18-205. Penalty for Late Payments

##### B. Vacant Buildings

- §18-211. No Charge for Certain Vacant Buildings

#### Part 3 Rules and Regulations Concerning Connections to and Use of Sanitary Sewers

- §18-301. Definitions
- §18-302. Conditions of Service
- §18-303. Application for Service Issuance of Permits and Connection
- §18-304. Individual Service Lines and Connections
- §18-305. Maintenance and Repair of Service Lines
- §18-306. Inspection of Premises
- §18-307. Existing Service Lines
- §18-308. Extensions by Developers
- §18-309. Minimum Standards for Pipe and Installation
- §18-310. Cleanouts
- §18-311. Special Conditions and Requirements
- §18-312. Connection to Lateral Sewers

- §18-313. Street Opening Permits and Restoration of Service
- §18-314. Standard of Quality
- §18-315. Supervision and Inspection
- §18-316. Restrictions on Use of Sewer System
- §18-317. Pre-Treatment Facilities
- §18-318. Determination of Charges for Industrial Wastes
- §18-319. Violation of Rules and Regulations
- §18-320. Penalties

**Part 1****Mandatory Connection****§18-101. Definitions.**

As used herein, the following terms shall have the meaning stated:

*Occupied building* - a structure designed for continuous or periodic human occupancy from which sanitary sewage is or may be discharged, and includes, without limiting the generality of the foregoing, dwellings, flats, apartments, stores, shops, offices, and business or industrial establishments.

*Person* - any individual, firm, company, association, society, partnership or corporation.

*Sanitary sewer* - facilities (including any part of, but necessarily the entity of, a system of such facilities) owned or operated by the Borough for the collection of sanitary sewage within the Borough.

*Property accessible* - property which is benefitted, improved or accommodated by a sanitary sewer.

*Sanitary sewage* - the nominal, water-carried household and toilet wastes resulting from human occupancy.

(Ord. 99, 5/5/1980, §1)

**§18-102. Mandatory Sewer Connection.**

Within 60 days of the completion of the sewerage facilities, the Borough shall cause notice to be published once in a newspaper of general circulation in the Borough, such notice to state that owners of property accessible to a sanitary sewer, upon which is located any occupied building, are required, pursuant to this Part, to make connections therewith for the purpose of the disposal of sanitary sewage. The Borough shall cause a copy of such notice, together with a copy of this Part, the Part imposing connection fees and sewer rents, the rules and regulations concerning connections to and use of sanitary sewer systems adopted by the Borough on December 12, 1977 [Part 3] or any other rules or regulations then in effect imposing sewer connection fees and sewer rents, to be served either by personal service or by registered mail, upon each person known to the Borough to own such property not then so connected.

(Ord. 99, 5/5/1980)

**§18-103. Connections at Expense of Owners.**

1. The owner of any property accessible to a sanitary sewer on which there is an occupied building shall, at his own expense, install sanitary facilities in such building and connect the same to such sanitary sewer within 60 days after publication of the notice of completion of the sewer specified in §18-102.

2. Any person owning property accessible to a sanitary sewer on which an occupied building is hereafter erected shall, at the time of erection and at his expense, install sanitary facilities in such building and connect the same to the sanitary sewer.

3. Persons owning properties not accessible to a sanitary sewer who are

nevertheless able to arrange for connections thereto through intermediate properties shall be permitted to make such connection.

(*Ord. 99, 5/5/1980, §3*)

**§18-104. Construction and Use of Private Device for Sanitary Sewage Disposal Prohibited.**

It shall be unlawful for any person to construct or use on such property accessible any privy, cesspool, septic tank or other device for the disposal of sanitary sewage. Any such privy, cesspool, septic tank or other device constructed or used in violation hereof is hereby declared to be a nuisance which shall be abated by law. In addition, any such construction or use shall be reported to the proper law enforcement authorities for prosecution under any other applicable law of the Commonwealth of Pennsylvania.

(*Ord. 99, 5/5/1980, §4*)

**§18-105. Fees and Permits.**

No connection shall be made to any sanitary sewer except upon payment of the prescribed connection fee and upon permit issued pursuant to rules and regulations regarding connections.

(*Ord. 99, 5/5/1980, §5*)

**§18-106. Enforcement of Connections.**

If any person required by §18-103 hereof to make a connection to a sanitary sewer fails to do so, within 60 days after the notice referred to in §18-102 hereof has been served upon him, the Borough shall proceed, as provided by law, to enter upon the property, to make such connections and to collect the costs thereof by municipal lien or otherwise in the name of the Borough.

(*Ord. 99, 5/5/1980, §6*)

**§18-107. One Hundred Fifty-Foot Limitation.**

Notwithstanding any other provision hereof, no occupied building on any property accessible to a public sanitary sewer shall be required to be connected to a public sanitary sewer if the distance between such part of such occupied building as is nearest to the public sanitary sewer in question and such sanitary sewer shall exceed 150 feet, unless the Borough Council shall first find that the connection of the specified occupied building is necessary for the health, safety and welfare of the inhabitants of the Borough. For the purpose of determining the distance referred to in this Section, "public sanitary sewer" shall include any curb lateral extending from a sewer main to a property or curb line.

(*Ord. 99, 5/5/1980, §7*)

**§18-108. Violations.**

Any person violating any provision of this Part shall be served, either by personal service or by registered mail, with written notice stating the nature of the violation and prescribing a reasonable time limit for the correction thereof. Any person continuing such a violation beyond such time limit shall be subject to fine in an amount not

exceeding \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 99*, 5/5/1980, §8; as amended by *Ord. 117*, 2/6/1984; and by *Ord. 145-07*, 12/11/2007)



**Part 2**

**Sewer Rents and Fees**

**A. Rents and Fees**

**§18-201. Definitions.**

As used herein, the following terms shall have the meanings stated:

*Collection system* - the system of public sewers and related facilities to be located within the Borough designed for the collection and disposal of sanitary sewage and owned and operated by the Borough.

*Sanitary sewage* - the normal, watercarried household and toilet wastes resulting from human occupancy.

(Ord. 100, 5/5/1980, §1)

**§18-202. Connection Fee.**

The sewer hook-up fee for all residences and subject properties of the Borough of Modena shall be \$3,000.

(Ord. 100, 5/5/1980, §2; as amended by Ord. 100-06, 1/3/2006, §1)

**§18-203. Annual Rent.**

There is hereby imposed upon the owners and upon the users of each property served by the collection system, an annual rent for the use thereof, to be computed and payable quarterly. Such rent shall be computed and payable quarterly. Such rent shall be computed as follows:

A. *Sewer Rates for Residences and Commercial Establishments.* The quarterly flat-rate rent for single family dwellings shall be \$45. Flat-rate rents for other types of property shall be payable as follows:

<b>Customer Classification</b>	<b>Rental</b>
(1) Each fire house or municipal building	\$52 per quarter
(2) Each church	\$52 per quarter
(3) Each public or private school Based upon the daily average number of pupils enrolled on days when the school was in session during the full school term immediately preceding the date of each quarterly bill. Teachers and employees shall be classified as pupils for sewer rental purposes.	\$18 per year per pupil
(4) Each one-family living unit, in which the occupant carries on a trade, business (other than restaurant or bar) or professional	\$105 per quarter

<b>Customer Classification</b>	<b>Rental</b>
(5) Each retail gas station without car washing facilities	\$105 per quarter
(6) Each retail gas station with car washing facilities	\$117 per quarter
(7) Each commercial establishment (other than those above) not regularly dispensing food or beverages for consumption on the premises or discharging industrial wastes (as defined in Section XVI of the Borough's Rules and Regulations concerning connections to and use of sanitary sewer system adopted December 12, 1977, or as amended from time to time, hereinafter the "Borough Regulations") [See Part 3 hereof] Based upon the daily average number of employees for the quarter immediately preceding the date of each quarterly bill	\$7 per quarter per employee plus \$60 per quarter for each public restroom, with a minimum charge of \$85 per quarter or \$170 if it is an industrial establishment
(8) Each restaurant, bar room or other commercial establishment, (not otherwise classified herein) which regularly dispense food or beverages Based upon the daily average number of employees for the quarter immediately preceding the date of each quarterly bill	\$7 per quarter per employee plus \$7 per quarter for each seat regularly intended for customer use; with a minimum charge of \$170 per quarter

[Ord. 100-06]

*B. Sewer Rates for Industrial Establishments.*

(1) Sewer rates for industrial establishments discharged into the collection system from any improved property, other than set forth above, and which constitute an industrial establishment, may be based upon actual metered volume of discharge, as permitted in this Part.

In either of the foregoing cases, such sewer rentals or charges shall be computed in accordance with the following metered rate schedule; subject, however, to the minimum sewer rentals or charges hereinafter provided:

**Metered Rate Schedule**

<b>Per Quarter Waste Consumption or Metered Waste Discharge</b>	<b>Quarterly Rate</b>
All water used	\$6 per thousand gallons

Regardless of volume of water used or metered waste discharge, the minimum quarterly charge for sanitary sewer from industrial establishments under this Section shall be \$170.

[Ord. 100-06]

(2) *Non-metered Rates.* Sewer rentals or charges for Sanitary Sewage and Industrial wastes not subject to a special charge hereunder which shall be discharged into the collection system from any improved property, other than



those set forth above, and which constitute as industrial establishment; when the volume of water usage shall not be metered in connection with the water system or otherwise, and when the actual volume of discharge shall not be metered rate schedule provided above and shall be based upon as estimate by the Borough of the water consumption of said improved property, other than those set forth above, and which constitute an industrial establishment. Any dispute as to the estimated amount shall be submitted to Borough Council for determination and its decision shall be final for the current year. [Ord. 100-06]

(3) *Additional Sewer Charge.* Pursuant to §204(b)(1)(B) of the Federal Water Pollution Control Act Amendments of 1972, an industrial cost recovery charge is hereby imposed upon each industrial establishment served by the sewer system. The rate of the industrial cost recovery charge shall be the rate per thousand gallons as set forth below: [Ord. 103]

Flow related charge:

- (a) Flow related costs subject to industrial cost recovery -\$743,850.
- (b) Recovery period - 30 years.
- (c) The system is designed for a flow of - 299,000 GPD.
- (d) Charge per 1000 gallons:

Both the method for determining the industrial cost recovery charge and each industrial cost recovery charge shall be reviewed no less frequently than annually.

No industrial cost recovery charge will be imposed on industrial users discharging less than 25,000 gallons per day of either process wastes or a combination of process wastes and wastes from sanitary conveniences.

The industrial cost recovery charge may be appealed to the Borough in writing within 10 days after the date of action. Upon receipt of the appeal and after notification of any parties in interest, the Borough shall schedule a public hearing. After such hearing the Borough may affirm, modify or reverse the previous action. The findings and reasons for the disposition of the appeal shall be stated on the records of the Borough and copy shall be given to the party who made the appeal. The burden of proof shall be upon the party making the appeal.

The decision of the Borough shall be final and binding upon the parties subject to any further right of appeal which may be provided by law.

C. *Measuring Volume for Industrial Establishments.*

(1) *Methods of Measuring Volume -*

(a) Whenever a person purchasing all water used through a metered water supply discharges sanitary sewage and/or industrial waste into the collection system the volume of water used, as determined from meter readings made by, or made available to, the Borough, shall be used in computing the sewer rentals.

(b) In cases where persons have sources of water supply in addition to, or other than from a metered water supply, and discharge sanitary sewage and/or industrial waste into the collection system, those persons

may provide a meter on such additional or other source of supply. The total amount of water used as shown by these meter readings will be used in computing the sewer rentals. If no such meter is installed, the Borough shall estimate the total amount of water used for the purpose of determining the sewer rentals.

(c) In cases where all or any part of the metered water used is not discharged into the collection system, the quantity of water used to determine the sewer rentals shall be computed by one of the following methods:

*Method No. 1.* By placing a meter or measuring device on the sewer connection. The readings from this meter or measuring device shall be used in computing the sewer rental.

*Method No. 2.* By placing a meter or measuring device on the effluent not discharging into the collection system. The reading from this meter or measuring device will then be deducted from the total water meter readings and the remainder will be used in computing the sewer rentals.

*Method No. 3.* When in the opinion of the Borough it is not desirable or not practical to install devices to continuously determine the quantity of water not discharged to the collection system, the Borough will determine, in such manner and by such method as it may prescribe, the percentage of metered water discharged into the collection system and the quantity of water used to compute the sewer rentals shall be the percentage so determined of the quantity measured by the water meter or meters. Any dispute as to the estimated amount shall be submitted to Borough Council for determination and its decision shall be final for the current year.

(2) *Measuring Devices.* All meters or measuring devices not provided by the Borough but otherwise used under the provisions of this Part may be furnished and installed by the Borough at the expense of the property owner and shall be owned by, and under the control of, the Borough and may be tested, inspected or repaired by Borough employees whenever deemed necessary. The owner of the property upon which such measuring device is installed shall be responsible for its maintenance and safekeeping and all repairs thereto shall be made by the Borough at the property owner's expense, whether such repairs are made necessary by ordinary wear and tear or other causes. Bills for such installation and repairs shall be due and payable at the same time and collected in the same manner as are the bills for sewer service; such bills from and after their due date shall constitute a lien upon the property upon which such measuring device is installed.

(3) *Meter Readings.* The Borough shall be responsible for the reading of all meters or measuring devices, unless such readings are otherwise made available to the Borough by the water consumer, and they shall be made available to Borough employees for meter readings at any reasonable time.

(Ord. 100, 5/5/1980, §3; as amended by Ord. 103, 11/3/1980, §1; by Ord. 107, 8/3/1981; and by Ord. 100-06, 1/3/2006, §3)

**§18-204. Time of Payments of Fees and Rents.**

The connection fee imposed by §18-202 shall be payable upon application for permit to make the connection. The rents imposed by §18-203 shall be payable quarterly on dates determined by the Borough. The Borough shall cause the water meter of each industrial property served by metered water to be read on a quarterly basis. In the event a meter reading cannot be obtained for a particular quarter, the sewer bill may be based upon estimated water usage, with an appropriate adjustment made upon subsequent meter readings. Sewer rent bills shall similarly be mailed on a quarterly basis with respect to each property subject to the flat-rate sewer rent. The first sewer bill following connection to the collection system may cover a period either longer or shorter than the regular quarterly billing period (but not for a period longer than 6 months), and shall be prorated accordingly, if the Borough finds the same desirable in the administration of the quarterly billing procedure. Bills for sewer rent shall be mailed to the address specified in the application for permit to make the connection unless and until a different address is specified by the owner of the property to the Borough. Failure to receive a bill as a result of incorrect address or otherwise, shall not excuse nonpayment of rent or extend the time for payment.

*(Ord. 100, 5/5/1980, §4)*

**§18-205. Penalty for Late Payments.**

If any quarterly installment of sewer rent is not paid within 30 days after the date of the bill, a 10 percent penalty shall be added thereto; and if the installment plus penalty is not paid within 60 days after the date of the bill, the aggregate amount thereof shall bear interest from the penalty date at the rate of 1 percent per month or fraction thereof. Any unpaid sewer rent (together with penalties and interest thereon to the extent permitted by law) shall be a lien on the property served which may be collected by action in assumpsit, by distress or by a lien filed in the nature of a municipal claim, as provided by law.

*(Ord. 100, 5/5/1980, §5)*



**B. Vacant Buildings****§18-211. No Charges for Certain Vacant Buildings.**

1. No sewer charges shall be imposed upon any property which is vacant for a full calendar quarter, provided notice is given to the Borough Secretary in writing of the date when the vacancy will commence.

2. The Borough shall also be notified in writing when the property becomes occupied. Failure to give this notice shall cause the appropriate sewer charge to be imposed plus a penalty of 10 percent.

*(Res. 82, 8/3/1981)*



**Part 3****Rules and Regulations Concerning Connections to  
and Use of Sanitary Sewers****§18-301. Definitions.**

*Borough* - Borough of Modena, Chester County, Pennsylvania.

*Borough Engineer* - an engineer retained or employed by the Borough, including any authorized member of the staff of such engineer.

*Building* - a building is a structure built, erected and framed of component structural parts designed for the housing, shelter, enclosure or support of persons, animals or property of any kind. This definition shall include structures built on-site or at any remote location or factory.

*Building sewer* - that part of the main building or house drain or sewer line inside the walls of the building and extending through the wall to a point 5 feet outside the wall and connecting to the service line or house connection.

*Cellar drain* - a protected and trapped drain for the purpose of carrying off spent waters from the basement of a dwelling, factory, laboratory, workshop, or other building, but excluding any drainage resulting from rain water, springs, wells, or other ground or surface water.

*Connection* - the jointure, or the process of making the jointure, of the service line or house connection with the lateral sewer or service connection.

*Equivalent dwelling unit* - consumption equal to 224 gallons per day or use equal to 3.2 persons at a consumption of 70 gallons per person per day.

*Improved property* - any property upon which there is erected any structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

*Industrial waste* - any solid, liquid or gaseous substance or water borne wastes or form of energy ejected or escaping from any industrial, manufacturing, trade or business process or from the development, recovering or processing of natural resources.

*Lateral sewer or service connection* - that part of the sewer system extending from a sewer to the curb line; or, if there shall be no curb line, to the edge of the street abutting the property affected; or, if no such lateral shall be provided, then "lateral sewer" or "service connection" shall mean that portion of, or place in, a sanitary sewer which is provided for the connection of any service line.

*Natural outlet* - any outlet into a watercourse, ditch, pond, lake or other body of surface or ground water.

*Owner* - any person vested with ownership, legal or equitable, sole or partial, of any property situated in the service area of the Borough.

*Person* - any individual, partnership, company, association, society, corporation or other group.

*Plumbing fixture* - any receptacle intended to receive and discharge any liquid,

water, or water carried waste into a service line or house connection.

*Sanitary facilities* - toilets, sinks and other plumbing fixtures and related piping intended to receive and discharge sanitary sewage into a service line or house connection.

*Sanitary sewage* - the normal water-carried household and toilet waste from any improved property, excluding, however, the effluent from septic tanks or cesspools, rain, storm and ground water, as well as roof or surface water, drainage or percolating or seeping waters, or accumulation thereof, whether underground or in cellars or basements.

*Sanitary sewer* - a sewer which is part of the sewer system and which carries sanitary sewage and/or industrial waste permitted to be discharged into the sewer system.

*Service line or house connection* - that part of the main house drain or sewer line extending from a point 5 feet outside the outer building wall or foundation wall to its connection with the lateral sewer or service connection.

*Sewage treatment plant* - the treatment facilities of the Borough of South Coatesville.

*Sewer* - any pipe or conduit constituting a part of the sewer system and used or usable for sewage collection or transportation purposes.

*Sewer system* - sewer mains, lateral sewers from a sewer main to service line or house connection, sewage pumping stations, sewer force mains, and all appurtenant facilities operated by the Borough of Modena, Chester County, Pennsylvania, in furnishing sewage service.

*Soil pipe or waste pipe* - any pipe receiving the discharge of one or more plumbing fixtures.

*Storm sewer or storm drain* - a pipe or conduit which carries storm, surface water, drainage and certain industrial water discharges, such as cooling and air-conditioning waters.

*Street* - a public way including any highway, street, road, lane, court, public square, alley or other passageway.

*Vent pipe* - any pipe extended vertically from a sewer soil pipe or waste pipe to provide ventilation for the system of piping and to prevent siphonage and back pressure.

(Res. 52, 12/12/1977, §1; as amended by Ord. 117, 2/6/1984)

### **§18-302. Conditions of Service.**

No connection, through which sanitary sewage or industrial waste does or may enter the sewer system, shall be constructed, altered, repaired or allowed to exist, which does not comply with these rules and regulations.

(Res. 52, 12/12/1977, §2; as amended by Ord. 117, 2/6/1984)

### **§18-303. Application for Service Issuance of Permit and Connection.**

1. No person shall uncover, connect with, make any opening into or use, alter or disturb in any manner any sewer without first making application for and obtaining a



permit, in writing, from the Borough. Application to the Borough for a permit required hereunder shall be made by the owner of the improved property to be served, in such form as may be prescribed by the Borough. The application shall be by such tapping or connection fee as may be required by the Borough from time to time.

2. No connection to the sewer system shall be made except under the supervision of the Borough or its authorized representative. The application and its acceptance by the Borough shall constitute, from the date of acceptance by the Borough, a contract obligating the applicant to pay rates and charges as established by the Borough from time to time and to comply with the rules and regulations which shall be established from time to time.

3. Sewer service shall be furnished only after:

A. The owner of the improved property to be served shall have installed, at his own cost and expense, the service line in accordance with the rules and regulations; and,

B. The Borough has inspected and observed testing of said service line and approved such facilities as complying with the rules and regulations.

4. Whenever improved property which is connected to the sewer system is vacated, the owner shall give prompt notice to the Borough.

5. Whenever improved property which is connected to the sewer system is sold, or otherwise conveyed, the purchaser and/or the seller shall promptly notify the Borough of such sale or conveyance.

(*Res. 52, 12/12/1977, §3; as amended by Ord. 117, 2/6/1984*)

#### **§18-304. Individual Service Lines and Connections.**

1. Each improved property shall have its own individual service line. Each side of a double house having a solid vertical partition wall shall be considered a separate property requiring individual sewer connections.

2. Where premises in single ownership consist of more than one building, the Borough reserves the right to determine, under the circumstances of each case, whether each separate building must have its individual sewer connection or whether all buildings together may use a single connection.

(*Res. 52, 12/12/1977, §4; as amended by Ord. 117, 2/6/1984*)

#### **§18-305. Maintenance and Repair of Service Lines.**

All service lines shall be maintained and repaired by the owner at the cost of the owner of the improved property. Such repairs shall be subject to the approval and inspection of the Borough.

(*Res. 52, 12/12/1977, §4; as amended by Ord. 117, 2/6/1984*)

#### **§18-306. Inspection of Premises.**

The Borough, by its agents and employees, shall have the right at all reasonable times, to enter any premises connected with or about to be connected with sewer system in order to enforce compliance with these rules and regulations.

(*Res. 52, 12/12/1977, §5; as amended by Ord. 117, 2/6/1984*)

**§18-307. Existing Service Lines.**

Existing service lines may be utilized providing they have been inspected by the Borough and found to be reasonably true to grade and alignment, in good condition for the purpose of conveying sanitary sewage or industrial wastes, and have tight joints of approved materials. If the existing lines do not conform to this requirement, the line shall be corrected or a new line shall be laid at the expense of the property owner in accordance with the specifications contained herein. All testing required by the Borough shall be at the expense of the owner.

(*Res. 52, 12/12/1977, §6; as amended by Ord. 117, 2/6/1984*)

**§18-308. Extensions by Developers.**

1. Where an individual, builder, or developer desires to extend sewerage service to a house or to a group of houses within a development, he may do so after having made proper written application to the Borough and having met all of the conditions of these rules and regulations. All extensions so constructed shall include, without limitation, all sewer mains, lateral sewers, connections and other necessary appurtenances and shall be constructed by and at the expense of the developer. All construction shall be done in accordance with plans and specifications approved by the Borough prior to the start of construction, and subject to inspection testing and approval by the Borough or its designated representative.

2 Sewer plans may be provided by either of the following methods:

A. The developer may request the Borough to provide the plans of the sewer extension and to secure all necessary approvals from State agencies. The cost of the preparation of the plans and specifications and all other fees, including legal, administrative and inspection, testing or permit fees shall be paid by the developer and a sum equal to the estimated cost of the aforesaid shall be deposited with the Borough before such plans will be prepared.

B. As an alternate to the above, the developer may secure the services of a professional engineer or a registered surveyor to prepare the necessary plans which shall be subject to approval by the Borough. Any revisions in the design considered necessary, in the opinion of the Borough's consulting engineer, shall be made and approved at the expense of the developer prior to the construction of the sewer extension. The developer shall secure all necessary approvals from any State or other governmental agencies having control over the sewer system and the proposed sewer extension. An amount equal to the estimated cost of any necessary legal, inspection, testing, permit, or other costs shall be deposited with the Borough by the developer.

3. A final inspection will be made by the Borough, and if the extensions are found to conform with the rules and regulations and with any other requirements of the Borough with respect to such extensions, the individual, builder or developer shall convey the sewer extension, including all rights of way, easements and lands, free of encumbrances, to the Borough to operate and maintain as part of the sewer system.

4. Before any plans and specifications are prepared or reviewed and before the commencement of any construction, the developer shall place funds in an escrow account. The amount of funds required shall be determined by the Borough. Escrow funds will be released upon receipt of a certificate from the Borough's consulting

engineer.

(*Res. 52, 12/12/1977, §8; as amended by Ord. 117, 2/6/1984*)

**§18-309. Minimum Standards for Pipe and Installation.**

1. Soil pipe or waste pipe which runs through building or foundation walls shall be at least service weight cast iron, ABS or PVC pipe. Service lines shall be constructed of one of the following types of pipe:

A. Vitrified clay sewer pipe at least 6 inches in internal diameter and conforming to A.S.T.M. Designation C-13, C-261, or C-462 for standard strength or A.S.T.M. Designation C-200, C-278, or C-463 for extra strength.

B. Asbestos cement building sewer pipe at least 4 inches in internal diameter which has been autoclave cured.

C. Medium or service weight cast iron soil pipe at least 4 inches in internal diameter conforming to A.S.T.M. Designation A-74, or the standards of the Cast Iron Soil Pipe Institute.

D. Polyvinyl chloride (PVC) sewer pipe at least 4 inches in internal diameter, laid on a 6-inch layer of sand, or fine crushed stone, conforming to A.S.T.M. D-3033 or D-3034.

E. Solid wall acrylonitrile butadiene styrene (ABS) sewer pipe at least 4 inches in diameter with a minimum wall thickness of 0.20 inch and 0.29 inch minimum thickness for 6-inch diameter pipe. Pipe shall be of virgin ABS plastic conforming to the requirements of A.S.T.M. D-1788. Type I and Type IV shall have a minimum heat deflection temperature of 180°F. Pipe shall be laid on a 2-inch layer of sand or fine crushed stone.

2. Jointing materials for the various types of pipe shall be as follows:

A. Vitrified clay pipe shall have joints which conform to A.S.T.M. Specifications C-425 (latest revision for joints using materials having resilient properties). Repairs or connections to existing pipes shall be made with jute or hemp packing and hot poured bituminous joint compound.

B. Asbestos cement pipe shall have joints consisting of rubber rings and asbestos cement sleeve.

C. Cast iron soil pipe shall have approved pre-moulded rubber joints made with bell and spigot ends. Portland cement joints will not be permitted.

D. PVC pipe shall have joints of O-ring gaskets, or an O-ring adapter manufactured of rubber, or solvent weld joints, and shall be installed in accordance with the manufacturer's recommendations. Where the service line joins the lateral sewer the bedding surrounding this connection shall be firmly compacted.

E. ABS solid wall sewer pipe shall have solvent weld joints made in accordance with the manufacturer's recommendations.

3. All service lines shall be installed with a minimum grade of 1 percent. A straight alignment shall be maintained where possible. A minimum cover of 3 feet shall be maintained to prevent crushing and freezing, unless the Borough's Consulting Engineer approves a lesser minimum cover. Selected backfill material shall be thoroughly tamped to a depth of 6 inches above pipe. Ground and surface water in

trenches for service lines shall not be permitted to enter sewerage system. Care shall be taken to prevent broken lateral caps and other debris from entering sewerage system. All service lines shall be constructed in accordance with specification for construction of sanitary sewers which may be in effect and approved by the Borough at time of such installation.

4. No trench shall be backfilled until the service line has been inspected and approved by the Borough.

5. A main or intercepting trap shall be placed between the terminus of the lateral and the building and vented with a suitable sidewalk vent pipe or cowl type vent. The trap shall consist of a double plug cast iron trap, cast iron service tee with a double riser. The vent pipe shall be located on the house side of the trap. As an alternate, the property owner may utilize a single plug cast iron trap with vent pipe as long as a suitable cleanout device is provided immediately inside the foundation wall.

6. Floor drains may be connected to the sewer system; however, the Borough will assume no responsibility for sewage backups through the floor drain. This type of installation is not recommended by the Borough and is done at the risk of the property owner.

7. Each service line shall be subjected to a test prior to approval by the Borough. The test shall be witnessed by an agent of the Borough and the service line shall not be deemed acceptable until said service lines has satisfactorily passed the test hereinafter described. All costs of testing and any subsequent test(s), including equipment, material, water or labor required shall be the responsibility of the owner.

The service line shall be tested by plugging the sewer line at the point of connection with the Borough's system and at the point of connection with the building waste pipe, unless an alternate procedure is accepted by the Borough. All risers, vents, plugs and cleanouts should be adequately blocked, plugged or supported to withstand the pressure associated with the test. The test shall be made by either air or water. In either case, the test shall be designed to provide a residual pressure of 3.5 PSI throughout the length of the service line.

The air test shall be made by attaching an air compressor testing apparatus to any suitable opening and after closing and supporting all other inlets and outlets to the service line, forcing air into the service line until there is a uniform gauge pressure of 3.5 PSI. The service line shall be deemed acceptable if this pressure is maintained for 15 minutes without the introduction of additional air.

The water test shall be made using a vertical standpipe at a point or points along the length of the service line. The service line shall be deemed acceptable if the loss of water as measured in the standpipe over a period of 2 hours does not exceed .12 gallons per foot for a 4-inch line and .17 gallons per foot for a 6-inch line. Care must be taken that the pressures generated by the test do not exceed the pipe manufacturer's recommendations.

8. The following requirements shall be applicable for that portion of the service line installed within the rights-of-way of Borough and Township streets and roads and State highways and it shall be the responsibility of the owner of the property served to require his plumber or contractor to adhere to these requirements.

A. The trench shall be thoroughly compacted using mechanical tamping

equipment.

B. The trench area shall be graded to conform to existing grade.

C. No surplus excavated materials or debris shall be piled or stored in this area.

D. All streets, road or highway surfaces which are disturbed or damaged by the owner or his plumber or contractor shall be properly repaired at the owner's cost.

E. Subsequent settlement of streets, road or highway surface resulting from improper compaction of the service line trench, or failure to protect the lateral line trench, shall be promptly repaired at the owner's cost.

F. If the owner or his plumber or contractor shall fail to comply with any of the requirements of subparagraphs .A through .F of this subsection .8, then after reasonable notice to the owner, the Borough may proceed on its own to make any necessary corrections or repairs so that the aforesaid requirements are fulfilled. If the Borough does so repair, then the owner of the property shall be liable to the Borough for the entire costs of such repairs and said costs will be included in the owner's next quarterly billing for sewer services.

(*Res. 52, 12/12/1977, §9; as amended by Ord. 117, 2/6/1984*)

#### **§18-310. Cleanouts.**

Unless otherwise authorized by the Borough or its representative, cleanouts shall be provided in each house connection and at intervals to permit complete nodding with a 100-foot long auger or tape. Cleanouts shall be constructed using a wye fitting in the run of the pipe with a 45-degree bend and riser to the ground surface. The riser pipe shall be provided with a standard 4-inch screw type ferrule.

(*Res. 52, 12/12/1977, §10*)

#### **§18-311. Special Conditions and Requirements.**

1. Where the service line is to be placed in a trench more than 10 feet deep, the line shall be constructed of PVC, ABS, vitrified clay pipe, or Class 2400 asbestos cement pipe, or cast iron pipe as the Borough may direct.

2. Where the service line is to be placed under a drive or other roadway and the depth is less than 4 feet, the line shall rest on a bed of crushed stone, or on a concrete cradle, or it shall be constructed of extra strength pipe as the Borough may direct.

3. Service lines for all service stations, garages, or other establishments storing, using, or dispensing gasoline, kerosene, benzine, or similar solvents shall be constructed of cast iron pipe with chemically resistant joints.

4. Whenever trench foundation conditions are poor due to ground water or inferior subsurface materials, the service line shall rest on a base cradle of crushed stone at least 6 inches in depth.

5. Whenever rock is encountered, the trench shall be excavated to a depth of 4 inches below the bottom of the pipe and it shall be refilled to grade with clean earth or crushed stone.

6. No hotel, restaurant, boarding house, or public eating place shall connect to the

sewer system without first installing grease traps, of a type and size approved by the Borough, on the service lines at a location approved by the Borough.

7. No service station, garage, factory building or commercial establishment which handles oils, petroleum, or similar products, or which washes cars, trucks, or other types of machinery, shall connect to the sewer system without first installing grease and sand traps, of a size and type approved by the Borough.

(*Res. 52, 12/12/1977, §11; as amended by Ord. 117, 2/6/1984*)

#### **§18-312. Connection to Lateral Sewers.**

1. Where the service line and the lateral sewer are both of the same size pipe, connections shall be made by properly joining the bell end of the service line with the lateral sewer.

2. If the service line and lateral sewer are of unlike materials, the connection shall be made with a fitting of PVC elastometric joint seal ring suitable for the type and size of pipe to be connected. Projecting the smaller pipe into the larger and sealing with grout or mastic will in no circumstances be permitted.

3. All connections to sewers shall be made at the terminus of the lateral unless the Borough specifically authorizes otherwise.

4. Whenever no sewer connection has previously been constructed, the connection to the sewer main and the construction of the lateral sewer from the sewer main to the curb line shall be made by the Borough unless specific authorization otherwise is given by the Borough. All expenses incurred for this work shall be the responsibility of the property owner.

5. Whenever there is no wye branch present in the existing sewer, the connection shall be made by carefully cutting a hole in the top of the main sewer and inserting an approved wye saddle or tee saddle therein. After the saddle has been placed in position, the space between the saddle and main sewer shall be carefully caulked and clamped with stainless steel bands bolted with stainless steel or bronze bolts, or glued with a suitable thermosetting polyplastic joint material. A collar of hot poured bituminous joint compound or a suitable thermosetting polyplastic joint sealer shall be applied and formed about the said joint to make it water tight. In no circumstances shall the pipe inserted into the opening protrude into the main sewer.

6. Following connection of the service line and building sewer to the lateral sewer all steel septic tanks, holding tanks, seepage pits and cesspools must be pumped out by a licensed, approved sewage pumper and filled with sand or earth within 60 days. Concrete septic tanks shall not be required to be filled unless they are damaged.

(*Res. 52, 12/12/1977, §12; as amended by Ord. 117, 2/6/1984*)

#### **§18-313. Street Opening Permits and Restoration of Surface.**

1. Unless otherwise determined by the Borough and except as herein provided with respect to extensions by developers, whenever the surface of any public street, sidewalk, or cartway is disturbed by construction of the sewer lines, it will be the responsibility of the Borough to secure and maintain street opening permits or highway occupancy permits from the Pennsylvania Department of Transportation, Borough or Township.

2. Unless otherwise required, all surfacing material will be restored in kind by the Borough and no charge, other than the applicable tapping or connection fee, will be made by the Borough in respect of the construction by the Borough of a lateral sewer and the attendant connection.

(*Res. 52, 12/12/1977, §13; as amended by Ord. 117, 2/6/1984*)

**§18-314. Standard of Quality.**

All construction, reconstruction and alterations of sewer connections and appurtenances shall be performed in a competent, workmanlike manner in accordance with recognized standards of the plumbing trade and specifications currently on file with the Borough. The Borough in its sole discretion may stop, or require reconstruction of, any work not conforming to these standards or specifications.

(*Res. 52, 12/12/1977, §14; as amended by Ord. 117, 2/6/1984*)

**§18-315. Supervision and Inspection.**

The construction of service lines shall at all times be subject to the supervision and inspection of the Borough or its duly authorized representative and shall conform to the Borough's specifications. No owner shall permit lateral sewers or service connections to be covered or backfilled until authorized by the Borough to do so.

(*Res. 52, 12/12/1977, §15; as amended by Ord. 117, 2/6/1984*)

**§18-316. Restrictions on Use of Sewer System.**

1. No person shall discharge or cause to be discharged into the sewer system any of the following:

A. Stormwater, surface drainage, ground drainage, roof runoff, subsurface drainage, cooling water, drainage from tile fields or unpolluted process waters.

B. Any industrial wastes, chemical or other matter:

(1) Having a temperature higher than 120°F.

(2) Containing more than 100 parts per million, by weight, of fat, oil, or grease.

(3) Containing a biological oxygen demand (BOD) of more than 250 milligrams per liter.

(4) Containing any gasoline, benzene, naphtha, fuel oil or other inflammable or explosive liquids, solids, or gas.

(5) Containing any unground garbage.

(6) Containing any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing obstruction or other interference with the operation of treatment plants.

(7) Having a pH, as determined by the Borough's consulting engineer, of not lower than 6.5 or higher than 9.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the treatment plant or the sewer system.

(8) Containing a toxic or poisonous substance in sufficient quantity to

injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the treatment plant (toxic wastes shall include wastes containing cyanide or copper, chromium or other toxic metallic ions).

(9) Containing total solids of such character or in such quantity that unusual attention or expense is required to handle such materials at the treatment plant or a suspended solids content of 300 milligrams per liter.

(10) Containing noxious, malodorous gas or substance capable of creating a public nuisance.

(11) Containing septic tank effluent, unless otherwise permitted, authorized or approved by the Borough.

2. In no circumstances shall a person discharge or cause to be discharged into the sewer system any of the substances listed in subsection .1.A and .B, above without first securing a written permit to do so from the Borough.

3. Whenever a person is authorized by the Borough and the appropriate governmental agencies to discharge any polluted water, sanitary sewage or industrial waste containing any of the substances or possessing any of the characteristics referred to in subsection .1.A and .B, of this Section, such discharge shall be subject to the continuing approval, inspection and review of the Borough's consulting engineer. If, in the opinion of the Borough's consulting engineer, such discharges are causing or will cause damage to the sewer system, the Borough shall order the person causing such discharge to cease doing so forthwith, or to take other appropriate action, as may be required by the Borough, to eliminate the harmful discharge.

(*Res. 52, 12/12/1977, §16; as amended by Ord. 117, 2/6/1984*)

#### **§18-317. Pre-Treatment Facilities.**

1. Whenever a person requests permission from the Borough to discharge any polluted water, sanitary sewage or industrial waste containing any of the substances or possessing any of the characteristics referred to in subsections .1.A and .B of §18-316, the Borough may, in its sole discretion, require as a condition to its granting approval for such discharge that said person provide, at his own expense, pre-treatment of such waters or wastes to reduce or eliminate objectionable substances or characteristics prior to discharge into the sewer system, or to control the quantities or rates of discharge of such waters or wastes.

2. Whenever a person is required by the Borough to provide pretreatment facilities, no construction of such facilities shall be commenced until:

A. Construction drawings, specifications and other pertinent information relating to the proposed facilities are submitted by said person to the Borough's consulting engineer.

B. The Borough's consulting engineer gives written approval for the construction of the proposed facilities. All expenses incurred for the review and approval of said drawings and documents shall be the responsibility of said person.

3. Whenever pre-treatment facilities are approved by the Borough and are placed in operation, said facilities shall be continuously maintained in satisfactory and effective operation by the person who installed them or by the owner thereof, at his own



expense. The Borough or its designated agent shall have the right to inspect said facilities at any reasonable time to insure such are being properly maintained and operated in accordance with the then current rules and regulations of the Borough.

(*Res. 52, 12/12/1977, §17; as amended by Ord. 117, 2/6/1984*)

**§18-318. Determination of Charges for Industrial Wastes.**

1. Any industrial waste of unusual strength or character accepted by the Borough shall be subject to a surcharge to be paid by the industrial or commercial establishment concerned. The surcharge shall be based on the following:

A. Containing a biological oxygen demand (BOD) of more than 250 milligrams per liter.

B. Containing a suspended solids (SS) content greater than 300 milligrams per liter.

2. The flow to be used for rate purposes shall be determined by the following equation.

$$\text{Total Flow} = Q + 0.001Q (\text{BOD} - 250) + 0.001Q (\text{SS} - 300)$$

(*Res. 52, 12/12/1977, §18; as amended by Ord. 117, 2/6/1984*)

**§18-319. Violations of Rules and Regulations.**

1. Any person who discharges or causes to be discharged any polluted water, sanitary sewage or industrial waste containing any of the substances or possessing any of the characteristics referred to in subsections .1.A and .B of §18-316 in violation of these rules or regulations, upon notice from the Borough or its designated representative, shall immediately cease and desist from such violation. If such person fails to cease such violation after notice has been given, then the Borough shall have the right to order same to disconnect from the sewer system, and provide the penalty below.

2. Any person who causes harm or damage to the sewer system as a result of a violation of these rules and regulations shall be liable to the Borough for the full cost of such harm or damage, and provide the penalty below.

(*Res. 52, 12/12/1977, §19; as amended by Ord. 117, 2/6/1984*)

**§18-320. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 117, 2/6/1984; as amended by Ord. 145-07, 12/11/2007*)



## **Chapter 19**

**[Reserved]**



## **Chapter 20**

### **Solid Waste**

#### **Part 1**

#### **Garbage and Refuse Disposal**

- §20-101. Prohibited Acts
- §20-102. Containers for Collection
- §20-103. Borough Council to Provide for Collection
- §20-104. Collection Procedure
- §20-105. Removal of Receptacles
- §20-106. Council to Contract for Removal of Garbage and Refuse
- §20-107. Penalties

#### **Part 2**

#### **Recycling**

- §20-201. Legislative Intent
- §20-202. Definitions
- §20-203. Purpose
- §20-204. Separation of Recyclables
- §20-205. Collection Procedure
- §20-206. Property of Authority and/or Borough of Modena
- §20-207. Unauthorized Removal
- §20-208. Exemptions
- §20-209. Violations and Penalties
- §20-210. Enforcement

#### **Part 3**

#### **Dumpsters for Multi-Tenant Dwelling Units and Businesses**

- §20-301. Dumpsters Required
- §20-302. Registration Fee
- §20-303. Placement of Dumpster and Fence
- §20-304. Size of Dumpsters
- §20-305. Penalties



**Part 1****Garbage and Refuse Disposal****§20-101. Prohibited Acts.**

No garbage, pomace, offal, dead animals or decaying matter or organic waste substance of any kind shall be thrown or deposited in any ravine, ditch or gutter, or any street, road, alley or highway or into any waters of the State or be permitted to remain exposed upon the surface of the ground.

(*Ord. 25, 5/18/1925; as added by Ord. 71A, 6/8/1953, Art. II, §1*)

**§20-102. Containers for Collection.**

All garbage, pomace, offal or decaying matter intended for collection must be placed and kept in metal or plastic containers, that shall be of convenient size and free from leakage or seepage, and the containers must be covered or enclosed with a lid.

(*Ord. 25, 5/18/1925, §2; as amended by Ord. 71A, 6/8/1953, Art. II, §2; and by Ord. 145-07, 12/11/2007*)

**§20-103. Borough Council to Provide for Collection.**

From and after the passage of this Part all garbage and like refuse shall be collected and removed from the Borough at such times and in such manner as shall be prescribed by the Council of the Borough in a contract or contracts to be made between the Borough and contractor or contractors for the removal and disposition of the same.

(*Ord. 25, 5/18/1925, §1*)

**§20-104. Collection Procedure.**

Upon the days to be fixed by the Council or its proper delegated authority all persons, partnerships and corporations within the corporate limits of the Borough of Modena shall place the garbage receptacle in a convenient place to be designated by the proper authority, so that the same may be conveniently removed by the hauling contractor.

(*Ord. 25, 5/18/1925, §3*)

**§20-105. Removal of Receptacles.**

Immediately after the garbage shall be removed from the said receptacles the person, partnership or corporation having control of the same, shall remove the same from the street, lane or alley, as the case may be.

(*Ord. 25, 5/18/1925, §4*)

**§20-106. Council to Contract for Removal of Garbage and Refuse.**

The Council shall from time to time prepare specifications for the government and control of the removal and disposition of the said garbage and refuse, advertise for bids and let contracts to the lowest responsible bidder for the removal of the same, the contract price in each case to be paid from the revenue of the Borough upon properly

executed vouchers.

(*Ord. 25, 5/18/1925, §5*)

**§20-107. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 25, 5/18/1925; as added by Ord. 71A, 6/8/1953, Art. II, §3; as amended by Ord. 117, 2/6/1984; and by Ord. 145-07, 12/11/2007*)



**Part 2****Recycling****§20-201. Legislative Intent.**

The Borough Council of the Borough of Modena hereby proclaims that is in the public interest of the residents of the Borough of Modena to establish standards for the source separation of newspaper, aluminum and glass beverage bottles from the refuse stream and for the subsequent disposition of said materials through a recycling program. By doing such, the Borough of Modena contributes to extending the life of Chester County landfill and the conservation of natural resources, and reducing the amount of dumping fees charged to the Borough of Modena.

(*Ord. 131, 1/7/1991, §1*)

**§20-202. Definitions.**

As used in this Part, the following terms shall have the meanings indicated.

*Aluminum* - all products made of aluminum, including aluminum cans, foil, wrappers, containers for prepared or other foods, screen frames and lawn chairs.

*Authority* - Central Chester County Recycling Authority.

*Debris* - brush, branches, small trees and bushes.

*Garbage* - putrescible animal, fish, fowl, fruit or vegetable waste incidental to and resulting from the use, preparation, cooking and consumption of food.

*Glass bottles* - all products made from silica or sand, soda ash and limestone, the end product being transparent or translucent and being used for packaging or bottling of various matter, excluding however, blue and flat glass and glass commonly known as "window glass."

*Metal* - all products made of metal, exclusive of aluminum, including washers, dryers, refrigerators, stove hot water heaters bimetal cans (tin cans) or scrap metal.

*Newspapers* - all uncontaminated paper material such as newspaper newsprint, cardboard, wrapping paper, bags and office paper, excluding, however all magazines or other periodicals, as well as, all other paper products of any nature whatsoever.

*Solid waste* - ashes, plastic materials, ceramics, blue and flat glass, nonputricible solid waste, grass clippings, leaves, contaminated paper, magazines and other similar materials normally collected in the regular municipal solid waste collection from the residents of the Borough of Modena.

(*Ord. 131, 1/7/1991, §2*)

**§20-203. Purpose.**

The purpose of this Part is to provide for the orderly, systematic and regularly scheduled collection of newspapers, glass bottles and aluminum products that can be readily be separated and recycled from the solid waste normally produced by residents of the Borough of Modena.

(Ord. 131, 1/7/1991, §3)

**§20-204. Separation of Recyclables.**

The owner or occupant of any building within the Borough of Modena shall place for disposal, removal or collection the following items in strict conformity with the following regulations:

A. All owners, tenants or occupants of residential buildings within the Borough of Modena shall separate all recyclable paper, glass bottles and aluminum products from all other garbage or solid waste.

B. Newspaper products shall be separately packaged and secured in bundles or contained within a carton or paper bag. All separate cartons, boxes and cardboard shall be flattened and secured. All secured bundles shall not exceed 50 pounds and shall not be contained in plastic bags.

C. Glass bottles shall have all metal lids, metal rings and plastic covers removed and shall be placed in reuseable metal or plastic containers and shall be separated into one container for brown and green glass.

D. Aluminum shall be placed in reusable metal or plastic containers. Bulk aluminum items shall be left adjacent to the recyclable containers.

E. Metal products, excluding aluminum, shall be placed at curbside on the day designated for collection of such items.

(Ord. 131, 1/7/1991, §4)

**§20-205. Collection Procedure.**

1. Collection, removal and disposal of all recyclable materials shall be supervised by the Authority coordinator, who shall have the power to establish the time, method and routes of service and color coding of receptacles.

2. All recyclables materials must be placed at curbside for collection.

3. No recyclable materials shall be placed at the curbside prior to 7 p.m. on the night preceding collection, nor after 7 a.m. on the day of collection. After collection, all containers shall be removed from the curbside promptly, but no later than 7 p.m. on the day of the collection.

(Ord. 131, 1/7/1991, §5)

**§20-206. Property of Authority and/or Borough of Modena.**

From the time of placement at the curbside of any of the recyclables described herein for collection in accordance with the terms hereof, such items shall become the property of the Borough of Modena or the Authority.

(Ord. 131, 1/7/1991, §6)

**§20-207. Unauthorized Removal.**

It shall be a violation of this Part for any unauthorized person, firm or corporation to collect, remove or cause to be collected or remove any recyclables. Any and each such unauthorized collection in violation hereof from one or more residences shall constitute a separate and distinct offense punishable as hereinafter provided.

(*Ord. 131, 1/7/1991, §7*)

**§20-208. Exemptions.**

This Part is in no way intended to prohibit separate newspaper drives by outside charitable organizations on days other than those designated for collection by the Authority.

(*Ord. 131, 1/7/1991, §8*)

**§20-209. Violations and Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not less than \$250 nor more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 131, 1/7/1991, §9; as amended by Ord. 145-07, 12/11/2007*)

**§20-210. Enforcement.**

It shall be the duty of the police department serving the Borough or any duly designated agent of the Borough of Modena to see to the enforcement of this Part and to prosecute all violations thereof.

(*Ord. 131, 1/7/1991, §10; as amended by Ord. 145-07, 12/11/2007*)



**Part 3****Dumpsters for Multi-Tenant Dwelling Units and Businesses****§20-301. Dumpsters Required.**

The owner of any property dwelling unit containing three or more apartment units and the owner of any business shall have a properly maintained dumpster for their trash.

(*Ord. 125, 5/6/2002, §1; as amended by Ord. 145-07, 12/11/2007*)

**§20-302. Registration Fee.**

The owner of any property that shall contain a dumpster on their property for the purpose of household or business trash or rubbish and not for construction debris shall have to pay a registration fee for each dumpster to the Borough of Modena that they shall have on said property. The Borough may change the fee from time to time by resolution, and the registration shall be for 1 year (365 days).

(*Ord. 125, 5/6/2002, §2; as amended by Ord. 145-07, 12/11/2007*)

**§20-303. Placement of Dumpster and Fence.**

The owner of any property on which there is a dumpster located, it shall be placed not less than 30 feet from any dwelling and not less than 15 feet from any public roadway. The dumpster shall also be fenced in. The fence shall not be less than 8 feet high. They shall be fenced so that they are not within public view. All dumpsters shall be located on the same property to which they are registered to.

(*Ord. 125, 5/6/2002, §3*)

**§20-304. Size of Dumpsters.**

The dumpster that is in place for said property shall have a lid and be a minimum of 4 cubic yards or be 1 cubic yard for each unit or household that shall use said dumpster, all dumpsters shall be emptied every 7 days.

(*Ord. 125, 5/6/2002, §4*)

**§20-305. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 125, 5/6/2002, §5; as amended by Ord. 145-07, 12/11/2007*)



## **Chapter 21**

### **Streets and Sidewalks**

#### **Part 1**

#### **Street Cuts and Excavations**

- §21-101. Permit Required
- §21-102. Permit Application
- §21-103. Issuance of Permit
- §21-104. Inspection of Work
- §21-105. Rectification of Defects
- §21-106. Emergency Repairs
- §21-107. Penalties





**Part 1****Street Cuts and Excavations****§21-101. Permit Required.**

No railroad shall hereafter be constructed upon any road, nor shall any railroad crossings, nor any gas pipe, water pipe, sewer pipe, electric conduits or other piping be laid upon or in, nor shall any telephone, telegraph or electric light or power poles or any other obstruction be erected upon or in any portion of a street, except under such conditions, restrictions and regulations relating to the installation and maintenance thereof, as may be prescribed in permits granted for such purpose; provided, the conditions, restrictions and regulations prescribed in such permits do not abrogate the power of eminent domain of a public utility corporation provided for in the Business Corporation Law, P.L. 364, Act of May 5, 1933, §1322, 15 P.S. §1322 (1982) as amended, and as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

*(Ord. 117, 2/6/1984)*

**§21-102. Permit Application.**

The application for a permit shall be on a form prescribed by the Borough and submitted to the Borough in triplicate. The application shall be accompanied by two fees: an application fee in accordance with the schedule of fees set forth by the Pennsylvania Department of Transportation for high occupancy permits, and an inspection fee set by the Borough Council of the Borough of Modena.

*(Ord. 117, 2/6/1984)*

**§21-103. Issuance of Permit.**

A permit shall be issued to the applicant after all the aforementioned requirements have been filled.

*(Ord. 117, 2/6/1984)*

**§21-104. Inspection of Work.**

Upon completion of the work authorized by the permit, the permittee shall give written notice thereof to the Borough. The appointed agent of the Borough shall inspect the work and, when necessary, enforce compliance with the conditions and regulations prescribed by the permit. In addition to such inspection, the Borough may reinspect the work not more than 2 years after its completion, and if any defect shall appear in the work contrary to regulations of the Borough, the Borough may enforce compliance therewith.

*(Ord. 117, 2/6/1984)*

**§21-105. Rectification of Defects.**

If the permittee shall fail to rectify any defect in the work within 60 days after written notification to do so, the Borough may do the work and impose upon the permittee the cost thereof and 10 percent of such cost to be collected in any manner

provided by law.

(*Ord. 117, 2/6/1984*)

**§21-106. Emergency Repairs.**

Where repairs are necessary for public safety or the restoration or continuance of a public service, a permit, as required by this Part, shall not be submitted in advance, but application for such permit and the accompanying fees shall be submitted as therein prescribed within 5 days after completion of such repairs. Sections 21-104 and 21-105 above apply in emergency situations.

(*Ord. 117, 2/6/1984*)

**§21-107. Penalties.**

Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof, shall be sentenced to pay a fine not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 117, 2/6/1984; as amended by Ord. 145-07, 12/11/2007*)

## **Chapter 22**

### **Subdivision and Land Development**

#### **Part 1 General Provisions**

- §22-101. Short Title
- §22-102. Purpose
- §22-103. Interpretation
- §22-104. Authority
- §22-105. Amendment
- §22-106. Jurisdiction
- §22-107. Challenge and Appeals

#### **Part 2 Definitions**

- §22-201. Language Interpretations
- §22-202. Definitions

#### **Part 3 Subdivision and Land Development Control**

- §22-301. Subdivision and Land Development Control

#### **Part 4 Subdivision Application and Review Procedures and Plan Requirements**

- §22-401. General Procedures
- §22-402. Submission to Chester County Agencies
- §22-403. Official Submission Date
- §22-404. Extension of Statutory Review Period
- §22-405. Notation on Plans
- §22-406. Sketch Plan Submission
- §22-407. Preliminary Plan Submission and Review
- §22-408. Final Plan Submission and Review
- §22-409. Staged Development
- §22-410. Subdivision and Land Development Agreement
- §22-411. Performance Guarantees
- §22-412. Recording of the Final Plans
- §22-413. Permits

#### **Part 5 Design and Improvement Standards**

- §22-501. Application
- §22-502. Land Requirements

- §22-503. Street System
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- §22-505. Increase in Right-of-Way Width
- §22-506. Street Alignment
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- §22-508. Street Intersections
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- §22-510. Driveways
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- §22-513. Easements
- §22-514. Sanitary Sewers
- §22-515. Water Supply
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- §22-521. Lighting

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**Mobile Homes and Mobile Home Parks**

- §22-601. Definitions
- §22-602. Permits, Licenses and Inspections
- §22-603. Maintenance of Common Areas and Facilities
- §22-604. Density, Dimensional and General Layout Regulations
- §22-605. Street System
- §22-606. Off-Street Parking
- §22-607. Service Buildings
- §22-608. Water Supply
- §22-609. Sanitary Sewage Disposal
- §22-610. Refuse Disposal
- §22-611. Stormwater Management
- §22-612. Utilities and Exterior Lighting
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- §22-614. Fire Protection
- §22-615. Miscellaneous Structural Requirements
- §22-616. Common Open Space and Buffers
- §22-617. Removal of Mobile Homes

**Part 7**  
**Construction and Acceptance of Public Improvements**

- §22-701. Construction Required
- §22-702. Inspections
- §22-703. Release from Improvement Bond
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**Appendices**

Appendix 22-A	List of Consulting and Approving Agencies
Appendix 22-B	Application for Review of a Preliminary Plan
Appendix 22-C	Subdivision Referral Letter
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Appendix 22-E	Site Investigation and Percolation Test Report for On-Lot Disposal of Sewage
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Appendix 22-J	Application for Certificate of Registration to Operate a Mobilehome Park
Appendix 22-K	Approvals Block - Sample
Appendix 22-L	Sample Sketch Plan; Sample Preliminary Plan; Sample Final Plan



**Part 1****General Provisions****§22-101. Short Title.**

This Chapter shall be known as the “Modena Subdivision and Land Development Ordinance of 1982.”

(*Ord. 110, 4/5/1982, §101*)

**§22-102. Purpose.**

This Chapter is designed in accordance with and enacted through the authority provided by the Pennsylvania Municipalities Planning Code, Article V, 53 P.S. §10501 *et seq.*, for the following purposes:

A. To provide systematic and uniform guidelines for the submittal, review and disposition of a subdivision and land development plan.

B. To ensure that land development in the Borough shall conform to the intent of the Modena Zoning Ordinance [Chapter 27] and Comprehensive Plan.

C. To ensure coordination and conformance of subdivision and land development plans with improvements plans of the Borough concerning traffic circulation and community services.

D. To promote, protect, and facilitate the public health, safety and welfare of the community.

(*Ord. 110, 4/5/1982, §102*)

**§22-103. Interpretation.**

In interpreting and applying the provisions of this Chapter, all requirements shall be held to be minimum requirements for promoting the purposes of this Chapter. Where the provisions of this Chapter impose greater restrictions than those of any other statute, ordinance, or regulation, the more restrictive regulations shall be controlling.

(*Ord. 110, 4/5/1982, §103*)

**§22-104. Authority.**

No lot, tract or parcel of land shall be subdivided, and no land will be developed, and no street, alley, or other public thoroughfare shall be laid out, constructed, opened, or dedicated, and no related facilities including, but not limited to, water mains, storm sewers or sanitary sewers shall be constructed or dedicated for use except in strict conformance with this Chapter and the Modena Zoning Ordinance [Chapter 27] of 1981. Furthermore, no land development can occur without a final land development plan being duly approved and recorded.

(*Ord. 110, 4/5/1982, §104*)

**§22-105. Amendment.**

In accordance with the provisions of the Pennsylvania Municipalities Planning

Code, 53 P.S. §10101 *et seq.*, the Borough Council of the Borough of Modena may amend this Chapter from time to time through appropriate action in conformance with the law. (Ord. 110, 4/5/1982, §105)

**§22-106. Jurisdiction.**

The Borough Council shall have jurisdiction of subdivision and land development within the Borough limits. In order that the actions of the Borough Council under this Chapter may be correlated with all relevant data and procedures, the Borough Council hereby designates the Planning Commission as the agency of the Borough Council.

A. All major plans shall be referred upon submission to the Borough Council or receiving agent within the Borough, the Planning Commission, for review. All other applications relating to subdivision and/or land development plans may be referred, upon request, to the Borough Council.

B. The Planning Commission shall make recommendations to the Borough Council concerning approval, disapproval, modification, and conditions for rejection of such plans. Plans that are disapproved pending the compliance with specified conditions shall be considered rejected until plans are in accord with conditions as determined by the Borough Council.

C. The Planning Commission shall make recommendations to the Borough Council concerning the interpretation of the granting of modifications to provisions and standards of this Chapter.

(Ord. 110, 4/5/1982, §106)

**§22-107. Challenge and Appeals.**

The decision of the Borough Council regarding the approval or rejection of subdivision or land development plans may be appealed directly to the Chester County Court as provided for in the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*

(Ord. 110, 4/5/1982, §107)



## Part 2

### Definitions

#### §22-201. Language Interpretations.

1. Unless otherwise stated, the following terms shall have the meanings given to them in this Part:

2. Words in the singular shall include the plural and words in the plural shall include the singular.

3. Words in the present tense shall include the future tense.

4. The word "person" includes a corporation, unincorporated association, and a partnership, as well as an individual.

5. The word "may" is permissive; and the words "shall" and "will" are mandatory.

6. The word "watercourse" shall include creeks, streams, rivers, ditches, channels, springs and all other permanently or seasonally wet areas.

(Ord. 110, 4/5/1982, §201)

#### §22-202. Definitions.

The following words and phrases shall have the meaning indicated for this Chapter, except where the context clearly states otherwise.

*Act* - the Pennsylvania Municipalities Planning Code, Act 247 of 1968, as amended, 53 P.S. §10101 *et seq.*

*Agent* - any party representing, working for, or in conjunction with the applicant, developer or municipality.

*Alley* - a minor right-of-way providing secondary vehicular access to the side or rear of two or more properties.

*Applicant* - a landowner or developer or his authorized agent including the heirs, successors and assigns, as hereinafter defined, who has filed an application for subdivision and/or land development.

*Application for development* - Every application whether preliminary or final, which is required to be filed and approved prior to the start of construction or development including, but not limited to, an application for a building permit, for the approval of a subdivision plan or for the approval of a land development plan.

*Block* - a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of the Borough.

*Buffer* - a strip of land, a mound, or a berm, planted and maintained in shrubs, bushes, trees, grass or other common ground cover material or within which no structure shall be located, or a wall, fence, or similar architectural screen when approved by the Council.

*Building* - any combination of materials forming any structure which is erected on the ground and permanently affixed thereto, designed, intended, or arranged for the housing, sheltering, enclosure, or structural support of persons, animals or

property of any kind.

*Building setback line* - an established line within a property parallel to and measured from the street right-of-way or property line, defining the minimum required distance in which no building shall be constructed. In the case of an interior lot, the building setback line shall be parallel to the street right-of-way but measured from the property line closest to the street of primary access.

*Cartway* - the portion of a street right-of-way, paved or unpaved, customarily used by vehicles in the regular course of travel over the street.

*Clear sight triangle* - an area of unobstructed vision at a street intersection; defined by lines of sight between points at a given distance from the intersection down the center lines of the streets.

*Condominium* - a form of ownership of real property including an undivided interest in a portion of a parcel, together with a separate interest in a space within a structure, subject to the provisions of the Pennsylvania Uniform Condominium Act of 1980, 68 Pa.C.S.A. §3101 *et seq.*, land development plan.

*Construction* - the alteration of the building material or existing land surface, to include the cutting of trees or earthmoving activities in anticipation of land development, or the erection of structures and for incidental improvements thereon.

*Council* - the Borough Council of Modena Borough, Chester County, Pennsylvania.

*Cul-de-sac* - a street which is closed at one end and contains an adequate, finished turn-around at the closed end.

*Developer* - any landowner or authorized agent of such landowner, or tenant of a landowner, who makes or causes to be made a subdivision of land or a land development, including improvements thereto.

*Double-frontage lot* - a lot with front and rear frontage.

*Drainage facility* - any ditch, gutter, pipe, culvert, storm sewer or other structure designed, intended or constructed for the purpose of diverting surface waters from or carrying surface waters off streets, public rights-of-way, parks, recreational areas or any part of any subdivision, land development or contiguous land areas.

*Driveway* - a private vehicular and pedestrian access between a public street and a parking area within a lot or property.

*Earthmoving activity* - activity resulting in the movement of earth or stripping of vegetative cover from the earth.

*Easement* - a right-of-way or interest in land, held by a party other than the property owner, granted but not dedicated for the limited use of private land for a public or quasi-public purpose such as a utility easement or access easement.

*Engineer, Borough* - a licensed professional engineer duly designated by the Borough of Modena to represent and to perform the duties of engineer as specified in this Chapter.

*Floodplain* - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse;

and/or any area subject to the unusual and rapid accumulation of surface waters from any source. The basis for delineation shall be prescribed in Part 10 "Flood Hazard District," of the Modena Borough Zoning Ordinance [Chapter 27].

*Guarantee, maintenance* - any security which may be required of a developer by the Borough and in conformance with the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, as amended, to secure the structural integrity of the improvements in accordance with design specifications as approved on final plans after completion and before dedication acceptance. For subdivisions and land developments it shall run for 18 months from the date of acceptance and be in the amount of 15 percent of the actual costs of installation. Such security may include, but is not limited to, performance bonds, escrow agreements, surety agreements, or irrevocable letters of credit.

*Guarantee, performance* - any security which may be required of a developer by the Borough and in conformance with §509 of the Municipalities Planning Code, 53 P.S. §10509, as amended, that certain improvements (see §411 herein) be completed before the approval of final plans. For subdivisions and land developments, improvements for which security is required to be completed within one year in an amount not exceeding 110 percent. Such security shall include, but is not limited to, performance bonds, escrow agreements, surety agreements, or irrevocable letters of credit.

*Improvements* - grading, paving, roads and streets, walkways, curbs, gutters, street lights, fire hydrants, shade trees, water mains, sanitary sewers, storm drains, stormwater retention and detention basins, and other related drainage facilities, recreational facilities and open space as may be required by this Chapter.

*Land development* -

(1) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

(a) A group of two or more buildings.

(b) The division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

(2) A subdivision of land.

*Landowner* - the legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition); a lessee having remaining term of not less than 40 years, or other person having a proprietary interest in land.

*Lot* - a tract or parcel of land intended for separate use, improvement, building development, or transfer of ownership, and/or dedication.

*Lot area* -

*Net* - the total area contained within the property lines of the individual parcels of land as shown on a subdivision plan, excluding any area within any right-of-way.

*Gross* - the total land surface contained within the property lines of an individual parcel of land.

*Lot, corner* - a lot situated at the intersection of two streets, the interior angle of such intersection not exceeding 135 degrees.

*Lot, reverse frontage* - a lot extending between and having frontage on a major thoroughfare and local street with vehicular access solely from the local street.

*Mobile home* - a transportable, dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, utility connections and construction so that it may be used with or without a permanent foundation. The term does not include recreational vehicles or travel trailers.

*Mobile home lot* - a parcel of land in a mobile home park or subdivision, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home either leased or held in private ownership.

*Plan* -

(1) *As Built*. A corrected final plan showing dimensions and locations of all streets and other improvements as actually constructed.

(2) *Final*. A complete and exact land development or subdivision plan which has been stamped by a registered professional surveyor, defining property lines, proposed streets, drainage facilities, easements, and other improvements, and which is to be recorded upon approval.

(3) *Improvements Construction*. A plan stamped by a registered engineer showing the construction details of streets, drains, sewers, water supply systems, bridges, culverts, and other improvements as required by these regulations, and including a horizontal plan, profiles, and cross-sections.

(4) *Preliminary*. A land development or subdivision plan prepared in accordance with §22-407, "Preliminary Plan Submission and Review" and providing the necessary details and information for review by the Borough in order to make a tentative decision for approval or rejection.

(5) *Profile*. A plan showing the vertical section of the existing road and proposed grade along the center line of any proposed street, and any street appurtenances to be constructed or installed, which must include a typical cross-section of the street construction; part of the required submission for an improvement construction plan.

(6) *Sketch*. An optional plan submitted for review and discussion prior to official application for preliminary plan approval prepared in lesser detail than those required for official plan submission and showing the general development concept and layout.

(7) *Erosion and Sedimentation Control*. A conservation plan as required by the Department of Environmental Resources and prepared by a person trained and experienced in erosion and sedimentation control methods and techniques generally showing how land is to be protected against erosion with vegetative and mechanical measures and how natural waterways are preserved and protected, before any earth moving activity is permitted.

*Planning Commission* - the Planning Commission of the Borough of Modena,

Chester County, Pennsylvania.

*Planning Commission, County* - the County Planning Commission, Chester County, Pennsylvania.

*Public improvements* - any drainage facility, street, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the Borough may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which Borough responsibility is established.

*Resubdivision* - a change in a plan of an approved or recorded subdivision plat if such change affects any street layout on such map or area reserved thereon for public use, or any lot line; or if it affects any map or plan legally recorded prior to the adoption of any regulations controlling subdivisions.

*Retention basin* - a reservoir, formed from soil or other material, which is designed to retain permanently a certain amount of stormwater from a catchment area and which also may be designed to detain temporarily additional stormwater runoff from the catchment area. Retention basins also may receive fresh water from year-round streams. Unlike detention basins, retention basins always contain water, and thus may be considered man-made lakes or ponds.

*Right-of-way* - the total width of any land reserved or dedicated as a street, alley, or crosswalk or for any other public or private purpose.

*Sediment* - solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site by water.

*Sewage system, on-lot* - a sanitary sewage treatment system that involves treatment by means of a septic tank or other approved method, which is normally owned, operated and maintained solely by the property owner, is confined to the property on which the dwelling unit exists and is approved by the appropriate regulatory agencies.

*Sewage system public* - a sanitary sewage collection and treatment system in which sewage flows or is pumped to an area-wide treatment facility (i.e., the South Coatesville Sewage Treatment Plant and Authority) that is owned and operated by a municipality or municipal authority.

*Sight distance* - the required length of roadway visible to the driver of a passenger vehicle at any given point on the roadway when the view is unobstructed by traffic.

*Statutory review period* - the length of time cited in the Pennsylvania Municipalities Planning Code, 53 P.S. §10101 *et seq.*, and required for the municipal review of preliminary and final plans for subdivision and land development, currently 90 days for review for each plan officially submitted.

*Steep slope* - those areas of the Borough where the slope of land surface exceeds 25 percent as delineated in Part 11 of the Modena Borough Zoning Ordinance [Chapter 27].

*Stormwater* - water which surfaces, flows, or collects during and subsequent to rain or snowfall.

*Street* - a right-of-way intended for the general use to provide means of approach for vehicles and pedestrians. The word "street" includes the words "road,"

“highway,” “thoroughfare,” and “way.”

(1) *Collector Street*. A street designed and located to provide a means to move traffic off local streets and to provide access for through traffic between residential neighborhoods and districts within the Borough to major streets or a street used for commercial, industrial, or professional uses.

(2) *Cul-de-sac Street*. A local street intersecting another street at one end, and terminating at the other end by a permanent vehicular turnaround.

(3) *Local Street*. A street intended to serve and provide access to the properties abutting thereon and not connecting with other streets in such a manner as to encourage through traffic.

(4) *Major Street (Arterial)*. A street serving a large volume of comparatively high-speed and long distance traffic, including all facilities classified as main and secondary highways by the Pennsylvania Department of Transportation.

(5) *Private Street*. A local street, serving only abutting lots, that is not offered or required to be offered for dedication.

*Structure* - any man-made object having an ascertainable stationary location constructed or erected on the ground including, but not limited to, buildings, sheds, mobile homes, drainage facilities, and other similar constructions.

*Subdivision* - the division or resubdivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership or building or lot development; provided, however, that the division of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access, shall be exempted.

(1) *Major*. Any subdivision other than a minor subdivision.

(2) *Minor*. A subdivision to which:

(a) No street is to be constructed or widened.

(b) No other improvement that requires a bond or escrow as a performance guarantee is to be constructed.

(c) No earthmoving activities will take place except those normal to construction of a single family dwelling on each lot.

(d) No more than three lots are created.

*Water supply* -

(1) *Water Supply System, On-Site*. A system for supplying safe potable water from a single source to a single dwelling unit on the same lot.

(2) *Water Supply System, Public*. A system for supplying safe potable water in sufficient quantities for the proposed use, administered by a municipality, municipal authority or public utility as defined and regulated by the Pennsylvania Public Utilities Commission. Coatesville Municipal Water Authority is one such example.

(Ord. 110, 4/5/1982, §202)

**Part 3****Subdivision and Land Development Control****§22-301. Subdivision and Land Development Control.**

1. No lot, tract or parcel of land will be subdivided, and no land will be developed, and no street, alley, sanitary sewer, storm sewer, water main or related facility will be laid out, constructed, opened or dedicated for public use or travel, or for the use of occupants of buildings abutting or to abut on them, except according to the provisions of this Chapter and the Modena Borough Zoning Ordinance of 1981 [Chapter 27].

2. No lot in a subdivision may be sold, no permit to build, alter or repair any building on land in a subdivision or land development may be issued, and no buildings may be erected in a subdivision or land development until a final subdivision or land development plan has been approved and, where required improvements have been completed or their completion has been assured by a corporate surety bond or the deposit in escrow of fund or securities sufficient to cover the cost of required improvements as estimated by the Borough Engineer or representing agent.

3. No Section of this Chapter shall be construed to prohibit condominium ownership as permitted by the Pennsylvania Uniform Condominium Act, 68 Pa.C.S.A. §3101 *et seq.*

4. The scope of this Chapter shall include all matters over which, by law, the Borough is authorized to exercise control by enactment and enforcement of this Chapter including, but not necessarily limited to:

A. All improvements within the tract undergoing subdivision or land development.

B. The improvement of adjacent public facilities, including streets and drainage facilities which border upon the tract.

C. The installation or enhancement of off-site improvements needed to adequately serve the subdivision or land development, provided that the extent of required off-site improvements shall be economically feasible in relation to the size and scope of the proposed subdivision or land development.

(*Ord. 110, 4/5/1982, §301*)





**Part 4****Subdivision Application and Review Procedures and Plan Requirements****§22-401. General Procedures.**

Hereafter, all preliminary and final subdivision or land development plans shall be reviewed by the Borough Planning Commission and the County Planning Commission and shall be approved or disapproved by the Borough Council in accordance with the procedure specified in this Chapter. Any application not processed as required hereafter shall be null and void unless it was made prior to the adoption of these regulations.

A. All subdivision applications shall be for the purposes of procedure, classified as either minor or major. Reference should be made to §22-202 for their definition.

B. Landowners submitting an application for subdivision or land development shall apply for and secure approval in accordance with the following procedures:

(1) *Minor Subdivision or Land Development Proposal.*

(a) Sketch plan (optional).

(b) Final plan.

(2) *Major Subdivision or Land Development Proposal.*

(a) Sketch plan (optional).

(b) Preliminary plan.

(c) Final plan.

C. Preliminary and final subdivision or land development plan submittals shall be made to the Borough Secretary, who will make the appropriate distributions for review. All plans shall be submitted with the necessary application forms and fees as determined by the Borough Council.

(Ord. 110, 4/5/1982, §401)

**§22-402. Submission to Chester County Agencies.**

Plans shall be submitted by the Borough to the following agencies for review:

A. *Chester County Planning Commission.* One print of all plans and referral letters and appropriate fees shall be submitted by the Borough Secretary to the Chester County Planning Commission for their review and comment.

B. *Chester County Health Department.* If a preliminary plan is submitted as hereinafter provided, two additional prints shall be submitted to the Chester County Health Department for review of matters relating to adequacy of the site to sustain on-site water and/or sewage disposal system. One additional print of the final plan shall be submitted to Chester County Health Department.

C. *Chester County Conservation District.* One print of preliminary plans shall be submitted to the Chester County Soil and Water Conservation District for review of matters relating to drainage and abatement of soil erosion.

D. The applicant shall submit such additional prints of all plans as may be necessary for forwarding by the Borough to the said County agencies for their reviews.

(Ord. 110, 4/5/1982, §402)

**§22-403. Official Submission Date.**

For the purpose of these regulations, the date of the next regularly scheduled meeting of the Planning Commission following the submittal of preliminary and final plans and application to the Borough Secretary, shall constitute the official filing date of the plan, pending placement on the meeting agenda and the acceptance of the submission by the Planning Commission. It is at this time that the statutory period for the disposition of the plan shall commence as stated in the Municipalities Planning Code, 53 P.S. §10101 *et seq.* That is, the governing body or the planning agency shall render its decision and communicate it to the applicant not later than 90 days following the date of the regular meeting of the governing body or the planning agency (whichever first reviews the application).

(Ord. 110, 4/5/1982, §403)

**§22-404. Extension of the Statutory Review Period.**

The statutory review period for the disposition of preliminary or final plans may be extended for any reason if an agreement in writing to such an extension is received from the applicant, and agreed to by the Borough Council.

(Ord. 110, 4/5/1982, §404)

**§22-405. Notation on Plans.**

In order that a developer or agent of the developer may record a final plan, the approval of the Borough Council and the Borough Planning Commission shall be noted on the plan by the signature of two members of each body, and the respective dates of approval. At least six copies of the plan shall be signed, with the Borough retaining one copy. At the discretion of the Borough Council, preliminary plans need only the Planning Commission signatures.

(Ord. 110, 4/5/1982, §405)

**§22-406. Sketch Plan Submission.**

A sketch plan for all proposed subdivisions or development of land located within the Borough may, at the developer's option, be submitted to the Planning Commission for review. The sketch plan shall be presented to the Planning Commission at a pre-submission conference at which time the Planning Commission will discuss the plan and make any recommendations concerning changes for the preliminary plan submittal. A full discussion of the submittal process should take place at that time so a clear understanding of the procedure exists on behalf of the applicant.

A. *Sketch Plan Requirements.* Data furnished in a sketch plan shall be at the discretion of the applicant. It is suggested that a sketch plan should include the following information:

- (1) Statement of intent which shall contain the major planning assump-

tions, objectives, and concept of the proposed development.

(2) Sketch plan drawing which shall contain:

(a) Sketch plan legibly drawn to a scale not smaller than 200 feet to the inch.

(b) Location map at a scale not smaller than 1,000 feet to the inch.

(c) Name and address of current owner of record.

(d) Name of developer, if different from owner.

(e) North arrow, graphic scale, and date of drawing.

(f) Approximate tract boundaries and total acreage of the tract.

(g) Zoning district(s).

(h) All contemplated land uses.

(i) Physical features such as streams, soil types, floodplains, ponds, lakes, and other wetlands, and contours at 5-foot intervals; and proposed major changes in these features.

(k) An indicator of the contemplated intensity of use: gross density in residential developments or the number and nature of prospective tenants in office commercial, or industrial developments.

(k) General location of streets and street right-of-way, both proposed and existing.

(Ord. 110, 4/5/1982, §406)

#### **§22-407. Preliminary Plan Submission and Review.**

Preliminary plans and necessary application forms and fees shall be submitted to the appropriate Borough official as outlined in §22-401.C, who shall forward two copies of the plan to the Chester County Health Department, one copy to the Chester County Planning Commission, two copies to the Borough Planning Commission, one copy to the Borough Engineer or representative agent, and copies as necessary to other appropriate County and State agencies.

A. *Review by the Borough Planning Commission.* The Borough Planning Commission shall review the preliminary plans at the first regular meeting of the Commission following submittal of the plans to the Borough as outlined in §22-403. The Planning Commission, following completion of its review (which shall not exceed 59 days) shall promptly send a written statement of its review and findings to the Borough Council and the applicant within 5 days, preferably prior to the next regularly scheduled Borough Council meeting. Any plan requiring an engineering review shall be reviewed by the Borough Engineer or representing agent whose comments shall be incorporated with those of the Planning Commission in its submittal to the Borough Council.

B. *Review by the County Planning Commission.* No action shall be taken by the Borough Planning Commission with respect to a preliminary plan until it has received and considered the recommendations and comments of the County Planning Commission. In the event that these recommendations are not forthcoming within 45 days of the plan's receipt by the County, the Borough Planning Commission may act without having considered the review. A referral letter from

the Borough shall accompany all plan submittals to the County. (See Appendix 22-C).

C. *Review by the Borough Council.* The Borough Council shall review the preliminary plan at this next regularly scheduled meeting following the submittal of the recommendations of the Borough Planning Commission, or at some other meeting or meetings of the Borough Council prior to the end of the statutory review period. At that time, the Council shall consider the recommendations of the Planning Commission and take one of three courses of action:

- (1) It shall approve the preliminary plan.
- (2) It shall reject the preliminary plan pending modifications to the final plan.
- (3) It shall reject the plan.

In the event that the plan is rejected pending modification, the Borough Council shall submit in writing a listing of the requested modifications and relate reasons to the applicant within 15 days of the decision. In the event that the Borough Council rejects the plan, the Council shall submit in writing a complete list of the reasons for that rejection to the developer within 15 days of the decision. Failure of the Borough Council to act within the limits of the statutory review period 90 days, total, from official filing date of the plan, as specified in the Municipalities Planning Code, 53 P.S. §10101 *et seq.*, shall constitute approval of the plan. In addition, according to §508 of Act 247, the approval of a preliminary plan entitles the applicant to approval of the final plan in accordance with the terms and conditions attached to the preliminary plan.

D. *Preliminary Plan Requirements.* The following materials shall be submitted for consideration as the preliminary plan for subdivision or land development:

- (1) *Location Map.* A map drawn at a scale not smaller than 1,000 feet to the inch shall be provided by the applicant with the following information:
  - (a) Location of the proposed subdivision or land development in relation to municipal boundaries, public roads, rights-of-way, public utilities, and adjacent zoning districts.
  - (b) All adjoining properties within 500 feet of the property being developed.
- (2) *Contents of Plan Drawings.* Preliminary plans shall be drawn to a scale no smaller than 100 feet to the inch. This plan shall contain at least the following information:
  - (a) Name and address of the owner of record, along with the appropriate tax data from the Tax Assessment Office necessary to identify the property.
  - (b) Name and address of the developer, if different from the owner.
  - (c) Name and address of the registered engineer, surveyor, landscape architect, land planner, or architect, who prepared the preliminary plan.
  - (d) North arrow, graphic scale, and date of original drawing and any revisions; and approvals block (See Appendix 22-K).

(e) Tract boundaries, existing property lines, homes of adjacent property owners, and the total acreage of the tract.

(f) Significant physical features within the tract and the adjacent 400-foot peripheral strip including:

1) Contour lines at vertical intervals of not more than 2 feet for land with average natural slope of 8 percent or less, and at intervals of not more than 5 feet for land with average natural slope exceeding 8 percent.

2) Soil types, based on the USDA Soil Survey of Chester and Delaware Counties.

3) Floodplains and other natural water courses, wetlands, swales, ponds and reservoirs.

4) Existing vegetation coverage and proposals for improvements.

(g) Street and road profiles and cross-sections for all proposed development. Street profiles shall include:

1) Existing natural and proposed finished grades along the center-line and at both right-of-way lines.

2) The length of all vertical curves.

3) Existing and proposed sanitary sewer mains and manholes.

4) Existing and proposed storm sewers.

5) Location and elevations of street monuments.

(h) Proposed lot lines and lot numbers.

(i) Type of zoning (i.e., single family, multi-family, etc.) and a statement where applicable by the applicant indicating that the plans are or are not in conformity with zoning, building, sanitation, and other applicable ordinances and regulations, or if they are not conforming, the reasons for requesting an exception.

(j) Existing and proposed streets, street names, street right-of-way, and sidewalks (with dimensions).

(k) A plan showing the location, size and invert elevation of existing and proposed sanitary and storm sewers, manholes, inlets and culverts, water mains, fire hydrants and hydrant mains.

(1) Railroads, bridges, and other pertinent community facilities.

(m) A general landscaping plan showing the plantings to be made on the site (This may be omitted at the discretion of the Borough Planning Commission, depending on the size of the development. Notification of this option shall be made to the applicant).

(n) A description of the proposed systems for drainage, water supply, sewerage, and solid waste storage and/or disposal.

(3) A conservation plan for the control of erosion and sedimentation as required by State rules and regulations 25 Pa.Code, Chapter 10, "Erosion Control," shall be submitted.

(4) Where on-site sewage disposal facilities are anticipated, the applicant

shall submit a statement with regard to the suitability of the soil to absorb sewage wastes. Where, in the opinion of the Borough Engineer, or representing agent, doubt exists about the ability of the soil to absorb such waste, the Council may require that a feasibility report be prepared by a registered professional engineer certifying that the proposed quantities of waste generated within the subdivision or land development can be adequately and properly disposed of with an on-site sewage disposal facility.

(Ord. 110, 4/5/1982, §407)

**§22-408. Final Plan Submission and Review.**

Within 12 months of the approval of the preliminary plans, at least six copies of final plans and other materials as applicable shall be submitted to the Borough Secretary as outlined in §22-401.C, who shall forward two copies to the Borough Planning Commission, one copy to the Borough Engineer or representing agent, and copies to the appropriate County and State agencies.

A. *Submission to the County Planning Commission.* Subdivision of a final plan to the County Planning Commission shall be required only when the final plan departs substantially from the preliminary plan, or at the request of the Borough Planning Commission.

B. *Final Plan Review.* Following the official submission of the final plan as outlined in §22-403, the Borough shall act on the plan within the required statutory period (90 days). Failure to do so shall be deemed approval of the plan.

C. *Report by the County Planning Commission.* In the event that the County Planning Commission is required to review the final plan, such review shall take no more than 45 days following the submittal to the County. No action shall be taken by the Borough Planning Commission until the County review has been received. In the event that the County takes more than its allotted 45 days to review the plan, then the Borough Planning Commission may act on its own.

D. *Review by the Borough Planning Commission.* The Borough Planning Commission review shall follow the procedure for preliminary review, §22-407.

E. *Decision of the Borough Council.* Upon receipt of the recommendations of the Borough Planning Commission, the Borough Council shall, within the remainder of the statutory period for review, either approve, reject with conditions, or reject the final plan. The Borough Council shall notify the developer or the agent of the developer of the Borough Council decision within 15 days of such a decision, but before the end of the statutory review period.

F. *Final Plan Requirements.* All information required for preliminary plans shall be included in all final plans in addition to the following data which shall also be required on the final plan:

- (1) The tract boundary lines of the area being developed with accurate distances to hundredths of a foot and bearings to 15 seconds including all metes and bounds.
- (2) The location and elevation of all perimeter monuments.
- (3) A statement of the total area of the property being developed.
- (4) Number and type of dwelling units and their proposed locations (if

applicable), and other improvements to be made.

(5) Specifications for off-street parking, and the number of parking spaces provided.

(6) Architectural renderings of typical structures and improvements are not required but encouraged.

(7) The following data for all proposed and existing streets on or adjoining the tract:

(a) The name, proposed name, or number of the street.

(b) The cartway width and curb lines.

(c) The right-of-way width and lines.

(d) Final street profile, cross-sections and specifications.

(8) The location and widths of all private driveways and pedestrian walkways.

(9) Notation of any existing or proposed deed restrictions.

(10) Exact locations of fire hydrants, transmission lines, and all other utility easements and rights-of-way.

(11) Copies of relevant permits or certificates as may be required by the Pennsylvania Department of Transportation (PennDOT), the Department of Environmental Resources (DER), or other agencies.

*(Ord. 110, 4/5/1982, §408)*

#### **§22-409. Staged Development.**

In the event a subdivision or land development is to be constructed in stages, the final plan requirements shall apply only to those stages for which final approval is being sought.

*(Ord. 110, 4/5/1982, §409)*

#### **§22-410. Subdivision and Land Development Agreement.**

Every applicant for final plan approval shall execute a form of agreement to be approved by the Borough before the final plan is released by the Borough Council and filed on record. The agreement shall specify the following, where applicable:

A. That the owner agrees that he will lay out and construct all roads, streets, lanes or alleys together with all other improvements, including grading, paving, curbs, gutters, sidewalks, street lights, fire hydrants, water mains, street signs, shade trees, storm and sanitary sewers, landscaping, traffic control devices, open space and restricted areas, erosion and sediment control measures in accordance with the final plan as approved, where any or all of these improvements are required as conditions of approval, and that he shall complete these improvements within the time or times specified by the Borough Council.

B. That the owner guarantees completion and maintenance of all improvements by means of a corporate surety bond or deposit of funds or government securities in escrow, or irrevocable letter of credit acceptable to the Borough.

C. That the owner agrees to tender a deed or deeds of dedication to the

Borough for such streets and for such easements for sanitary and storm sewers, sidewalks, manholes, inlets, pumping stations and other appurtenances as shall be constructed as public improvements; provided, that the Borough shall not accept dedication of such improvements until their completion is certified as satisfactory by the Borough Engineer or representing agent.

D. Whenever a developer proposes to establish or continue a street which is not offered for dedication to public use, the Borough Council shall require the developer to submit, and also to record with the plan, a copy of an agreement made with the Borough Council on behalf of himself and his heirs and assigns, and signed by him, and which shall establish the conditions under which the street may later be offered for dedication, and shall stipulate, among other things:

(1) That an offer to dedicate the street shall be made only for the street as a whole.

(2) That the Borough shall not be responsible for repairing or maintaining any undedicated streets.

(3) That the method of assessing repair and maintenance costs of undedicated streets be stipulated, and shall be set forth in recorded deed restrictions so as to be binding on all successors or assigns.

(4) That if dedication be sought, the street shall conform to the Borough specifications or that the owners of the abutting lots shall, at their own expense, restore the street to conformance with the Borough specifications.

(Ord. 110, 4/5/1982, §410)

#### **§22-411. Performance Guarantees.**

1. Unless the applicant shall complete the installation of all subdivision improvements (including both public and private improvements) prior to final subdivision approval, the applicant shall deposit with the Borough financial security in an amount sufficient to cover the cost of all subdivision improvements (including both public and private improvements) and common amenities including, but not limited to, streets and roads, walkways, curbs, gutters, street lights, shade trees, stormwater detention and/or retention facilities, pipes and other related drainage facilities, or screen plantings, water mains and other water supply facilities, fire hydrants and sanitary sewage disposal mains and other sewage disposal facilities.

2. Financial security required herein shall be in the form of a Federal or Commonwealth chartered lending institution irrevocable letter of credit, restrictive or escrow account in such institution or with a financially responsible bonding company or such other type of financial security which the Borough may, in its reasonable discretion, approve.

3. The said financial security shall provide for, and secure to the public, the completion of all subdivision improvements for which such security is being posted within 1-year of the date fixed in the subdivision plan or subdivision agreement for completion of such improvements.

4. The amount of financial security shall be equal to 110 percent of the cost of the required improvements for which financial security is to be posted. The cost of the improvements shall be established by submission to the Borough Council of bona fide



bid or bids from the contractor or contractors chosen by the party posting the financial security to complete the improvements. If the party posting the financial security requires more than 1 year from the date of posting of the financial security to complete the required improvements, the amount of financial security shall be increased by an additional 10 percent for each 1-year period beyond the first anniversary date from posting of financial security or to an amount not exceeding 110 percent of the cost of completing the required improvements.

5. In the case where development is projected over a period of years, the Borough Council may authorize submission of final plans by section or stages of development subject to such requirements or guarantees as to improvements in future sections or stages of development as it finds essential for the protection of any finally approved section of the development.

6. As the work of installing the required improvements proceeds, the applicant posting the security may request the Borough Council to release or authorize the release of such portions of the financial security necessary for payment to the contractor performing the work. In such cases, §509 of the Municipalities Planning Code, 53 P.S. §10509, as amended, requires that the Borough Engineer certify in writing the improvements within 45 days from receiving the request by the applicant. Failure to act within 45 days results in an automatic approval for release of requested funds.

*(Ord. 110, 4/5/1982, §411)*

#### **§22-412. Recording of the Final Plans.**

Within 90 days of the applicant's execution of the subdivision and land development agreement and performance guarantee, the final plan shall be recorded by the applicant in the office of the Recorder of Deeds of Chester County.

*(Ord. 110, 4/5/1982, §412)*

#### **§22-413. Permits.**

1. Upon submission to the Borough of a copy of the Recorder of Deeds receipt for the recording of the final subdivision plan, the Borough Secretary shall issue a subdivision and land development permit to the applicant. No construction activities (including, earthmoving activities, but not including, soil or percolation testing, well drilling or similar engineering or surveying activities) shall be commenced by the applicant until the subdivision and land development permit has been issued by the Borough Secretary.

2. No application for a building permit under the Modena Borough Zoning Ordinance [Chapter 27] shall be submitted and no building permit under the Modena Zoning Ordinance [Chapter 27] shall be issued for any building in any subdivision or land development and no work shall be done on any building in any subdivision or land development until the final plans for said subdivision or land development have been approved as provided for and until a subdivision and land development permit pursuant to §22-410 hereof has been issued. Further, where final subdivision and land development approval has been conditioned upon the submission and approval of individual lot grading plans for some or all of the lots, no building permit shall be used for construction on any such lot until this condition has been complied with.

3. No water system or sewer system, including extensions to existing or proposed

Borough systems, shall be constructed prior to the issuance of appropriate permits from the Pennsylvania Department of Environmental Resources or from other Federal, State or local agencies, as required.

*(Ord. 110, 4/5/1982, §413)*

**Part 5****Design and Improvement Standards****§22-501. Application.**

1. The following principles, standards, and requirements shall be applied by the Council in evaluating plans for proposed subdivision and land development.

2. The standards and requirements outlined herein shall be considered minimum standards and requirements for the promotion of public health, safety, and general welfare.

3. Where literal compliance with the standards herein specified is clearly impractical, the Council may modify or adjust the standards to permit reasonable utilization of property while securing substantial conformance with the objectives of this Chapter.

*(Ord. 110, 4/5/1982, §501)*

**§22-502. Land Requirements.**

1. Land shall be suited to the purposes for which it is to be subdivided or developed in conformance with the Borough Comprehensive Plan, Zoning Ordinance [Chapter 27], and other regulations.

2. Low lying wetlands which are swampy or are subject to periodic flooding shall not be platted for residential development or designated for such other uses as may involve danger to health, safety, or the general welfare of the citizens unless adequate permanent drainage is provided and unless provision is made and indicated on the plan for adequate and healthful disposal of sanitary sewage and drainage of surface and sub-surface water.

3. The design of subdivision and land developments shall preserve, insofar as possible, the natural terrain, natural drainage, existing topsoil and trees.

4. All portions of the tract being developed shall be taken up in lots, streets, public lands or other proposed uses so that remnants and land locked areas shall not be created.

*(Ord. 110, 4/5/1982, §502)*

**§22-503. Street System.**

1. Proposed streets shall be consistent with such street plans or parts thereof as have been officially prepared and adopted by the Borough, including recorded subdivision plans and the Official Map of the Borough.

2. All street grades, surfacing, and construction specifications shall conform to PennDOT regulations or standards where applicable.

3. Local streets shall be laid out as to discourage through traffic, but provisions for street connections into and from adjacent areas will generally be required.

4. Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts, or when designed as cul-de-sacs in which event

adequate street right-of-way shall be provided as necessary.

5. Continuations of existing streets shall be known by the same name, but names for other streets shall not duplicate or closely resemble names for existing streets in the Borough and/or Post Office District.

6. Where streets and other public improvements continue into adjoining municipalities, evidence of compatibility of design, particularly with regard to street widths, shall be submitted. The applicant shall coordinate such design with both municipalities to avoid abrupt changes in cartway width or in improvements provided.

7. No parking shall be permitted along the curb line of any street. There shall be a note on each preliminary and final plan indicating that all parking areas within the subdivision or land development shall be off the street.

8. Streets shall be graded to the full width of the right-of-way, surfaced, and improved to the grades and dimensions shown on the plans, profiles, and cross-sections submitted by the developer and approved by the Borough Council of Modena.

(Ord. 110, 4/5/1982, §503)

**§22-504. Street Width.**

1. The minimum right-of-way and cartway width for all new streets in the Borough shall be as follows:

Type of Street	Right-of-way	Cartway*
Arterial Street	70 feet	24 feet
Collector Streets, Commercial, and Industrial	60 feet	24 feet
Local Street	50 feet	24 feet
Cul-de-sac	100 feet (turnaround diameter)	80 feet (turnaround diameter)
Private Street	50 feet	18 feet

\*Cartway widths do not reflect the potential need for acceleration or deceleration lanes or other types of channelization.

2. Additional right-of-way and cartway widths may be required by the Council where public safety or some other public interest is involved.

(Ord. 110, 4/5/1982, §504)

**§22-505. Increase in Right-of-Way Width.**

1. In the case where lots created within a subdivision are large enough to accommodate either further subdivision, or a higher intensity of development, and thus may result in higher traffic levels, the Borough may require that additional right-of-way be provided to permit the future development of a higher classification street.

2. Special topographic circumstances may result in cut/fill slopes extending beyond the standard right-of-way widths established in §22-504.1. These should in all circumstances be included within the right-of-way to ensure accessibility for maintenance operations.

(Ord. 110, 4/5/1982, §505)

**§22-506. Street Alignment.**

1. All changes in the horizontal alignment of street shall be made with horizontal curves.
2. To insure adequate sight distance, minimum centerline radii for horizontal curves shall be as follows:
  - A. *Local Streets* - 150 feet.
  - B. *Collector Streets* - 300 feet.
  - C. *Arterials* - 400 feet.
3. A tangent of at least 100 feet measured at the center line shall be required between reverse curves.
4. Proper sight distance shall be provided with respect to both horizontal and vertical alignment. Measured along the centerline, for 4 feet above grade, this shall be as follows:
  - A. *Local Streets* - 100 feet.
  - B. *Collector Streets* - 200 feet.
  - C. *Arterials* - 250 feet.

(Ord. 110, 4/5/1982, §506)

**§22-507. Street Grades.**

1. Centerline grades shall be not less than 1 percent.
2. Centerline grades of all proposed roads shall not exceed the following:

Arterial Streets	Per PennDOT
Collectors Streets	7 percent
Local Streets	10 percent
Private Streets	12 percent

3. Vertical curves shall be used at change of grade exceeding 1 percent and shall be designed in relation to the extent of the grade change to provide the following minimum sight distances:
  - A. *Local Street* - 100 feet.
  - B. *Collector Street* - 200 feet.
  - C. *Major Thoroughfare* - 250 feet.

4. Maximum grades will not be permitted with minimum curve radii where feasible.

(Ord. 110, 4/5/1982, §507)

**§22-508. Street Intersections.**

1. Streets entering the opposite sides of another local street shall use right angle intersections whenever feasible, especially when local streets enter into major

thoroughfares. There shall be no intersection angle measured at the centerline of less than 75 degrees.

2. A minimum paving radius of 30 feet shall be provided at all intersections. The Council may increase the required radii where they consider such design advisable at intersections involving major thoroughfares.

3. Streets entering the opposite sides of another street shall either be directly across from each other or offset by at least 200 feet from centerline to centerline.

4. All necessary street name signs and traffic control signs shall be provided and erected by the developer and approved by the Council before acceptance.

5. No more than two streets shall intersect at the same point.

(*Ord. 110, 4/5/1982, §508*)

#### **§22-509. Private Streets.**

1. Private streets are prohibited within subdivisions, unless adequate off-street parking is shown to exist and proper maintenance of all improvements is guaranteed by the developer.

2. There shall be a notice on each preliminary and final plan indicating those streets that are not intended for dedication and the private streets will have off-street parking.

3. Private streets shall adhere to all design standards of a public street.

4. Private streets shall not be offered for dedication unless they meet all public street design standards.

(*Ord. 110, 4/5/1982, §509*)

#### **§22-510. Driveways.**

1. Private driveways, either individual or shared, shall be provided for all residences and the construction shall be in accordance with the regulations of this Section in order to provide safe access to Borough and State roads and to eliminate problems of stormwater runoff.

2. The width of a driveway within the legal right-of-way of the public road or when carried by a bridge shall be a minimum of 10 feet, and shall be a minimum of 8 feet at all other points within the property line. Adequate turnaround surface shall be provided on the property to egress to the street in a forward direction.

(*Ord. 110, 4/5/1982, §510*)

#### **§22-511. Curbs.**

1. Curbs may be required on new streets in subdivision or land developments which have a typical lot width at the building setback line of less than 125 feet. Where no curb is required, there shall be a stabilized shoulder provided with a minimum width of 6 feet.

2. In areas where curb is not used, provisions shall be made to avoid erosion to the satisfaction of the Borough Council.

3. All curbs shall be constructed in accordance with specifications for Class A

concrete as specified by the Pennsylvania Department of Transportation.

4. Curbs shall be constructed to regulations or standards of PennDOT or as approved by the Borough Engineer. Curbs may be either the vertical type of rolled curb and gutter type subject to the approval of the Borough Council. The transition from one type of curb shall be effected only at street intersections. Rolled curb and gutter shall not be used on collector or arterial streets.

5. Curbing shall be constructed in 10-foot lengths. A premolded expansion material having a minimum thickness of ¼ inch shall be placed between sections of curved curbing and at intervals of not more than 50 feet. Intermediate joints between 10-foot sections shall be formed of two layers of single-ply bituminous paper.

6. The depressed curb at driveways shall be no higher than 1½ inch above the street surface.

*(Ord. 110, 4/5/1982, §511)*

#### **§22-512. Sidewalks.**

1. Sidewalks may be required on both sides of any new Borough street constructed in conjunction with residential or commercial activity.

2. Sidewalks shall be provided along all new streets and parking lots or areas located in developments unless it can be demonstrated to the satisfaction of the Borough Council that pedestrian traffic does not follow or mix with vehicular traffic.

3. All sidewalks shall be constructed in accordance with specifications for Class A concrete as specified by the Pennsylvania Department of Transportation.

4. Sidewalks shall be a minimum of 4 feet wide, except along collector and arterial streets, and adjacent to shopping areas, schools, recreation areas, and other community facilities, where they shall be a minimum of 5 feet wide.

5. Sidewalks shall have a minimum thickness of 4 inches where used solely for pedestrian traffic and a minimum thickness of 6 inches at all driveways. Premolded expansion joints shall be placed between sidewalks abutting curbs, buildings, walls, or other permanent structures. Sidewalks shall be constructed in slabs of no more than 8 feet.

*(Ord. 110, 4/5/1982, §512)*

#### **§22-513. Easements.**

Where easements are required for utilities such as water and/or sewer facilities intended for dedication, the requirements for easement shall be determined by the Borough Council. Easements shall similarly be established for other utilities. Local utility companies shall be consulted by the developer when locating easements. To the fullest extent possible easements shall be centered on or adjacent to rear or side lot lines.

*(Ord. 110, 4/5/1982, §513)*

#### **§22-514. Sanitary Sewers.**

1. *General.*

A. Each property shall be connected to a public sewer as required by the

Modena Zoning Ordinance [Chapter 27]. The subdivider shall install sewer lines, including lateral connections as may be necessary to provide adequate service to each lot when connection with the sewer system is made.

B. Sanitary sewers shall be designed and constructed in strict accordance with Pennsylvania Department of Environmental Resources standards and the Borough specifications. A copy of the approval of such system shall be submitted with the final plan.

C. Sanitary sewers shall not be used to carry stormwater.

2. *Sanitary Sewage Disposal System(s).*

A. Sanitary sewage disposal systems shall be provided consistent with the design standards and requirements contained in this Chapter.

B. Whenever a subdivider proposes that individual on-site sanitary sewage disposal systems shall be utilized within the subdivision, the subdivider shall either install such a facility approved by the Pennsylvania Department of Environmental Protection, or shall guarantee (by deed of restriction or otherwise), as a condition of the sale each lot or parcel within the subdivision, that such facilities can be installed by the purchaser of such lot or parcel.

C. In all other cases, the subdivider shall provide a public sanitary sewage disposal system. The design and installation of such public system shall be subject to the approval of the Borough Engineer, the Borough Planning Commission and the Borough Council.

3. *Soil Percolation Test Requirements.*

A. Soil percolation tests shall be performed for all subdivisions wherein building(s) at the time of construction will not be connected to a public sanitary sewage disposal system in operation.

B. Soil percolation tests shall be made in accordance with the procedure required by the Pennsylvania Department of Environmental Resources and approved by the Chester County Health Department.

(Ord. 110, 4/5/1982, §514)

**§22-515. Water Supply.**

1. Adequate and potable water supply system(s) shall be installed consistent with design principles and requirements contained in this Chapter and Borough Standards, which are the U.S. Public Health criteria for drinking water as administered by the Environmental Protection Agency, Safe-Drinking Water Act, 42 U.S.C. §300f *et seq.*

2. Where the subdivider proposes that individual on-site water supply systems shall be utilized within the subdivision, the subdivider shall either install such facilities or shall guarantee (by deed restriction or otherwise), as a condition of the sale of each lot or parcel within the subdivision, that such facilities can be installed by the purchaser of such lot or parcel. Individual on-site wells shall be subject to the Standards provided for within §501, Chapter 500, Rules and Regulations of the Chester County Health Department.

3. Wherever necessary, the subdivision shall be provided with a complete public water distribution system. The design and installation of such public system shall be



subject to the approval of the Borough.

4. All persons desiring to extend public water mains shall be required to enter into an extender's agreement, as shown in the Appendix 22-G.

5. Wherever a public water system is provided, fire hydrants suitable for the coupling of equipment serving the Borough shall be installed as specified by the Insurance Services Offices of Pennsylvania. Location of hydrants shall be approved by the Borough, in addition to the following:

A. Generally all fire hydrants will be located on an 8-inch line or a looped 6-inch line. Where a dead end line is required to contain a fire hydrant, the portion of the line between the main loop and the hydrant shall be an 8-inch minimum diameter.

B. Fire hydrants shall be spaced in a development so that all proposed building(s) will be no more than 600 feet from the hydrant measured along traveled ways.

C. Hydrants shall be located in a manner to provide complete accessibility and so that the possibility of damage from vehicles or injury to pedestrians will be minimized.

(Ord. 110, 4/5/1982, §515)

#### **§22-516. Stormwater Management.**

1. *General.*

A. The management of stormwater on the site, both during and upon completion of the disturbances associated with the proposed subdivision or land development, shall be accomplished in accordance with the standards and criteria of this Section. The design of any temporary or permanent facilities and structures and the utilization of any natural drainage systems shall be in full compliance of this Chapter and the interpretations of the Borough Engineer.

B. At the time of application for a building permit for any approved lot created by a subdivision and/or improved as a land development under the terms of this Chapter, issuance of the permit shall be conditioned upon adherence to the terms of this Section.

2. *Erosion and Sedimentation.* All activities involving land disturbance, whether or not a plan is prepared or a permit obtained in accordance with this Chapter, shall be consistent with the following performance standards:

A. All land disturbance activities shall be conducted in such a way as to prevent accelerated erosion and resulting sedimentation. To accomplish this, all persons engaged in land disturbance activities shall design, implement, and maintain erosion and sedimentation control measures which effectively prevent accelerated erosion and sedimentation.

B. In order to prevent accelerated erosion and resulting sedimentation, land disturbance activities related to earth-moving operations, to construction (including, but not limited to, construction of buildings and other structures), and to paving activities, shall be conducted only in conformance with the following principles:

(1) There shall be no discharge of sediment or other solid materials from

the site as a result of stormwater runoff.

(2) No earth-moving or stripping of vegetation shall be conducted in areas of greater than 25 percent slope unless specific approval is obtained from the Borough Council and the Borough Engineer.

(3) Earth-moving and the addition of fill will be minimized to preserve the natural features and topography.

(4) Stripping of vegetation, regrading, or other development shall be done in such a way that will minimize erosion.

(5) To the maximum extent practical, natural vegetation shall not be removed except as provided in the approved final subdivision or land development plan or the zoning permit.

(6) The amount of disturbed area and the duration of exposure shall be kept to a practical minimum.

(7) Such other requirements or exceptions as are consistent with these terms in the foregoing principles may be imposed or allowed by the Borough Engineer.

3. *Protection of Adjacent Property.*

A. No person shall engage in earth-moving sufficiently close to a property line to endanger any adjoining public street, sidewalk, alley, or other public property from settling, cracking, or other damage which might result from such earth-moving. If, in the opinion of the Borough Engineer, the nature of the earth-moving is such as to create a hazard to life or property unless adequately safeguarded, the applicant shall construct walls, fences, guard rails, or other structures to safeguard the public street, sidewalk, alley, or other public property and persons.

B. No person shall dump, move, or place any soil, bedrock, or other material or divert or increase the flow of water so as to cause the same to be deposited upon or roll, flow or wash upon or over the premises of another without the express consent of the owner of such premises so affected, or upon or over any public street, street improvement, road, storm sewer drain, watercourse, or right-of-way or any public property.

4. *Permanent Stormwater Management.* All subdivision and land development activities involving an increase in impervious cover shall limit the amount of stormwater runoff to no greater the amount of run-off than existed on the original undeveloped site.

(Ord. 110, 4/5/1982, §516)

**§22-517. Other Utilities.**

1. The minimum distance from a natural gas line to a dwelling unit shall be as required by the applicable transmission or distribution company, or as may be required by the applicable regulations issued by the Department of Transportation under the Natural Gas Pipeline Safety Act of 1968, 49 U.S.C., Chapter 601, as amended, whichever is greater.

2. When any petroleum or petroleum transmission line traverses a subdivision or land development, the developer shall confer with the applicable transmission or distributing company to determine the minimum distance which shall be required

between each proposed dwelling unit and the petroleum or petroleum products transmission lines.

3. Installation of all utilities shall be in strict accordance with the engineering standards and specifications of the Borough and public utility concerned.

(Ord. 110, 4/5/1982, §517)

**§22-518. Design Standards.**

1. The Borough Council may require compliance with the following design standards contained in the Modena Borough Zoning Ordinance [Chapter 27]:

- A. *Screening*. Section 27-1308.1.
- B. *Storage*. Section 27-1308.2.
- C. *Landscaping*. Section 27-1308.3.
- D. *Interior Circulation and Emergency Access*. Section 27-1308.4.
- E. *Lighting*. Section 27-1308.5.
- F. *Off-Street Loading Requirements*. Section 27-1308.6.
- G. *Access and Traffic Control*. Section 27-1308.7.
- H. *Parking*. As required by Section 27-1308.8 and 27-1308.9.

(Ord. 110, 4/5/1982, §518)

**§22-519. Monuments and Markers.**

1. Monuments or markers (as noted) shall be noted in the final plan to define the following:

- A. The exact location of all streets, street curves, and street intersections. Such markers shall set the dimensions of the street to be laid out. (Monuments).
- B. The intersection of all lot lines. (Monuments).
- C. The dimensions of the tract to be developed. (Monuments).
- D. All angles in property lines of lots. (Markers)

2. Monuments shall be constructed of stone and shall be of a design satisfactory to the Borough Engineer. Monuments shall be permanently marked with a proper inscription on top. Markers shall consist of iron pipe at least 30 inches long and not less than  $\frac{3}{4}$  of an inch in diameter.

3. Monuments and markers shall be placed so that the scored or marked permit shall coincide exactly with the intersection of the lines to be marked, and shall be set so the top of the marker is level with the ground.

(Ord. 110, 4/5/1982, §519)

**§22-520. Public Facilities and Open Space.**

In subdivisions which are intended to provide housing for more than ten families, or any subdivision that includes a new public street that is offered for dedication to the Borough, the Borough Planning Commission shall consider the need for suitable open areas for recreation and shall make recommendations thereon. The Borough Council shall require as a minimum that the following amount of playground and neighborhood

park acreage be provided.

A	Families to be Served	Minimum Playground and Neighborhood Park Acreage to be Recommended
	10-24	1.0 acre
	25-49	2.0 acre
	50-174	3.0 acre

B. Such area or areas may be dedicated to the Borough by the subdivider if the Borough Council approves such dedication.

*(Ord. 110, 4/5/1982, §520)*

**§22-521. Lighting.**

Reference should be made to §27-1308.5 of the Modena Borough Zoning Ordinance [Chapter 27] for specific light standards.

*(Ord. 110, 4/5/1982, §521)*

**Part 6****Mobile Homes and Mobile Home Parks****§22-601. Definitions.**

For the purpose of this Chapter, the following words and phrases shall have the meaning ascribed to them in this Section:

*Anchoring* - the fastening of the mobile home to its pad (or stand) in order to prevent upset or damage due to wind, erosion, flooding, or other natural forces.

*Health Department* - the Chester County Health Department and/or the State Health Departments charged with the regulation, authorization control and permitting of mobile home parks on an annual basis specifically pertaining to sewage disposal, refuse storage and collection, fuel storage and use, and vector control.

*Hitch* - a device which is part of the frame or attaches to the frame of a mobile home and connects it to a mobile source for the purpose of transporting the unit.

*Mobile home* - a transportable dwelling intended for permanent occupancy contained in one unit, or in several sections designed to be joined into one integral unit capable of again being separated for repeated towing, and which arrives at a site complete and ready for occupancy except for utility connections and minor and incidental unpacking and assembly operations, and constructed so that it may be used without permanent foundation, including any addition or accessory structure, such as porches, sheds, decks or additional rooms. All mobile homes shall meet construction standards set by the U.S. Department of Housing and Urban Development. This includes all off-site manufactured housing with or without a permanent chassis.

*Mobile home lot* - A parcel of land, not necessarily in the mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, which is leased or sold by the park owner to the owner or occupants of the mobile home erected on the lot.

*Mobile home pad* - a concrete pad at least 6 inches in thickness with at least six tie-down rings to which the mobile home shall be secured, and equal in length and width to the dimensions of the mobile home to be placed thereon.

*Skirts* - panels specifically designed for the purpose of screening the underside of a mobile home by forming an extension of the vertical exterior walls of the mobile home and covering the entire distance between the bottom of the exterior walls and the ground elevation below.

(Ord. 110, 4/5/1982, §601)

**§22-602. Permits, Licenses and Inspections.****1. Permits Required.**

A. It shall be unlawful for any person to construct, alter, extend, or operate a mobile home park within the Borough of Modena unless and until the party obtains:

(1) A valid permit issued by the Chester County Health Department, in the name of the operator, for a specified construction, alteration or extension proposed.

(2) A mobile home park permit issued by the Borough of Modena Zoning Officer in the name of the operator, which shall not be issued until a copy of the Health Department permit has been furnished, all permits for water supply and sewage systems shall have been obtained, and all other requirements contained herein including fees and plan requirements have been complied with, and final approval of the application has been granted by the Borough Council.

B. *Annual Licenses.* In addition to the initial permits, the operator of a mobile home park shall apply to the Chester County Health Department and to the Borough of Modena Zoning Officer on or before the fifteenth day of December of each year for an annual license to continue operation of the mobile home park during the following calendar year. The Zoning Officer shall issue the annual license upon satisfactory proof that the park continues to meet the standards prescribed by State, and County agencies with jurisdiction, and the standards of this Chapter.

C. *Fees.*

(1) Fees for the initial application, preliminary and final approvals, annual license, and inspection of a mobile home park during and following construction shall be prescribed by resolution of the Borough Council.

2. *Inspections.*

A. Upon notification to the licensee, manager or person in charge of a mobile home park, the Zoning Officer or his designated representative may inspect a mobile home park at any reasonable time to determine compliance with this Chapter.

B. Every person holding a mobile home park license shall cause to be kept a register that shall be open for inspection to any official of the Borough. Such register shall contain the following information for each mobile home:

(1) The lot number of the mobile home.

(2) The names of all persons living in such mobile home.

(3) The date of arrival of all mobile homes and the date of departure of all mobile homes that have been moved.

3. *Appeal of Mobile Home Park Permit Denial.* Where the applicant of licensee feels that the Council and representing Borough agent has failed to follow procedures or has misinterpreted or misapplied any provision of this Chapter in the review of an application for a mobile home permit or an annual license renewal, he may appeal such action to the Borough of Modena Zoning Hearing Board in accordance with §909 of the Municipalities Planning Code, 53 P.S. §10909.

(Ord. 110, 4/5/1982, §602)

### **§22-603. Maintenance of Common Areas and Facilities.**

1. The operator and licensee of a mobile home park shall be responsible for maintaining all common facilities including, but not limited to, roads, parking areas,

sidewalks or pathways, common open space, water supply and sewage disposal systems, and service buildings, in a condition of proper repair and maintenance in accordance with all applicable codes and regulations of the Borough of Modena.

2. If it is noted by the Zoning Officer or representing agent of the Borough, that the operator and licensee have not maintained facilities in compliance with this Chapter, the operator and licensee shall have 30 days in which to correct any such violation. The operator and licensee will be notified in writing by certified mail, of such offense and necessary action.

(Ord. 110, 4/5/1982, §603)

#### **§22-604. Density, Dimensional, and General Layout Regulations.**

1. Regulations governing the density of dwelling units in any mobile home park and the dimensions of any mobile home park or mobile home lot therein shall be as specified in Part 14 of the Borough of Modena Zoning Ordinance [Chapter 27].

2. Every mobile home lot shall be clearly marked and shall contain driveways with unobstructed access to a public street. Mobile homes shall be located on such lots so that there will be a minimum of 25 feet between mobile homes and so that no mobile home, will be less than 75 feet from the exterior boundary of the mobile home park.

3. It shall be unlawful to locate a mobile home less than 50 feet from any public street or so that any part of such mobile home will obstruct any roadway or walkway in a mobile home park. No mobile home lot, service building or, access road (with the exception of the entrance road) shall be located within 20 feet for any public street.

(Ord. 110, 4/5/1982, §604)

#### **§22-605. Street System.**

1. *Street Design and Construction Standards.* With the exception of those street standards specified in §§22-503 through 22-511 of this Chapter shall govern the design and construction of streets in a mobile home park.

2. *Park Entrances.* Principal vehicular access points shall be designed to encourage smooth traffic flow with controlled turning movements and minimum hazards to vehicular or pedestrian traffic. Merging and turnout lanes and/or traffic dividers shall be required where existing or anticipated heavy flows indicate need. At the discretion of the Borough Council a mobile home park may be required to have completely independent entrance and exit points located no closer than 200 feet from each other.

(Ord. 110, 4/5/1982, §605)

#### **§22-606. Off-Street Parking.**

1. Off-site common parking areas may be provided in lieu of the required two parking spaces on each mobile home lot, in which case parking shall be provided at the rate of two spaces for each mobile home lot not equipped with two parking spaces. Where common parking areas are provided they shall be located no greater than 150 feet from the mobile home lots they are intended to serve.

2. Additional parking spaces for vehicles of nonresidents shall be provided as off-street common parking, at the rate of 1½ spaces for each mobile home lot.

(Ord. 110, 4/5/1982, §606)

**§22-607. Service Buildings.**

1. Where a service building is provided, it may contain a toilet and lavatory for each sex and storage areas for occupants of the park. In addition, the applicant may provide laundry facilities, management office, repair shop, indoor recreational facilities and/or commercial uses to supply essential goods and services to park residents only.

2. Construction of service buildings shall be in compliance with all applicable building codes, and other applicable regulations of the Borough of Modena and shall be maintained in a clean, sanitary, and structurally safe condition.

(Ord. 110, 4/5/1982, §607)

**§22-608. Water Supply.**

The requirements of §22-515 of this Chapter shall be applicable to any system of water supply to any mobile home park. In addition, the following requirements shall apply to all mobile home parks :

A. Where required by the Borough, all units and structures within a mobile home park shall be connected to a public water supply system.

B. A fire hydrant system shall be incorporated into the public water system where required. Hydrants shall be no greater than 600 feet apart as measured in the street right-of-way. Where the density is not such as to justify the use of hydrants, the Council may waive requirements in favor of an alternative emergency system. Fire hydrants and fire hydrant locations shall meet the specifications of the Middle States Department, Association of Fire Underwriters.

(Ord. 110, 4/5/1982, §608)

**§22-609. Sanitary Sewage Disposal.**

The requirements of §22-514 of this Chapter shall be applicable to the system and facilities for sanitary sewage treatment and disposal, in addition to the following:

A. In all cases connection to a public sewage system is required.

(Ord. 110, 4/5/1982, §609)

**§22-610. Refuse Disposal.**

1. All refuse shall be stored in fly-tight, water-tight, rodent-proof containers, which shall be located not more than 200 feet from any mobile home space. Containers shall be provided in sufficient number and capacity to properly store all refuse.

2. All refuse storage shall be completely screened from view from any public right-of-way and any contiguous residential use. Screening shall consist of evergreen planting or an architectural screen.

(Ord. 110, 4/5/1982, §610)

**§22-611. Stormwater Management.**

The requirements of §22-516 of this Chapter shall be applicable to all mobile home parks concerning stormwater management including storm drainage and erosion



control measures.

(Ord. 110, 4/5/1982, §611)

**§22-612. Utilities and Exterior Lighting.**

1. An electrical outlet supply of at least 110 volts of 60-cycle alternating current shall be provided for each mobile home space. Such electrical outlets shall be grounded and weather-proofed.

2. Each mobile home lot will be provided with a walkway light located between the mobile home and parking area.

(Ord. 110, 4/5/1982, §612)

**§22-613. Fuel Systems.**

1. *Fuel Supply and Storage.*

A. *Liquified Petroleum Gas Systems.*

(1) The design, installation and construction of containers and pertinent equipment for the storage and handling of liquified petroleum gases shall conform to the Act of Pennsylvania Legislation 1951, December 27, P.L. 1793, as it may be amended; and to the regulations therefor promulgated by the Pennsylvania Department of Labor and Industry, or its successor.

(2) Liquified petroleum gas systems provided for mobile homes, service buildings, or other structures, when installed, shall be maintained in conformity with the rules and regulations of the Pennsylvania Department of Labor and Industry and shall include the following:

(a) Systems shall be provided for safety devices to relieve excessive pressures and shall be arranged so that the discharge terminates at a safe location.

(b) Systems shall have at least one accessible means for shutting off gas. Such means shall be located outside the mobile home and shall be maintained in effective operating condition.

(c) All liquified petroleum gas piping outside of the mobile home shall be well supported and protected against mechanical injury. Undiluted liquified petroleum gas in liquid form shall not be conveyed through piping equipment or systems in mobile homes.

(d) Vessels of at least 12 U.S. gallons and less than 60 U.S. gallons gross capacity shall be maintained in a vertical position and shall be securely, but not permanently, fastened to prevent accidental overturning. No vessel shall be placed any closer to a mobile home exit than 5 feet.

(e) No liquified petroleum gas vessel shall be stored or located inside or beneath any storage cabinet, carport, mobile home, or any other structure. Vessels should be screened in accordance to §27-1308.1 of the Borough Zoning Ordinance [Chapter 27].

(f) All pipe connections shall be of a flare type.

B. *Fuel Oil Supply Systems.*

(1) All fuel oil supply systems provided for mobile homes, service

buildings, and other structures shall be installed and maintained in conformity with the rules and regulations of the authority having jurisdiction.

(2) All piping from outside fuel storage tanks or cylinders to mobile homes shall be securely, but not permanently, fastened in place.

(3) All fuel oil supply systems provided for mobile homes, service buildings, and other structures shall have shut-off valves located within 5 inches of storage tanks.

(4) All fuel storage tanks or cylinders shall be securely placed and shall not be less than 5 feet from any mobile home exit, and not less than 3 feet from any window.

(5) Storage tanks located in areas subject to traffic shall be protected against physical damage. Storage tanks shall be screened in accordance with §27-1308.1 of the Borough Zoning Ordinance [Chapter 27].

(Ord. 110, 4/5/1982, §613)

#### **§22-614. Fire Protection.**

1. The mobile home park area shall be kept free of litter, rubbish and other flammable materials.

2. Portable hand-operated fire extinguishers of a type suitable for use on oil fires, and approved by the appropriate fire company or authorities shall be kept in each service building under park control and shall be required by the mobile home park operator to be placed in each mobile home in a fixed location preferably near a door but not in close proximity to cooking facilities.

3. All mobile home parks that shall be required to provide fire hydrants shall meet the specifications of the Middle States Department Association of Fire Underwriters, but in any case, in sufficient number to be within 600 feet of all existing and proposed structures and mobile homes, measured by way of accessible streets.

4. Where the water supply system does not provide at least 6-inch water main, there shall be provided a 2-inch frost-protected water riser within 300 feet of each mobile home or building.

5. Fire shall be made only for purposes of heating and cooking.

6. All mobile home parks shall be operated so as to comply with all State and local laws, ordinances and regulations pertaining to fire prevention.

(Ord. 110, 4/5/1982, §614)

#### **§22-615. Miscellaneous Structural Requirements.**

1. *Additions.* No permanent additions shall be built onto or become part of any mobile home unless they are in accordance with applicable State and local laws, ordinances and regulations.

2. *Alterations.* All plumbing and electrical alterations or repairs in the mobile home park shall be made in accordance with applicable State and local laws, ordinances, and regulations.

3. *Mobile Home Pad.* A concrete pad, properly graded, placed and compacted so

as to be durable and adequate for the support of the maximum anticipated loads during all seasons, shall be used for all mobile homes and in compliance with the Borough of Modena Building and Construction Codes [Chapter 5, Part 1].

4. *Anchoring.* Every mobile home placed within a mobile home park shall be anchored to the mobile home pad where it is located prior to the unit being occupied or used in any other way. The anchoring system shall be designed to resist a minimum wind velocity to 90 miles per hour.

5. *Stability.* Each mobile home placed within a mobile home park shall, prior to occupancy or other use, be affixed to its mobile home pad in such a way as to prevent tilting of the unit.

6. *Skirts.* Each mobile home placed within a mobile home park shall, prior to occupancy or other use, have a skirt installed which is designed to complement the appearance of the mobile home and is coordinated with other units throughout the park. Skirting material shall be specifically designed for this purpose and adequately vented and allow for access to all utility connections. In no instance shall the area beneath the mobile home be used for storage.

7. *Accessory Structures.* Patios, car ports and other similar accessory structures shall be in compliance with all ordinances and codes as adopted by the Borough of Modena.

8. *Hitch.* The hitch or tow bar attached to a mobile home for transport purposes shall be removed and remain removed from the mobile home when it is placed on its mobile home pad.

(Ord. 110, 4/5/1982, §615)

#### **§22-616. Common Open Space and Buffers.**

##### *Common Open Space Areas.*

A. At least 15 percent of the gross area of each mobile home park, after subtraction of required buffer areas, shall be set aside as common open space for the use and enjoyment of the residents of the mobile home park. Such common open space shall be substantially free of structures except for those designed for recreational purposes. A minimum of 25 percent of the common open space shall be used for active recreation.

(Ord. 110, 4/5/1982, §616)

#### **§22-617. Removal of Mobile Homes.**

1. No mobile home shall be removed from the Borough without first obtaining a removal permit from the Borough of Modena Tax Collector as required by Act No. 54, 1969, of the Pennsylvania General Assembly, 72 P.S. §5453.617a. Such permits shall be issued upon payment of real estate taxes assessed against the home and unpaid at the time the permit is requested.

2. Any person who removes a mobile home from the Borough of Modena without first having obtained a removal permit shall, upon summary conviction hereof, be sentenced to pay a fine of \$100 and costs of prosecution or undergo imprisonment for not more than 30 days or both.

(Ord. 110, 4/5/1982, §617)



**Part 7****Construction and Acceptance of Public Improvements****§22-701. Construction Required.**

1. The applicant shall construct all roads, streets, lanes or alleys, together with all other improvements, including grading, paving, curbs, gutters, sidewalks, street lights, fire hydrants, water mains, street signs, shade trees, storm drainage facilities, sanitary sewers, landscaping, traffic control devices, open space and restricted areas and erosion and sediment control measures in conformance with the final plan as approved, the applicable provisions of the Pennsylvania Department of Transportation Specifications, Form 408, dated 1976, or the latest revision thereto, and all other applicable regulations.

2. No plat shall be finally approved for recording, and no building permits shall be issued until the developer has completed all required improvements or has provided a performance guarantee in accordance with §22-411, hereof.

*(Ord. 110, 4/5/1982, §701)*

**§22-702. Inspections.**

1. The construction or installation of all improvements shall at all times be subject to inspections by representatives of the Borough. If such inspection reveals that work is not in accordance with approved plans and specifications, that construction is not being done in a satisfactory manner, or that erosion or sediment controls are failing to prevent accelerated erosion or water or the sediment from leaving the site of construction, the said representative is empowered to require corrections to be made and/or the suspension of the subdivision approval and to issue a cease and desist order, which may include any or all of the following sanctions:

A. That no lot in the subdivision shall be conveyed or placed under agreement of sale.

B. That all construction of any lot for which a building permit has been issued shall cease.

C. That no further building permits for any lots shall be issued.

2. The said cease and desist order shall be terminated upon the determination by Borough representatives that the said defects or deviations from plan requirements have been corrected.

3. No underground pipes, structures, subgrades or base course shall be covered until inspected and approved by the Borough.

4. The developer shall notify the designated representative of the Borough (usually the Borough Engineer) at least 24 hours in advance of commencement of any construction operations requiring an inspection.

*(Ord. 110, 4/5/1982, §702)*

**§22-703. Release from Improvement Bond.**

1. When the developer has completed all the necessary and appropriate

improvements, the developer shall notify the Council, in writing, by certified mail, of the completion of the aforesaid improvements and shall send a copy thereof to the Borough Engineer. The Council, shall within 10 days after receipt of such notice, direct and authorize the Borough Engineer to inspect all of the aforesaid improvements. The Borough Engineer shall, thereupon, file a report, in writing, with the Council, and shall promptly mail a copy of the same to the developer by certified mail. The report shall be made and mailed within 30 days after receipt by the Borough Engineer of the aforesaid authorization from the Council and said report shall be detailed and shall indicate approval or rejection of said improvements, either in whole or in part, and if said improvements, or any portion thereof shall not be approved or shall be rejected by the Borough Engineer, said report shall contain a statement of reasons for such nonapproval or rejection.

2. The Council shall notify the developer, in writing by certified mail, of the action of the Council with relation to approval, nonapproval or rejection of improvements.

3. If any portion of the said improvements shall not be approved or shall be rejected by the Council, the developer shall proceed to complete the same and upon completion, the same procedure of notification, as outlined herein, shall be followed.

4. Improvement bonds, or funds in escrow, may be released in stages as construction of a significant portion of street including all other improvements, is completed and approved by the Council. The Council shall only release the amount specifically provided for the improvement in the performance guarantee agreement.

5. The developer shall be responsible for maintenance of all subdivision or land development improvements until such improvements are offered for dedication and acceptance by the Borough, and 15 percent of the performance guarantee shall be held back until a maintenance guarantee as provided for in §22-706 has been posted and as-built plans are verified and accepted by the Borough.

(Ord. 110, 4/5/1982, §703)

#### **§22-704. As-Built Plans.**

Within 30 days after completion and approval by the Borough of subdivision and land development improvements as shown on final plans, and before acceptance of such improvements, the applicant shall submit to the Council a corrected copy of said plans showing actual dimensions and conditions of streets and all other improvements, certified by a professional engineer, to be in accordance with actual construction.

(Ord. 110, 4/5/1982, §704)

#### **§22-705. Dedication and Acceptance of Public Improvements.**

Upon completion of any public improvements shown on an approved subdivision plan and within 90 days after approval of such public improvements as herein provided, the developer shall submit written offer of such public improvements for dedication to the Borough. Said offer shall include a deed of dedication covering said public improvements. Together with a copy of a title insurance policy establishing that the developer has clear title to said property. Such documents are to be filed with the Borough Secretary for review by the Borough Solicitor. Deeds of dedication for public improvements may be accepted by resolution of the Council at a regular meeting thereof. The Council may require that at least 50 percent of the lots in any approved

subdivision or development (or phase thereof, if final plan approval has been in phases) have certificate of occupancy or dwellings occupied thereon prior to acceptance of dedication. Should the above-mentioned roads or streets, even though constructed according to these specifications, deteriorate before the said 50 percent of the lots have dwellings occupied thereon, such roads or streets shall be repaired in a manner acceptable to the Council before being accepted by the Borough.

*(Ord. 110, 4/5/1982, §705)*

**§22-706. Maintenance Guarantee.**

1. Where the Borough Council accepts dedication of all or some of the required improvements following completion (whether such dedication is of the fee or of an easement), the Council shall require the posting of financial security to secure the structural integrity of the improvements and the functioning of the improvements in accordance with the design and specifications as depicted on the final plan. The security shall be in the form as is authorized for the deposit of the performance guarantee, as described in §22-411 hereof, shall be for a term of 18 months from the date of the acceptance of dedication and shall be in an amount equal to 15 percent of the actual cost of installation of the improvements so dedicated.

2. The Borough Council may increase the percentage required in a maintenance bond if all lots in the subdivision or land development do not have dwellings or other principal buildings erected thereon prior to acceptance of dedication.

*(Ord. 110, 4/5/1982, §706)*





**Part 8****Administration****§22-801. Hardship.**

1. If any mandatory provisions of this Chapter are shown by the applicant, to the satisfaction of the Borough Council, to be unreasonable and cause undue hardship as they apply to his proposed subdivision, the Borough Council may grant a modification to such applicant from such mandatory provisions, so that substantial justice may be done and the public interest secured; provided, that such modification will not have the effect of nullifying the intent and purpose of this Chapter.

2. In granting modifications, the Borough Council may impose such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so modified.

*(Ord. 110, 4/5/1982, §801)*

**§22-802. Records.**

1. The Borough shall assign a subdivision application number to all applications, and all matters referring to this should be tied in with and filed in accordance with the subdivision case number. The Borough shall keep a record of its findings, decisions and recommendations relative to all subdivision plans filed with it for review.

2. All such records shall be public records.

*(Ord. 110, 4/5/1982, §802)*

**§22-803. Fees.**

1. Subdivision and Land Development application fees and initial escrow deposits for plan review and processing shall be fixed by the Borough Council by resolution. In addition to such fees and escrow deposits, all disbursements by the Township incident to plan review, approval and processing in excess of the amount required by escrow deposits, and all inspections of construction including, but not necessarily limited to, engineering fees, inspection fees, costs of materials or site testing and any maintenance costs prior to the acceptance of improvements by the Borough, shall be reimbursed to actual costs.

2. All such reimbursements for costs expended prior to establishment of the applicant's performance guarantee shall be made prior to issuance of any permits. All such reimbursements for costs expended during construction shall be made out of escrow funds established as the performance guarantee, on a monthly basis.

*(Ord. 110, 4/5/1982, §803)*

**§22-804. Penalties.**

Any person, partnership or corporation who or which being the owner or agent of the owner of any lot, tract or parcel of land shall lay out, construct, open or dedicate any street, sanitary sewer, storm sewer, water main or other improvements for public use, travel or other purposes or for the common use of occupants of buildings abutting

thereon, or who sells or offers to sell, transfers or agrees or enters into an agreement to sell any land in a subdivision or land development whether by reference to or by other use of a plat of such subdivision or land development or otherwise, or erect any building thereon, unless and until a final plat has been prepared in full compliance with the provisions of this Chapter and has been recorded as provided herein, shall be guilty of a misdemeanor, and upon conviction thereof, such person or the members of such partnership, or the officers of such corporation or the agent of any of them, responsible for such violation shall pay a fine not exceeding \$1,000 per lot or parcel or per dwelling within each lot or parcel. All fines collected for such violation shall be paid over to the Borough. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

*(Ord. 110, 4/5/1982, §804)*

## Appendix 22-A

### LIST OF CONSULTING AND APPROVING AGENCIES

The following agencies are often referred to by the Borough Council when a subdivision and land development plan has been submitted for approval. These agencies are important in that many of the requirements of the "Subdivision and Land Development Ordinance" are performed by these agencies when contacted by the Developer. Therefore, this list tries to indicate the situations in which each agency shall be contacted. If the developer knows of the need to contact any agency, he should make that agency aware of his proposed development.

<u>ITEM</u>	<u>AGENCY</u>	
Letter confirming water availability	Local Water Authority	Preliminary
Letter confirming sanitary sewer availability	Local Sewer Authority	Preliminary
Zoning Requirement	Borough Zoning Officer	Preliminary
Building Permit	Borough Zoning Officer	Construction
Sewage Permit, On-lot sewage tests	County Health Department	Construction
Proposed on-lot sewage and sewerage disposal revisions (3 units or more) to official Township Plan	Penna. Dept. Of Environmental Resources	Final
Sewage Feasibility Study	Engineer	Preliminary
Erosion and Sediment Control Permits and Plans	Penna. Dept. Of Environmental Resources	Final
Floodplain locations, soil survey and classifications	Chester County Soil And Water Conservation Dist.	Preliminary
Erosion and Sediment Control Plans	Chester County Soil And Water Conservation Dist.	Preliminary
Highway Permits	PennDOT	Final
Electric power lines and rights-of-way	Local Power Company	Preliminary
Street Light Plan	Local Power Company	Final
Location and depth of lines, acknowledgement of adjoining development	Gas Transmission Co.	Preliminary
Grade crossings, sidings, crossings and culvertings	Operating Railroad Co.	Preliminary
Street name approval	Postmaster	Preliminary



## Appendix 22-B

Application # \_\_\_\_\_  
 Date \_\_\_\_\_  
 Received: \_\_\_\_\_

### APPLICATION FOR REVIEW OF A PRELIMINARY PLAN BOROUGH OF MODENA, CHESTER COUNTY

The undersigned hereby applies for Review by the Planning Commission of the Preliminary Plan submitted herewith and described below:

1. Name of Subdivision: \_\_\_\_\_ Plan Dated: \_\_\_\_\_  
 County Deed Book No. \_\_\_\_\_ Page No: \_\_\_\_\_  
 Tax Parcel Page No. \_\_\_\_\_ Parcel No: \_\_\_\_\_
  
2. Name of Property Owner/s/: \_\_\_\_\_  
 (If corporation, list corporation's name and address and two officers of corporation)  
 Address: \_\_\_\_\_  
 Phone No: \_\_\_\_\_
  
3. Name of Applicant: \_\_\_\_\_  
 (If other than owner)  
 Address: \_\_\_\_\_  
 Phone No: \_\_\_\_\_
  
4. Applicant's interest if other than owner: \_\_\_\_\_
  
5. Engineer, Architect, Surveyor, or Landscape Architect responsible for plan: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone No: \_\_\_\_\_
  
6. Total Acreage: \_\_\_\_\_ No. of Lots: \_\_\_\_\_
  
7. Acreage of adjoining land in same Borough (if any): \_\_\_\_\_
  
8. Type of Development Planned:  
 (No. of Units/Lots) \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Single Family  
 Two-Family  
 Multi-Family  
 Commercial  
 Other (Specify)

Application # \_\_\_\_\_  
Date Received \_\_\_\_\_

9. Will construction of buildings be undertaken immediately? . . . . . Yes \_\_\_\_\_ No \_\_\_\_\_  
By Whom? . . . . . \_\_\_\_\_

- \_\_\_\_\_ Subdivider
- \_\_\_\_\_ Other Developers
- \_\_\_\_\_ Purchasers of Individual Lots

10. Type of water supply proposed . . . . . \_\_\_\_\_ Public (Municipal) System  
\_\_\_\_\_ (Length in Feet)  
\_\_\_\_\_ Individual On-Site

11. Type of sanitary sewage disposal proposed . . . . . \_\_\_\_\_ Public (Municipal) System  
\_\_\_\_\_ (Length in Feet)  
\_\_\_\_\_ Live  
\_\_\_\_\_ Capped  
\_\_\_\_\_ Semi-Public (Community System)  
\_\_\_\_\_ Individual On-Site

12. Are all streets proposed for dedication? . . . . . Yes \_\_\_\_\_ No \_\_\_\_\_

13. Present zoning and zoning changes, if any, to be requested: \_\_\_\_\_  
\_\_\_\_\_

14. Have appropriate public utilities been consulted? . . . . . Yes \_\_\_\_\_ No \_\_\_\_\_

15. Material accompanying this application:  
Number Item  
a) \_\_\_\_\_ Preliminary Plan  
b) \_\_\_\_\_ Copies of Deed Restrictions  
c) \_\_\_\_\_  
d) \_\_\_\_\_

16. List subdivision and land development projects you have been involved with for reference. \_\_\_\_\_  
\_\_\_\_\_

19. Amount or Fee Filed: \_\_\_\_\_  
The undersigned represents that to the best of his knowledge and belief all the above statements are true, correct, and complete.  
Date: \_\_\_\_\_  
Signature of Owner or Applicant: \_\_\_\_\_  
(by): \_\_\_\_\_

Appendix 22-C

SUBDIVISION REFERRAL LETTER

FROM: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_  
\_\_\_\_\_

The enclosed subdivision \_\_\_\_ land development plan, in (sketch, preliminary, final) entitled \_\_\_\_\_ for your review by \_\_\_\_\_ Borough.

The property is presently owned by (Name & Address): \_\_\_\_\_ is dated: \_\_\_\_\_

The plan has been prepared by: \_\_\_\_\_ is dated: \_\_\_\_\_, Revised: \_\_\_\_\_ Following (lots, units road and parking). \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This plan has been submitted to the \_\_\_\_\_ Chester County Health Department, (Two (2) copies of Plan with Two (2) Planning Modules, \_\_\_\_\_ Chester County Conservation District, \_\_\_\_\_ Pennsylvania Department of Environmental Resources, \_\_\_\_\_ Others.

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Proposed Phase, Sections, Proposed Intent of Conveyance.)

The Municipality Planning Commission meets: \_\_\_\_\_  
The Municipal Governing Body Meets: \_\_\_\_\_

This Plan is being forwarded on: \_\_\_\_\_ : Under the Pennsylvania Municipalities Planning Code, the County Planning Commission must respond within (45 days) of the date the plan is officially forwarded.

It is understood that Pennsylvania Act 93 requires that no action may be taken by the Municipality until the Chesrer County Planning review is received, or the time limit expires.

Very truly yours,

\_\_\_\_\_  
(s) Signature





## Appendix 22-D

### SUBDIVISION REGULATIONS: PLAN CHECK LIST

#### 1. PRELIMINARY PLAN PROCEDURE

     A. Application

     1/ Submit ( ) copies of the Plan to the  
Municipal Secretary or

     2/ Submit ( ) Application Forms to the  
Municipal Secretary

     3/ Submit appropriate fee to the Municipal  
Secretary

     B. Official review date upon which an entire appli-  
cation has been received \_\_\_\_\_  
(i.e., beginning of 90 day review period.

     C. Applicant must request to be placed on the agenda  
of the Municipal Planning Commission.

#### II. PRELIMINARY PLAN REQUIREMENTS

The following information is required to be placed on all  
preliminary subdivision plans as a minimum.

     A. Title Block

     1/ Name of Plan

     2/ Municipality in which land is located

     3/ Date of Plan

     4/ Scale of Plan (not less than 1 inch to 100 feet)

     5/ North Arrow

     B. Location Map

     C. Approval Block

     D. Name and signature of Registered Professional Engineer,  
Surveyor, Landscape Architect, or Land Planner

     E. Name, address, and telephone number of applicant

     F. Notarized signature block of owner/applicant

     G. Owner of record and address

     H. Adjacent property owners and subdivisions should be  
identified

II. PRELIMINARY PLAN REQUIREMENTS

     I. Tract Data

- 1/ Existing street on or adjacent to the tract; including name, LR or T numbers, right-of-way and cartway
- 2/ Location and dimensions of existing easements, right-of-way- and public land
- 3/ All existing buildings, towers, sewer and water lines, monuments, culverts, gas or oil pipelines, fire hydrants and other improvements
- 4/ Zoning of the tract and all zoning boundaries, if anv, within 300 feet of the tract.
- 5/ Acreage of the tract, both gross and net.

   J. Each Lot Being Subdivided

- 1/ Proposed lot layout with approximate dimensions
- 2/ Area of each lot
- 3/ Lot number
- 4/ All lots shall be enclosed on all sides by a lot line
- 5/ Proposed building location and improvements
- 6/ Proposed building setback line
- 7/ Side and rear yard setback line
- 8/ Percolation test locations, if applicable
- 9/ Land dedicated for public use.

   K. Environmental Data

- 1/ Contour lines at five (5) foot intervals
- 2/ Elevation data (ie., bench marks, when known)
- 3/ Soil type and boundaries
- 4/ Waterbodies/streams should be indicated

II. PRELIMINARY PLAN REQUIREMENTS

- 5/ Floodplain boundary
- 6/ Location of existing tree masses
- 7/ Stormwater Management facilities should be indicated
- 8/ Sedimentation and Erosion Control measures

L. Roads

- 1/ Right-of-way width must be indicated, both existing and ultimate
- 2/ Right-of-way area to be dedicated or reserved for private use
- 3/ Cartway width must be indicated
- 4/ Proposed road name
- 5/ Road profiles
- 6/ Storm sewers are to be incorporated into all public streets.

M. Utilities

- 1/ All sanitary sewer lines, grades, pumping stations, etc. indicated on the Plan when such systems are proposed
- 2/ All Public Water lines, storage tank, etc., must be indicated on the Plan when such systems are proposed
- 3/ A fire hydrant system must be incorporated when a public water system is proposed.

N. Support Data

- 1/ Proposed improvements statement and diagrams
  - 2/ Planning modules indicating soil suitability for on-site systems
  - 3/ Certification by Engineer who prepared the plan that the plan is in conformance with zoning, building and other Borough regulations.
-

SUBDIVISION REGULATIONS: PLAN CHECK LIST

I. FINAL PLAN PROCEDURE

- \_\_\_ A. Application
  - \_\_\_ 1/ Submit ( ) copies of the Plan to the Borough Secretary or
  - \_\_\_ 2/ Submit ( ) Application Forms to the Borough Secretary
  - \_\_\_ 3/ Submit Appropriate Fee to the Borough Secretary
  - \_\_\_ 4/ This Application for a Final Plan must be within one (1) year of granting Preliminary Approval.
- \_\_\_ B. Official Review Date upon which an entire Application has been received \_\_\_\_\_ (ie., beginning of 90 day review period.)
- \_\_\_ C. Applicant must request to be placed on the Agenda of the Borough Planning Commission.

II. FINAL PLAN REQUIREMENTS

The following information is required to be placed on all final subdivision plans as a minimum:

- \_\_\_ A. Title Block
    - \_\_\_ 1/ Name of Plan
    - \_\_\_ 2/ Municipality in which land is located
    - \_\_\_ 3/ Date of Plan
    - \_\_\_ 4/ Scale of Plan (not less than 1 inch to 100 feet)
    - \_\_\_ 5/ North Arrow
  - \_\_\_ B. Location Map
  - \_\_\_ C. Approval Block
  - \_\_\_ D. Name, Seal and Signature of Registered Professional Engineer, Surveyor, Landscape Architect, or Land Planner
-

II. FINAL PLAN REQUIREMENTS

- E. Name, address, and telephone number of applicant
  - F. Notarized signature block of owner/applicant
  - G. Owner of record and address
  - H. Adjacent property owners and subdivisions should be identified
  - I. Tract Data
    - 1/ Existing street on or adjacent to the tract; including name, (LR or T) numbers, right-of-way width, and cartway width.
    - 2/ Location and dimensions of existing monuments, easements, right-of-way, and public land on the tract.
    - 3/ All existing buildings, towers, sewer and water lines, monuments, culverts, oil or gas pipelines, fire hydrants, and other improvements on the tract.
    - 4/ Zoning of the tract and all zoning boundaries, if any, on or within 300 feet of the tract.
    - 5/ Acreage of the tract, both gross and net.
    - 6/ Tract limits and dimensions (dimensions in feet and to one hundredth of a foot).
  - J. Each Lot Being Subdivided
    - 1/ Metes and bounds of all proposed streets, lots, and boundary lines; including the length of all lines, radii, curves, and tangents, whether for private or public use.
    - 2/ Area of each lot
    - 3/ Lot number
    - 4/ All lots shall be enclosed on all sides by a lot line
    - 5/ Proposed building location and improvements
    - 6/ House numbers for each lot should be shown
-

ii. FINAL PLAN REQUIREMENTS

- \_\_\_ 7/ Proposed building, side and rear yard setbacks
- \_\_\_ 8/ Location of any permanent monuments and markers.
- \_\_\_ 9/ Percolation test locations, if applicable
- \_\_\_ 10/ Land dedicated for public use.
- \_\_\_ K. Environmental Data
  - \_\_\_ 1/ Contour lines at five (5) foot intervals
  - \_\_\_ 2/ Elevation Data (ie., bench marks, when known)
  - \_\_\_ 3/ Soil types and boundaries
  - \_\_\_ 4/ Water bodies/stream should be indicated
  - \_\_\_ 5/ Floodplain boundary
  - \_\_\_ 6/ Location of existing tree masses
  - \_\_\_ 7/ Stormwater Management Facilities should be indicated, including location, size and invert elevation of all proposed storm sewers, manholes, inlets, and culverts, etc.
  - \_\_\_ 8/ Sedimentation and Erosion Control measures, including, temporary berms, retention basin, swales, seepage pits, etc.
- \_\_\_ L. Roads
  - \_\_\_ 1/ Right-of-way width must be indicated, both existing and ultimate
  - \_\_\_ 2/ Right-of-way area to be dedicated or reserved for private use
  - \_\_\_ 3/ Cartway width must be indicated
  - \_\_\_ 4/ Proposed grades, degree of curvature, sight distances of roads on the plan
  - \_\_\_ 5/ Metes and bounds of all streets including lengths of straight lines, radii, curves and tangents
  - \_\_\_ 6/ Road profiles, showing the existing and proposed grade of the center line of the proposed road; stormwater and sanitary sewer lines proposed

FINAL PLAN REQUIREMENTS

- \_\_\_ 7/ Street cross-sections should be included showing: the right-of-way width, cartway width, type of curb and stormwater control, type of material for road paving, sidewalk width, if applicable, and underground utilities to be installed within the right-of-way
  - \_\_\_ 8/ Storm sewers are to be incorporated into all public streets.
  - \_\_\_ M. Utilities
    - \_\_\_ 1/ Where off-site sewer service is proposed the final design for the location and size of sewer lines, manholes, pumping and sewage treatment facilities should be included
    - \_\_\_ 2/ Where off-site water service is proposed the final design should include the location and size of all wells, storage tanks, water mains, valves and hydrants
    - \_\_\_ 3/ A fire hydrant system must be incorporated when a public water system is proposed.
    - \_\_\_ 4/ Street light location and type, if applicable.
  - \_\_\_ N. Support Data
    - \_\_\_ 1/ Proposed improvements statement and diagrams
    - \_\_\_ 2/ Planning modules indicating soil suitability for on-site systems
    - \_\_\_ 3/ Certification by Engineer who prepared the plan that the plan is in conformance with zoning, building and other Borough regulations.
-





## Appendix 22-E

Form No. 10  
 H-ACI-117  
 C.C.H.D.

### CHESTER COUNTY HEALTH DEPARTMENT SITE INVESTIGATION AND PERCOLATION TEST REPORT FOR ON-LOT DISPOSAL OF SEWAGE

Applicant \_\_\_\_\_ Telephone \_\_\_\_\_ Application No. \_\_\_\_\_ Date of Test \_\_\_\_\_  
 Property Address \_\_\_\_\_ Municipality \_\_\_\_\_ County \_\_\_\_\_  
 Soil Type \_\_\_\_\_ Slope \_\_\_\_\_ % Person conducting test \_\_\_\_\_  
 Average Stabilized Percolation Rate \_\_\_\_\_

Percolation Data:																		
Hole No.	Depth of Hole	Water Remaining After Presoaked	30 min		60 min		90 min		120 min		150 min		180 min		210 min		240 min	
			in	drop	in	drop	in	drop	in	drop	in	drop	in	drop	in	drop	in	drop

#### PLOT PLANS OF LOCATION OF TEST PITS AND PERCOLATION HOLES

..... being duly sworn according to law that the facts set forth in the foregoing  
NAME-PRINT OR TYPE  
 report are true and correct and are in accordance with the standards outlined by the current Rules and Regulations of the Chester County Health Department.

\*Sworn to and subscribed  
 before me this ..... day  
 of .....  
 U.S.A.

.....  
 Signature of Individual Conducting Test  
 Address: .....

.....  
 Notary Public

\*If above is completed by a Sanitarian who is registered by the Board for Registration of Sanitarians in Pennsylvania or a Professional Engineer Registered in Pennsylvania he may enter his Registration Number here ..... in lieu of having a Notary Public Certification.

**Soil Description:**  
 Provide soil profile description by horizons from each pit dug for evaluation. Include the following items in describing each soil horizon: depth in inches, soil texture (USDA), mottling (if present), percentage of coarse fragments (by volume), depth to noticeable water seepage (if present), depth to water level in excavation (if present), any other pertinent data.

Inches	Description of Horizon
0 to _____	_____
_____ to _____	_____
_____ to _____	_____
_____ to _____	_____
_____ to _____	_____
_____ to _____	_____
_____ to _____	_____
_____ to _____	_____
_____ to _____	_____
_____ to _____	_____



# Appendix 22-F

Code No. \_\_\_\_\_

## PLANNING MODULE FOR LAND DEVELOPMENT

Component I - Minor Subdivision (Return the completed module to the appropriate municipality)

2-A

THIS MODULE IS TO BE COMPLETED FOR RESIDENTIAL DEVELOPMENTS ONLY OF 10 LOTS OR LESS PROPOSING TO UTILIZE SUBSURFACE SEWAGE DISPOSAL SYSTEMS.

NOTE: BEFORE ACTUALLY CONDUCTING THE TESTS, THE DEVELOPER SHOULD CONTACT THE CERTIFIED SEWAGE ENFORCEMENT OFFICER FOR VERIFICATION OF SOILS INFORMATION WHICH MUST ACCOMPANY THE MODULE.



NAME OF RESIDENTIAL SUBDIVISION _____ _____	TYPE OF DEVELOPMENT <input type="checkbox"/> SINGLE FAMILY RESIDENCES <input type="checkbox"/> DUPLEXES <input type="checkbox"/> APARTMENTS <input type="checkbox"/> TOWNHOUSES <input type="checkbox"/> OTHER _____
COUNTY(IES): _____	TOTAL NUMBER OF LOTS OR DWELLING UNITS _____
MUNICIPALITY(IES): _____	SMALLEST LOT: _____ SQ. FT.
OWNER(S) OF DEVELOPMENT: _____ _____	TOTAL ACREAGE OF SUBDIVISION: _____
ADDRESS(ES): _____ _____	DISTANCE TO NEAREST SEWER LINE : _____
LOCATION OF RESIDENTIAL SUBDIVISION: (EXAMPLE - NORTH SIDE OF RT. 75, 2.7 MILES EAST OF THE INTER- SECTION OF RTS. 75 AND L.R. 245111) _____ _____ _____ _____	PROPOSED SUBDIVISION WILL BE PROVIDED WITH A WATER SUPPLY FROM: <input type="checkbox"/> INDIVIDUAL WELLS <input type="checkbox"/> CENTRAL WATER SUPPLY NAME OF WATER COMPANY: _____ _____ _____

INCLUDE A BRIEF DESCRIPTION OF ADJACENT PROPERTIES AND SURROUNDING AREAS AS TO LAND USE AND LIST ALL ADJACENT PROPERTIES WHICH THE OWNER OR SUBDIVIDER HAS TITLE OR EQUITABLE INTEREST THEREIN (EXAMPLE - 7 RESIDENTIAL PROPERTIES NORTH AND ADJACENT, 15 UNIT COMMERCIAL SHOPPING CENTER ACROSS THE STREET). \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

1-B

ATTACH TO THIS MODULE COMPLETED SOIL INFORMATION USING FORM (ER-BCE-117). THE LOCAL AGENCY'S CERTIFIED SEWAGE ENFORCEMENT OFFICER OR CONSULTING SOIL SCIENTIST IS TO VERIFY THE SOIL EVALUATIONS. THE LOCATIONS OF ALL TEST EVALUATIONS ARE TO BE MAPPED ON A PLOT PLAN BY THE DEVELOPER WHICH SHALL INCLUDE SOIL TYPE AND SOIL BOUNDARIES. THIS PLOT PLAN IS TO BE ATTACHED TO THIS MODULE.

INDICATE ON THE PLOT PLAN THE FOLLOWING: (USE LISTED SYMBOLS)

-  TEST PIT EXCAVATIONS
-  REPRESENTATIVE PERCOLATION TESTS (WHERE NECESSARY TO VERIFY SOIL PERMEABILITY)
- LOT SIZES (MUST BE SUFFICIENT SIZE IN ORDER TO MAINTAIN ISOLATION DISTANCES)

I hereby swear and/or affirm to the information in 1-A and 1-B above and to the conditions which allow the use of this minor subdivision component of the planning module for land development, and that I am fully aware if any development occurs in conflict with the intent of this module, then other applicable components of the planning module for land development must be completed for municipal action and approved by the Pennsylvania Department of Environmental Resources.

NOTARY SEAL

Notary	Date Expiration
Signature Subdivider	Date
Telephone No. A/C -	

1-C TO BE COMPLETED BY MUNICIPALITY'S CERTIFIED SEWAGE ENFORCEMENT OFFICER.

THIS SUBDIVISION GENERALLY QUALIFIES AS SUITABLE FOR SUBSURFACE SEWAGE DISPOSAL UTILIZING

- STANDARD SYSTEMS
- ALTERNATE SYSTEMS
- COMBINATION OF STANDARD AND ALTERNATE SYSTEMS

THIS SUBDIVISION DOES NOT QUALIFY AS SUITABLE FOR SUBSURFACE SEWAGE DISPOSAL

TO THE BEST OF MY KNOWLEDGE AND BELIEF, THE INFORMATION CONTAINED IN 1-B AND 1-C OF THIS MODULE IS TRUE AND ACCURATE. NOTHING IN THIS MODULE IMPLIES THAT EACH AND EVERY LOT SHALL QUALIFY FOR AN INDIVIDUAL ON-LOT SEWAGE DISPOSAL PERMIT NOR DOES THIS MODULE CONSTITUTE INDIVIDUAL PERMIT APPROVAL.

Signature of Sewage Enforcement Officer

Certification Number

Date

THIS PROPOSED PLAN SUPPLEMENT/REVISION SHALL BE DEEMED APPROVED PROVIDED THAT NO ADDITIONAL INFORMATION HAS BEEN REQUESTED, OR OBJECTIONS RAISED BY DER TO THE MUNICIPALITY WITHIN 15 DAYS AFTER RECEIPT BY DER AT THE PROPER COUNTY OFFICE, AND PROVIDED FURTHER THAT ALL INFORMATION IS COMPLETE, TRUE AND CORRECT.

## Appendix 22-G

RECOMMENDED STATEMENTS WHICH WILL BE SEPARATE INSTRUMENTS REFERENCED  
TO FINAL PLAN

---

1. Where lot sizes are based on the availability of public water supply /and or sewerage disposal systems, the applicable certificates shall be used.

a. WATER

It is hereby certified that the final plan known as (Name of  
(Subdivision or Land Development) has been examined by the  
(Name of Company or Authority) and that approval is  
hereby given for the provision of water to all lots in this development  
by the (Name of Company or Authority).

(Signature of Engineer or Officer of  
Company or Authority)

b. SEWER

It is hereby certified that the final plan known as (Name of  
(Subdivision or Land Development) has been examined by the  
(Name of Company or Authority) and that approval is  
hereby given for the provision of sanitary sewer facilities to all lots  
in this development by the (Name of Company or Authority)

(Signature of Engineer or Officer of  
Company or Authority)

---



**Appendix 22-H**

**Recommended Certificates and Acknowledgments to Appear  
on the Final Plan, as Applicable**

1. Certification by Engineer or Surveyor that the Survey and Plan are Correct:
- a. I certify that this survey and plat are correct \_\_\_\_\_
  - b. A seal which includes the name of the engineer or surveyor.

2. Certification of Ownership and Acknowledgement of Subdivision and Land Development Plans: \_\_\_\_\_.

On this, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, before me, the undersigned officer, personally appeared \_\_\_\_\_ (Name of Owner) who being duly sworn according to law, deposes and says that he is the owner and/or equitable owner of the property shown on this plan, and that he acknowledges the same to be his act and plan and desires the same be recorded as such according to law.

Witness my hand and seal the day and date above written.

My Commission Expires:

\_\_\_\_\_  
(Notary Public or other officer)

3. The Offer of Dedication

We the undersigned, owners of the real estate shown and described herein, do hereby certify that we have laid off, platted and subdivided, and hereby lay off, plat and subdivide, said real estate in accordance with this plat, and that all proposed streets and alleys shown and not heretofore dedicated, are hereby dedicated to the public use.

\_\_\_\_\_  
\_\_\_\_\_

4. Certificate for Approval by the Borough Council \_\_\_\_\_

Approved by resolution of the Borough Council of Borough of Modena this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
President

\_\_\_\_\_  
Vice President

\_\_\_\_\_  
Secretary

5. RECORDING CERTIFICATE:

The recording certificate will be stamped on the plan when it is recorder at the Office of the Recorder of Deeds at the Courthouse in West Chester, Pennsylvania. A clear space of approximately 4-1/4" x 1-3/4" shall be allowed on the plan for this purpose.

---



## Appendix 22-I

### IMPROVEMENTS AGREEMENT

Prior to the review of the final plan of any subdivision or land development, a duplicate original of this Agreement must be filed with the Borough Planning Commission. A signed copy of such an agreement must be filed with the Borough Council (including a performance guarantee in a form satisfactory to the Borough Solicitor) equal to the amount of the total estimated improvements prior to approval of the final plan.

### IMPROVEMENTS AGREEMENT

In Re: \_\_\_\_\_  
                     Name of Subdivision or Land Development                      Location

The undersigned developer hereby agrees to provide throughout his development and as shown on the plat of \_\_\_\_\_ dated \_\_\_\_\_ 19 \_\_\_\_\_, the following municipal improvements:

<u>Improvements</u>	<u>UNIT</u>	<u>(1) ESTIMATED CONSTRUCTION COST</u>
Street grading	_____	_____
Street base	_____	_____
Street paving	_____	_____
Curbs	_____	_____
Sidewalks	_____	_____
Storm Sewer facilities	_____	_____
Sanitary sewers:		
Trunk lines	_____	_____
Mains	_____	_____
Laterals or House connections	_____	_____
Force mains	_____	_____
Pump Stations	_____	_____
Treatment plants	_____	_____
On-site sewage facilities	_____	_____
Water mains	_____	_____
On-site water supply	_____	_____
Fire hydrants	_____	_____
Street monuments	_____	_____
Street name signs	_____	_____
Street lights	_____	_____
Planting	_____	_____
As Built Plan	_____	_____
TOTAL ESTIMATED COST OF	\$	_____

The above improvements shall be constructed in accordance with all municipal requirements and specifications, and conformance with this provision shall be determined solely by the Borough Council.

The developer intends to be legally bound hereby.

\_\_\_\_\_  
 Signature of Developer  
 (If corporation, to be signed by president and attested to by secretary, together with corporate seal)

Dated: \_\_\_\_\_, 19 \_\_\_\_\_.

Acceptance

Approved by resolution of the Borough Council of the Borough of  
Modena at the meeting of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
President  
Borough Council

---

## Appendix 22-J

### CHESTER COUNTY HEALTH DEPARTMENT

326 North Walnut Street  
West Chester, Pennsylvania 19380  
Telephone (215) 431-6237

FOR OFFICIAL USE ONLY

Received Payment \$ .....

Expires .....

Certificate # .....

#### APPLICATION FOR CERTIFICATE OF REGISTRATION TO OPERATE A MOBILEHOME PARK

Application for certificate of registration shall be made at least one month before expiration date of existing license or prior to submitting plans for a new mobilehome park. The certificate of registration is not transferable.

Application is, hereby, made for a certificate of registration to operate. By this application it is agreed that the park will comply with the provisions of the County Health Department Rules and Regulations applicable to mobilehome parks. It is further agreed that said mobilehome park shall be open to inspection by the County Health Department.

Submit appropriate fee with application to above address. The fee for mobilehome parks with 10 or less spaces is ten dollars (\$10.00). The fee for parks with more than 10 spaces is one dollar (\$1.00), per space. Submit check or money order payable to "TREASURER OF CHESTER COUNTY" (DO NOT SEND CASH) for the appropriate fee. Add \$1.00 for each duplicate license requested.

PLEASE PRINT

PARK NAME .....	OWNER'S NAME .....
PARK ADDRESS .....	OWNER'S ADDRESS .....
.....	.....
PARK or MANAGER'S TELEPHONE # .....	OWNER'S TELEPHONE # .....
TOWNSHIP, CITY OR BOROUGH .....	

LOCATION—STREET OR HIGHWAY ROUTE # .....

NUMBER OF SPACES APPROVED BY  
CHESTER COUNTY HEALTH DEPARTMENT .....

NUMBER OF SPACES OCCUPIED .....

DATE PARK WAS CONSTRUCTED AND  
DATE OF ADDITON(s) .....

PARK SIZE IN ACRES.....

PARK POPULATION—NUMBER OF ADULTS..... NUMBER OF CHILDREN .....

.....  
Signature of Owner

.....  
Date of Signature

The inspection form that follows must be completed by the owner or by a consulting Sanitarian employed by the owner. Insert N/A if question is not applicable to your park.

	YES	NO		
1. Is this a renewal application?	.....	.....	14. Is rodent control maintained?	.....
2. Is valid license visible to public?	.....	.....	15. Is fly control maintained?	.....
3. Is water source from a municipal system?	.....	.....	16. Is each mobilehome unit free of refuse and junk?	.....
4. If private well, do you have copy of bacteriological tests results for past year on file?	.....	.....	17. Are any flammable materials stored under mobilehome units?	.....
5. Do you have copy of chemical test results for past year on file?	.....	.....	18. Are any fuel oil tanks or lines leaking?	.....
6. Is sewage system connected to municipal system?	.....	.....	19. Are all fuel oil and propane tanks secure?	.....
7. If private sewage system, is system functioning properly?	.....	.....	20. Are all electrical lines, cables and cords buried or raised a minimum of seven (7) feet above ground?	.....
8. Have the septic tanks been pumped and cleaned within the past year?	.....	.....	21. Are all utilities provided at all times to each occupied space?	.....
9. Are all sewage lines from mobilehome units to septic tanks tight and not leaking?	.....	.....	22. Is service building provided?	.....
10. Are garbage and refuse storage areas kept clean?	.....	.....	23. Is service building clean and well lighted?	.....
11. Is garbage and refuse stored in metal containers with tight fitting covers?	.....	.....	24. Have all additions to park been approved by the Chester County Health Department?	.....
12. Do you dispose of garbage or refuse in park?	.....	.....	25. Is swimming pool provided?	.....
13. If you contract with a refuse removal service, please give name: _____			26. Swimming pool size is _____ ft. by _____ ft. and is _____ ft. deep.	

Any deficiencies noted must be corrected within a reasonable period or an action plan or correction must be submitted to the Department.

..... Being duly sworn according to law that  
 Name—Print or Type  
 the facts set forth in the foregoing inspection form are true and correct and are in accordance with the standards outlined by the current Rules and Regulations of the Chester County Health Department.

Check here when requesting a duplicate license. Add \$1.00 for each duplicate.

Sworn to and subscribed before me this ..... day of

..... 19.....

.....  
 Notary Public

.....  
 Signature

.....  
 Address

\*If the form is completed by a Sanitarian who is registered by the Board for Registration of Sanitarians in Pennsylvania, he may enter his Registration Number here \_\_\_\_\_ in lieu of having a Notary Public Certification.

**Appendix 22-K**

Approvals Block - Sample

Approved by the Modena Borough Council this \_\_\_\_\_,  
\_\_\_\_\_ 19\_\_\_\_.

\_\_\_\_\_  
President Member

\_\_\_\_\_  
Vice-President Member

—//—

Approved by the Modena Borough Planning Commission  
this \_\_\_\_\_, \_\_\_\_\_ 19\_\_\_\_\_.

\_\_\_\_\_  
Chairman Member

\_\_\_\_\_  
Member Member

—//—

Approved by the Modena Borough Engineer this \_\_\_\_\_,  
\_\_\_\_\_ 19\_\_\_\_\_.

\_\_\_\_\_  
Engineer

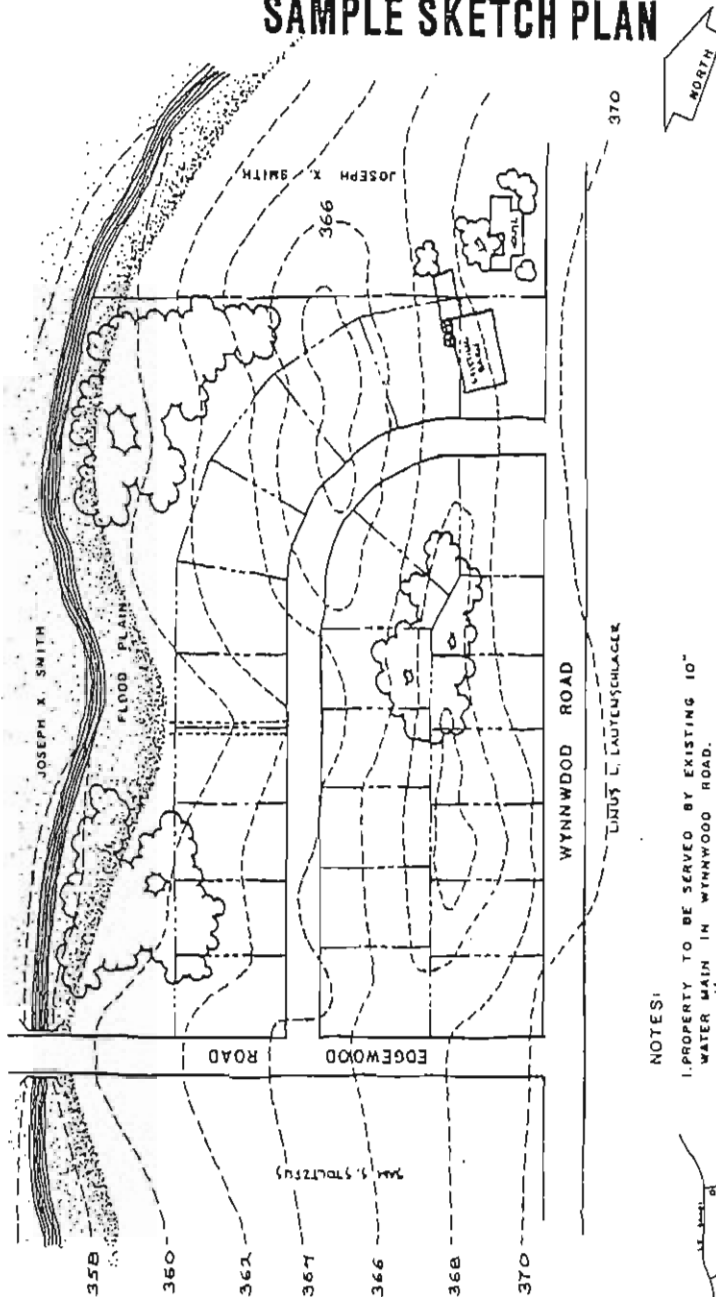
—//—

Reviewed by the Chester County Planning Commission  
this \_\_\_\_\_, \_\_\_\_\_ 19\_\_\_\_\_.

\_\_\_\_\_



# SAMPLE SKETCH PLAN



SKETCH PLAN

TREHAVEN TERRACE

TOWNVILLE TOWNSHIP - ANY COUNTY, PENNA.

SCALE - 1" = 100'

DATE - MARCH 15, 1974

LAND DEVELOPMENT ENGINEERS

TOWNVILLE, PENNSYLVANIA

NOTES:

1. PROPERTY TO BE SERVED BY EXISTING 10" WATER MAIN IN WYNWOOD ROAD.
2. PROPERTY TO BE SERVED BY INDIVIDUAL SEPTIC SYSTEMS.



OWNER - SUBDIVIDER

JOHN A. JONES

R.O. 1

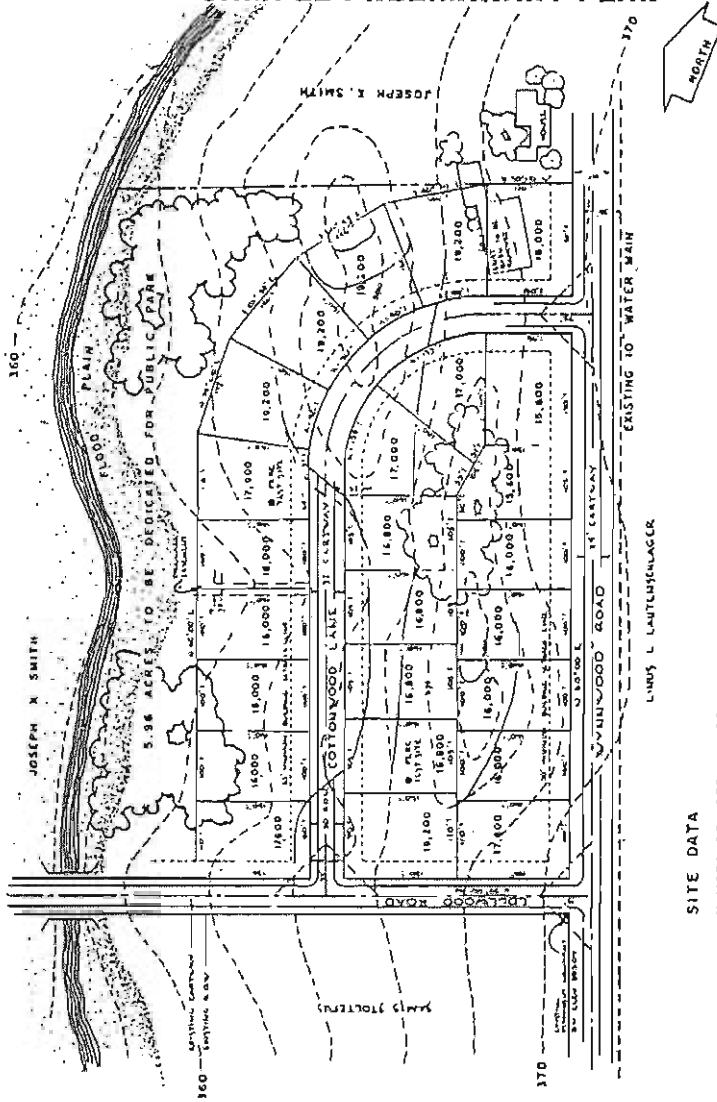
TOWNVILLE, PENNSYLVANIA

LOCATION MAP

SCALE - 1" = 500'



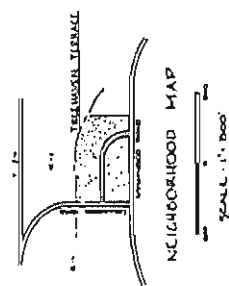
# SAMPLE PRELIMINARY PLAN



**SITE DATA**  
 NUMBER OF LOTS — 25  
 NUMBER OF ACRES — 18.3  
 ZONING — R-1  
 TYPE OF DEVELOPMENT—SINGLE FAMILY DETACHED

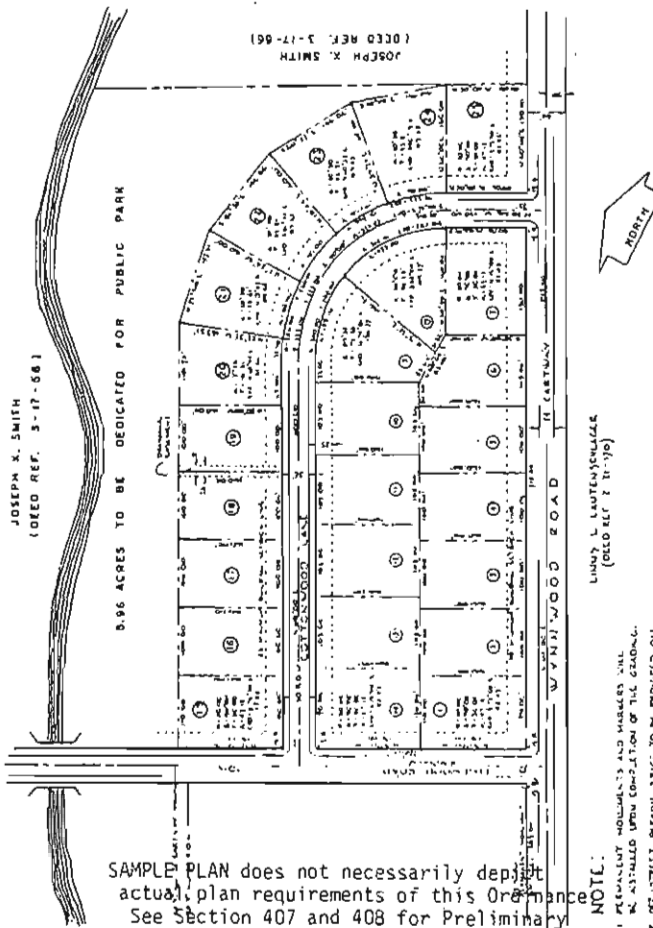
**OWNER — SUBDIVIDER**  
 JOHN A JONES  
 R.D. 1  
 TOWNVILLE, PENNSYLVANIA

**PRELIMINARY PLAN**  
 of  
**TREEHAVEN TERRACE**  
 TOWNVILLE TOWNSHIP  
 ANY COUNTY PENNSYLVANIA  
 SCALE: 1" = 100'  
 JUNE 1, 1974  
 LAND DEVELOPMENT ENGINEERS  
 TOWNVILLE, PENNSYLVANIA



SAMPLE PLAN does not necessarily depict actual plan requirements of this Ordinance. See Section 407 and 408 for Preliminary and Final Plan Requirements, respectively.

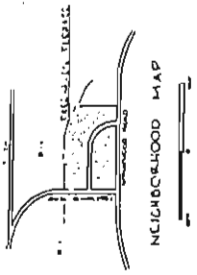




NOTE:  
 1. PRELIMINARY DIMENSIONS AND MARKERS SHALL BE INSTALLED UPON COMPLETION OF THE GRADING.  
 2. 5 FT. STREET BOUNDARY SPACE TO BE PROVIDED ON EACH LOT.  
 3. CURB, GUTTER AND SIDEWALK SHALL BE PROVIDED ON ALL STREETS AND THE FULL WIDTH OF THE SIDEWALK SHALL BE 5 FT.  
 4. ETC.  
 5. ETC.

ON THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 19\_\_\_\_, BEFORE ME, THE UNDERSIGNED OFFICER, PERSONALLY APPEARED \_\_\_\_\_, COING TO LAY TO WHO BEING DULY SWORN, THAT HE IS THE OWNER AND/OR EQUITABLE OWNER OF THE PROPERTY SHOWN ON THIS PLAN, AND THAT HE ACKNOWLEDGES THE SAME TO BE HIS ACT AND DEED, AND THAT HE HAS BEEN FULLY ADVISED AS SUCH ACCORDING TO LAW AND THAT ALL STREETS AND OPEN SPACES SHOWN AND NOT HERETOFORE DEDICATED ARE HEREBY DEDICATED TO THE PUBLIC USE.

OWNER'S SIGNATURE \_\_\_\_\_  
 NOTARY PUBLIC \_\_\_\_\_  
 BY COMMISSION EXPIRES \_\_\_\_\_ 19\_\_\_\_



APPROVED BY THE \_\_\_\_\_ BOOFL OF \_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_

APPROVED BY THE \_\_\_\_\_ PLANNING COMMISSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_

REVIEWED BY \_\_\_\_\_

MUNICIPAL ENGINEER \_\_\_\_\_

REVIEWED BY THE ANY COUNTY PLANNING COMMISSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_

CHAIRMAN \_\_\_\_\_ DIRECTOR \_\_\_\_\_

SOURCE OF TITLE \_\_\_\_\_ OWNER-SUBDIVISION \_\_\_\_\_  
 RECORDED IN DEED \_\_\_\_\_ JOHN A. JOHNSON  
 BOOK \_\_\_\_\_ VOLUME \_\_\_\_\_ R. O. I  
 PAGE \_\_\_\_\_ TOWNVILLE, PENNA.

I CERTIFY THAT THIS SURVEY AND PLAN ARE CORRECT.

SIGNATURE \_\_\_\_\_

**SAMPLE FINAL PLAN**

FINAL PLAN OF  
**TREEHAVEN TERRACE**  
 TOWNVILLE TOWNSHIP  
 ANY COUNTY PENNSYLVANIA  
 SCALE: 1" = 100' OCTOBER 1, 1974

LAND DEVELOPMENT ENGINEERS  
 TOWNVILLE, PENNSYLVANIA

SEAL



## **Chapter 23**

**[Reserved]**



## **Chapter 24**

### **Taxation; Special**

#### **Part 1**

##### **Realty Transfer Tax**

- §24-101. Short Title
- §24-102. Authority
- §24-103. Definitions
- §24-104. Imposition of Tax; Interest
- §24-105. Exempt Parties
- §24-106. Excluded Transactions
- §24-107. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof
- §24-108. Acquired Company
- §24-109. Credits Against Tax
- §24-110. Extension of Lease
- §24-111. Proceeds of Judicial Sale
- §24-112. Duties of Recorder of Deeds
- §24-113. Statement of Value
- §24-114. Civil Penalties
- §24-115. Lien
- §24-116. Enforcement
- §24-117. Regulations

#### **Part 2**

##### **Local Services Tax**

- §24-201. Short Title
- §24-202. Imposition of Tax
- §24-203. Definitions
- §24-204. Collection and Payment of Tax
- §24-205. Administration and Enforcement
- §24-206. Exemptions
- §24-207. Refunds

#### **Part 3**

##### **Earned Income Tax**

- §24-301. Incorporation of Statute
- §24-302. Imposition of Tax
- §24-303. Declaration, Return and Payment of Tax
- §24-304. Collection at Source
- §24-305. Administration
- §24-306. Applicability

#### **Part 4**

## **Per Capita Tax**

- §24-401. Levy of Tax
- §24-402. Collection by Tax Collector
- §24-403. Duplicate Constitutes Warrant for Collection
- §24-404. Notice to Taxpayers
- §24-405. Addition of Names to Duplicate
- §24-406. Authority of Tax Collector

## **Part 5**

### **Local Taxpayers' Bill of Rights**

- §24-501. Rules and Regulations
- §24-502. Disclosure Statement
- §24-503. Petition for Appeal and Refund
- §24-504. Tax Administrator/Collector
- §24-505. Designation
- §24-506. Administrative Appeal Procedures
- §24-507. Eligible Taxes

**Part 1****Realty Transfer Tax****§24-101. Short Title.**

This Part shall be known as the "Realty Transfer Tax Ordinance of the Borough of Modena."

(Ord. 77A, 4/2/2007, §1)

**§24-102. Authority.**

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Borough of Modena, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place as authorized by Article XI-D of the Tax Reform Code of 1971, "Local Real Estate Transfer Tax," 72 P.S. §8101-D *et seq.*

(Ord. 77A, 4/2/2007, §2)

**§24-103. Definitions.**

The definitions applicable to this Part are set forth at length at Article XI-C of the Tax Reform Code of 1971, "Realty Transfer Tax," 72 P.S. §8101-C, and incorporated herein by reference.

(Ord. 77A, 4/2/2007, §3)

**§24-104. Imposition of Tax; Interest.**

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1 percent of the value of real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder of deeds whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.

3. It is the intent of this Part that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §6901 *et seq.*, so that if any other political subdivision has imposed or hereafter shall impose such tax on the same person or transfer then the tax levied by the Borough of Modena under the authority of that Act shall during the time such duplication of tax exists, except as hereinafter otherwise provided, be one-half of the rate and such one-half rate shall become effective without any action on the part of the Borough of Modena; provided, however, that the Borough of Modena, and any other political subdivision which imposes such tax on the same person or transfer may agree that, instead of limiting their respective rates to

one-half of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the Local Tax Enabling Act.

4. Any tax imposed by this Part 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 imposed shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in §806 of the Act of April 9, 1929, P.L. 343, No. 176, 72 P.S. §806, as amended, known as the "Fiscal Code," or the maximum interest rates permitted under the Municipal Claims and Tax Lien Act, 53 P.S. §7101 *et seq.*, for tax claims.

5. The tax imposed under this Part and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965, P.S. 1257, No. 511, 53 P.S. §6901 *et seq.*, 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 Borough, pursuant to §1102D of the Tax Reform Code of 171, 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.

(Ord. 77A, 4/2/2007, §4)

#### **§24-105. Exempt Parties.**

The United States, the Commonwealth, or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this Section. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

(Ord. 77A, 4/2/2007, §5)

#### **§24-106. Excluded Transactions.**

1. The tax imposed by §24-104 of this Part shall not be imposed upon:

A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property fine adjustments provided said reconveyance is made within 1 year from the date of condemnation.

B. A document which the Borough of Modena is prohibited from taxing under the Constitution or statutes of the United States.

C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.

D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.

E. A transfer of division in kind for no or nominal actual consideration of



property passed by testate or intestate succession and held by co-tenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

F. A transfer between husband and wife, between persons who were previously husband and wife who have since divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister, and between a grandparent and a grandchild or the spouse of such grandchild, except that a subsequent transfer made by the grantee within 1 year shall be subject to tax as if the grantor were making such transfer.

G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.

H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.

I. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.

J. A transfer for no or nominal actual consideration from trustee to a successor trustee.

K. A transfer (1) for no or nominal actual consideration between principal and agent or straw party; or (2) from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Section. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this paragraph.

L. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the Borough reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Section.

M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than 2 years.

N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development

agency or authority.

O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if: (1) the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and (2) the agency or authority has the full ownership interest in the real estate transferred.

P. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.

Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.

R. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1954, 68A Stat. 3, 26 U.S.C. §501(c)(3), and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns 75 percent of each class of stock thereof.

T. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.

U. A transaction wherein the tax due is \$1 or less.

V. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

2. In order to exercise any exclusion provided in this Section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania realty transfer tax statement of value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this Part.

(Ord. 77A, 4/2/2007, §6)

#### **§24-107. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.**

Except as otherwise provided in §24-106, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purpose of this Section, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(Ord. 77A, 4/2/2007, §7)

#### **§24-108. Acquired Company.**

1. A real estate company is an acquired company upon a change in the ownership

interest in the company, however effected, if the change does not affect the continuity of the company, and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90 percent or more of the total ownership interest in the company within a period of 3 years.

2. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company, when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.

3. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the Recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania realty transfer tax declaration of acquisition may be submitted for this purpose.

(Ord. 77A, 4/2/2007, §8)

#### **§24-109. Credits Against Tax.**

1. Where there is a transfer of a residential property by a licensed real estate broker, which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.

2. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

3. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.

4. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.

5. If the tax due upon the transfer is greater than the credit given under this Section, the difference shall be paid. If the credit allowed is greater than the amount or tax due, no refund or carryover credit shall be allowed.

(Ord. 77A, 4/2/2007, §9)

#### **§24-110. Extension of Lease.**

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

(Ord. 77A, 4/2/2007, §10)

**§24-111. Proceeds of Judicial Sale.**

The tax herein imposed shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment estate or costs of the sale and of the writ upon which the sale is made except the State realty transfer tax, and the sheriff, or other officer, conducting said sale, shall pay the tax herein imposed out of the first monies paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

(*Ord. 77A, 4/2/2007, §11*)

**§24-112. Duties of Recorder of Deeds.**

1. As provided in 16 P.S. §11011-6, as amended by Act of July 7, 1983, P.L. 40, No. 21, the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to the Borough of Modena based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Borough of Modena.

2. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

3. On or before the tenth of each month, the recorder shall pay over to the Borough of Modena all local realty transfer taxes collected, less 2 percent for use of the County, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2 percent commission shall be paid to the County.

4. Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only when both the State and local amounts and a rerecording or recording fee has been tendered.

(*Ord. 77A, 4/2/2007, §12*)

**§24-113. Statement of Value.**

Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein and as part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof of the reason, if any, why such document is not subject to tax under this Section. A copy of the Pennsylvania realty transfer tax statement of value may be submitted for this purpose. The provisions of this Section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connections and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part.

(*Ord. 77A, 4/2/2007, §13*)

**§24-114. Civil Penalties.**

1. If any part of any underpayment of tax imposed by this Section is due to fraud, there shall be added to the tax an amount equal to 50 percent of the underpayment.

2. In the case of failure to record a declaration required under this Section on the date prescribed therefore, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5 percent of the amount of such tax if the failure is for not more than 1 month, with an additional 5 percent for each additional month or fraction thereof during which such failure continues, not exceeding 50 percent in the aggregate.

(Ord. 77A, 4/2/2007, §14)

**§24-115. Lien.**

The tax imposed by this Part shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Borough of Modena, which lands, tenements, hereditaments, or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this Part, said lien to begin at the time when the tax under this Part is due and payable, and continue until discharge by payment, or in accordance with the law, and the Solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Chester County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 *et seq.*, its supplements and amendments.

(Ord. 77A, 4/2/2007, §15)

**§24-116. Enforcement.**

All taxes imposed by this Part, together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

(Ord. 77A, 4/2/2007, §16)

**§24-117. Regulations.**

The Borough Council of the Borough of Modena is charged with the enforcement and collection of tax and it is hereby empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §8101-C *et seq.*, are incorporated into and made a part of this Part.

(Ord. 77A, 4/2/2007, §17)



**Part 2****Local Services Tax****§24-201. Short Title.**

This Part shall be known and may be cited as the “Modena Borough Local Services Tax.”

(Ord. 78A-2007, 12/11/2007, §1)

**§24-202. Imposition of Tax.**

1. Every individual who engages in an occupation within the Borough of Modena shall pay a local services tax to the Borough in the amount of \$52 per individual per calendar year.

2. In the event that an individual is engaged in more than one occupation, or in an occupation which requires his working in more than one political subdivision during the calendar year, then the provisions of the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, §2, as amended, 53 P.S. §6902, shall determine the priority of Modena Borough's claim to collect such local services tax.

3. All taxes imposed by this Part, together with all interest, penalties and cost, shall be recoverable by the Solicitor of Modena Borough as debts of like amounts are recoverable by law.

4. The tax imposed under this Part shall be used for police, fire or emergency services, road maintenance or real estate tax rededuction purposes, as provided for under the provisions of the “Local Tax Enabling Act,” Act of December 31, 1965, P.L. 1257, §22.6, as amended, 53 P.S. §6922.6.

5. This Part is enacted under the authority of the Local Tax Enabling Act, as amended, 53 P.S. §6901 *et seq.*

(Ord. 78A-2007, 12/11/2007, §2)

**§24-203. Definitions.**

As used in this Part, the following terms shall have the meanings indicated except where the context or language clearly indicates or requires a different meaning. Use of a masculine gender shall include the feminine and neuter, and reference to a masculine singular shall include the plural.

*Earned income* - shall have the same meaning as provided for in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, §13, Division I, as amended, 53 P.S. §6913.

*Employer* - an individual whose compensation is subject to the withholding of Federal income tax and who performs services as an employer.

*Employer* - an individual, partnership, association, corporation, government body, agency or other entity employing one or more individuals on a salary, commission or other compensation basis, including a self-employed individual.

*Individual* - any person, male or female, engaged in any occupation, trade or profession of any nature within the corporate limits of Modena Borough, whether

in the employ of another or self-employed.

*Local services tax collector* - the Treasurer of Modena Borough, his designated representative or a person or corporation engaged for the purpose by contract with Modena Borough.

*Net profits* - shall have the same meaning as provided for in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, §13, Division I, as amended, 53 P.S. §6913.

*Occupation* - any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of Modena Borough for which compensation is charged or received, whether by means of salary, wages, commission, fees or otherwise, for services rendered.

*Reserve component of the Armed Forces* - 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.

*Tax* - the local services tax in the amount levied by this Part on each individual engages in any occupation, as hereinbefore defined, within the corporate limits of Modena Borough

*Year* - the calendar year.

(Ord. 78A-2007, 12/11/2007, §3)

#### **§24-204. Collection and Payment of Tax.**

1. *Duty of Employer to Collect and Make Payment.* Each employer within Modena Borough, as well as each employer situated outside of Modena Borough but who engages in business within Modena Borough, is hereby charged with the duty of collecting from each employee engaged by the employer and performing for the employer within Modena Borough, the tax of \$52 per annum and making a return and payment thereof to the Local Services Tax Collector. Subject to the withholding requirements of this Section, each employer is hereby authorized to deduct the tax from the compensation of each employee in its employ, whether said employee is paid by salary, wages or commissions and whether or not part or all of such services are performed in Modena Borough. Each employer shall pay the tax to the Local Services Tax Collector as provided herein, whether or not the tax was deducted from the compensation of each employee in its employ.

A. An employer required hereunder to collect the tax shall withhold a pro-rated share of the total tax per annum for each payroll period in which the person is engaged in an occupation. The pro-rated share of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the local services 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 prorated 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 local services tax levied under this Section shall be made on a payroll period basis for each payroll period in which the person is engaged in an occupation, except as



provided for in paragraph .C.

B. Upon notification to an employer by the person or by Modena Borough that a person has received earned income and net profits from all sources within Modena Borough equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for the calendar year, or upon an employer's payment to the person of earned income in Modena Borough in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification hereunder, 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 section, 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 held for other employees. In the event that the employment of a person subject to the 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 Modena Borough may pursue collection of that tax.

C. In case of an employee who has concurrent employment, an employer shall refrain from withholding the local services tax if the employer provides a recent pay stub from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the local services tax withheld and a statement from the employee that the pay statement is from the employer's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence.

2. *Returns; Responsibility for Payment.* Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Local Services Tax Collector. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collections thereof from the salary, wages or commissions paid by him to said employer, the employer shall be responsible for the payment of the tax in full as though the tax had originally been levied against the employer.

3. *Dates for Determining Liability and Payment.* Each employer shall use his employment record as of each payroll period in the calendar year to determine from whom the tax shall be deducted. An employer shall be required to remit quarterly payments of the tax to the Local Services Tax Collector on or before the thirtieth day after the end of each quarter of a calendar year on forms prescribed by the Local Services Tax Collector.

4. *Self-employed Individuals.* Every taxpayer who is self employed and has not filed an exemption certificate with the Tax Collector, or whose tax for any other reason is not collected under this section, shall file a return on a form prescribed by the Local Services Tax Collector and shall pay a pro-rated share of the tax directly to the Local Services Tax Collector within 30 days and after the end of each calendar quarter. The pro-rated share of the tax assessed on a taxpayer for a calendar quarter shall be determined by dividing the rate of the tax levied under this Part for the year by four.

5. *Persons Residing Outside the Borough.* All self-employed individuals and

employers residing or having their place of business outside the corporate limits of Modena Borough and engaging in an occupation within the Borough do by virtue thereof agree to be bound by and subject themselves to the provisions of this Part and the regulations promulgated hereunder with the same force and effect as though they had their place of business in or were residents of Modena Borough. Further, any individual engaged in an occupation within Modena Borough and as an employee of a nonresident employer may, for the purpose of this Part, be considered a self-employed person, but in the event the tax is not paid, the Local Services Tax Collector shall have the option of proceeding against either the employer or employee for the collection as herein after provided.

6. *Individuals Engaged in More than One Occupation.*

A. Each employee who shall have more than one occupation within Modena Borough shall be subject to the payment of this tax on his principal occupation, and his principal employer shall deduct this tax. The principal employer shall deliver to such employee evidence of deduction. This evidence of deduction showing that payment having been made and, when presented to any other employer, shall be authority for such employer to not deduct this tax from the employee's wages but to include such employee on his return by setting forth his name, Society Security number and the name of the employer who deducted the tax.

B. In the event that an individual is engaged in more than one occupation or an occupation which requires his working in more than one political subdivision during the calendar year, the priority of claim to collect such local services tax shall be in the following order: First, the political subdivision in which an individual maintains his principal office or is principally employed; second, the political subdivision in which the individual resides and works is such a tax is levied by that political subdivision; third, the political subdivision in which the individual is employed and which imposes the tax nearest in miles to the individual's home. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year.

C. It is the intent of this provision that no individual shall pay more than \$52 in any calendar year as a local services tax, irrespective of the number of political subdivisions within which such individual may be employed within any given calendar year. In case of dispute, a proof of payment that the tax has been paid for that calendar year shall constitute prima facie certification of payment to all other political subdivisions.

7. Each employer shall ensure that exemption certificate of payment to all other political subdivisions.

(Ord. 78A-2007, 12/11/2007, §4)

**§24-205. Administration and Enforcement.**

1. *Powers and Duty of the Tax Collector.*

A. It shall be the duty of the Local Services Tax Collector to accept and receive payments of the tax and to keep a record thereof showing the amount received by him from each employer or self-employed individual, together with the date the tax was received.

B. The Local Services Tax Collector is hereby charged with the administra-

tion and enforcement of this Part and is hereby charged and empowered to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination of the books, accounts and payroll records of any employer subject to this Part, the examination and correction of any return made in compliance with this Part and any payment alleged or found to be incorrect or as to which overpayment is claimed and found to have occurred.

C. The Local Services Tax Collector is hereby authorized to examine the books, accounts 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 occupational privilege tax collector the means, facilities and opportunity for such examination.

2. *Late payment; Recovery.* If for any reason the tax is not paid when due; a penalty of 10 percent shall be added to the tax, and interest at the rate of 1 percent per month or fraction thereof shall also be added. Where legal action is brought for the recovery of the tax, the individual or employer thereafter shall, in addition, be responsible and liable for collection costs, including attorney fees.

3. *Violations and penalties.* Any person who makes any false or untrue statement on any return or record required by the ordinance, refuses inspection of his books, records or accounts in his custody and control, fails or refuses to file any return required by this Part or fails to pay the tax due shall be subject to a fine in the amount of at least \$25, but not to exceed \$600, for each offense, plus all court cost, including reasonable attorney fees incurred by the Borough upon a finding of liability for committing said violation, or permitting said violation, in a civil enforcement proceeding commenced by the Borough, the defendant shall pay the fine plus costs and attorney fees. No judgment shall be imposed until the date of determination of a violation by a district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who failed or refuses to file a return required by this Part.

(Ord. 78A-2007, 12/11/2007, §5).

#### **§24-206. Exemptions.**

1. Any person whose total earned income and net profits from all sources within Modena Borough is less than \$12,000 per calendar year in which the tax is levied shall be exempt from this tax upon the filing of an exemption certificate with the Local Services Tax Collector.

2. 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 services is, 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 shall be exempt from this tax upon filing an exemption certificate with the Local Services Tax Collector.

3. Any person who serves as a member of a reserve component of the Armed

Forces and is called to active duty at anytime during the taxable year shall be exempt from this tax upon the filing of an exemption certificate with the Local Services Tax Collector.

4. The Local Services Tax Collector is hereby charged and empowered to adopt regulations for the proceeding of claims for exemptions under this Section.

5. Any person seeking exemption from the tax under this Section must annually file an exemption certificate with the employer and the Local Services Tax Collector. If a person claims an exemption from the tax under subsection .1, the exemption certificate shall have attached to it a copy of all of the employee's last pay stubs or W-2 forms from employment within the Modena Borough for the calendar year prior to the calendar year for which the employee is requesting to be exempt from the tax. The exemption certificate for any exemption under this Section must be in a form substantially similar to the uniform exemption certificate prescribed by the Pennsylvania Department of Community and Economic Development.

(Ord. 78A-2007, 12/11/2007, §6)

#### **§24-207. Refunds.**

1. A person who overpaid local services tax for a calendar year shall be entitled to a refund of the tax by filing a refund request with the Local Services Tax Collector. A person shall only be entitled to a refund of tax for amounts overpaid in a calendar year the exceed \$1.

2. The Local Services Tax Collector is hereby charged and empowered to adopt regulations for the processing of refund claims for overpaid local services tax consistent with 53 Pa.C.S. §8425, as amended (relating to funds of overpayments) and 53 Pa.C.S. §8426, as amended (relating to interest on overpayments).

3. A person shall not be entitled to interest on the amount of refunded tax if the Borough pays the refund within 75 days of the refund request or 75 days after the last day the employer is required to remit the local services tax for the last quarter of the calendar year under §24-204.3, whichever is later.

(Ord. 78A-2007, 12/11/2007, §7)

**Part 3****Earned Income Tax****§24-301. Incorporation of Statute.**

The provisions of §13 of the Local Tax Enabling Act, Act No. 511 of 1965, 53 P.S. §6913, its supplements and amendments are incorporated herein by reference, except that where options are provided in said §13, this Part designates the option selected, and except as and where hereinafter specifically provided otherwise.

(Ord. 83, 11/6/1972, §1)

**§24-302. Imposition of Tax.**

A tax for general revenue purposes in the amount of 1 percent is hereby imposed on earned income, including, inter alia, salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensations received by residents of the Borough of Modena, Chester County, Pennsylvania, on earned income, including, inter alia, salaries, wages, commissions, bonuses, incentive payments, fees, tips, and other compensation received by nonresidents of the Borough of Modena, Chester County, Pennsylvania, for work done or services performed or rendered in the Borough of Modena, Chester County, Pennsylvania, and on the net profits received from businesses, professions or other activities conducted by residents of the Borough of Modena, Chester County, Pennsylvania, and the net profits received from businesses, professions or other activities conducted in the Borough of Modena, Chester County, Pennsylvania, by nonresidents of the Borough of Modena, Chester County, Pennsylvania during the taxable period beginning on the first day of January 1973, and continuing for each taxable year thereafter.

(Ord. 83, 11/6/1972, §2)

**§24-303. Declaration, Return and Payment of Tax.**

1. *Net Profits.* Every taxpayer making net profits in any year beginning January 1, 1973, shall file a declaration of his estimated net profits for the current year and shall pay the tax due thereon in quarterly installments and shall file a final return and pay to the office the balance of the tax due, all as provided in §13.III.A, of the Local Tax Enabling Act, its supplements and amendments.

2. *Earned Income.*

A. For years commencing January 1, 1973, every taxpayer shall make and file final returns and pay the taxes due all as provided in §13.III.B, first paragraph of the Local Tax Enabling Act, its supplements and amendments.

B. *Quarterly Returns.* Every taxpayer who is employed for a salary, wage, commission, or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the officer on a form prescribed or approved by the officer, an annual return setting forth the aggregate amount of earned income not subject to withholding from him during the period beginning January 1, 1973 and ending December 31, 1973 and such other information as the officer may require, and pay to the officer the amount

of tax shown as due thereon on or before April 15, 1974.

C. *Quarterly Returns.* Every taxpayer who is employed for a salary, wage, or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the Tax Officer quarterly returns and shall pay quarter-annually the amount of tax shown as due on such returns, all as provided in §13.III.B(2) of the Local Tax Enabling Act, its supplements and amendments.

(*Ord. 83, 11/6/1972, §3*)

**§24-304. Collection at Source.**

1. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the corporate limits of the Borough of Modena shall deduct the tax imposed by this Part on the earned income due to his employee or employees and shall file quarterly returns and final returns and pay quarterly to the Tax Officer the amount of taxes, deducted, all as set forth in §13.IV of said Local Tax Enabling Act, its supplements and amendments, except that:

A. Every employer who discontinues business prior to December 31, 1973, shall within 30 days after discontinuance of business file returns and withholding statements hereinabove required and pay the tax due.

B. No employer shall be required to register, deduct taxes, file returns or pay taxes in the case of domestic servants.

(*Ord. 83, 11/6/1972, §4*)

**§24-305. Administration.**

The Income Tax Officer shall be selected from time to time by resolution of, and shall receive such compensation for his services and expenses as determined from time to time by, the Borough of Modena. Such officer shall have the powers and duties, and be subject to the penalties, provided in the Local Tax Enabling Act, its supplements and amendments.

(*Ord. 83, 11/6/1972, §5*)

**§24-306. Applicability.**

The tax imposed in §24-302 of this Part shall not be levied on the net profits of any person, institution, or organization as to whom it is beyond the power of the Borough of Modena to impose said tax under the Constitution of the United States of America or the Constitution and laws of the Commonwealth of Pennsylvania.

(*Ord. 83, 11/6/1972, §6*)

**Part 4****Per Capita Tax****§24-401. Levy of Tax.**

A per capita tax of \$5 per annum, for general Borough purposes, is hereby levied and assessed under the authority of the Local Tax Enabling Act of 1965 (P.L. 1257), 53 P.S. §6901 *et seq.*, as amended upon each resident or inhabitant of the Borough of Modena over the age of 18 years, which tax shall be in addition to all other taxes levied and assessed by the Borough pursuant to any other laws of the Commonwealth of Pennsylvania, and which tax shall remain in force from year to year until the rate is subsequently changed or the tax discontinued by ordinance of the Borough Council.

(*Ord. 84, 12/4/1972, §1*)

**§24-402. Collection by Tax Collector.**

Such tax shall be collected by the duly appointed Tax Collector of the Borough in the same manner and at the same time as other Borough taxes are collected, as provided by the Local Tax Collection Law of 1945, 72 P.S. §5511.1 *et seq.*

(*Ord. 84, 12/4/1972, §2*)

**§24-403. Duplicate Constitutes Warrant 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.

(*Ord. 84, 12/4/1972, §3*)

**§24-404. Notice to Taxpayers.**

The Tax Collector shall give notice to the taxpayers of the amount of per capita tax due under this Part, at the same time and in the same manner as provided by the Local Tax Collection Law of 1945, 72 P.S. §5511.1 *et seq.*

(*Ord. 84, 12/4/1972, §4*)

**§24-405. Addition of Names to Duplicate.**

In case the Tax Collector shall at any time find within the Borough any resident or inhabitant above the age of 18 years, whose name does not appear upon the tax duplicate, he shall report the name of such person forthwith to the Assessor, who shall thereupon certify the same unto the Borough Council, which shall promptly certify the same to the Tax Collector reporting such name whereon the Tax Collector shall add such name and the assessment of this per capita tax against such person to the duplicate of the Borough and shall proceed to collect the same.

(*Ord. 84, 12/4/1972, §5*)

**§24-406. Authority of Tax Collector.**

The Tax Collector shall give notice to the taxpayers, shall have the power to collect

said taxes by distress, shall have the power and authority to demand and receive said tax from the employer of any person owing any per capita tax, or whose wife owes any per capita tax, shall remit such taxes to the Borough Treasurer by separate statement at the same time as other taxes are remitted to the Borough, shall allow discounts and add penalties, shall generally be subject to all the duties and shall have the rights and authority conferred upon him by the Local Tax Collection Law of 1945, 72 P.S. §5511.1 *et seq.* It is hereby declared to be the intent of the Borough Council, in enacting this Part, to confer upon the Tax Collector, in the collection of this per capita tax, all the powers, together with all the duties and obligations to the same extent and as fully provided for in the Local Tax Collection Law of 1945, 72 P.S. §5511.1 *et seq.*, as amended and supplemented.

(Ord. 84, 12/4/1972, §6)



**Part 5****Local Taxpayers' Bill of Rights****§24-501. Rules and Regulations.**

The Rules and Regulations attached hereto as Schedule 24-5-1 and incorporated herein are hereby adopted and approved.

(Ord. 02-01, 5/6/2002, §1)

**§24-502. Disclosure Statement.**

The Disclosure Statement, substantially in the form set forth in Schedule 24-5-2, attached hereto and incorporated herein, is hereby approved and adopted.

(Ord. 02-01, 5/6/2002, §2)

**§24-503. Petition for Appeal and Refund.**

The form of Petition for Appeal and Refund, substantially in the form as set forth in Schedule 24-5-3, attached hereto and incorporated herein, is hereby approved and adopted.

(Ord. 02-01, 5/6/2002, §3)

**§24-504. Tax Administrator/Collector.**

The aforementioned rules, regulations, disclosure statement and petition for appeal and refund shall reflect that is the Tax Administrator/Collector and that the Borough Council, sitting in executive session have been designated as the Appeal Board.

(Ord. 02-01, 5/6/2002, §4)

**§24-505. Designation.**

The Council of the Borough of Modena hereby designated the Borough Council, sitting in Executive Session as the Appeal Board.

(Ord. 02-01, 5/6/2002, §5)

**§24-506. Administrative Appeal Procedures.**

The Administrative Appeal Procedures set forth in the rules and regulations and substantially in the form set forth in Schedule 24-5-4, attached hereto and incorporated herein, are hereby approved and adopted.

(Ord. 02-01, 5/6/2002, §6)

**§24-507. Eligible Taxes.**

This Part shall become effective in accordance with the provisions of law and shall be applicable to Eligible Taxes as of \_\_\_\_\_.

(Ord. 02-01, 5/6/2002, §7)



RULES AND REGULATIONS FOR COMPLIANCE WITH  
THE LOCAL TAXPAYERS BILL OF RIGHTS

Introduction

The Local Taxpayers Bill of Rights, enacted as part of Act 50 of 1998 (hereinafter the "LTBR"), requires that every political subdivision levying an Eligible Tax adopt regulations governing the administration and collection of the tax, and setting forth a process for handling appeals from decisions on assessments and refunds. This document provides the regulations required by the LTBR. The Disclosure Statement also required by the LTBR is provided in a separate document, which is available upon request of the Tax Administrator.

Definitions

*Appeals Board* - Council of the Borough of Modena in executive session.

*Assessment* - the determination by the Tax Administrator of the amount of underpayment by a taxpayer.

*Eligible tax* - any of the following taxes specified within the term "eligible tax" under the LTBR, including interest and penalties provided by law, when levied by the governing body of the Local Government, but specifically not including any real estate tax:

- a. Any tax authorized or permitted under the Act of December 31, 1965 (P.L. 1257, No. 511) known as the Local Tax Enabling Act or Act 511.
- b. Any per capita tax.
- c. Any occupation, occupation assessment or occupation privilege tax.
- d. Any tax levied on income.
- e. Any tax measured by gross receipts.
- f. Any tax on a privilege.
- g. Any tax on amusements or admissions.
- h. Any tax on earned income and net profits.

*Local government* - Council of the Borough of Modena.

*Local Taxpayers Bill of Rights* - subchapter C of Act 50 of 1998 of the Pennsylvania General Assembly, 53 Pa.C.S.A. §§8421-8428.

*Overpayment* - any payment of tax which is determined in the manner provided by law not to be legally due.

*Petition* - the Petition for Appeal and Refund described in Section 103.

*Tax administrator* - the employee, agent, appointed tax collector, elected tax collector, tax collection agency or other person to whom the governing body of the Local Government has assigned or delegated responsibility for the audits, assessment, determination or administration of an Eligible Tax. Under the LTBR, this Tax Administrator is also referred to and defined as the local taxing authority. In the case of the Local Government, the Tax Administrator is the Tax Collector of the Borough of Modena.

*Taxpayer* - an individual, partnership, association, corporation, limited liability company, estate, trust, trustee, fiduciary or any other entity subject to or claiming exemption from any Eligible Tax or under a duty to perform an act for itself or for

another under or pursuant to the authority of an Eligible Tax levied by the Local Government.

*Underpayment* - the amount or portion of any Eligible Tax determined to be legally due in the manner provided by law for which payment or remittance has not been made.

*Voluntary payment* - a payment of an Eligible Tax made pursuant to the free will of the taxpayer: The term does not include a payment made as a result of distraint or levy or pursuant to a legal proceeding in which the Tax Administrator is seeking to collect its delinquent Eligible Taxes or file a claim therefor.

101. Requirements for Requests for Taxpayer Information.

a. Minimum time periods for taxpayer response.

1. The taxpayer shall have at least 30 calendar days from the mailing date to respond to requests for information by the Tax Administrator. The Tax Administrator shall grant a reasonable extension upon written application explaining the reason(s) necessitating the extension, which must amount to good cause. If the Tax Administrator denies a request for extension, the Tax Administrator must inform the taxpayer in writing of the basis for the denial and that the taxpayer must immediately provide the requested information. If the Tax Administrator grants an extension request, he must notify the taxpayer in writing of the amount of extension granted. Generally, an extension will not exceed 30 calendar days in length, and may be less, depending on the circumstances.

2. The Tax Administrator shall notify the taxpayer of the procedures to obtain an extension in its initial request for information. Please refer to the notice explaining the Request for Extension of Time to Provide Information attached as Exhibit A.

3. The Tax Administrator shall take no lawful action against a taxpayer for the tax year in question until the expiration of the applicable response period for submission of the information requested, including extensions. For example, the Tax Administrator may not engage in any collection efforts until after expiration of the response period. After expiration of the response period, the Tax Administrator may engage in collection efforts permitted by the LTBR and discussed in Section 113 below.

b. Requests for prior year tax returns.

1. Except as provided in subsection (b)(2), an initial inquiry by the Tax Administrator regarding a taxpayer's compliance with any Eligible Tax may include taxes required to be paid or tax returns required to be filed no more than 3 years prior to the mailing date of the notice.

2. The Tax Administrator may make an additional subsequent request for a tax return or supporting information, if, after the initial request, the Tax Administrator determines that the taxpayer failed to file a tax return, under-reported income or failed to pay a tax for one or more of the tax periods covered by the initial request. Generally, however, the Tax Administrator should not make routine requests for additional prior year returns.

Notwithstanding the foregoing, the limitations in subsection (b)(2) above on subsequent requests for prior year returns shall not apply if the Tax Administrator has sufficient information to indicate that the taxpayer failed to file a

required return or to pay an Eligible Tax which was due more than 3 years prior to the date of the notice. Thus, in situations involving failure to file a required return or pay a required Eligible Tax, the Tax Administrator shall, in his discretion, have the ability to request prior year returns due more than 3 years prior and supporting information.

- c. Use of Federal or State tax information. The Tax Administrator may require a taxpayer to provide copies of the taxpayer's Federal individual income tax return if the Tax Administrator can demonstrate that the Federal tax information is reasonably necessary for the enforcement or collection of tax and the information is not available from other available sources or the Pennsylvania Department of Revenue. The Tax Administrator may also require a taxpayer to provide copies of the taxpayer's State individual income tax return.

102. Notice of Basis of Underpayment. The Tax Administrator must notify the taxpayer in writing of the basis for any underpayment that the Tax Administrator has determined to exist with respect to any Eligible Tax. The purpose of this notification is for the taxpayer to understand the exact reason why the Tax Administrator believes an underpayment exists. This notification from the Tax Administrator shall be written in a manner calculated to be understood by an average person. The notification must include:

- a. The tax period or periods (usually measured in calendar years) for which the underpayment is asserted.
- b. The amount of the alleged underpayment of the Eligible Tax detailed by tax period.
- c. The legal basis (including any statutory or case law citations) upon which the Tax Administrator has relied to determine that an underpayment of an Eligible Tax exists.
- d. An itemization of the changes made by the Tax Administrator to a return or report filed by the taxpayer that results in the determination that an underpayment exists. A copy of any revised return or report in the Tax Administrator's file must be provided to the taxpayer.

103. Petitions for Appeals of Assessments for Refund of Taxes Paid.

- a. Filing of Petitions. A taxpayer has the legal right to challenge an assessment or denial of a refund claim under the LTBR. However, a taxpayer has a right to one appeal only. If a taxpayer loses an assessment appeal, the taxpayer is not entitled to a second refund appeal after paying the tax. In addition, no administrative appeals are provided for other decisions, including but not limited to the denial of an extension of time to provide information or the modification or termination of an installment agreement.

The LTBR requires political subdivisions to establish appeals procedures. In order to begin the appeals process, the taxpayer must file a complete and timely petition (the "Petition"). A Petition is timely filed if the letter transmitting the Petition is postmarked by the United States Postal Service or actually received on or before the final day on which the Petition is due. Receipts from other carriers other than the United States Postal Service are not accepted as proof of timely filing. Deadlines for filing a petition are as follows:

1. Petitions challenging the denial of a refund shall be filed within 3 years after the due date for filing the report or return as extended or 1 year after

actual payment of the tax, whichever is later. If no report or return is required, the Petition shall be filed within 3 years after the due date for payment of the Eligible Tax or within 1 year after actual payment, whichever is later.

2. Petitions for reassessment of tax shall be filed within 90 days of the date of the assessment notice which has been sent to the taxpayer by the Tax Administrator.

b. The Tax Administrator shall make available a form of Petition for Appeal and Refund attached as Schedule 3.

c. Contents. Any Petition filed under Section 103(a)(1) shall (1) state the legal basis for claiming the refund or disagreeing with the Tax Administrators assessment; (2) state the tax period or periods (i.e., years) to which it pertains; (3) state the amount of the claim and the type of Eligible Tax detailed by tax period; (4) include all supporting documentation and calculations; (5) provide the name, address and telephone number of the taxpayers representative, if any; (6) include a statement certifying that the facts in the Petition are true and correct, under penalty of perjury, and the Petition is not filed for purposes of delay; and (7) include such other information (essentially identification) as is reasonably requested by the Tax Administrator on the Petition for Appeal and Refund provided to taxpayer.

d. The taxpayer shall have his or her Petition decided by the governing body acting in executive session based solely on the Petition and record (including information on file and information submitted by the taxpayer). No hearing, oral testimony or oral argument is required, but can be requested by taxpayer. The governing body may choose to grant a hearing in its sole discretion.

104. Appeals Board. The Appeals Board shall consist of the governing body acting in executive session, without any maximum or minimum limitation on the number of persons acting as the governing body, provided that a quorum exists.

a. The decision by the governing body acting in executive session shall be based solely on the Petition and record. Decisions on Petitions shall be issued within 60 days of the date a complete and accurate Petition is received. Failure to act within 60 days shall result in the Petition being deemed approved.

b. Any person aggrieved by a decision under this Section 104 who has a direct interest in the decision shall have the right to appeal to the Court of Common Pleas of the County of Chester vested with the jurisdiction of local tax appeals by or pursuant to 42 Pa.C.S. §5571(b).

c. Decisions by the Appeals Board shall be made according to principles of law and equity.

105. Conduct of Appeals.

a. A taxpayer may or may not choose to be represented by a taxpayer representative. The taxpayer representative may be a lawyer, certified public accountant, accountant or other tax advisor possessing appropriate tax training to represent taxpayers in tax appeals. The taxpayer must submit a written authorization to use a taxpayer representative. However, a simple letter signed by a taxpayer authorizing representation will be accepted as authorization. Such authorization shall include the representative's name, address and telephone number.

b. Copies of notices or communications may be sent by the Tax Administrator or other representative of the political subdivision to the taxpayer's representative. However, the original notice or communications will always be sent directly to the

taxpayer. Action taken by the taxpayer's authorized representative (for example, requesting an extension of time or submitting factual information) shall have the same force or effect as if taken directly by the taxpayer.

c. The Board of Appeals' final decision shall be in writing and signed by the President or Vice-President. The final decision shall be mailed to the taxpayer, with a copy also mailed to the taxpayer's authorized representative (if any).

106. Refunds.

a. A taxpayer who has paid an Eligible Tax may file a written request for refund or credit. A request for refund shall be made within 3 years of the due date, as extended, for filing the report or tax return, or 1 year after the actual payment date of the tax, whichever is later. If no report is required, the request shall be made within 3 years after the date due for payment of the tax or within 1 year after actual payment of the tax, whichever is later.

b. A tax return filed by the taxpayer showing an overpayment shall be deemed to be a written request for a cash refund unless otherwise indicated on the tax return.

c. A request for refund under this Section 106 shall not be considered a Petition under Section 103 and shall not preclude a taxpayer from submitting a Petition under Section 103.

d. For amounts paid as a result of a notice asserting or informing a taxpayer of an underpayment, a written request for refund shall be filed within 1 year of the date of payment.

107. Disclosure Statement and Taxpayer Notice. Any taxpayer contacted by the Tax Administrator regarding the assessment, audit, determination, review or collection of an Eligible tax will receive a Taxpayer Notice. The Notice shall be incorporated into any other correspondence sent to a taxpayer by the Tax Administrator regarding the assessment, audit, determination, review or collection of tax. The Notice shall be substantially in the following form:

You are entitled to receive a Disclosure Statement that sets forth a written explanation of your rights with regard to the assessment, audit, determination, review, appeal, enforcement, refund and collection of any local taxes by calling the Tax Administrator at (610) 384-6777 during business hours.

You may request a copy in person, by telephone or by mailing a request to the following address: Tax Collector, Borough of Modena, 5 S. Brandywine Avenue, P.O. Box 116, Modena, PA 19358.

The Disclosure Statement will be made available to taxpayers upon request at not charge to the taxpayer, including mailing costs. In general, the Tax Administrator will make reasonable efforts to supply all taxpayers with a copy of the Disclosure Statement.

108. Interest on Overpayment.

a. General Rule. All overpayments of an Eligible Tax made to the Local Government shall bear simple interest from the date of overpayment of such Eligible Tax until the date of resolution.

b. Interest Rate. Interest on overpayments shall be paid at the same rate as the Commonwealth of Pennsylvania is required to pay pursuant to Section 806.1 of the Act of April 9, 1929 (P.L. 343, No. 176), known as the Fiscal Code (72 P.S. §1 *et seq.*). As of December 1998, this interest rate is currently 9 percent annually

(.00247% daily).

c. Exceptions to payments of interest.

1. No interest shall be paid if an overpayment is refunded or applied against any other Eligible Tax, interest or penalty due to the Local Government within 75 days after the last date prescribed for filing the report of tax return of the tax liability or within 75 days after the date the return or report of the liability due is filed, whichever is later.

2. Interest is not required to be paid on taxpayer overpayments of interest or a penalty(ies).

d. Acceptance of refund check. The taxpayers acceptance of a refund check from the Tax Administrator or political subdivision shall not prejudice any right of the taxpayer to claim any additional overpayment and interest thereon. Tender of a refund check by the local Government shall be deemed to be acceptance of the check of the taxpayer for purposes of this subsection 108(d).

e. Definitions. As used in this Section 108, the following words and phrases shall have the meanings given to them in this subsection 108(e):

“Date of overpayment” shall mean the later of the date paid or the date the tax is deemed to have been overpaid as follows:

1. Any tax actually deducted and withheld at the source shall be deemed to have been overpaid on the last day for filing the report for the tax period, determined without regard to any extension of time for filing.

2. Any amount overpaid as estimated tax for the tax period shall be deemed to have been overpaid on the last day for filing the final report for the tax period, determined without regard to any extension of time for filing.

3. An overpayment made before the last day prescribed for payment shall be deemed to have been paid on the last day.

4. Any amount claimed to be overpaid with respect to which a lawful administrative review or appellate procedure is initiated shall be deemed to have been overpaid 60 days following the date of initiation of the review procedure.

5. Any amount shown not to be due on an amended income or earned income and net profits tax return shall be deemed to have been overpaid 60 days following the date of filing of the amended income tax return.

“Date of Resolution” shall mean the date the overpayment is refunded or credited as follows:

1. For a cash refund, a date preceding the date of the refund check by not more than 30 days.

2. For a credit for an overpayment.

i. The date of the Tax Administrator’s notice to the taxpayer of the determination of the credit; or

ii. The due date for payment of the Eligible Tax against which the credit is applied, whichever first occurs. For a cash refund of a previously determined credit, interest shall be paid on the amount of the credit from a date 90 days after the filing of a request to convert the credit to a cash refund to a date preceding the date of the refund check by not more than 30 days, whether or not the refund check is accepted by the taxpayer after



the tender.

109. Abatement of Certain Interest and Penalty.

a. Errors and Delays. The purpose of this provision is to provide, in the discretion of the Tax Administrator, a mechanism to abate (i.e., reduce) interest and/or penalties where an underpayment is the result of an error or delay in the performance by a representative of the Tax Administrator. Accordingly, in the case of any underpayment, the Tax Administrator, in its discretion, may offer to abate all or any part of the interest relating to an Eligible Tax for any period for any one or all of the following reasons:

1. Any underpayment of an Eligible Tax finally determined to be due, which is attributable in whole or in part to any error or delay by the Tax Administrator in the performance of a ministerial act. For purposes of this paragraph, an error or delay shall be taken into account only if no significant aspect of the error or delay can be attributed to the taxpayer and after the Tax Administrator has contacted the taxpayer in writing with respect to the underpayment of tax finally determined to be due and payable.
2. Any payment of an Eligible Tax to the extent that any error or delay in the payment is attributable to an officer, employee or agent of the Tax Administrator being erroneous or dilatory in performance of a ministerial act.

The Tax Administrator shall determine which constitutes timely performance of ministerial acts performed under this subsection 109(a).

b. Abatement of any penalty or excess interest due to erroneous written advice by the Tax Administrator. The Tax Administrator shall abate any portion of any penalty of excess interest attributable to erroneous advice furnished to the taxpayer in writing by an officer, employee or agent of the Tax Administrator acting in the officer's, employee's or agent's official capacity if:

1. The written advice was reasonably relied upon by the taxpayer and was in response to a specific request of the taxpayer; and
2. The portion of the penalty or addition to tax or excess interest did not result from a failure by the taxpayer to provide adequate or accurate information to the Tax Administrator.

Notwithstanding the foregoing, it shall be the sole discretion of the Tax Administrator whether or not to provide written tax advice to a taxpayer. Taxpayers shall not have any right to compel the Tax Administrator to provide written tax advice.

110. Application of Payments. Unless otherwise specified by the taxpayer, all voluntary payments of an Eligible Tax shall be prioritized by the Tax Administrator in the following order:

- a. Tax.
- b. Interest.
- c. Penalty.
- d. Any other fees or charges.

111. Installment Agreements. The Tax Administrator has the discretion to enter into written agreements with any taxpayer under which the taxpayer is allowed to satisfy liability for tax in installment payments if the Tax Administrator determines that the installment agreement will facilitate collection.

- a. Extent to which installment agreements remain in effect.
  1. Except as otherwise provided in this subsection 111(a), any installment agreement entered into by the Tax Administrator under this Section 111 shall remain in effect for the term of the agreement.
  2. The Tax Administrator may terminate any prior installment agreement entered into under this Section 111 if:
    - i. Information which the taxpayer provided to the Tax Administrator prior to the date of the installment agreement was inaccurate, false, erroneous or incomplete in any manner, determined in the reasonable discretion of the Tax Administrator; or
    - ii. The Tax Administrator reasonably believes and has determined that collection of the Eligible Tax under the installment agreement is in jeopardy.
  3. If the Tax Administrator finds that the financial condition of the taxpayer has significantly changed, the Tax Administrator may unilaterally alter, modify or terminate the installment agreement, but only if the following conditions are satisfied:
    - i. The Tax Administrator provided a notice of its findings to the taxpayer no later than 30 days prior to the date of change of the installment agreement; and
    - ii. The notice given by the Tax Administrator to the taxpayer provides the reasons why the Tax Administrator believes that a significant change, justifying a change to the installment agreement, has occurred.
  4. The Tax Administrator may unilaterally and without notification alter, modify or terminate an installment agreement entered into by the Tax Administrator under this Section 111 if the taxpayer fails to do any of the following:
    - i. Pay any installment at the time it is due under the installment agreement;
    - ii. Pay any other liability relating to an Eligible Tax at the time the liability is due;
    - iii. Provide a financial condition update as requested by the Tax Administrator.
  5. No administrative appeal is permitted in the event of an alteration, modification or termination of an installment agreement. However, an appeal may be made to the Court of Common Pleas of Chester County.
- b. Prepayment permitted. Nothing in this Section 111 shall prevent a taxpayer from prepaying in whole or in part any Eligible Tax under any installment agreement with the Tax Administrator.

112. Confidentiality of Tax Information. Any information obtained by the Tax Administrator or Local Government, or any of their respective officers, agents, legal counsel, financial accountants, or employees as a result of any audit, assessment, return, report, investigation, hearing, appeal or verification of a taxpayer shall be confidential tax information. It shall be unlawful, except for official purposes or as provided by law, for such persons to:

- a. Divulge or make known in any manner any confidential information obtained

through any audit, return, assessment, report, investigation, report, appeal, hearing or verification of a taxpayer to any person other than the taxpayer or the taxpayers authorized representative.

b. Permit confidential tax information or any book containing any abstract or particulars thereof to be seen or examined by any person other than the taxpayer or the taxpayer's authorized representative.

c. Print, publish or make known in any manner any confidential tax information of a taxpayer.

An offense under this Section 112, is a misdemeanor of the third degree and, upon conviction thereof, a fine of not more than \$2,500.00 and costs, or a term of imprisonment for not more than 1 year, or both, may be imposed on the offender. If the offender is an officer or employee of the Tax Administrator, or of the Local Government, the officer or employee shall be dismissed from office or discharged from employment.

113. Collections. If after the decision of an appeal, or if no appeal is requested by a taxpayer, the Tax Administrator may engage in efforts to collect any Eligible Tax determined to be legally due. Such efforts may include, but shall not be limited to, obtaining additional information, auditing taxpayer records, compromising the amount of tax, interest, or penalty owed, obtaining liens on the taxpayers property, or obtaining wage attachments, levies and seizures of the taxpayer's property. As provided in Section 111 of these Regulations, the Tax Administrator may enter into a written installment agreement with the taxpayer if the Tax Administrator determines that an installment agreement will facilitate collection. The tax Administrator also reserves the right to seek criminal prosecution of a taxpayer in appropriate circumstances.

REQUEST FOR EXTENSION OF TIME TO PROVIDE INFORMATION

**This Notice explains certain rights you have with respect to the request for information. You should read this Notice carefully, as your rights may expire if you do not follow the instructions within the prescribed time periods.**

Under Pennsylvania law, we are required to allow you 30 calendar days to respond to our request for information. This 30-day period is measured from our date of mailing the request for information. You must respond by either providing our Tax Administrator with the requested information, or requesting an extension of time in which to provide the information we have requested. If you need an extension of time, please send a written request, specifying the reasons for the extension and the facts supporting those reasons, to the attention of the following person at the following address:

Ms. Sandy Frost, Tax Collector  
Borough of Modena  
P.O. Box 116  
Modena, PA 19358

A reasonable extension of time will be granted for good cause. Absent extraordinary circumstances, we will grant no longer than a 30-day extension of time. The Tax Administrator will notify you in writing whether an extension of time has been granted. If the request is granted, the Tax Administrator also will inform you of the amount of the time extension. If your request for an extension of time is denied, the Tax Administrator will inform you of the basis of for the denial, and that you must provide the requested information immediately.

DISCLOSURE STATEMENT UNDER  
THE LOCAL TAXPAYERS BILL OF RIGHTS

It is the obligation of all taxpayers to file all local returns voluntarily and pay all local taxes to which they are subject. However, when the duly appointed or elected tax collector or tax collection agency for the municipality and/or school district in which the taxpayer resides determines that a required return has not been filed, or a tax liability has not been paid, the Local Taxpayers Bill of Rights grants certain legal rights to taxpayers, and imposes obligations on taxing authorities to ensure that equity and fairness guide local governments in the collection of taxes. In addition, the Local Taxpayers Bill of Rights provides the local government entity with certain legal methods to enforce taxpayer obligations. **This Disclosure Statement sets forth your rights as a taxpayer in connection with any audit, examination, appeal or refund claim of taxes for the Borough of Modena and any enforcement or collection actions taken by Sandy Frost, Tax Collector, Tax Administrator on behalf of the Borough of Modena.**

Applicability/Eligible Taxes

This Disclosure Statement applies to all eligible taxes levied by the Borough of Modena. For this purpose, eligible taxes do not include real property taxes. Unless expressly provided in the Local Taxpayers Bill of Rights, the failure of any person acting on behalf of the Tax Administrator to comply with any provisions of this Disclosure Statement, related regulations or the Local Taxpayers Bill of Rights will not excuse the taxpayer from paying the taxes owed.

Audit or Examinations

If we contact you about your tax return or payment of any eligible taxes, we will send you a letter with either a request for more information or a reason why we believe a change to your return or taxes may be needed. If we request information, you will have 30 calendar days from the date of the mailing to respond. Reasonable extensions of such time will be granted upon application for good cause. We will notify you of the procedures to obtain an extension with our initial request for tax information. Our initial inquiry may include taxes required to be paid or tax returns required to be filed no more than 3 years prior to the mailing date of our notice. If you give us the requested information or provide an explanation, we may or may not agree with you. If we do not agree with you, we will explain in writing our reasons for asserting that you owe us tax (which we call "an underpayment"). Our explanation will include: (1) the tax period or periods for which the underpayment is asserted; (2) the amount of the underpayment detailed by tax period; (3) the legal basis upon which we have relied to determine that an underpayment exists; and (4) an itemization of the revisions made by us to your return or report that results in our decision that an underpayment exists. If you agree with our changes, you should pay the additional tax.

Request for Prior Year Returns

An initial request by the Tax Administrator into prior year returns may cover tax

returns to be filed as far back as 3 years prior to the mailing date of the notice. If the Tax Administrator determines that the taxpayer failed to file a tax return, under-reported income or failed to pay a tax for one or more of the tax periods covered by the initial request, the Tax Administrator may request additional information. The Tax Administrator may also require a taxpayer to provide copies of federal and Pennsylvania tax returns when the Tax Administrator can show that the taxpayer's federal tax return(s) is/are reasonably necessary for the enforcement of collection of tax, and the information is not available from other sources or the Pennsylvania Department of Revenue.

### Appeals of Decisions

If we notify you that you owe more tax (what we call an "assessment") and you do not agree with our decision, you may appeal or seek review by filing a Petition for reassessment within 90 days of the date of the mailing of the assessment notice. The Petition must either be in our hands or postmarked by the United States Postal Service within this 90-day period. Receipts from other carriers (such as Federal Express) are not accepted as proof of delivery.

Your Petition must explain the legal basis for your position and include all supporting documents. For your convenience, a form for submission of a Petition is available at the Borough of Modena, 5 S. Brandywine Avenue, P.O. Box 116, Modena, PA 19358. Your Petition must be mailed or delivered to the attention of Sandy Frost, Secretary/Treasurer, Borough of Modena, P.O. Box 116, Modena, PA 19358. A decision by the Council of the Borough of Modena will be made within 60 days of the date of your complete and accurate Petition is received. If you do not agree with the decision of the Council of the Borough of Modena, you may appeal to the appropriate Court of Common Pleas of Chester County. You must file your appeal within 30 days after notice of the decision of the Council of the Borough of Modena.

### Refunds

You may file a claim for refund ("Refund Claim") if you think you paid too much tax (what we call an "overpayment"). You must file the Refund Claim within 3 years of the due date for filing the return as extended or 1 year after the actual payment of the tax, whichever is later. If no report or local tax return is required for the tax, the Refund Claim must be made within 3 years after the due date for the payment of the tax or within 1 year after the actual payment of the tax, whichever is later. If your Refund Claim related to amounts paid as a result of a notice asserting an underpayment of tax, your request for Refund Claim must be filed within 1 year of the date of payment. Refund Claims must be made on forms prescribed by us and must include supporting documentation. You can obtain forms for Refund Claims by contacting Sandy Frost, Tax Collector, Borough of Modena, P.O. Box 116, Modena, PA 19358. If you file a tax return showing an overpayment of tax, we will treat that as a request for a cash refund unless you indicate otherwise. If your Refund Claim is denied, you may file a Petition contesting the denial of the refund. Any Petition must be filed within the same time limits that apply for a Refund Claim. Alternatively, you may file a Petition for a refund without first filing a Refund Claim. A hearing date will be set after your Petition is received and a decision by the Council of the Borough of Modena will be made within 60 days of the date your complete and accurate Petition is received. The Appeals

Petition form must be used to request a review of a Refund Claim denial. Your Petition must be mailed or delivered to the attention of Sandy Frost, Tax Collector, Borough of Modena, P.O. Box 116, Modena, PA 19358.

#### Enforcement Procedures

Once it has been determined that you owe a tax, we will take all action we are legally permitted to take to enforce your claim. Such action may include obtaining additional information from you, auditing your records, entering into a settlement with you of the disputed amount of the tax, or obtaining liens on your property, wage attachments, levies, and seizures and sales of your property in appropriate circumstances. We may enter into a written agreement with you for payment of the tax in installments if we believe that such an agreement will facilitate collection. We may also impose interest and applicable penalties on the tax you owe, and may seek criminal prosecution of you in appropriate circumstances.

#### Tax Information Confidentiality

Information gained by the Tax Administrator or Borough of Modena as a result of any audit, return, report, investigations, hearing, appeal or verification shall be confidential. However, confidentiality will not preclude disclosure for official purposes, whether in connection with legal proceedings or otherwise, and will not preclude disclosure to the extent required by applicable law.

#### Taxpayer Complaints

If you have a complaint about any action relating to the political subdivision's taxes, Sandy Frost, Tax Collector, may be contacted in writing at P.O. Box 116, Modena, PA 19358. This individual will attempt to facilitate resolution of your complaint by working with the appropriate personnel of the Tax Administrator and/or Council of the Borough of Modena.

For more information, please contact:

Borough Council  
Borough of Modena  
P.O. Box 116  
Modena, PA 19358





PETITION FOR APPEAL AND REFUND

**INSTRUCTIONS:** This form is to be used by taxpayers appealing an assessment of tax by the Tax Administrator, or an appeal of a denial of claim for refund by the Tax Administrator. Please complete Petition using blue or black ink, or type Petition. Attach a copy of the Assessment Notice being appealed, or if seeking a refund, proof that such tax was paid. Mail this Petition to:

Sandy Frost, Secretary/Treasurer  
Borough of Modena  
P.O. Box 116  
Modena, PA 19358

Petitions appealing an Assessment Notice must be received by the Council of the Borough of Modena within ninety (90) days of the date of the Assessment Notice. Petitions for refunds must be received by the Council of the Borough of Modena within the later of: (a) three (3) years of the due date for filing the return or (b) one (1) year after the actual payment date of the tax. Petitions filed via U.S. Postal Service are considered filed as of the postmark date. Petitions filed via any other method are considered filed on the date received. Answer all questions below as completely as possible. If an item is not applicable, enter "N/A".

**SECTION A: TAXPAYER INFORMATION**

\_\_\_\_\_  
Last Name First Name Middle Initial

Street Address: \_\_\_\_\_

\_\_\_\_\_  
City State Zip Code County

Phone Number: ( ) - Fax Number: ( ) -

Previous Street Address (if applicable): \_\_\_\_\_

\_\_\_\_\_  
City State Zip Code County

Social Security Number: - -

Taxpayer Identification Number: -

**SECTION B: TAX INFORMATION**

Type of Tax: \_\_\_\_\_

Is this Petition for a Refund?  Yes  No If Yes, what amount? \$ \_\_\_\_\_

Tax Year: \_\_\_\_\_ Quarter:  1<sup>st</sup>  2<sup>nd</sup>  3<sup>rd</sup>  4<sup>th</sup>

Assessment Notice Mailing Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

School District: \_\_\_\_\_

Township/Borough: \_\_\_\_\_

County: \_\_\_\_\_

**SECTION C: TAX REPRESENTATIVE INFORMATION**

**Complete information for Tax Representative (if applicable)**

Send all copies of Correspondence to Representative  Yes  No

\_\_\_\_\_  
Last Name First Name Middle Initial

Is representative an:  Attorney  Certified Public Accountant  
 Other Accountant  Other Tax Advisor

Business Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

\_\_\_\_\_  
City State Zip Code County

Phone Number: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_ Fax Number: (\_\_\_\_) \_\_\_\_\_ - \_\_\_\_\_

**SECTION D: RELIEF REQUESTED and ARGUMENTS**

Explain the relief requested: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Explain in detail why the relief requested above should be granted. Attach additional pages if necessary. Enclose copies of any documents you feel will support your argument. Petitions for refund must be accompanied by proof of payment of the tax.

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**SECTION E: SIGNATURE**

All Petitions must be signed by the Petitioner or an authorized representative. If signed by an authorized representative, written authorization for the representative to sign on Petitioner's behalf must accompany the Petition.

Under penalties prescribed by law, I hereby certify that this Petition has been examined by me, and that to the best of my knowledge, information and belief, the facts contained in the Petition are true and correct.

Signature: \_\_\_\_\_  
(Taxpayer or Authorized Representative)

Print Name: \_\_\_\_\_  
(Taxpayer or Authorized Representative)

Title: \_\_\_\_\_

Date: \_\_\_\_\_

ADMINISTRATIVE APPEAL PROCEDURES  
APPLICABLE TO PETITIONS FOR APPEAL AND REFUND

I. GENERAL

If the Taxpayer does not agree with the local Tax Administrator's (hereinafter "Administrator") assessment or determination of the refund claim, the taxpayer may file an appeal by Petition with the Council of the Borough of Modena, requesting a review of the Administrator's assessment or determination of refund claim.

II. FORM AND CONTENT OF THE PETITION

A. The Petition must include all of the following information:

1. Petitioner's name, address, telephone number and contact person (if any).
2. Petitioner's social security number, taxpayer identification number, and/or account number.
3. Type of tax.
4. Tax year and quarter.
5. School district and/or Borough, Township, County.
6. Name, address and telephone number of authorized representative (if any).
7. Relief the Petitioner is requesting.
8. Petitioner's argument(s) in support of the relief requested.
9. Signature of Petitioner.

III. FORWARDING APPEAL

A. Upon receipt of the taxpayer's Petition, the Administrator shall forward the Petition immediately to the Council of the Borough of Modena, P.O. Box 116, Modena, PA 19358.

B. The Council of the Borough of Modena shall issue a written decision on the taxpayer's Petition within 60 days of the date on which a complete and accurate Petition is received from the taxpayer.

C. In evaluating and making a decision as to any Petition, the Council of the Borough of Modena shall apply the rules of law and equity.



## Chapter 25

[Reserved]





## **Chapter 26**

### **Water**

#### **Part 1**

#### **Water Conservation Standards**

- §26-101. General Policy
- §26-102. Water Conservation Performance Standards for Plumbing Fixtures and Fittings
- §26-103. Special Provisions
- §26-104. Official Review and Modification
- §26-105. Penalties



**Part 1****Water Conservation Standards****§26-101. General Policy.**

No water shall be provided for internal or external use to any residential, commercial, industrial, agricultural, recreational, governmental, or public building or structure of any kind which is constructed or remodeled and in which plumbing, water piping or water fixtures are to be installed, extended or altered in any way, and for which construction a permit is required to be obtained from Modena Borough (or would be required but for an exemption from a permit requirement for public or governmental agencies) unless the new, extended or altered plumbing, water piping and other water using fixtures therein conform to the requirements and standards of §26-102 of this Part. The provisions of this Part shall apply to any such building or structure for which such a building permit is issued, or would otherwise be required to be issued but for such an exemption, on or after November 4, 1996.

(Ord. 136, 1/6/1996, §1)

**§26-102. Water Conservation Performance Standards for Plumbing Fixtures and Fittings.**

1. *Water Closets and Associates Flushing Mechanisms.* The water consumption of water closets shall not exceed an average of 1.6 gallons per flush cycle over a range of test pressures from 20 to 80 psi. The fixture shall perform in accordance with the test requirements of the ANSI A1 12.19.2M and ANSI A112.19.6M.

2. *Urinals and Associated Flushing Mechanisms.* Urinal water consumption shall not exceed an average of 1.5 gallons per flush cycle over a range of test pressures from 20 to 80 psi. The fixtures shall perform in accordance with the test requirements of ANSI A112.19.2M and ANSI A112.19.6M.

3. *Showerheads.* Showerhead discharge rates shall not exceed 3.0 gallons of water per minute over a range of test pressures from 20 to 80 psi. The fixture shall perform in accordance with the test requirements of ANSI A112.18.1M.

4. *Faucets.* Sink and lavatory faucet discharge rates shall not exceed 3.0 gallons of water per minute over a range of test pressures from 20 to 80 psi. The fixture shall perform in accordance with the test requirements of ANSI A112.18.1M.

(Ord. 136, 1/6/1996, §2)

**§26-103. Special Provisions.**

1. *Special Purpose Equipment.* The performance standards of Section Two shall not apply to fixtures and fittings such as emergency showers, aspirator faucets, and blowout fixtures that, in order to perform a specialized function, cannot meet the specified standards.

2. *Exemptions.* Any person(s) may apply to the Borough of Modena for an exemption to the terms of this Part, which may be granted by the Borough Council, upon proof that some other device, system or procedure will save as much or more water as those set forth herein, or that those set forth herein cannot be complied with, without

undue hardship.

(*Ord. 136, 1/6/1996, §3; as amended by Ord. 145-07, 12/11/2007*).

**§26-104. Official Review and Modification.**

The Borough Council may, from time to time, modify, add to, or remove from the standards and restrictions herein.

(*Ord. 136, 1/6/1996, §4*)

**§26-105. Penalties.**

It shall be an offense for any person to use or apply water within Modena Borough contrary to or in violation of the restrictions herein, and upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 136, 1/6/1996, §5; as amended by Ord. 145-07, 12/11/2007*).

# Chapter 27

## Zoning

### Part 1 General Provisions

- §27-101. Short Title; Effective Date
- §27-102. Interpretation
- §27-103. Scope
- §27-104. Purpose
- §27-105. Community Development Objectives

### Part 2 Definitions

- §27-201. Interpretation
- §27-202. Definitions

### Part 3 Establishment of Zoning Districts and Map

- §27-301. Classes of Districts
- §27-302. Adoption of Zoning Map
- §27-303. Boundaries of Districts and Interpretation
- §27-304. Municipally-Owned Property

### Part 4 R-1 Residential Districts

- §27-401. Statement of Intent
- §27-402. Use Regulations
- §27-403. Area and Bulk Regulations
- §27-404. Design Standards

### Part 5 R-2 Residential Districts

- §27-501. Statement of Intent
- §27-502. Use Regulations
- §27-503. Area and Bulk Regulations
- §27-504. Design Standards

### Part 6 R-3 Residential Districts

- §27-601. Statement of Intent
- §27-602. Use Regulations

- §27-603. Area and Bulk Regulations
- §27-604. Design Standards

**Part 7**  
**C-1 Neighborhood Commercial Districts**

- §27-701. Statement of Intent
- §27-702. Use Regulations
- §27-703. Area and Bulk Regulations
- §27-704. Design Standards

**Part 8**  
**POR Professional Office-Research Districts**

- §27-801. Statement of Intent
- §27-802. Use Regulations
- §27-803. Area and Bulk Regulations
- §27-804. Design Standards

**Part 9**  
**I Industrial Manufacturing Districts**

- §27-901. Statement of Intent
- §27-902. Use Regulations
- §27-903. Area and Bulk Regulations
- §27-904. Design Standards

**Part 10**  
**Flood Hazard District**

- §27-1001. Statement of Intent
- §27-1002. General Provisions
- §27-1003. Administration
- §27-1004. Identification of the Flood Hazard District
- §27-1005. Use Regulations and General Technical Requirements
- §27-1006. Activities Requiring Special Permits
- §27-1007. Existing Structures Located in Identified Flood Hazard Areas
- §27-1008. Variances

**Part 11**  
**Steep Slope District**

- §27-1101. Statement of Intent
- §27-1102. General Provisions
- §27-1103. Identification of Steep Slope Districts
- §27-1104. Use Regulations
- §27-1105. Administration of Steep Slope Districts

**Part 12**

## **Signs**

- §27-1201. Conformance Required
- §27-1202. General Sign Regulations for All Districts
- §27-1203. Exempt Signs
- §27-1204. Temporary and Portable Sign Regulations
- §27-1205. Signs in Neighborhood Commercial, Professional Office Research, and Industrial Manufacturing Districts
- §27-1206. Illumination of Signs
- §27-1207. Definitions

## **Part 13**

### **General/Supplementary Regulations**

- §27-1301. Statement of Intent
- §27-1302. Visibility at Intersections
- §27-1303. Projections into Required Yards
- §27-1304. Swimming Pools
- §27-1305. Stripping of Top Soil
- §27-1306. [Reserved]
- §27-1307. Exemptions to Height Restrictions
- §27-1308. Design Standards
- §27-1309. Home Occupations
- §27-1310. Conversion of Dwelling Units
- §27-1311. Reduction of Lot Area
- §27-1312. Prohibited Uses and Performance Standards

## **Part 14**

### **Nonconforming Uses, Structures, Lots and Signs**

- §27-1401. Statement of Intent
- §27-1402. Nonconforming Uses or Structures
- §27-1403. Nonconforming Lots of Record
- §27-1404. Nonconforming Signs
- §27-1405. Registration of Nonconformities

## **Part 15**

### **Administration**

- §27-1501. Application of Regulations
- §27-1502. Administration
- §27-1503. Enforcement
- §27-1504. Zoning Permits
- §27-1505. Application for Zoning Permits
- §27-1506. Issuance of Permits
- §27-1507. Schedule of Fees
- §27-1508. Conditional Uses

## **Part 16**

### **Zoning Hearing Board**

- §27-1601. Appointment
- §27-1602. Powers
- §27-1603. Rules
- §27-1604. Meetings and Hearings
- §27-1605. Appeals and Requests to the Zoning Hearing Board
- §27-1606. Notice of Hearing
- §27-1607. Decisions
- §27-1608. Expiration of Special Exceptions and Variances
- §27-1609. Standards for Review of Proposed Variance or Special Exception
- §27-1610. Appeals to Court

**Part 17  
Amendments**

- §27-1701. Power of Amendment
- §27-1702. Amendment by Borough Council
- §27-1703. Planning Commission Referral
- §27-1704. Amendment by Citizen's Petition
- §27-1705. Procedures upon Curative Amendment

**Part 18  
Remedies, Penalties, Validity**

- §27-1801. Remedies
- §27-1802. Penalties

**Part 19  
MH Mobile Home District**

- §27-1901. Statement of Intent
- §27-1902. Use Regulations
- §27-1903. Area and Bulk Regulations
- §27-1904. Improvement Standards



**Part 1****General Provisions****§27-101. Short Title; Effective Date.**

This Chapter shall be known and may be cited as the “Borough of Modena Zoning Ordinance of 1981.” This Chapter shall become effective 5 days after its adoption.

(*Ord. 109, 1/4/1982, §100*)

**§27-102. Interpretation.**

In interpreting and applying the provisions of this Chapter, said provisions shall be held as the minimum requirement for the promotion of the public health, safety, and general welfare of the Borough residents. Where the provisions of this Chapter impose greater restrictions than those of any statute, other ordinance or regulation, the provisions of this Chapter shall prevail. Where the provisions of any statute, other ordinance or regulation shall impose greater restrictions than the provisions of this Chapter, the greater restriction shall prevail.

(*Ord. 109, 1/4/1982, §101*)

**§27-103. Scope.**

From and after the effective date of this Chapter, use of all land, every building or portion thereof will be subject to the regulations contained herein. The use of all land, every building or portion thereof which is to be erected or altered with respect to height or area or relocated hereafter in Modena shall do so in conformance with this Chapter. Every use in a building or accessory use thereto shall be in conformance with the provisions of this Chapter. Any existing buildings or land not in conformity with the regulations herein shall be considered nonconforming but may be continued or changed subject to regulations herein regarding nonconformities.

(*Ord. 109, 1/4/1982, §102*)

**§27-104. Purpose.**

This Chapter is enacted under and pursuant to the Pennsylvania Municipalities Planning Code, 53 P.S. §1010 *et seq.*, as amended, and in accordance with the Modena Comprehensive Plan for the following reasons, among others: to promote, protect and facilitate the public health, safety and general welfare of all residents of the Borough of Modena by coordinated and practical community development by providing for proper density of population, the provision of adequate light and air, and the facilitation of adequate police protection, vehicle parking and loading space, transportation, water, sewerage, schools, parks and other public requirements, and to prevent the overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers, and to preserve unique natural features and sensitive areas. This Chapter shall be made in accordance with an overall program, and with consideration for the character of the municipality, its various parts and the suitability of the various parts for particular uses and structures.

(*Ord. 109, 1/4/1982, §103*)

**§27-105. Community Development Objectives.**

The Borough of Modena is located in an industrialized hub in the western portion of central Chester County. With industrial development and varying residential densities, the Borough has adopted objectives to promote harmonious land use, as detailed in the Modena Comprehensive Plan and summarized as follows:

A. To encourage development practices that are in the best interests of the community, the environment and the developer.

B. To promote the development of housing most suitable for the area and encourage proper maintenance procedures for existing housing.

C. To view the Borough from a regional perspective when considering new development.

D. To guide the location and intensity of development by considering the level and location of available public services.

E. To minimize conflicts between land uses that have the potential for mutual negative impact.

F. To promote balance among land uses in the Borough.

(*Ord. 109, 1/4/1982, §104*)

**Part 2****Definitions****§27-201. Interpretation.**

Unless otherwise expressly stated, the following words shall be construed throughout this Chapter to have the meaning set forth in this Chapter.

- A. Words used in the present tense include the future.
- B. The singular includes the plural and the plural the singular.
- C. The masculine gender includes the feminine and the neuter.
- D. The words “shall” or “must” are mandatory.
- E. The words “building” and “structure” shall be synonymous.
- F. The words “district” and “zone” shall be synonymous.
- G. The word “person” includes an individual, corporation, partnership, incorporated association or other similar entity.

(Ord. 109, 1/4/1982, §201)

**§27-202. Definitions.**

For the purposes of this Chapter, certain words and phrases shall have the following meanings. Words and phrases not included in this Section shall have their common meanings:

*Abandonment* - an intentional relinquishment of use and cessation of use for a period of 1 year regardless of interest.

*Accessory use or structure* - a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

*Act 247* - the Pennsylvania Municipalities Planning Code, Act 247 of 1968, P.L. 805, 53 P.S. §10101 *et seq.*, as now and hereafter amended.

*Alluvial soils* - soils consisting of alluvium deposits by floods, as defined in the Chester and Delaware Counties, “Pennsylvania Soil Survey,” 1959, No. 19.

*Alteration* - any change, addition, or modification in construction or type of occupancy or any change in structural members of a building, such as walls or partitions, columns, beams, joists, girders or rafters.

*Applicant* - a landowner(s) or developer(s), his heirs, successors or assigns, who has submitted an application for development.

*Area* - see “lot area,” “floor area” or “building area.”

*Basement* - a level that may be partly underground and has at least one-half of its height, as measured from finished floor to finished ceiling, above the average grade of adjoining ground. To be considered a story for the purpose of height measurement, the vertical distance between the ceiling and average grade of adjoining ground must be greater than 4 feet or used for business or dwelling purposes, after-hours recreation, utility use or garage.

*Buffer* - an area to be used as a visual barrier, consisting of a mound, berm or

strip of land planted and maintained as an effective barrier separating parcels or uses of land.

*Building* - a combination of materials to form a permanent structure having walls and a roof. Included shall be all mobile homes and trailers to be used for human habitation.

*Building area* - the aggregate ground surface covered by the maximum horizontal cross-section of a building and all accessory buildings thereto, excluding steps, uncovered porches, gutters, and eaves.

*Building height* - the vertical distance measured from the average finished grade in front of the building to a point midway between the highest and lowest points of the roof, excluding chimneys, spires or antennas.

*Building, principal* - a building in which is conducted, designed to be conducted or intended to be conducted the primary use of the lot on which it is located.

*Building, setback line* - a line established within a lot, measured from the street right-of-way line and parallel thereto, defining the minimum distance in which no building may be constructed. In the case of an interior lot not fronting a street for its entire width, the building setback line shall be a line parallel to the street right-of-way measured from the property line nearest the street, defining the minimum distance in which no building may be constructed.

*Bulk* - a term used to describe the size of buildings and their relationship to each other, to open areas such as yards and to lot lines, and includes the size, height and floor area of buildings.

*Cluster* - an arrangement of structures that allows for grouping the structures close together by reducing lot area and yard requirements and incorporating the space left from reducing the lot area as open space.

*Conditional use* - a use which is not wholly appropriate to a zoning district but may be suitable to a particular area within the district. Conditional uses are allowed or denied by Council after considering standards and criteria set forth in this Chapter.

*Construction* - the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of mobile homes.

*Commercial* - a use of land or improvements thereto for the purpose of engaging in retail or service activities for profit.

*Density, gross* - the total land ownership divided by the total number of dwelling units, expressed in units per acre, such ownership including interior streets having right-of-way not over 50 feet in width, common open spaces, permitted commercial uses, sites for schools and places of worship, and all land devoted to residential use.

*Density, net* - the number of dwelling units per acre, within only that portion of the lot devoted to any one particular housing type, including yards and drive-way facilities directly serving those particular dwelling types, but excluding common spaces, places of worship, permitted commercial uses, school sites, public streets, and other public grounds.

*Development* - any man-made change to improved or unimproved real estate

including, but not limited to, buildings or other structures, the placement of mobile homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land.

*Dwelling unit* - a structure designed or used as a living quarters for one family, intended to be maintained as an independent household unit, with separate cooking and sanitary facilities.

*Dwelling unit types* - dwelling units may be arranged in the following manner. Reference to such arrangement may be made by an applicant without using the specific terminology contained herein.

(1) *Single-family* - a building designed for and occupied exclusively as a residence for one family, having independent access and open space on all sides.

(2) *Two-family* - a building designed for and containing two separate dwelling units with independent access. Two-family structures may be referred to as single-family semi-detached, two-family semi-detached or some other building type falling within the following general configurations:

(a) *Twin* - a building consisting of two units separated by a vertical common party wall.

(b) *Duplex* - a building consisting of two units separated by a horizontal common party wall.

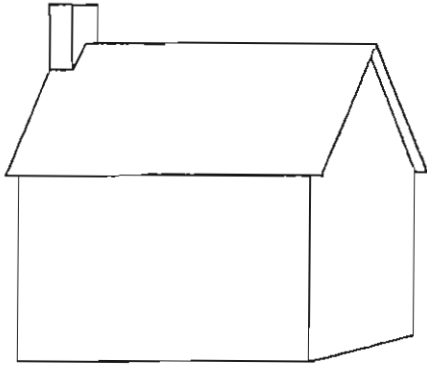
(3) *Multi-family* - a building designed for and occupied exclusively as a residence for three or more families living independently. Multi-family may be referred to, but not limited to, quadraplexes, garden apartments, maisonettes or some other term, in the following configurations:

(a) *Townhouse* - a building containing units not having more than two common party walls, open space on two or three sides and independent access for all units.

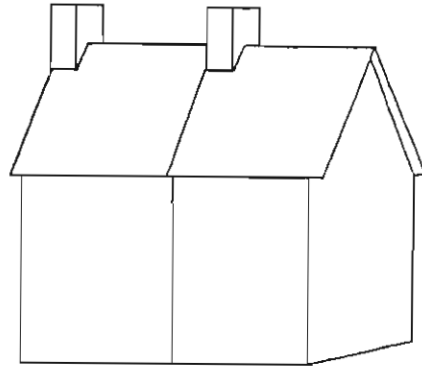
(b) *Apartment* - a building containing three or more dwelling units separated by common party walls and utilizing common accessways.

*Easement* - a specific interest in land, held by a party other than the property owner, that entitles the owner to a limited use or right.

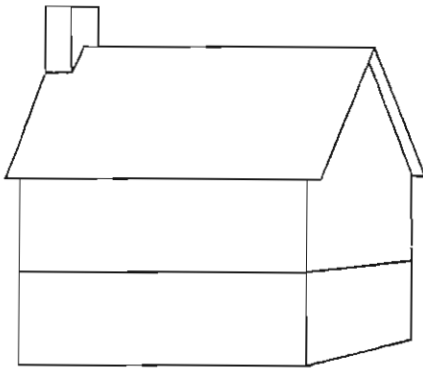
## DWELLING UNIT CLASSIFICATIONS



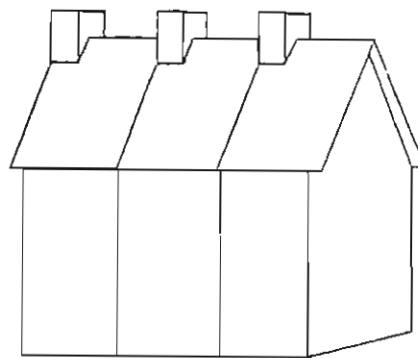
SINGLE FAMILY



TWIN



DUPLEX



TOWNHOUSE

*Employee* - for the purpose of establishing the number of parking spaces, employees shall mean the maximum number of workers on duty at any one time, whether said workers are full or part time. In cases where shifts are involved, the number of workers shall be the maximum of both shifts that are working at any one time.

*Family* - a single individual or two or more persons related by blood, marriage, foster relationship or other domestic bond, maintaining a household, and not including more than one boarder.

*Flood* - the temporary inundation of normally dry land areas.

*Floodplain area* - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of the surface waters from any source.

*Floodproofing* - any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

*Floor area* - the total enclosed area in the horizontal plain of a principal structure, and all accessory structures.

*Floor area, habitable* - the sum of the gross horizontal areas of all rooms used for habitation, exclusive of hallways, stairways, basements not included on height calculations, cellars, attics, bathrooms, closets, unheated areas, rooms without one window or sky light, garages and accessory buildings.

*Freeboard* - a margin of safety which takes into account the inaccuracies commonly associated with calculating and mapping floodplains and the effects of future floodplain and watershed development on flood heights. An alternative to the basic NFIP elevation requirement. It may result in lower flood insurance rates at some future date.

*Garage, private* - a building or space used as an accessory to the principal building, which provides the storage vehicles of the family residing on the premises and in which no occupation, business or service for profit is carried on.

*Home occupations* - the accessory use of a service nature which is clearly incidental to the residential use of a dwelling unit which is customarily undertaken by the residents thereof and does not alter the character of the structure.

*Homeowners association* - a nonprofit organization comprised of homeowners or property owners, incorporated under State and Federal laws, for the purpose of administering the needs of residents through the maintenance of community-owned property.

*Hotel, motel, inn* - a building or buildings arranged or intended for sheltering tourists or transient guests for compensation.

*House, rooming, boarding, lodging* - a building or part thereof, occupied by four or more unrelated individuals, sleeping in separate quarters for rent.

*Impervious surface* - areas incapable of absorbing precipitation.

*Industry, heavy* - a productive enterprise engaged in the manufacture or

assembly of products or the extraction or excavation of material, the process of which results in the emission of steam, gas, noise, dust or waste particles.

*Industry, light* - a productive enterprise not resulting in the emission of steam, gas, noise, dust or waste particles, which does not provide for outdoor storage and includes, but is not limited to, warehouses and offices.

*Junkyard* - any area and/or structure used for the collection, storage or sale of discarded materials or where three or more automobiles are deposited or stored outdoors without current license and inspection.

*Landscaping* - the planting of turf-grass or other appropriate ground cover or the planting of deciduous and evergreen trees and shrubbery, other than for agricultural purposes, and including the maintenance and replacement thereof, for control of erosion, retention of precipitation, protection against elements or promotion of human comfort and welfare.

*Lot* - a tract, plot or parcel of land occupied or capable of being occupied by a building and its accessory buildings, in compliance with the terms of this Chapter, together with such open spaces as are arranged and designed to be used in connection with such buildings, held in single or joint ownership. The term "lot" shall also mean parcel, plot, site or any similar term.

*Lot area, gross* - the total land surface contained within the limits of the property lines bounding the lot.

*Lot area, net* - the total land surface contained within the limits of the property lines bounding the lot, exclusive of any streets or rights-of-way that may overlap a portion of the lot.

*Lot averaging* - a means of developing dwelling units whereby some lots are larger and some lots are smaller than is otherwise required, with the average lot size meeting a minimum requirement and overall density being unchanged.

*Lot, corner* - a parcel of land at the junction and fronting or abutting on two or more intersection streets.

*Lot, reverse frontage* - a lot extending between and having frontage on two generally parallel streets with vehicular access from only the minor or lesser degree street.

*Lot, width* - horizontal distance between the side lot lines, measured parallel to the street line. Where the street is curved or angled, one width shall be measured as a straight line.

*Minor repair* - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress or rearrangement or parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain electric wiring or mechanical or other work affecting public health or general safety.

*Mobile home* - a transportable, alternative dwelling unit intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready



for occupancy except for minor and incidental unpacking and assembly operations, and construction so that it may be used with or without a permanent foundation. The term does not include recreational vehicles or travel trailers.

*Mobile home lot* - a parcel of land in a mobile home park or subdivision, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, either leased or held in private ownership.

*Mobile home park* - a parcel of land under single ownership which has been planned and improved for the placement of two or more mobile homes for nontransient use.

*Nonconforming lot* - a lot which does not conform to one or more of the applicable regulations of the district in which it is located, where such lot lawfully existed prior to enactment of this Chapter or any amendment thereto.

*Nonconforming structure* - any building or structure or part thereof which does not conform to one or more of the applicable regulations of the district in which it is located where such structure lawfully existed prior to enactment of this Chapter or any amendment thereto.

*Nonconforming use* - a use, whether of land or improvement thereto which does not conform to one or more of the applicable regulations of the district in which it is located where such lot and/or structure lawfully existed prior to enactment of this Chapter or any amendment thereto.

*Obstruction* - any wall, dam, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or floodprone area, which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water or is placed where the flow of the water might carry the same downstream to the damage of life and property.

*One-hundred year flood* - a flood that, on the average, is likely to occur once every 100 years (i.e., that has 1 percent chance of occurring each year, although the flood may occur in any year).

*Open space, common* - that area comprised of land, water or a combination thereof, within a development, intended for the use and enjoyment of the residents and/or the community at large, excluding streets, street right-of-ways, easements, off-street parking areas and private yards. Open space does not include the area between common parking lots and buildings or between roadways and common parking lots, nor does it include walkways in residential areas, or storm water detention areas unless specifically designed for active or passive recreational use.

*Parking lot* - an off-street surfaced area designed solely for the parking of motor vehicles, including driveways, passageways and maneuvering space appurtenant thereto.

*Planned residential development* - a parcel or parcels of land designed and developed as a single entity. Such a development provides for a variety of dwelling unit types and compatible commercial uses appropriate to the identified marketing needs of the immediate community.

*Property line* - a line representing the boundary of a lot, used to delineate ownership.

*Recreation, active* - those recreational pursuits which require physical facilities in the area in which they are performed. Such areas are intensively used and include playgrounds, ball courts and swimming pools.

*Recreation, passive* - recreational pursuits which can be carried out with little alternation or disruption to the area in which they are performed. Such uses include hiking and picnics.

*Regulatory flood elevation* - the 100-year flood elevation plus a freeboard safety factor of 1½ feet.

*Road or street line* - the edge of the existing legal right-of-way line of a public road or street, that defines the edge of the area within which roadway improvements and expansion can take place.

*Roads* - a public or private highway, road, street, or lane intended for use by vehicular or pedestrian traffic providing access to two or more lots. Roads are classified in accordance with function as follows:

(1) *Arterial* - a road which has as its primary function the movement of relatively high volumes of through-traffic at high speeds, with access points that are limited and controlled.

(2) *Collector* - a road which has as its primary function the movement of traffic to major facilities and arterial roads at moderate rates of speed.

(3) *Local* - a road which has as its primary function the movement of traffic to and from abutting properties.

(4) *Alley* - a minor way, which is used primarily for vehicular service access to the rear or side of properties otherwise abutting a street.

*Service station* - a lot together with any structures thereon, used for the sale of motor fuel, servicing of motor vehicles and the incidental sale of tires, batteries and other automotive accessories.

*Sewage system, on-lot* - a sanitary sewage treatment system that involves treatment by means of a septic tank or other approved method, which is normally owned, operated and maintained solely by the property owner, is confined to the property on which the dwelling unit exists and is approved by appropriate regulatory agencies.

*Sewage system, public* - a sanitary sewage collection and treatment system in which sewage flows or is pumped to an areawide treatment facility that is owned and operated by a municipality or municipal authority.

*Sign, billboard* - any portion of a structure or any device thereto, or any freestanding device that is intended for visual communication through the display of any letter, word, symbol, picture, insignia, barrier or any other display, used for the announcement or advertisement for commercial purposes. Visual displays promoted by government, civic, religious, or charitable organizations made up of flags or insignias are not considered as signs, so long as there is no commercial intent.

*Special exception* - a use in one or more districts for which the Zoning Hearing

Board may grant a special use permit pursuant to the provisions of this Chapter.

*Special permit* - a special approval which is required for hospitals, nursing homes, jails, and new mobile home parks and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

*Structure* - anything constructed or erected on the ground or attached to the ground including, but not limited to, buildings, sheds, mobile homes, and other similar items.

*Subdivision* - the division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership or building, or lot development. The division of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of access, shall be exempted.

*Swimming pool* - a reasonably permanent pool or open tank capable of containing or containing water to a depth greater than 24 inches for the purpose of swimming and/or other water related recreational activities. Farm ponds, basins or other man-made bodies of water are not swimming pools, unless specifically designed for that purpose.

*Variance* - a modification of the regulations of this Chapter granted by the Zoning Hearing Board on grounds of physical conditions or unnecessary hardship, not self-imposed, pursuant to the provisions of this Chapter and the Municipalities Planning Code, 53 P.S. §10101 *et seq.*

*Yard, front* - an open, unoccupied space on the same lot with the principal building, extending the full width of the lot and situated between the street right-of-way line and the front line of the building, projected to the side lines of that lot. The depth of the front yard shall be measured at right angles to the street line.

*Yard, rear* - a yard extending across the full width of the lot, lying between the rear line of the lot and the nearest line of any building. The depth of a rear yard shall be measured at right angles to the rear line of the lot, or if the lot is not rectangular, then in the general direction of its side lot lines.

*Yard, side* - an open, unoccupied space between the side line of the building and extending from the front yard to the rear yard, or, in the absence of either such yards, to the street or rear lot line as the case may be. The width of a side yard shall be measured at right angles to the side line of the lot.

*Water supply system, on-site* - a system for supplying safe potable water from a single source to a single dwelling unit on the same lot.

*Water supply system, public* - a system for supplying safe potable water in sufficient quantities for the proposed use, administered by a municipality, municipal authority or public utility as defined and regulated by the Pennsylvania Public Utilities Commission.

*Zoning Officer* - the municipal officer charged with enforcing the literal terms of this Chapter or the representative agent of the Zoning Hearing Board.

*Zoning permit* - a permit required before construction activities are initiated, stating that the land use and other requirements in this Chapter will be met.

*(Ord. 109, 1/4/1982, §202)*

**Part 3****Establishment of Zoning Districts and Map****§27-301. Classes of Districts.**

1. For the purposes of this Chapter, the Borough of Modena is hereby divided into six classes of districts which are designated as follows:

- A. R-1 Residential Districts.
- B. R-2 Residential Districts.
- C. R-3 Residential Districts.
- D. C-1 Neighborhood-Commercial Districts.
- E. POR Professional Office-Research Districts.
- F. I Industrial-Manufacturing Districts.

2. In addition, certain areas of the Borough are located within Flood Hazard Area, and/or Steep Sloped Areas, and are subject to the regulations contained in Part 10 and Part 11, respectively.

(*Ord. 109, 1/4/1982, §301*)

**§27-302. Adoption of Zoning Map.**

The boundaries of said districts shall be as shown upon the map attached to and made a part of this Chapter, which shall be designated the Zoning Map for the Borough of Modena. This Zoning Map and all notations shall hereby be incorporated by reference into this Chapter and shall be a part of this Chapter.

(*Ord. 109, 1/4/1982, §302*)

**§27-303. Boundaries of Districts and Interpretation.**

The boundaries between districts, unless otherwise indicated, are either the center line of streets or railroad rights-of-way or such lines extended or parallel thereto. Where figures are shown on the Zoning Map between a street and a district boundary line, they indicate that the district boundary line runs parallel to the street line at a distance therefrom equivalent to the number of feet so indicated. Where the boundaries of a single district are indicated as including directly opposite sides of a street, land, lake, or watercourse, or right-of-way of a power line or other public utility or any portion of its length, the district so indicated shall be construed to apply to the entire bed of such street, land, lake or watercourse, or right-of-way, of such power line, railroad or other public utility lying within such portion of its length. Where a district boundary is indicated as approximately following a lot or other property line, such lot or property line shall be construed to be such boundary.

(*Ord. 109, 1/4/1982, §303*)

**§27-304. Municipally-Owned Property.**

Wherever property is municipally-owned, it shall be exempt from all regulations except those for setback and lot coverage provisions of this Chapter.

(*Ord. 109, 1/4/1982, §304*)

**Part 4****R-1 Residential Districts****§27-401. Statement of Intent.**

In addition to the general purposes listed in §27-104, and the statement of community development objectives, §27-105, the regulations for R-1 Residential Districts are designed to accommodate, encourage, preserve, and to provide for limited density of residential development in certain areas of the Borough. For this purpose, development is restricted to conventional low-density, single-family, detached dwellings and related land uses.

(Ord. 109, 1/4/1982, §401)

**§27-402. Use Regulations.**

1. *Uses by Right.* In any R-1 District, a building shall be erected, altered or used, and a lot or premises shall be used, by right, for only one or more of the following purposes and for no other.

- A. Single-family, detached dwelling.
- B. Greenhouse as an accessory noncommercial use.
- C. Municipal building and municipal use.

2. *Accessory Uses.* Only the following accessory uses shall be permitted:

- A. Customary agricultural and residential accessory uses.
- B. Swimming pool in accordance with the provisions of "Swimming Pools," §27-1304.

3. *Uses By Special Exception.* The following uses shall be permitted as a special exception when authorized by the Zoning Hearing Board, subject to Part 16 of this Chapter:

- A. Two-family dwelling.
- B. Educational, religious, or philanthropic use, excluding hospital and/or sanitarium, correctional or penal institution.
- C. Public recreation, club or swimming pool owned and operated by a nonprofit corporation, incorporated under the laws of the Commonwealth of Pennsylvania; provided, that a particular activity shall not be one which is customarily carried on as a business and provided that all services shall be for members and their guests. All swimming pools must be maintained and fenced in accordance with Pennsylvania Department of Environmental Resources requirements.

(Ord. 109, 1/4/1982, §402)

**§27-403. Area and Bulk Regulations.**

The following regulations shall apply in all R-1 Districts:

- A. *All Uses By Right Except Agricultural.*

	<b>Minimum Standards</b>
(1) <i>Single-family, detached dwelling</i>	
(a) Lot Size	40,000 square feet
(b) Lot Width at Building Setback Line	150 feet
(2) <i>Single-family, detached dwelling with both public sewage system and public water supply system</i>	
(a) Lot Size	22,000 square feet
(b) Lot Width at Building Setback Line	100 feet
B. <i>Building Area.</i> Not more than 35 percent of the area of each lot may be occupied.	
C. <i>Yards.</i> Front, side and rear yards shall be provided on each lot as follows:	
(1) <i>Front Yard.</i> Not less than 35 feet in depth, subject to the other provisions of this Chapter.	
(2) <i>Side Yards.</i> Two yards, not less than 30 feet in aggregate width, and neither less than 12 feet; except that, in the case of a corner lot, any yard which abuts a street shall not be less than 25 feet in width.	
(3) <i>Rear Yard.</i> Not less than 30 feet in depth.	
D. <i>Height Regulations.</i> No building shall exceed three stories or 35 feet in height.	

(Ord. 109, 1/4/1982, §403)

**§27-404. Design Standards.**

The following design standards shall apply:

- A. *Residential Uses By Right.*
  - (1) *Parking.* As required by §27-1308.9 of this Chapter.
- B. *Uses Permitted By Special Exception.*
  - (1) *Screening.* As required by §27-1308.1 of this Chapter.
  - (2) *Storage.* As required by §27-1308.2 of this Chapter.
  - (3) *Landscaping.* As required by §27-1308.3 of this Chapter.
  - (4) *Interior Circulation and Emergency Access.* As required by §27-1308.4 of this Chapter.
  - (5) *Lighting.* As required by §27-1308.5 of this Chapter.
  - (6) *Off-Street Loading Requirements.* As required by §27-1308.6 of this Chapter.
  - (7) *Access and Traffic Control.* As required by §27-1308.7 of this Chapter.
  - (8) *Off-Street Parking Regulations for Other than Residential Use.* As required by §27-1308.8 of this Chapter.

(Ord. 109, 1/4/1982, §404)



**Part 5**

**R-2 Residential Districts**

**§27-501. Statement of Intent.**

In addition to the general purposes listed in §27-104 and the Statement of community development objectives, §27-105, the regulations for R-2 Residential Districts are designed to protect existing and already established areas in the Borough with single-family residential dwellings of a medium density character and to provide for these areas as a future development feature of the Borough.

(Ord. 109, 1/4/1982, §501)

**§27-502. Use Regulations.**

1. *Uses By Right.* In any R-2 District, a building shall be erected, altered or used, and a lot or premises shall be used, by right, for only one or more of those purposes specified for R-1 Residential Districts.

(Ord. 109, 1/4/1982, §502)

**§27-503. Area and Bulk Regulations.**

The following regulations shall apply in all R-2 Districts:

A. *All Uses By Right Except Agricultural.*

	<b>Minimum Standards</b>
(1) <i>Single-family, detached dwelling</i>	
(a) Lot Size	30,000 square feet
(b) Lot Width at Building Setback Line	100 feet
(2) <i>Single-family, detached dwelling with both public sewage system and public water supply system</i>	
(a) Lot Size	12,000 square feet
(b) Lot Width at Building Setback Line	80 feet

B. *Building Area.* Not more than 40 percent of the area of each lot may be occupied by buildings.

C. *Yards.* Front, side and rear yards shall be provided on each lot as follows:

(1) *Front Yard.* Not less than 30 feet in depth, subject to the other provisions of this Chapter.

(2) *Side Yards.* Two yards, not less than 20 feet in aggregate width, and neither less than 8 feet, except that, in the case of a corner lot, any yard which abuts a street shall be not less than 15 feet in width.

(3) *Rear Yard.* Not less than 30 feet in depth.

D. *Height Regulations.* No building shall exceed three stories or 35 feet in height.

(Ord. 109, 1/4/1982, §503)

**§27-504. Design Standards.**

The following design standards shall apply:

A. *Residential Uses By Right.*

(1) *Parking.* As required by §27-1308.9 of this Chapter.

B. *Uses Permitted By Special Exception.*

(1) *Screening.* As required by §27-1308.1 of this Chapter.

(2) *Storage.* As required by §27-1308.2 of this Chapter.

(3) *Landscaping.* As required by §27-1308.3 of this Chapter.

(4) *Interior Circulation and Emergency Access.* As required by §27-1308.4 of this Chapter.

(5) *Lighting.* As required by §27-1308.5 of this Chapter.

(6) *Off-Street Loading Requirements.* As required by §27-1308.6 of this Chapter.

(7) *Access and Traffic Control.* As required by §27-1308.7 of this Chapter.

(8) *Off-Street Parking Regulations for Other than Residential Use.* As required by §27-1308.8 of this Chapter.

(Ord. 109, 1/4/1982, §504)

**Part 6****R-3 Residential Districts****§27-601. Statement of Intent.**

In addition to the general purposes listed in §27-104 and the statement of community development objectives, §27-105, the regulations of R-3 Residential Districts are designed for certain existing high density residential areas of the Borough representing a variety of single, two-family and multi-family dwellings plus certain open areas where compatible residential development is likely to occur in the future. The regulations in these districts are designed to stabilize and protect the essential characteristics of the districts and promote and encourage a suitable environment for family life. For these purposes, development is open to high density development, permitting single, two-family and multi-family dwellings.

(Ord. 109, 1/4/1982, §601)

**§27-602. Use Regulations.**

1. *Uses By Right.* In the R-3 District, a building shall be erected, altered or used, and a lot or premises may be used for any use permitted by right as specified for R-1 and R-2 Districts. In addition, the following uses are permitted:

A. Semi-detached, or similar types of dwelling units, provided that the adjoining semi-detached dwelling or other similar type of dwelling unit with which it is attached, and has a party wall in common, is erected at the same time. Examples of this residential type include duplex units or twins.

B. Multi-family dwellings, including types such as:

- (a) Townhouses.
- (b) Quadraplexes.
- (c) Apartments.

2. *Uses By Special Exception.* The following uses shall be permitted as a special exception when authorized by the Zoning Hearing Board subject to Part 16 of this Chapter and subject to other applicable regulations of this Chapter.

A. Other residential types.

B. Parking lots.

(Ord. 109, 1/4/1982, §602)

**§27-603. Area and Bulk Regulations.**

1. *Lot Area and Width.*

A. *Single-Family Dwelling.* Every lot containing a single-family dwelling shall have an area of not less than 12,000 square feet. Lot width at the building setback line shall not be less than 80 feet. Public sewage system and public water supply required, not more than 40 percent of the area of each lot to be covered by buildings.

B. *Two-Family Dwelling (duplex or twin dwellings).* Every lot containing a

two-family, twin or duplex dwelling shall have a lot area of not less than 7,500 square feet per dwelling unit. Lot width at the building setback line shall have a minimum aggregate lot width for two dwelling units of 70 feet. Public sewage system and public water supply system required, not more than 40 percent of the area to be covered by buildings.

C. *Multiple-Family Dwellings*. In accordance with the following provisions:

(1) Net density for development of quadraplex, townhouse and apartments shall not exceed eight dwelling units per acre.

(2) The minimum lot width at the building line for a multi-family dwelling shall be 100-feet.

(3) Public sewage system and public water supply system are required and shall be in accordance with the regulations of the Department of Environmental Resources.

(4) Not more than 50 percent of the area of each lot may be covered or occupied by buildings, parking areas and other impervious surfaces.

(5) No accessory buildings or structures shall be situated within the front yard, nor within 10 feet of any side or rear property line.

2. *Yards*. Front, side and rear yards shall be provided on each lot as follows:

A. *Front Yard*. Not less than 25 feet in depth, subject to the other provisions of this Chapter.

B. *Side Yards*.

(1) For every single or two-family dwelling, two yards, nor less than 20 feet in aggregate width and neither less than 12 feet in width, except that, in the case of a corner lot, any yard which abuts a street shall not be less than 15 feet in width.

(2) For every main building other than a dwelling and for every multi-family dwelling, there shall be two side yards of not less than 15 feet in width each.

(3) *Rear Yard*. Not less than 25 feet in depth.

3. *Height Regulations*. No building shall exceed 35 feet in height, provided that such height limits may be exceeded by 1 foot for each foot by which the width of each side yard is increased beyond minimum side yard requirements, up to a maximum height of 50 feet.

(Ord. 109, 1/4/1982, §603)

#### **§27-604. Design Standards.**

The following design standards shall apply:

A. *Residential Uses By Right*.

(1) *Parking*. As required by §27-1308.9 of this Chapter.

B. *Uses Permitted By Special Exception*.

(1) *Screening*. As required by §27-1308.1 of this Chapter.

(2) *Storage*. As required by §27-1308.2 of this Chapter.

(3) *Landscaping*. As required by §27-1308.3 of this Chapter.

(4) *Interior Circulation and Emergency Access*. As required by §27-1308.4 of this Chapter.

(5) *Lighting*. As required by §27-1308.5 of this Chapter.

(6) *Off-Street Loading Requirements*. As required by §27-1308.6 of this Chapter.

(7) *Access and Traffic Control*. As required by §27-1308.7 of this Chapter.

(8) *Off-Street Parking Regulations for Other than Residential Use*. As required by §27-1308.8 of this Chapter.

(Ord. 109, 1/4/1982, §604)



**Part 7****C-1 Neighborhood Commercial Districts****§27-701. Statement of Intent.**

In addition to the general purposes listed in §27-104 and the statement of community development objectives, §27-105, the regulations for C-1 Neighborhood-Commercial Districts are designed to provide for small-scale retail and convenience type shopping and office uses to serve the limited basic needs of the adjacent residential areas and the immediate community.

(Ord. 109, 1/4/1982, §701)

**§27-702. Use Regulations.**

1. *Uses By Right.* In any C-1 District a building shall be erected, altered, or used, and a lot or premises shall be used, by right, for any of the following purposes, and for no other:

A. Retail store designed primarily to provide goods to the immediate community such as retail scale of dry goods, variety and general merchandise, clothing, food, flowers, drugs, household supplies or furnishings, sale or repair of jewelry, optical goods, or musical, professional, or scientific instruments.

B. Barber shops, hairdresser, cleaning and pressing shops.

C. Eating establishments with inside service and seating.

D. Banks or similar financial institutions.

E. Self-service laundry, when authorized as a special exception, providing public sewage system connection is provided.

F. Recreational facilities including bowling alleys, theaters, skating rinks and other forms of amusements, upon specific approval and conditions of the Zoning Hearing Board.

G. Municipal structures and uses.

H. Signs when erected in accordance with Part 12 of this Chapter.

2. *Accessory Uses.* Only the customary accessory uses associated with the above permitted uses.

3. *Uses By Special Exception.* The following uses shall be permitted as a special exception when authorized by the Zoning Hearing Board subject to Part 16 of this Chapter. Uses permitted by special exception in the C-1 Neighborhood Commercial Districts will be subject to the area and bulk regulations, §27-703, of this Chapter.

A. Church.

B. Funeral parlor.

C. Gasoline service station, provided all gasoline pumps and service facilities are setback at least 30 feet from all right-of-way lines.

(Ord. 109, 1/4/1982, §702)

**§27-703. Area and Bulk Regulations.**

The following regulations shall generally apply:

	<b>Minimum Standard</b>
A. Lot Size	7,500 square feet
B. Lot Width	60 feet
C. Lot Depth	90 feet
D. Building Setback Line from all Street Lines	15 feet for any building
E. Front Yard	15 feet
F. Side Yards	In case of a detached building, there shall be two side yards, one on each side of the main building, neither of which shall be less than 10 feet wide. In the case of a semi-detached building, there shall be one side yard which shall be at least 10 feet wide.
G. Rear Yard	30 feet minimum
H. Building Height	Two stories, not to exceed 35 feet
I. Building Coverage	Not more than 50 percent of the are of each lot may be occupied by buildings
J. Lot Coverage	Not more than 75 percent of the lot shall be covered with buildings, parking, walkways, or other impervious surfaces

(Ord. 109, 1/4/1982, §703)

**§27-704. Design Standards.**

The following design standards shall apply:

- A. *Screening*. As required by §27-1308.1 of this Chapter.
- B. *Storage*. As required by §27-1308.2 of this Chapter.
- C. *Landscaping*. As required by §27-1308.3 of this Chapter.
- D. *Interior Circulation and Emergency Access*. As required by §27-1308.4 of this Chapter.
- E. *Lighting*. As required by §27-1308.5 of this Chapter.
- F. *Off-Street Loading Requirements*. As required by §27-1308.6 of this Chapter.
- G. *Access and Traffic Control*. As required by §27-1308.7 of this Chapter.
- H. *Off-Street Parking Regulations for Other than Residential Use*. As required by §27-1308.8 of this Chapter.

(Ord. 109, 1/4/1982, §704)



**Part 8****POR Professional Office-Research Districts****§27-801. Statement of Intent.**

In addition to the general purposes listed in §27-104, and the statement of community development objectives, §27-105, the regulations for POR Professional Office-Research Districts are intended to encourage the establishment of an area within the Borough for modern well-planned professional office and research uses not provided for elsewhere in the municipality and to promote land use compatible to existing and future manufacturing industry, subject to the general provisions and design standards specified in this Chapter.

(Ord. 109, 1/4/1982, §801)

**§27-802. Use Regulations.**

1. *Uses By Right.* In any POR District a building shall be erected, altered, or used, and a lot or premises shall be used, by right, for any of the following purposes, and for no other:

- A. Research laboratory.
- B. Executive, administrative or professional office building.
- C. Offices for lawyers, realtors, architects, engineers, tax consultants, and similar professional businesses; offices for industrial and trade unions, credit unions and commercial and civic organizations.
- D. Offices of nonprofit organizations, social and fraternal associations, political and religious organizations.
- E. Business offices of a public utility, transportation, advertising, insurance, executive and administrative offices of commercial and industrial establishments.
- F. Educational instruction and commercial schools.
- G. Special trade contractors and building material wholesales, providing that all materials and storage are completely enclosed within a building or similar shelter.

2. *Accessory Uses.* Only the customary accessory uses incidental to any of the above-permitted uses.

3. *Uses By Special Exception.* The following uses shall be permitted as a special exception when authorized by the Zoning Hearing Board subject to Part 16 of this Chapter. Uses permitted by special exception in the POR Professional Office-Research Districts will be subject to the area and bulk regulations, §27-803, of this Chapter.

- A. Radio or television broadcasting stations and/ or radio or television transmitters and similar devices, if it is of any type requiring licensing by the Federal Communications Commission.
- B. Gasoline service station, provided all gasoline pumps and service facilities are setback at least 30 feet from all right-of-way lines.
- C. Manufacturing plants processing or assembling the following:

(1) Biological products, drugs, medicinal chemicals and pharmaceutical compounding or preparation.

(2) Electrical machinery, equipment and supplies, electronic components and accessories.

(3) Professional, scientific and controlling instruments, photographic and optical goods.

D. The following uses permitted as a special exception only when served with both public sewage system and public water supply system:

(1) Milk or soft drink bottling establishment.

(Ord. 109, 1/4/1982, §802)

**§27-803. Area and Bulk Regulations.**

The following regulations shall apply for all uses:

	<b>Minimum Standards</b>
A. Lot Size	20,000 square feet
B. Lot Width	80 feet at building line
C. Front Yard	30 feet for any building
D. Side Yards	On each lot there shall be two side yards neither of which shall be less than 15 feet in width
E. Rear Yard	30 feet
F. Building Height	40 feet maximum
G. Building Coverage	Not more than 50 percent of the area of each lot may be occupied by buildings and/or structures
H. Lot Coverage	Not more than 75 percent of the lot shall be covered with buildings, parking, walkways, or other impervious surfaces

(Ord. 109, 1/4/1982, §803)

**§27-804. Design Standards.**

The following design standards shall apply for all uses:

A. *Screening.* As required by §27-1308.1 of this Chapter.

B. *Storage.* As required by §27-1308.2 of this Chapter.

C. *Landscaping.* As required by §27-1308.3 of this Chapter.

D. *Interior Circulation and Emergency Access.* As required by §27-1308.4 of this Chapter.

E. *Lighting.* As required by §27-1308.5 of this Chapter.

F. *Off-Street Loading Requirements.* As required by §27-1308.6 of this Chapter.

G. *Access and Traffic Control.* As required by §27-1308.7 of this Chapter.

H. *Off-Street Parking Regulations for Other than Residential Use.* As required by §27-1308.8 of this Chapter.

I. *Performance Standards.* As required by §27-1312 of this Chapter.

(Ord. 109, 1/4/1982, §804)



## Part 9

### I Industrial Manufacturing Districts

#### §27-901. Statement of Intent.

In addition to the general purposes listed in §27-104, and the statement of community development objectives, §27-105, the regulations for I Industrial Manufacturing Districts are intended to provide for and protect areas for general industrial manufacturing activity while prohibiting the use of such land by new residential development, and at the same time, to protect residences by separating them from such activities. Further, in accord with a well-considered plan, these regulations are intended to promote stable industry and to strengthen the economic base while protecting local tax revenues.

(Ord. 109, 1/4/1982, §901)

#### §27-902. Use Regulations.

1. *Uses By Right.* In any I District a building shall be erected, altered, or used, and a lot or premises shall be used, by right, for any of the following purposes, and for no other:

- A. Production, processing, cleaning, testing, repair, storage and distribution of materials, goods, foodstuffs and products not involving a retail activity on the lot.
- B. Establishment of contractor not engaged in any retail activities on the site.
- C. Warehousing and wholesale establishments and storage yards, not including junkyards.
- D. Railroad transfer and storage tracks or freight terminals.

2. *Accessory Uses.* Only the customary accessory uses which are clearly incidental to the principal building, structure or use.

3. *Uses By Special Exception.* The following uses shall be permitted as a special exception when authorized by the Zoning Hearing Board subject to Part 16 of this Chapter. Uses permitted by special exception in the I Industrial Manufacturing Districts will be subject to the area and bulk regulations, §27-903, of this Chapter.

- A. A junkyard, provided that grounds utilized for such purposes are completely screened by opaque fencing at least 8 feet in height. Such fencing shall be setback from all lot lines a minimum distance of 15 feet. Such remaining area shall be subject to the screening and landscaping provisions in accordance with §§27-1308.1 and 27-1308.3 of this Chapter.

(Ord. 109, 1/4/1982, §902)

#### §27-903. Area and Bulk Regulations.

The following regulations shall apply for all uses:

	Minimum Standards
A. Lot Size	44,000 square feet

	<b>Minimum Standards</b>
B. Lot Width	125 feet
C. Front Yard	40 feet
D. Side Yards	On each lot there shall be two side yards, neither of which shall be less than 20 feet in width.
E. Rear Yard	50 feet
F. Building Height	50 feet maximum
G. Tower and Chimney Location	50 feet from any lot line
H. Building Coverage	Not more than 60 percent of the area of each lot may be occupied by buildings and/or structures.
I. Lot Coverage	Not more than 75 percent of the lot shall be covered with buildings, parking, walkways, or other impervious surfaces.

(Ord. 109, 1/4/1982, §903)

#### **§27-904. Design Standards.**

The following design standards shall apply for all uses:

- A. *Screening.* As required by §27-1308.1 of this Chapter.
- B. *Storage.* As required by §27-1308.2 of this Chapter.
- C. *Landscaping.* As required by §27-1308.3 of this Chapter.
- D. *Interior Circulation and Emergency Access.* As required by §27-1308.4 of this Chapter.
- E. *Lighting.* As required by §27-1308.5 of this Chapter.
- F. *Off-Street Loading Requirements.* As required by §27-1308.6 of this Chapter.
- G. *Access and Traffic Control.* As required by §27-1308.7 of this Chapter.
- H. *Off-Street Parking Regulations for Other than Residential Use.* As required by §27-1308.8 of this Chapter.
- I. *Performance Standards.* As required by §27-1312 of this Chapter.

(Ord. 109, 1/4/1982, §904)

**Part 10****Flood Hazard District****§27-1001. Statement of Intent.**

The purpose of this District is to achieve the following:

A. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.

B. Minimize danger to public health by protecting water supply and natural drainage.

C. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

D. To regulate uses which may be dangerous to public health, safety, or welfare in times of flood.

(Ord. 109, 1/4/1982, §101)

**§27-1002. General Provisions.**

1. *Compliance.* No new structure shall be located or existing structure extended, converted, or structurally altered in any flood hazard area without full compliance with the terms of this Chapter and other applicable regulations, except that structures, land uses, and water uses existing prior to adoption of this Chapter shall not be made to comply with this Chapter unless compliance is essential to correct a serious and substantial threat to public health, safety, or property.

2. *Disclaimer of Liability.* The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions or the flood height may be increased by man-made or natural causes. In such events, areas outside the flood hazard area or land uses permitted within such areas may be subject to flooding or flood damage. The adoption of this specific Part shall not create liability on the part of the Borough of Modena or any officer or employee thereof for any flood damages that result from reliance on this Part or any administrative decision lawfully made pursuant to its provisions.

3. *Abrogation and Greater Restrictions.* This Part supercedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive.

4. *Applicability.*

A. It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Borough unless a building permit has been obtained from the building permit officer or other representing agent of the Borough.

B. A building permit shall not be required for minor repairs to existing

buildings or structures.

(Ord. 109, 1/4/1982, §1002)

**§27-1003. Administration.**

1. *Building Permits Required.* Building permits shall be required before any construction or development is undertaken within any area of the Borough.

2. *Issuance of Building Permit.*

A. The building permit officer or representing agent 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 and ordinances.

B. Prior to the issuance of any building permit the building permit officer or representing agent shall review the application for permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act, 35 P.S. §750.1 *et seq.*, as amended; the Pennsylvania Dam Safety and Encroachments Act, 32 P.S. §693.1 *et seq.*, as amended; the Pennsylvania Clean Streams Act, 35 P.S. §691.1 *et seq.*, as amended; the U.S. Clean Water Act, §404, 33 U.S.C. §1334. No permit shall be issued until this determination has been made.

C. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be effected by such action have been notified by the Borough and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.

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

3. *Application Procedures and Requirements.*

A. Application for such a building permit shall be made, in writing, to the building permit officer or representing agent on forms supplied by the Borough. Such application shall contain the following:

- (1) Name and address of applicant.
- (2) Name and address of 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) Brief description of proposed work and estimated cost.
- (7) A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for building permits shall provide



all the necessary information in sufficient detail and clarity to enable the building permit officer or representing agent to determine that:

(1) All such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances.

(2) All utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage.

(3) Adequate drainage is provided so as to reduce exposure to flood hazards.

C. Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in subsection .2.C) as may be required by the building permit officer or representing agent to make the above determination:

(1) A completed building permit application form.

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

(a) North arrow, scale, and date.

(b) Topographic contour lines, if available.

(c) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.

(d) The location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development.

(e) The location of all existing streets, drives, and other accessways.

(f) The location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.

(3) Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:

(a) The proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929.

(b) The elevation of the 100-year flood.

(c) If available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a 100-year flood.

(d) Detailed information concerning any proposed floodproofing measures.

(4) The following data and documentation:

(a) A document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the 100-year flood elevations, pressures, velocities, impact and uplift forces associated with the 100-year flood.

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

(b) Detailed information needed to determine compliance with §27-1005.2.F, "Storage," and §27-1005.3, "Development Which May Endanger Human Life," including:

1) The amount, location and purpose of any materials or substances referred to in §§27-1005.2.F and 27-1005.3 which are intended to be used, produced, stored or otherwise maintained on site.

2) A description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in §27-1005.3 during a 100-year flood.

(c) The appropriate component of the Department of Environmental Resources "Planning Module for Land Development."

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

C. Applicants for special permits shall provide five copies of the following items.

(1) A written request including a completed building permit application form.

(2) A small scale map showing the vicinity in which the proposed site is located.

(3) A plan of the entire site, clearly and legibly drawn at a scale of 1 inch being equal to 100-feet or less, showing the following:

(a) North arrow, scale and date.

(b) Topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of 2 feet.

(c) All property and lot lines including dimensions, and the size of the site expressed in acres or square feet.

(d) The location of all existing streets, drives other accessways, and parking areas, with information concerning widths, pavement types and construction and elevations.

(e) The location of any existing bodies of water or watercourses, buildings, structures and other public or private facilities, including railroad tracks and facilities and any other natural and man-made features affecting, or affected by, the proposed activity or development.

(f) The location of the floodplain boundary line, information and spot elevations concerning the 100-year flood elevations, and information concerning the flow of water including direction and velocities.

(g) The location of all proposed buildings, structures, utilities, and any other improvements.

(h) Any other information which the Borough considers necessary for

adequate review of the application.

(4) Plan of all proposed buildings, structures and other improvements, clearly and legibly drawn at suitable scale showing the following:

(a) Sufficiently detailed architectural or engineering drawings including floor plans, sections, and exterior building elevations, as appropriate.

(b) For any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor.

(c) Complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the 100-year flood.

(d) Detailed information concerning any proposed floodproofing measures.

(e) Cross-section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths.

(f) Profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades.

(g) Plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

(5) The following data and documentation:

(a) Certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents.

(b) Certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the 100-year flood.

(c) A statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a 100-year flood, including a statement concerning the effects such as pollution may have on human life.

(d) A statement certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the effects the proposed development will have on 100-year flood elevations and flows.

(e) A statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the 100-year flood elevation and the effects such materials and debris may have on 100-year flood elevations and flows.

(f) The appropriate component of the Department of Environmental

Resources "Planning Module for Land Development."

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

(h) Any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Resources under §302 of the Flood Plain Management Act, 32 P.S. §679.302.

(i) An evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a 100-year flood.

(Ord. 109, 1/4/1982, §1003)

#### **§27-1004. Identification of the Flood Hazard District.**

1. *Identification.* The identified Flood Hazard District shall be any area of the Borough of Modena subject to the 100-year flood, which is identified as a Special Flood Hazard Area (Zone A) on the Flood Hazard Boundary Map (FHBM) as issued by the Federal Insurance Administration, No. H01, Community No. 420282A, dated June 11, 1976, and as revised thereafter.

2. *Determination of the 100-Year Flood Elevation.* For the purposes of this Chapter, the 100-year flood elevation shall be used as the basis for regulation. To determine the 100-year flood elevation, the elevation at a given point on the boundary of the identified flood hazard area which is nearest the construction site in question will be used. In helping to make this necessary elevation and site determination, other sources of data, where available, shall be used such as:

- A. Corps of Engineers - Floodplain Information Reports.
- B. U.S. Geological Survey - Flood Prone Quadrangles.
- C. U.S.D.A., Soil Conservation Service - County Soil Survey (alluvial soils) or P.L. 566 Flood Information.
- D. Pennsylvania Department of Environmental Resources Flood Control Investigations.
- E. Known highwater marks from past floods.

In lieu of the above, and at the discretion of the Borough Council, the Borough shall require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses and computations shall be submitted in sufficient detail to allow a thorough technical review by the Borough and its duly-appointed officials and representing agents.

3. *Changes in Identification of Area.* The identified flood hazard area may be revised or modified by the Borough Council where natural or man-made changes have occurred and/or more detailed studies conducted or undertaken by the U.S. Army Corps of Engineers, river basin commission or other qualified agency or individual documents the notification of such changes. However, prior to any such change, approval must be

obtained from the Federal Insurance Administration (FIA).

4. *Boundary Disputes.* Should a dispute concerning any identified floodplain boundary arise, an initial interpretation of the boundaries of a flood hazard area shall be made by the Borough Planning Commission, Zoning Hearing Board and/or duly appointed agent or representative. Any party aggrieved by this decision may appeal to the Borough Council. The burden of proof shall be on the applicant or appellant. Should the flood hazard district/area be declared inapplicable to any property by reason of amendment by the Borough Council, or interpretation of the Planning Commission or Zoning Hearing Board, or court of competent jurisdiction, the zoning and regulations applicable to such property shall be deemed to be the district in which it is located without consideration of this Part.

(Ord. 109, 1/4/1982, §1004)

#### **§27-1005. Use Regulations and General Technical Requirements.**

1. *General.*

A. Within any identified flood hazard area, no new construction or development shall be located within the area measured 50 feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.

B. Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially improved residential structure shall be 1½ feet or more above the 100-year flood elevation.

C. Within any identified floodplain area, the elevation of the lowest floor (including basement) of any new or substantially improved nonresidential structure shall be 1½ feet or more above the 100-year flood elevation or be floodproofed up to that height.

Any structure, or part thereof, which will not be completely or adequately elevated, shall be floodproofed in accordance with the provisions of this Part. Additional information may be obtained from the publication entitled "Floodproofing Regulations" (U.S. Army Corps of Engineers, June 1972).

2. *Design and Construction Design.* The following minimum standards shall apply for all construction and development proposed to be undertaken within any identified floodplain area:

A. *Fill.* If fill is used, it shall:

(1) Extend laterally at least 15 feet beyond the building line for all points.

(2) Consist of soil or small rock materials only; sanitary landfills shall not be permitted.

(3) Be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling.

(4) Be no steeper than one vertical to two horizontal, unless substantial data, justifying steeper slopes are submitted to, and approved by the Zoning Hearing Board.

(5) Be used to the extent to which it does not adversely affect adjacent properties.

B. *Drainage Facilities.* Storm drainage facilities shall be designed to convey the flow of stormwater runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall be designed to prevent the discharge of excess runoff onto adjacent properties.

C. *Water and Sanitary Sewer Facilities and Systems.* All new replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

(1) Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.

(2) No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

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

E. *Streets.* The finished elevation of all new streets shall be no more than 1 foot below the regulatory flood elevation.

F. *Storage.* All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in §27-1005.3, "Development Which May Endanger Human Life," shall be stored at or above the regulatory flood elevation and/or floodproofed to the maximum extent possible.

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

H. *Anchoring.*

(1) All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

(2) All air ducts, large pipes, storage tanks, and other similar objects or components located below the regulatory flood elevation shall be securely anchored or affixed to prevent flotation.

I. *Floors, Walls and Ceilings.*

(1) Wood flooring used at or below the regulatory flood elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.

(2) Plywood used at or below the regulatory flood elevation shall be of a

“marine” or “water-resistant” variety.

(3) Walls and ceilings at or below the regulatory flood elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.

(4) Windows, doors, and other components at or below the regulatory floor elevation shall be made of metal or other water-resistant material.

*J. Paints and Adhesives.*

(1) Paints or other finishes used at or below the regulatory flood elevation shall be of “marine” or “water-resistant” quality.

(2) Adhesives used at or below the regulatory flood elevation shall be of a “marine” or “water-resistant” variety.

(3) All wooden components (doors, trim cabinets, etc.) shall be finished with a “marine” or “water-resistant” paint or other finishing material.

*K. Electrical Components.*

(1) Electrical distribution panels shall be at least 3 feet above the 100-year flood elevation.

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

*L. Equipment.*

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

*M. Fuel Supply Systems.*

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

*3. Development Which May Endanger Human Life.*

A. In accordance with the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq.*, and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which will be used for the production or storage of any of the following dangerous materials or substances or which will be used for any activity requiring the maintenance of a supply (more than 550 gallons or other comparable volume or any amount of radioactive substances) of any of the following dangerous materials or substances on the premises, shall be subject to the provisions of this Section, in addition to all other applicable provisions:

- (1) Acetone.
- (2) Ammonia.
- (3) Benzene.
- (4) Calcium carbide.
- (5) Carbon disulfide.

- (6) Celluloid.
- (7) Chlorine.
- (8) Hydrochloric acid.
- (9) Hydrocyanic acid.
- (10) Magnesium.
- (11) Nitric acid and oxides of nitrogen.
- (12) Petroleum products (gasoline, fuel oil, etc.).
- (13) Phosphorus.
- (14) Potassium.
- (15) Sodium.
- (16) Sulphur and sulphur products.
- (17) Pesticides (including insecticides, fungicides, and rodenticides).
- (18) Radioactive substances, insofar as such substances are not otherwise regulated.

B. Within any identified floodplain area, any new or substantially improved structure of the kind described in paragraph A, above, shall be prohibited within the area measured 50 feet landward from the top-of-bank of any watercourse.

C. Where permitted within any identified floodplain area, any new or substantially improved structure of the kind described in paragraph A, above, shall be:

- (1) Elevated or designed and constructed to remain completely dry up to at least 1½ feet above the 100-year flood.
- (2) Designed to prevent pollution from the structure or activity during the course of a 100-year flood.

Any such structure, or part thereof, that will be built below the regulatory flood elevation shall be designed and constructed in accordance with the standards for completely dry floodproofing contained in the publication, "Floodproofing Regulations" (U.S. Army Corps of Engineers, June 1972), or with some equivalent watertight standard.

#### 4. *Special Requirements for Mobile Homes.*

A. Where permitted within any identified floodplain area, all mobile homes and additions thereto shall be:

- (1) Anchored to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors in accordance with the American National Standards as specified in the Standard for the Installation of Mobile Home Park Requirements (NFPA No. 501A-1974 (ANSI A119.3-1975)) as amended for Mobile Homes in Hurricane Zones or other appropriate standards such as the following:

- (a) Over-the-top ties shall be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations for units 50 feet or more in length, and one additional tie per side for units less than 50 feet in length.



(b) Frame ties shall be provided at each corner of the mobile home, with five additional ties per side at intermediate locations for units 50 feet or more in length, and four additional ties per side for units less than 50 feet in length.

(c) All components of the anchoring system shall be capable of carrying a force of 4,800 pounds.

(2) Elevated in accordance with the following requirements:

(a) The stands or lots shall be elevated on compacted fill, or on pilings so that the lowest floor of the mobile home will be 1½ feet or more above the elevation of the 100-year flood.

(b) Adequate surface drainage is provided.

(c) Adequate access for a hauler is provided.

(d) Where pilings are used for elevation, the lots shall be large enough to permit steps; piling foundations shall be placed in stable soil no more than 10 feet apart; reinforcement shall be provided for pilings that will extend for 6 feet or more above the ground level.

C. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the appropriate Borough officials for mobile home parks.

(Ord. 109, 1/4/1982, §1005)

#### **§27-1006. Activities Requiring Special Permits.**

1. *General.* In accordance with the administrative regulations promulgated by the Department of Community Affairs to implement the Pennsylvania Flood Plain Management Act, 32 P.S. §679.101 *et seq.*, the following obstructions and activities are prohibited if located entirely or partially within an identified floodplain area unless a special permit is issued:

A. Hospitals (public or private).

B. Nursing homes (public or private).

C. Jails or prisons.

D. New mobile home parks and mobile home subdivisions, and substantial improvements to existing mobile home parks.

2. *Application Review Procedures.* Upon receipt of an application for a special permit by the Borough, the following procedures shall apply in addition to those of §27-1003:

A. Within 3 working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Borough Planning Commission and Borough Engineer for review and comment.

B. If an application is received that is incomplete, the Borough shall notify the applicant in writing, stating in what respects the application is deficient.

C. If the Borough decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.

D. If the Borough approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community Affairs, by registered or certified mail, within 5 working days after the date of approval.

E. Before issuing the special permit the Borough shall allow the Department of Community Affairs 30 days, after receipt of the notification by the Department, to review the application and decision made by the Borough.

F. If the Borough does not receive any communication from the Department of Community Affairs during the 30-day review period, it may issue a special permit to the applicant.

G. If the Department of Community Affairs should decide to disapprove an application, it shall notify the Borough and the applicant, in writing, of the reasons for the disapproval, and the Borough shall not issue the special permit.

### 3. *Special Technical Requirements.*

A. In addition to the requirements of §27-1005 of this Part, the following minimum requirements shall also apply to any proposed development requiring a special permit. If there is any conflict between any of the following requirements and those in §27-1005 of this Part or in any other code, ordinance, or regulation, the more restrictive provision shall apply.

B. No application for a special permit shall be approved unless it can be determined that the structure or activity will be located, constructed and maintained in a manner which will:

(1) Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:

(a) The structure will survive inundation by waters of the 100-year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the 100-year flood elevation.

(b) The lowest floor elevation will be at least 1½ feet above the 100-year flood elevation.

(c) The occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the 100-year flood.

(2) Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

The following information shall be required of the applicant at the discretion of the Borough Council. All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Borough and the Department of Community Affairs.

(Ord. 109, 1/4/1982, §1006)

**§27-1007. Existing Structures Located in Identified Flood Hazard Areas.**

Structures existing in any identified flood hazard area prior to the enactment of this Chapter may continue to remain, provided that:

A. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of 50 percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Chapter.

(Ord. 109, 1/4/1982, §1007)

**§27-1008. Variances.****1. Variance Requirements.**

A. If compliance with any of the requirements of this Chapter would result in an exceptional hardship to a prospective builder, developer, or landowner, the Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

B. Requests for variances shall be considered by the Zoning Hearing Board in accordance with the procedures contained in Part 16 and the following:

(1) Except for a possible modification of the freeboard requirements involved, no variance shall be granted for any of the other requirements pertaining specifically to development which may endanger human life or to development regulated by special permit.

(2) If granted, a variance shall involve only the least modification necessary to provide relief.

(3) In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Chapter.

(4) Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:

(a) The granting of the variance may result in increased premium rates for flood insurance.

(b) Such variances may increase the risks to life and property.

(5) In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum the following:

(a) That there is good and sufficient cause.

(b) That failure to grant the variance would result in exceptional hardship to the applicant.

(c) That the granting of the variance will:

1) Neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety or extraordinary public expense.

2) Nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and

regulations.

(6) A complete record of all variance requests and related actions shall be maintained by the Borough. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Insurance Administration.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the 100-year flood.

*(Ord. 109, 1/4/1982, §1008)*

**Part 11****Steep Slope District****§27-1101. Statement of Intent.**

It is the general intent of this Part to promote the health, safety and general welfare and to minimize negative environmental impacts by:

- A. Conserving and protecting very steep slopes from inappropriate development.
- B. Regulating development that would cause excessive erosion and resultant promotion of increased run-off and downstream flood hazards.
- C. Protecting the natural vegetative cover in Steep Slope Districts, thereby reducing runoff and flooding potential.
- D. Protecting the quality of streamwater which would be threatened by indiscriminate grading and development in Steep Slope Districts.

(Ord. 109, 1/4/1982, §1101)

**§27-1102. General Provisions.**

1. *Compliance.* No area within the Steep Slope District shall hereafter be used without full compliance with the terms of this Chapter and other applicable regulations.

2. *Disclaimer of Liability.* This Chapter shall not create liability on the part of the Borough or any officer or employee thereof for any damages that result from negligence of this Chapter or any administrative decision lawfully made thereunder.

3. *Preservation of Other Restrictions.* It is not intended by this Chapter to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this Chapter imposes greater restrictions, the provisions of this Chapter shall prevail.

(Ord. 109, 1/4/1982, §1102)

**§27-1103. Identification of Steep Slope Districts.**

1. *Definition of Steep Slope Districts.* Steep slopes in the Borough of Modena shall be defined and regulated as anywhere on a site or property where slopes exceed 25 percent. It shall be the burden of the applicant to establish and to prove that slopes are not greater than 25 percent with an on-site topographic survey prepared with a 2-foot contour interval.

2. *Interpretation of Steep Slope District Boundaries.* An initial interpretation of whether a parcel is, or parcels are, included in a Steep Slope District shall be made by the Zoning Officer as the representative agent of the Zoning Hearing Board. Should a dispute concerning any identified steep slope district boundary occur subsequent to the initial interpretation, upon appeal, the party contesting the location of the boundary shall have the burden of establishing that land does not lie within the Steep Slope District as defined by subsection .1.

(Ord. 109, 1/4/1982, §1103)

**§27-1104. Use Regulations.**

1. *Permitted Uses.* The following uses shall be permitted in the Steep Slope Districts so long as such use is in compliance with the base zoning district and all other provisions of this Chapter and Chapter:

A. Wildlife sanctuary, woodland preserve, arboretum, recreation areas and other open space recreation uses not requiring structures.

B. Tree farming, forestry, and other agricultural uses when conducted according to conservation measures insuring protection from erosion.

C. Land area of property owners not within a Steep Slope District.

2. *Special Exceptions.* Any of the following uses shall be permitted as a special exception when authorized by the Zoning Hearing Board subject to requirements of this Part and Part 16. Considerations for granting of special exceptions shall include the extent to which the requested uses will disrupt the stability of slope, soils, and natural vegetation, and contribute to erosion before and after construction.

A. Single-family dwellings or a portion thereof if the building is constructed in such a manner which does not substantially alter the existing grade and natural soil conditions.

B. Recreation and conservation uses requiring structures.

C. Sealed public water supply wells, provided they have been approved by the Department of Environmental Resources and all other applicable regulatory agencies.

D. Sanitary or storm sewers, provided they have been approved by the Department of Environmental Resources and all other applicable regulatory agencies.

E. Utility easements and rights-of-way.

F. Accessory uses and structures customarily incidental to any of the foregoing; and roads and access driveways only when no viable alternative alignment or location is feasible.

3. *Prohibited Uses.*

A. On-lot sewage disposal systems.

B. Structures other than those associated with subsection .1 and .2, herein.

C. Removal of topsoil subject to §27-1305 of this Chapter.

(Ord. 109, 1/4/1982, §1104)

**§27-1105. Administration of Steep Slope Districts.**

Administration of this Chapter is governed by Parts 15 and 16 of this Chapter, but the following requirements also apply:

A. *Application Procedure.*

(1) Site survey of the tract in question, prior to the submittal of a site plan of the property indicating grades, within contour lines of 2-foot intervals and a clear delineation of the 25 percent or greater slopes.

(2) Landscape plan indicating proposed paved areas, storm drainage

facilities, retaining walls, ground cover, and shrubbery location.

(3) Proposed grades within the area of proposed construction.

(4) Architectural plans of the proposed structure.

(5) Plan, profile and typical cross-sections of the drive and/or street providing public access with the seal of a registered professional engineer thereon.

(6) A statement indicating all methods to be used in overcoming any structural or physical problems created by steep slopes, how the existing environment will be protected, and how materials will be delivered to the site with minimal impact on the environment, signed and sealed by a registered architect.

(7) A statement signed by the owner or legal representative stating that there is full understanding of any difficulties associated with access stemming from steep slopes.

2. *Amendment of Steep Slope District.*

(1) The delineation of the Steep Slope District boundaries may be modified by the Modena Borough Council upon the recommendation of the Zoning Officer, the Zoning Hearing Board, the Borough Planning Commission, and the approval of other agencies having regulatory or advisory jurisdiction.

(2) In the case of an alleged change in the District due to natural or other causes, except man-made, the party alleging the changes, other than the Borough of Modena, shall submit to the Zoning Officer a detailed on-site survey made by a professional engineer, pursuant to techniques approved by the Soil Conservation Service, United States Department of Agriculture, showing in detail the changes alleged to have occurred which remove the land in question from the Steep Slope District. There shall also be submitted a detailed on-site survey by a registered professional engineer or surveyor delineating the exact location of the alleged new boundaries of the tract as a result of the claimed change.

(Ord. 109, 1/4/1982, §1105)





**Part 12****Signs****§27-1201. Conformance Required.**

Any sign erected or maintained after the effective date of this Chapter shall conform to the following regulations, subject to §27-1404 of this Chapter.

(Ord. 109, 1/4/1982, §1201)

**§27-1202. General Sign Regulations for All Districts.**

1. No sign shall be erected or maintained at the intersection of streets to impede vision between a height of 2½ and 10 feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 50 feet from the point of the intersection.

2. No moving or flashing sign shall be permitted.

3. Every sign permitted shall be constructed of durable material and kept in good condition and repair. Any sign which is allowed to become dilapidated shall be removed by the Borough at the expense of the owner or lessee of the property on which it is located.

4. All distances provided for in this Chapter shall be measured along straight lines between signs and from the near edge of the object, structure, street line, or otherwise, to the near edge of the sign structure in question.

5. A permit shall be obtained before erection of, alteration of, or enlargement of any sign, sign structure or any portion thereof under these regulations except as hereinafter provided. (See §27-1504.2.)

6. No sign shall be erected or maintained so as to prevent clear, free or otherwise unobstructed ingress or egress from any door, window or fire escape.

7. No sign, other than official traffic signs, shall be erected or maintained nearer to a street line than a distance equaling the height of the sign unless attached to the building.

8. Flood lighting shall be arranged so that the source of light is not visible from any point off the lot and that only the sign is directly illuminated thereby.

9. No sign shall be erected on a premises except one advertising a business or articles or merchandise for sale on the same premises.

10. No sign shall be erected or maintained containing information on it which states or implies that a property may be used for any purpose not permitted under the provisions of this Chapter in the Zoning District.

11. No sign which emits smoke, visible vapors or particles, sound, or odor shall be permitted in which the property to which the sign relates is located.

(Ord. 109, 1/4/1982, §1202)

**§27-1203. Exempt Signs.**

No permit shall be required before erecting any of the following signs. These signs,

however, shall conform to all other regulations set forth in §27-1202 of this Chapter:

A. Directional, information or public service signs, such as those advertising availability of rest rooms, telephone or similar public conveniences, and signs advertising meeting times and places of nonprofit service or charitable clubs and organizations may be erected or maintained, provided that such signs do not advertise any commercial establishment, activity, organization, product, goods or services except those of public utilities. Directional and information signs provided for the guidance and convenience of the public within commercial establishments may also be erected. Such signs shall not exceed 2 square feet in area.

B. Trespassing signs, or signs indicating the private nature of a road, driveway, or premises, signs prohibiting or otherwise controlling hunting or fishing upon particular premises, and signs indicating the ownership of a property or the nature of a home occupation may be erected and maintained, provided sign area does not exceed 2 square feet in area.

C. Real estate signs and other signs offering individual properties for sale, or rent, or indicating that a property has been sold, provided that such signs shall be located entirely within the lot lines of the particular property to which they refer and shall not exceed 6 square feet in area.

(Ord. 109, 1/4/1982, §1203)

#### **§27-1204. Temporary and Portable Sign Regulations.**

The following shall be observed in all Districts:

A. *Temporary Signs.* Temporary signs include development, or other signs announcing special events, or the temporary sale of products and goods, such as Christmas trees, shall be permitted, provided that:

- (1) Permits shall run for a period of up to 2 months as applicant chooses. Permits may be renewed, if required.
- (2) Signs shall not exceed 32 square feet in area.
- (3) Any free standing sign shall be located at least 10 feet distant from any road or street line.
- (4) Signs shall be removed immediately upon expiration or permit.
- (5) The site or building on which the sign was erected shall be restored to its original condition upon removal of sign.
- (6) A permit must be obtained before erecting any temporary sign.

2. *Portable Signs.* Not more than one portable sign may be erected on any business, commercial, or industrial premises. Such signs shall be situated in such a manner so as to not interfere with or prevent pedestrian or other traffic circulation. Such sign shall not exceed 15 square feet in area. This regulation includes, but is not limited to, portable signage placed on a vehicle or trailer attachment.

(Ord. 109, 1/4/1982, §1204)

#### **§27-1205. Signs in Neighborhood Commercial, Professional Office Research, and Industrial Manufacturing Districts.**

The following business signs may be erected in any of the above Districts, and no

other, subject to the following:

A. Signs mounted on the front of a building shall not exceed 10 square feet in area for each 5 linear feet of front building wall and in no case shall exceed 30 feet in width or 8 feet in height at the maximum allowable building setback. Such signs shall be attached to a building wall or roof, and the top of the sign shall not project more than 2 feet above the cornice line of the building.

B. Signs mounted on a side wall exposed to public view from either a street or parking area shall not exceed 10 square feet of area for each 5 linear feet of such side building wall and in no case shall exceed 30 feet in length and 10 feet in width.

C. Mounted signs shall be installed parallel to the supporting wall and project not more than 12 inches from the face of such wall.

D. Free standing signs shall not exceed 50 square feet in area and shall be erected only within the limits of the front yard of the property to which they pertain.

E. Not more than two business, commercial or industrial signs may be erected and maintained on premises devoted to the business, commercial, or industrial uses to which such signs relate, unless such property fronts upon more than one street, in which event not more than two such signs may be erected on each frontage.

(Ord. 109, 1/4/1982, §1205)

#### **§27-1206. Illumination of Signs.**

1. In all districts the following permitted signs, and no other, may be illuminated:

A. Professional signs of a physician, dentist, justice of the peace and other such persons whose services in an emergency are customarily considered essential to the public health, safety and welfare, provided that the illumination is by white light only.

B. Sign of a school, church, club or other use permitted in the district, provided that the illumination is by white light only, and is limited to the hours of darkness commencing after sunset to not later than 10:30 p.m. of the same day.

C. Signs for regulation of traffic, marking of hazards and the like.

2. Floodlighting shall be so shielded so that the source of light shall not be visible from any point off the lot on which the sign, building, or structure is being illuminated thereby.

3. All light in these districts must be, at its source, white in color.

(Ord. 109, 1/4/1982, §1206)

#### **§27-1207. Definitions.**

1. *Business Sign.* A sign directing attention to a business, commodity, or service conducted, sold, or offered upon the same premises as those upon which the sign is maintained.

2. *Development Sign.* A temporary sign, indicating that the premises is in the process of being subdivided and/or developed for the construction of dwellings or other buildings and/or uses.

3. *Flashing Sign.* Any illuminated sign in which the artificial light is not

maintained stationary and/or constant in intensity or color at all times when such sign is in use, including, but not limited to, moving, rotating, flashing, oscillating, shuttered, or other similar sign.

4. *Free Standing Sign.* A detached sign which shall include any sign supported by uprights or braces placed upon, or in, or supported by the ground and not attached to any building.

5. *Official Traffic Sign.* Signs erected by the Commonwealth of Pennsylvania Department of Transportation or the Borough of Modena which are designed to regulate traffic, describe road conditions, or supply directions.

6. *Portable Sign.* Any sign not fixed, attached, or otherwise stationary and in a permanent position including signs attached to trailers, and/or vehicles.

7. *Professional Sign.* Signs which indicate the profession of a doctor of medicine, veterinarian, dentist, teacher, artist, architect, musician, lawyer, district justice, or practitioner of similar character.

8. *Real Estate Sign.* A sign indicating the sale, rental or lease of the premises on which the sign is located.

9. *Temporary Sign.* A sign notifying of or advertising a special event, such as festivals, concerts, or exhibits or the temporary sale of products and goods, such as Christmas trees, for not more than 2 months.

10. *Wall Sign.* Any sign erected against the wall of any building, or displayed on windows or doors, or displayed with the exposed face thereof in a plane parallel to the face of said wall, window or door and which sign is mounted at a distance measured perpendicular to said wall, not greater than 12 inches.

(Ord. 109, 1/4/1982, §1207)

**Part 13****General/Supplementary Regulations****§27-1301. Statement of Intent.**

The overall intent of these general regulations is to identify certain supplementary regulations and standards which are either common to all zoning districts or pertinent to a specific district stated herein.

(*Ord. 109, 1/4/1982, §1301*)

**§27-1302. Visibility at Intersections.**

The following shall apply to all zoning districts. On a corner or at a point of entry on a public road, nothing shall be erected, placed or allowed to grow in a manner which obscures the vision of traffic:

A. Above the height of 2½ feet measured from the center-line grades of the intersecting streets.

B. Within the area bounded by the street lines of such corner lots and a line joining points on these street lines 50 feet from their point of intersection.

(*Ord. 109, 1/4/1982, §1302*)

**§27-1303. Projections into Required Yards.**

The following shall apply to all districts:

A. An arbor, open trellis, flagpole, unroofed steps or an unroofed terrace, or recreational or drying yard shall be permitted with no restrictions.

B. An awning or movable canopy may project into any yard not more than 15 feet but cannot be closer than 15 feet from the property line.

C. An open fire escape or unroofed porch may project not more than 6 feet into any yard.

(*Ord. 109, 1/4/1982, §1303*)

**§27-1304. Swimming Pools.**

Permanent or temporary swimming pools with a depth of 2 feet or greater shall be located in the rear yard or side yard of the dwelling to which it is an accessory, and located at least 25 feet from any lot line and enclosed with at least a 4-foot high continuous fence.

(*Ord. 109, 1/4/1982, §1304*)

**§27-1305. Stripping of Top Soil.**

The following shall apply to all zoning districts. Topsoil or sod may be removed only under the following conditions:

A. As part of the on-site construction or alteration of a building or the grading incidental to such building.

B. In connection with normal lawn preparation and maintenance on the lot

from which top soil or sod is removed.

C. In connection with the construction or alteration of a street or parking lot.

D. All areas where soil has been stored, or removed and re-spread shall be reseeded with an appropriate ground cover within 1 year.

E. The excavation of clay, sand, gravel, rock or other similar minerals shall be permitted, and the material thus excavated may be sold, only as part of the on-site construction or alteration of a street or parking lot.

(Ord. 109, 1/4/1982, §1305)

**§27-1306. [Reserved].**

**§27-1307. Exemptions to Height Restrictions.**

The height limitations of this Chapter shall not apply to church spires, belfries, cupolas, and domes not intended for human occupancy; monuments, observation towers, transmission towers, chimneys, smokestacks, flagpoles, radio and television towers, and masts except as herein specified.

(Ord. 109, 1/4/1982, §1307)

**§27-1308. Design Standards.**

1. *Screening.*

A. Screens or buffers are required where any industrial, commercial or professional office research uses abut a residential use, and in a residential district between an apartment use and other contiguous residential uses.

B. Buffers or screens as required in this Chapter must form adequate high level and low level screens. In no case shall a screen interfere with motorist visibility.

C. The type of plant materials to be used shall be subject to review and approval by the Borough Council upon the recommendation of the Planning Commission; generally, a minimum of 25 percent shall be evergreen.

D. No plantings shall be placed with their center closer than 5 feet to a property line.

E. Any tree or shrub which dies within 1 year of planting shall be replaced. Any tree or shrub which within 1 year of planting, or replanting, is deemed, in the opinion of an agent authorized by the Borough, not to have survived or grown in a manner characteristic of its type, due to other than man-made interference, shall be replaced.

F. Water towers, storage tanks, processing equipment, fans, skylights, cooling towers, communication towers, vents and any other structures or equipment which rise above the roof line shall be architecturally compatible and effectively shielded from view from any public or private dedicated street by an architecturally sound method which shall be approved, in writing, by the Borough before construction or erection of said structures or equipment.

G. In any case, in which screening of a parking lot is required, such screening shall include appropriate planting, such as a compact evergreen hedge, or a

masonry wall or ornamental structure not more than 4 feet in height. Any such wall or similar structure shall enclose the parking lot and shall be in harmony with the general architectural design of the principal building or buildings.

2. *Storage.*

A. All storage shall be completely screened from view from any public right-of-way and any contiguous residential use. Screening shall consist of evergreen planting or an architectural screen. All organic rubbish or garbage shall be contained in tight, vermin-proof containers which shall also be screened from view from any public right-of-way and any contiguous residential use.

3. *Landscaping.*

A. Any part or portion of a site which is not used for building, other structure, loading and parking spaces and aisles, sidewalks and designated storage areas shall be planted with an all-season ground cover and shall be landscaped according to an overall plan, prepared by a registered landscape architect or shall be left in its natural state.

B. An area not less than 10 percent of the paved area of a proposed parking area shall be landscaped and continually maintained. Planting along the perimeter of a parking area, whether for required screening or general beautification, may be considered as part of the required parking area landscaping.

C. All mechanical equipment not enclosed in a structure shall be fully and completely screened from view from any point in a manner compatible with the architectural and landscaping style of the remainder of the lot. Such screening shall be subject to site plan and architectural review by the Borough.

4. *Interior Circulation and Emergency Access.*

A. Interior drives shall be designed as to prevent blockage of vehicles entering or leaving the site. Drives may be one-way or two-way. Areas designed for loading and unloading, refuse collection, fuel delivery, and other service vehicles shall be so arranged as to prevent blockage or interfering with the use of access-ways, automobile parking facilities or pedestrian ways and to prevent backing out into a street.

B. No multi-family residential, commercial or industrial building shall be located more than 150 feet from a duly dedicated, improved and accessible fire lane easement as defined herein nor more than 600 feet from a duly dedicated, accessible and improved public street. If any such building is located further than 600 feet from a public street, then a subdivision plat must be filed and approved by the Council before the development plan shall be considered for approval.

C. Fire lane easements shall have a minimum unobstructed right-of-way width of 40 feet, and there shall be constructed within this right-of-way an all-weather and well-drained surface cartway with a minimum width of 20 feet. The extension of fire lane easements shall begin from one or more existing and improved public streets.

D. Fire lane easements which curve, turn or change directions shall have a minimum radius of 55 feet of pavement. Fire lane easements containing reverse curves shall have a minimum center line tangent length of 50 feet between curves.

E. Dead-end fire lane easements shall be terminated with an unobstructed

vehicular turnaround or cul-de-sac with a minimum right-of-way radius of 50 feet and shall have a minimum all-weather surfaced radius of 40 feet. Dead-end fire lane easements shall have a maximum length of 800 feet. The location of fire lane easements shall conform to plans for extension of streets, sanitary sewers, and other drainage facilities and public utilities are contained in this and other ordinances of the Borough and shall provide adequate access to buildings by firemen and other emergency services.

5. *Lighting.* Where required, lighting facilities shall comply with the requirements set forth below:

A. Where required by this Chapter, the owner shall install or cause to be installed, at the expense of the owner, metal pole street lights serviced by underground conduit in accordance with a plan to be prepared by an engineer and approved by Council. The requirements of metal poles may be waived in such instances as approved by the Council due to the existence of wooden poles already in place. The owner shall be responsible for all costs involved in lighting the streets from the date of first dwelling unit occupancy until such time that the streets are accepted by the Borough. In addition, as a minimum in single-family subdivisions, appropriate conduit and wiring shall be installed underground even though standards and lighting fixtures may not be constructed immediately.

B. All lighting and accessory equipment shall be standard equipment provided by PECO or variations approved by PECO and Borough Council.

C. All above permitted lighting, and all external lighting fixtures appurtenant to a structure shall be shielded from all residential properties and from all rights-of-way so as to eliminate light glare beyond an angle of 35 degrees from a vertical plane.

6. *Off-Street Loading Requirements.* In connection with any building or structure which is to be erected or substantially altered, and which requires the receipt of distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading and unloading berths not less than the minimum requirements specified in this Section:

A. *Location.* All required loading berths shall be located on the same lot as the use to be served, and no portion of the vehicle shall project into any traffic lane. No loading berth for vehicles of more than 2-ton capacity shall be located less than 100 feet from any residential district. No permitted or required loading berth shall be located within 30 feet of a property line. No loading facilities shall be constructed between the building setback line and a street right-of-way line, or with any required yard areas.

B. *Size.* A required off-street loading berth shall be at least 14 feet in width by at least 50 feet in length, exclusive of aisle and maneuvering space, and shall have vertical clearance of at least 16 feet.

C. *Access.* Each required off-street loading berth shall be designed with appropriate means of vehicular access to an interior drive in a manner which will least interfere with traffic movements, and shall be subject to the approval of the Borough. Such access shall have approved all-weather surfaces to provide safe and convenient access during all seasons.

D. *Surfacing.* All open off-street loading berths shall be improved with a



compacted macadam base not less than 7 inches thick, or equal, surfaces with not less than 2 inches of asphaltic-concrete or some comparable all-weather dustless material.

E. *Repair and Service.* No storage of any kind, nor motor vehicle repair work of any kind, except emergency work, shall be permitted within any required loading berth.

F. *Space Allowed.* Space allowed to any off-street loading berth shall not, while so allocated, be issued to satisfy the space requirements for any off-street parking facilities or portions thereof. Required off-street parking space shall not be used for loading or unloading purposes except during hours when business operations are suspended.

7. *Access and Traffic Control.* In order to minimize traffic congestion and hazard, control street access in the public safety and encourage development or street highway frontage:

A. Unless clearly impractical, all lots in a residential subdivision shall have direct access only to a local residential street.

B. No parking lot or area for off-street parking or for the storage or movement of motor vehicles shall directly abut a public street or highway unless separated from the street or highway right-of-way by at least 5 feet by a barrier planting strip with a raised curb, except for necessary accessways to any one public street or highway for each 500 feet of frontage. Where practical, access to parking areas shall be provided by a common service driveway or minor street in order to avoid direct access on a major street or highway. No such access way shall be more than 35 feet in width.

C. All driveways, aisles, maneuvering spaces, vehicular service areas or spaces between or abut buildings, other than those relating to a dwelling, shall be adequately illuminated.

D. Unless clearly impractical, no driveway shall be situated within 10 feet of a side or rear property line, except where common driveways are utilized.

E. In the case of an industrial, professional office park or similar groupings of buildings constructed as part of an integrated plan, and in any other use where practicable, there shall not be more than two access ways to any public street or highway separated by a minimum of 500 feet of frontage. All parking, loading or service areas used by motor vehicles shall be located entirely within the lot line of the property. All access ways to a public street or highway shall be located not less than 100 feet from the intersection of any street lines. All access ways shall be designed to conform to highway specifications and the subdivision requirements of the Borough.

8. *Off-Street Parking Regulations for Other Than Residential Use.*

A. *Standards.* Off-street parking space, or spaces, with proper and safe access from interior drives shall be provided on each lot, either with a structure or in the open, to serve the uses within the district adequately. Parking space for one vehicle shall be equal to at least 350 square feet for the purpose of computing car spaces including stalls and driveways, and shall have a stall based on a size that is 10 by 20 feet. Parking space shall have an approved paved surface, and shall have a safe

and convenient access in all seasons. No parking shall be closer than 30 feet of any street right-of-way line.

B. *Use.* Required off-street parking facilities as accessory to uses listed herein shall be solely for the parking of passenger automobiles of patrons, occupants, or employees.

C. *Location.* Parking spaces required for uses permitted shall be located on the same lot as the use served.

D. *Repair and Service.* No motor vehicle repair work of any kind other than emergency service shall be permitted in parking lots.

E. *Access.*

(1) Each required off-street parking space shall open directly upon an aisle, or a driveway, of such width and design as to provide safe and efficient means of vehicular access to such parking space in accordance with the applicable standards. All off-street parking facilities shall be provided with appropriate means of vehicular access to the interior street in a manner which will least interfere with traffic movement.

(2) Parking lots for over 20 vehicles shall be so divided so that access lanes and parking spaces are clearly defined, and that moving traffic will be confined to designated access lanes.

(3) A maximum of 60 parking spaces may be placed together in a parking compound. All such compounds of parking spaces must be separated by a planting strip not less than 10 feet in width.

(4) In any case where a development abuts a State or Borough road, all streets in the vicinity of the development shall be adequate to serve probable increases in traffic volume, and adequate deceleration lanes and similar facilities shall be provided where desirable by developer.

F. *Requirements.* There shall be sufficient parking spaces provided for each use so that there is a minimum of one place for each employee on shift of maximum employment, plus additional parking spaces to be provided by the application of the appropriate formula listed below for each use.

(1) *Park, Playground, Club or Other Outdoor Recreational Use.* Variable, depending on the proposed intensity of use, subject to approval of the Borough Council.

(2) *Business, Professional, Governmental, Financial and/or Institutional Offices.* One parking space for each 300 square feet of floor space.

(3) *Laboratory or Research Facilities.* Sufficient parking to accommodate visitors, subject to approval of the Borough Council.

(4) *Wholesale Sales, Storage and Distribution.* One parking space for each 1,000 square feet of building area.

(5) *Gifts, Arts and Crafts, Food Stores and Pharmacies.* One parking space for each 100 square feet of sales area.

(6) *Personal Service Shops and Other Retail Stores.* One parking space for each 200 square feet of sales area.

(7) *Eating and Drinking Establishments.* One parking space for each

three seats.

(8) *Hotels and Motels*. One parking space for each guest room.

(9) *Gasoline Service Station*. Two parking spaces for each dispensing hose.

(10) All other commercial, business or service related uses. Sufficient parking to accommodate proposed use, subject to approval of the Borough Council.

G. *Special Exception of Conditional Use*. For any use permitted by special exception or conditional use, it shall be the burden of the applicant to present evidence of the parking needs of the proposed use. Additional evidence may be presented by the Planning Commission or Borough Council. The Zoning Hearing Board, in granting a special exception, or the Borough Council, in granting a conditional use approval, may attach specific additional parking requirements which may or may not be equivalent to the above requirements.

9. *Residential Parking Controls*. A minimum of two parking spaces with proper and safe access from street or alley shall be provided for each dwelling unit either within a structure or in the open. Driveways shall be so constructed as to permit vehicles to turn around on the paved lot, so as to eliminate the necessity of either backing on or off the lot. Parking space for each vehicle shall be at least 10 feet by 20 feet and shall have an approved all-weather surface with safe and convenient access in all seasons.

(Ord. 109, 1/4/1982, §1308)

#### **§27-1309. Home Occupations.**

##### 1. *Uses Permitted.*

A. In residential districts, all dwelling units, except apartment units, may be used for the practice of a home occupation as a special exception, when permitted by the Zoning Hearing Board, subject to the provisions of Part 16.

B. The practice of an occupation shall be permitted, provided that the principal person so employed is a resident of the dwelling unit. Such occupations shall be incidental or secondary to the use of the property as a residence and are limited to those occupations conducted within a dwelling unit.

C. The following occupations shall be considered as home occupations: professional practice of medicine, dentistry, law, engineering, planning, accounting and architecture and practices of a similar nature; and such other occupations as sales representative, insurance salesperson, dressmaking, millinery, music teacher, teacher, artist and woodworker or similar skilled or craft person.

##### 2. *Standard.*

A. The area used for the practice of a home occupation shall occupy no more than 25 percent of the total floor area of the dwelling unit. No manufacturing, repairing or other mechanical work performed in connection with such home occupation, shall be performed in any open area. Such activity shall be conducted in such a way that no noise, odor, vibration, electromagnetic interference, or smoke shall be noticeable at or beyond the property line.

B. No storage of materials or products shall be permitted in open areas.

C. No external alterations shall be permitted to the dwelling units except those customarily in the residential buildings.

D. Signs or outside advertisement may be permitted and shall be regulated by the Zoning Hearing Board in accordance with the provisions of Part 12.

E. Minimum parking requirements for off-street parking shall be determined by the Zoning Hearing Board based on the specific use intended.

(Ord. 109, 1/4/1982, §1309)

#### **§27-1310. Conversion of Dwelling Units.**

The Zoning Hearing Board may authorize, as a special exception, the conversion of single-family dwellings existing at the effective date of this Chapter on a designated lot into a dwelling for not more than three families, subject to the following requirements:

A. The plans for the conversion of said dwelling shall be submitted to the Zoning Hearing Board, together with an application for a special exception, and when two or more families are to be housed above the ground floor, such plans shall bear the approval of the Pennsylvania Department of Labor and Industry as required by law.

B. Such plans shall provide adequate and suitable parking or storage space for at least two automobiles per dwelling unit or use.

C. The lot per family shall not be reduced to less than the lot area required for the district in which such lot is situated.

D. The yard, building area and other applicable requirements for the district shall not be reduced.

E. There shall be no external alteration of the building except as may be necessary for reasons of safety; fire escape and outside stairways shall where practicable, be located to the rear of the building.

(Ord. 109, 1/4/1982, §1310)

#### **§27-1311. Reduction of Lot Area.**

No lot shall be so reduced that the area of the lot or dimensions of the yards shall be smaller than herein prescribed.

(Ord. 109, 1/4/1982, §1311)

#### **§27-1312. Prohibited Uses and Performance Standards.**

No use shall be permitted which is noxious or offensive in the immediately surrounding area by reason of odor, dust, smoke, gas, or other matter toxic or noxious to the air, vibration, illumination, or noise, or which constitutes a public hazard whether by fire, explosion or otherwise. In determining whether a proposed use is noxious, hazardous, or offensive, the following standards shall apply. The proposed operation shall not:

A. Constitute any nuisance whatsoever beyond the boundary of the site on which the use is located by a reason of dissemination of noxious, toxic, or corrosive fumes, smoke, odor, or dust.

B. Result in a sound pressure level of noise radiated continuously from a facility at night-time at the lot line, in excess of the values given within the American Standard Sound Level Meters for Measurement of Noise and Other Sounds, 224.3 - 1944, American Standards Association, Inc.

C. Endanger surrounding areas by reason of fire or explosion.

D. Produce objectionable heat, glare, or radiation beyond the property line.

E. Result in electrical disturbance or interference in nearby residence, or adversely affect the operation of equipment other than on the property on which the disturbance is located.

F. Discharge at any point into any public or private sewage system, or watercourse or into the ground, of any materials in such a way or of such a nature, as will contaminate or otherwise cause the emission of hazardous materials in violation of the laws of the Commonwealth of Pennsylvania, and specifically 25 Pa.Code Chapters 73, 75, 95 and 97, Pennsylvania Department of Environmental Resources, Rules and Regulations.

G. Create any other objectionable condition in an adjoining area which will endanger public health and safety or be detrimental to the proper use of the surrounding area.

*(Ord. 109, 1/4/1982, §1312)*



**Part 14****Nonconforming Uses, Structures, Lots and Signs****§27-1401. Statement of Intent.**

1. The regulations set forth below are intended to provide a gradual remedy for undesirable conditions which may result from indiscriminate mixing of uses, and to provide a means whereby nonconforming uses can be gradually eliminated and reestablished in more suitable locations within the Borough of Modena.

2. Nonconforming uses and structures will be generally permitted to remain; the purpose of regulating them is to restrict any further investment in uses or structures which are inappropriate to their locations.

(Ord. 109, 1/4/1982, §1401)

**§27-1402. Nonconforming Uses or Structures.**

1. *Continuation.* The lawful use of a building or land existing on the effective date of this Chapter, or authorized by a building permit issued prior thereto, may be continued, although such use does not conform with the provisions of this Chapter.

2. *Extension.*

A. A nonconforming use of a building may be extended if no structural alterations are made therein; provided, that such extension may include structural alterations when authorized as a special exception by the Zoning Hearing Board.

B. A building housing a nonconforming use may be extended only one time, to an extent representing no more than a 25 percent increase in total floor area, upon the lot occupied by such building held in single and separate ownership at the effective date of this Chapter when authorized as a special exception by the Zoning Hearing Board; provided, that the Zoning Hearing Board in grafting such special exceptions may impose other requirements on the extension of a building housing a nonconforming use so that the extended building will conform in all respects to the area and bulk regulations and design standards which apply in the districts in which the building is located.

3. *Changes.* A nonconforming use of a building or land may be changed to a nonconforming use of the same or a more restricted classification, if no structural alterations are made therein, provided that such change may include structural alteration when authorized as a special exception. Whenever a nonconforming use of a building or land has been changed to a use of a more restricted classification, or to a conforming use, such use shall not thereafter be changed to a use of less restricted classification.

4. *Restoration.* A nonconforming building which has been damaged or destroyed by fire, or other cause, or a nonconforming building which has been legally condemned, may be reconstructed and used for the same nonconforming use, provided that:

A. The reconstructed building shall not exceed in height, area, and volume, the building destroyed or condemned by 25 percent, subject to other applicable regulations of the District in which it is situated.

B. Building reconstruction shall be commenced within 1 year from the date the building was destroyed or condemned, and shall be carried on without interruption.

5. *Discontinuance.* If a nonconforming use of land or of a building ceases or is discontinued for a continuous period of 1 year or more, subsequent use of such building or land shall be in conformity with the provisions of this Chapter, unless the Zoning Hearing Board shall authorize as a special exception the resumption of the discontinued use.

6. *Abandonment.* Whenever a nonconforming use of land, premises, building or structure, or any part or portion thereof, has been discontinued for a period of 1 year, such discontinuance shall be presumed to constitute an intention to abandon such use and any subsequent use of the property shall be in conformity with the provisions of this Chapter.

(Ord. 109, 1/4/1982, §1402)

### **§27-1403. Nonconforming Lots of Record.**

1. *Lots Nonconforming as to Area and Width Regulations.*

A. A building may be erected or altered on any lot held at the effective date of this Chapter in single and separate ownership which is not of the required minimum area, or width, or is of such unusual dimensions that the owner would have difficulty in providing the required open spaces for the district in which such a lot is situated; provided, a special exception is authorized by the Zoning Hearing Board; and, provided further, that the applicant does not own or control other adjoining property sufficient to enable him to comply with the provisions of this Chapter and amendments.

B. In considering a special exception to permit erection or alteration of a building on a lot nonconforming as to area and width regulations, the Zoning Hearing Board shall impose the following additional requirements:

(1) That the use of the nonconforming lot shall be required to conform to the permitted uses within the district in which the nonconforming lot lies.

(2) That the building height shall be restricted to that specified for other buildings within the District in which the nonconforming lot lies.

(Ord. 109, 1/4/1982, §1403)

### **§27-1404. Nonconforming Signs.**

1. *Existing Signage.* Any sign, signboard, billboard, or advertising device existing at the time of the passage of this Chapter that does not conform with the regulations of the District in which it is located shall be considered a nonconforming sign and may be used in its existing location provided it is maintained in good condition and repair at all times.

2. *Removal and Replacement of Nonconforming Signs.* Nonconforming signs once removed may be replaced only with conforming signs; however, legal nonconforming signs may be repainted or, after issue of a permit, repaired or modernized provided that such repaired or modernized sign does not exceed the dimensions of the existing sign.

(Ord. 109, 1/4/1982, §1404)



**§27-1405. Registration of Nonconformities.**

The Zoning Officer shall prepare, after the adoption of this Chapter, a complete list of all nonconforming uses, buildings, lots, and signs then in existence and shall maintain same in the Borough records.

*(Ord. 109, 1/4/1982, §1405)*



**Part 15****Administration****§27-1501. Application of Regulations.**

Hereafter, no land shall be used or occupied, and no building or structure shall be erected, altered, used or occupied, except in conformity with this Chapter, as it may be from time to time amended.

(Ord. 109, 1/4/1982, §1501)

**§27-1502. Administration.**

1. The provisions of this Chapter shall be administered by the person designated by the Borough Council as the Zoning Officer for this purpose.

2. The duties of the Zoning Officer shall be:

A. To examine all application for permits to build upon or use land.

B. To issue permits only for construction and uses which are in accordance with this Chapter and as it may be subsequently amended.

C. To record and file all applications for permits and accompanying plans and documents and keep them for public record.

D. To issue permits for uses, authorized variances or special exception after approval by the Zoning Hearing Board or directed by a competent court in accordance with this Chapter.

E. To report all violations of this Chapter to the Borough Council and to issue orders to cease and desist to all the violators.

F. Upon the request of the Planning Commission or the Zoning Hearing Board, to present to such body facts, records and any similar information on specific requests to assist such body in reaching its decision.

(Ord. 109, 1/4/1982, §1502)

**§27-1503. Enforcement.**

1. This Chapter shall be enforced by the Zoning Officer of the Borough.

2. *Complaints Regarding Violations.* Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Zoning Officer. He shall record properly such complaint, immediately investigate and take action thereon as directed by the Council and as permitted by this Chapter.

(Ord. 109, 1/4/1982, §1503)

**§27-1504. Zoning Permits.**

1. *Building Permits.* A building permit shall be required prior to the erection of, alteration of or enlargement of any building or other structure or portion thereof. It shall be unlawful for any person to commence work for the erection of or alteration of or enlargement of any building or structure or portion thereof until a permit has been

duly issued therefor.

2. *Sign Permits.* A sign permit shall be required prior to the erection of, alteration of, or enlargement of any sign, sign structure or any portion thereof. It shall be unlawful for any person to commence work for the erection of or alteration of or enlargement of any sign, sign structure or portion thereof until a permit has been duly issued therefor; except, however, real estate signs and traffic and directional signs may be erected without a sign permit; provided, that all requirements of Part 12 are met.

3. *Use and Occupancy Permits.* It shall be unlawful for any person to use or to occupy any building, farming unit or other structure or land until a use and occupancy permit has been duly issued therefor. Use and occupancy permits shall be required prior to any of the following:

A. Use or occupancy of any building or other structure hereinafter erected, altered or enlarged for which a building permit is required.

B. Change in use or extension of a nonconforming use.

C. Use of land or change in the use thereof except that the use of land for woodland, game preserve, conservation use or agricultural or nursery purposes shall not require a use of occupancy permit.

D. Change in use of any building structure.

(Ord. 109, 1/4/1982, §1504)

#### **§27-1505. Application for Zoning Permits.**

All applications for zoning permits shall be made to the Zoning Officer in writing on such forms as may be furnished by the Borough, including any additional plans, documents and information as may be required to enable the Zoning Officer to ascertain compliance with this Chapter.

A. *Application for Building Permit.* An application for building permit shall be accompanied by a plot plan drawn to scale showing size and location of all existing and proposed buildings and structures on the premises in question.

B. *Application for Sign Permit.* An application for sign permit shall be accompanied by a plot plan drawn to scale showing size and location of all buildings and structures on the premises in question and the dimensions and location of the proposed plan.

C. *Application for Use and Occupancy Permit.* When use of premises involves a new building or structure, or alterations to an existing building or structure, application for use and occupancy permit shall be made prior to or concurrently with application for building permit.

(Ord. 109, 1/4/1982, §1505)

#### **§27-1506. Issuance of Permits.**

With the exception of use and occupancy permits, as set forth below, it shall be the duty of the Zoning Officer to either issue or deny issuance of a zoning permit within 15 days of the filing of a completed application and payment of prescribed fees. He shall issue a permit only upon his determination that the application is in compliance with the terms of this Chapter, as well as any other governing ordinances including, but not

limited to, the Borough Building Code [Chapter 5, Part 1] and Subdivision and Land Development Ordinance [Chapter 22].

A. *Issuance of Building Permit.* A building permit, when issued, shall be accompanied by a placard to be displayed conspicuously upon the premises during the period of construction.

B. *Issuance of Sign Permit.* A sign permit need not be displayed on the premises.

C. *Issuance of Use and Occupancy Permit.*

(1) A use and occupancy permit not involving a new building or structure or alterations to an existing building or structure shall be either issued or denied by the Zoning Officer within 15 days, as set forth hereinabove.

(2) A use and occupancy permit for which application has been made prior to or concurrently with an application for building permit shall not be issued until completion of the construction work authorized by the building permit. Upon notification by the applicant that the construction work has been completed, the Zoning Officer shall either issue or deny the use and occupancy permit within 15 days, as aforesaid.

(3) It shall be the duty of the applicant for a building permit to secure the issuance of the required use and occupancy permit, by giving notice of completion as aforesaid, notwithstanding the fact that he may be constructing the building structure, addition or alteration for the use of another, and further to notify such proposed occupant of the requirements of this Section prior to transfer of ownership or commencement of leasehold of the property.

(Ord. 109, 1/4/1982, §1506)

#### **§27-1507. Schedule of Fees.**

The Borough Council shall establish by resolution a schedule of fees, charges and expenses for zoning permits, appeals to the Zoning Hearing Board, curative amendment hearings and other matters pertaining to the administration of this Chapter. Said schedule of fees shall be available from the Borough Secretary and Zoning Officer and application for permits or hearings shall be considered incomplete until payment in accordance therewith has been made.

(Ord. 109, 1/4/1982, §1507)

#### **§27-1508. Conditional Uses.**

1. *Application.* An application for conditional use approval shall be accompanied by a proposed plan showing the size and location of the proposed use, all proposed buildings and all proposed accessory facilities including roads, access drives, and parking areas. In addition, the application shall be accompanied by such information, in graphic and/or narrative form, to demonstrate compliance with all applicable standards. Feasibility of water supply, sanitary sewage disposal, and storm drainage control should be demonstrated but need not be fully engineered.

2. *Procedure.*

A. A conditional use application shall be filed with the Borough Secretary on such forms as may be prescribed by the Borough Council, accompanied by the

required fee.

B. The Borough Council shall schedule and hold a public hearing on the application within 60 days of filing, unless the applicant waives or extends the time limitation.

C. At least 45 days prior to the date of hearing one copy of the application and supporting material shall be furnished to the Borough Planning Commission, the County Planning Commission, and any other agencies or consultants deemed appropriate by the borough Council, together with a request that such agencies submit recommendations regarding the proposed conditional use.

D. The Borough Council shall render a decision within 60 days after the public hearing (or last public hearing, if more than one is necessary to fully evaluate the proposal).

3. *Standards for Review of Proposed Conditional Use.* The following standards shall be used as a guide in evaluating a proposed conditional use:

A. The proposed use shall meet all of the specific standards and regulations for eligibility which appear in the Section of this Chapter authorizing the proposed conditional use.

B. The standards set forth in §27-1609, for review of special exception applications, shall be met.

(Ord. 109, 1/4/1982, §1508)

**Part 16****Zoning Hearing Board****§27-1601. Appointment.**

There shall be a Zoning Hearing Board consisting of three residents of the Borough, appointed by the Borough Council in accordance with Article IX of the Pennsylvania Municipalities Planning Code, 53 P.S. §10901 *et seq.*, as amended, hereinafter called "MPC."

(*Ord. 109, 1/4/1982, §1601*)

**§27-1602. Powers.**

The Zoning Hearing Board shall function in strict accordance with and pursuant to the MPC and shall have all powers set forth therein including, but not limited to, the following:

A. To hear and decide appeals where it is alleged that the Township Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of a valid ordinance or map of the Borough or any valid rule or regulation governing the action of the Zoning Officer.

B. To hear and decide requests for special exceptions authorized by this Chapter in accordance with the standards or criteria set forth below. The Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purpose of the code and this Chapter.

C. To hear request for variances where it is alleged that the provisions of this Chapter inflict unnecessary hardship upon the applicant. A variance may be granted only after the Zoning Hearing Board had made the findings required in §912 of the MPC, 53 P.S. §10912. In granting a variance the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of the MPC and this Chapter.

D. To conduct hearings and make such decisions and findings in connection with challenges to the validity of any provision of this Chapter as authorized by §910 of the MPC, 53 P.S. §10910.

(*Ord. 109, 1/4/1982, §1602*)

**§27-1603. Rules.**

The Zoning Hearing Board may make, alter, and rescind rules and forms for its procedure including, but not limited to, the manner of filing appeals and applications for special exceptions and variances.

(*Ord. 109, 1/4/1982, §1603*)

**§27-1604. Meetings and Hearings.**

1. Meetings and hearings of the Zoning Hearing Board shall be held at the call of the Chairman, and at such other times as the Zoning Hearing Board may determine. All hearings on appeals or applications shall commence not later than 45 days from the

date of filing thereof with the Borough. The Chairman or, in his absence, the acting Chairman, may administer oaths and compel attendance of witnesses. All meetings of the Zoning Hearing Board shall be open to the public.

2. The Board shall keep a stenographic record of the proceedings and a transcript thereof shall be made available to any party at cost. The Zoning Hearing Board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Borough and shall be a public record. In accordance with §908 of the MPC, 53 P.S. §10908, the Zoning Hearing Board shall not communicate directly or indirectly with any party, nor take notice of any material, nor inspect any site, except as provided therein.

*(Ord. 109, 1/4/1982, §1604)*

#### **§27-1605. Appeals and Requests to the Zoning Hearing Board.**

Appeals to the Zoning Hearing Board may be filed by the landowner affected, any officer or agency of the Borough or any person aggrieved. Such appeal shall be taken within the time required by the MPC or as provided by the rules of the Zoning Hearing Board, by filing with the Borough Secretary or with the Zoning Hearing Board a notice of appeal specifying the grounds thereof. The Borough Secretary shall forthwith transmit to the Zoning Hearing Board all the papers constituting the record upon which the action appealed from was taken. Requests for a variance or special exception may be filed by any landowner, or any tenant with permission of the landowner. The appropriate fee, established by the Borough shall be paid in advance for each appeal or application for a special exception or variance to cover advertising costs, mailing notices, and charges of the stenographer for taking the notes of testimony.

*(Ord. 109, 1/4/1982, §1605)*

#### **§27-1606. Notice of Hearing.**

The notice of public hearing shall state the location of the building or lot and the general nature of the question involved and shall be given as follows:

A. By publishing a notice thereof once a week for 2 successive weeks in a newspaper of general circulation in the Borough.

B. By mailing a notice thereof to the applicant, the Zoning Officer, Borough Secretary and any person who has made timely request for same.

C. By mailing a notice thereof to every resident or association of residents of the Borough who shall have registered their names and addresses for this purpose with the Zoning Hearing Board.

D. By mailing notice thereof to the owner, if his address is known, or to the occupant of every lot on the same street within 500 feet of the lot in question and of every lot not on the same street within 150 feet of said lot; provided that failure to mail the notice required by this Section shall not invalidate any action taken by the Zoning Hearing Board. All hearings shall be conducted in accordance with §908 of the MPC, 53 P.S. §10908, as amended.

E. By posting notice thereof conspicuously on the affected tract of land.



(Ord. 109, 1/4/1982, §1606)

**§27-1607. Decisions.**

1. The Board 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. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefor. Conclusions based on any provisions of this act or 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. Where the Board has power to render a decision and the Board fails to render the same within the period required by this subsection, or fails to hold the required hearing within 45 days from the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant, unless the applicant has agreed in writing 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 Borough Secretary shall give public notice of said decision within 10 days in the same manner as prescribed in this Section for the giving of notice of hearings.

2. A copy of the final decision or, when 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 persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

(Ord. 109, 1/4/1982, §1607)

**§27-1608. Expiration of Special Exceptions and Variances.**

Unless otherwise specified by the Zoning Hearing Board, a special exception or variance which has been authorized by the Zoning Hearing Board shall expire if the applicant fails to obtain a zoning permit within 6 months from the date of authorization thereof or fails to commence a substantial amount of work within 6 months from the date to issuance of the permit for such work.

(Ord. 109, 1/4/1982, §1608)

**§27-1609. Standards for Review of Proposed Variance or Special Exception.**

In any instance where the Zoning Hearing Board is required to consider a request for variance or special exception, the Zoning Hearing Board must determine that the following standards and criteria are met before granting the request:

A. The size, scope, extent and character of the special exception or variance requested is consistent with the Comprehensive Plan of the Borough and promotes the harmonious and orderly development of the zoning district involved.

B. The proposed change or modification constitutes an appropriate use consistent with the character and type of development in the area surrounding the location for which the request is made and will not substantially impair, alter or detract from the use of surrounding property of the character of the neighborhood in light of the zoning classification of the area affected; the effect on other

properties in the area; the number, extent and scope of nonconforming uses in the area; and the presence or the absence in the neighborhood of conditions or uses which are the same or similar in character to the condition or use for which applicant seeks approval.

C. The proposed use is suitable with respect to traffic and highways in the area and provides for adequate access and off-street parking arrangements in order to protect major streets and highways from undue congestion and hazard.

D. Major street and highway frontage will be developed so as to limit the total number of access points and encourage the frontage of building on parallel marginal roads or on roads perpendicular to the major street or highway.

E. The proposed change is reasonable in terms of the logical, efficient and economical extension of public services and facilities, such as public water, sewers, police, fire protection, and public schools, and assures adequate arrangements for sanitation in specific instances.

F. All commercial or industrial parking, loading, access or service areas will be adequately illuminated at night while in use and arranged so as to comply with the requirements of §27-1308.7 dealing with general/supplementary regulations relating to access and highway frontage.

G. Conditions are being imposed on the grant of the request necessary to insure that the general purpose and intent of this Chapter is complied with and that the use of the property adjacent to the area included in the proposed change or modification is adequately safeguarded with respect to harmonious design of buildings, aesthetics, planting and its maintenance as a sight or sound screen, landscaping, hours of operation, lighting, numbers of persons involved, allied activities, ventilation, noise, sanitation, safety, smoke and fume control and the minimizing of noxious, offensive or hazardous elements.

H. The proposed change protects and promotes the safety, health, morals and general welfare of the Borough.

2. In addition, to approve a proposed variance, the Board must also find, where relevant in a given case:

A. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this Chapter in the neighborhood or district in which the property is located.

B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

C. That such unnecessary hardship has not been created by the appellant.

D. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

(Ord. 109, 1/4/1982, §1609)

**§27-1610. Appeals to Court.**

Appeals from decisions of the Zoning Hearing Board may be taken by any party aggrieved thereby to the County Court of Common Pleas by petition in the manner provided by the laws of the Commonwealth and Article X of the Pennsylvania Municipalities Planning Code, 53 P.S. §11001 *et seq.*

(*Ord. 109, 1/4/1982, §1610*)



**Part 17****Amendments****§27-1701. Power of Amendment.**

The Borough Council may from time to time amend, supplement, change, modify or repeal this Chapter including the Zoning Map, by following the procedures in this Part.

(Ord. 109, 1/4/1982, §1701)

**§27-1702. Amendment by Borough Council.**

The Borough Council by resolution adopted at a public meeting shall fix the time and place of a public hearing on the proposed change, amendment or repeal, and cause notice thereof to be given as follows:

A. Public notice shall be given not more than 30 days and not less than 14 days in advance to any public hearing.

B. Publishing a notice thereof once a week for 2 successive weeks in one newspaper of general circulation in the Borough.

C. The notice shall include either the full text of the proposed amendment, or it shall include the principal provisions thereof in reasonable detail, with a reference to a place in the Borough where the text of the proposed amendment may be examined.

Full opportunity to be heard will be given to any citizen and all parties in interest attending such hearing.

(Ord. 109, 1/4/1982, §1702)

**§27-1703. Planning Commission Referral.**

The Borough Council shall refer each proposed change or amendment to the Borough Planning Commission and the Chester County Planning Commission at least 30 days prior to the hearing on such proposed amendment to provide the Planning Commission an opportunity to submit recommendation on the proposed amendments. The Planning Commission shall consider whether or not the proposed change or amendment would be, in the view of the Commission, consistent with the purposes and objectives set forth in the Purpose Section and desirable in furtherance of the plan therein referred to for future land development.

(Ord. 109, 1/4/1982, §1703)

**§27-1704. Amendment by Citizen's Petition.**

Whenever the owners of 50 percent or more of the area in any district or part thereof, wherein a change of zoning regulations is sought, shall present to the Borough Council a petition duly signed and acknowledged requesting an amendment, supplement, change, modification, or repeal of the regulations prescribed by this Chapter for their district, or a change of the Zoning Map including such district or part thereof, it shall be the duty of the Borough Council to hold a public hearing thereon and

cause notice thereof to be given in a manner prescribed in §27-1606. Applicants to the Borough Council for the amendment, supplement, change, or modification of the provisions of this Chapter shall, upon the filing of such application, pay the appropriate fees established by the Borough for each application to cover the costs of advertising and aforesaid notice, the cost of stenographic service and any other expense incurred in connection with such application, provided, however, that if the total of the aforesaid costs and expenses does not exceed the amount provided, any difference shall be refunded to the applicant.

*(Ord. 109, 1/4/1982, §1704)*

**§27-1705. Procedures upon Curative Amendment.**

A landowner who desires to challenge on substantive grounds the validity of this Chapter or the Zoning Map or any provision thereof, in which he has an interest may submit a curative amendment to the Borough Council with a written request that his challenge and proposed amendment be heard and decided as provided in §§609.1 and 1004 of the Pennsylvania Municipalities Planning Code, 53 P.S. §§10609.1 and 11004 as amended.

*(Ord. 109, 1/4/1982, §1705)*

**Part 18****Remedies, Penalties, Validity****§27-1801. Remedies.**

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure or land is used, or any hedge, tree, shrubs, or other growth is maintained or destroyed, in violation of this Chapter or any regulations made pursuant thereto, the proper Borough authorities, in addition to other remedies provided by law, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation, to prevent the use of said building, structure, or land or to prevent any illegal act, conduct, business or use in or about such premises.

(*Ord. 109, 1/4/1982, §1801*)

**§27-1802. Penalties.**

For any and every violation of the provisions of this Chapter, the owner, general agent or contractor of a building or premises where such violation has been committed or shall exist, and the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, and the owner, general agent, contractor, lessee or tenant of any part of a building or premises in which part such violation has been committed or shall exist, and the general agent, architect, builder, contractor any other person who knowingly commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be liable on conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment no to exceed 30 days. Each day that a violation of this Chapter continues shall constitute a separate offense. Wherever such persons shall have been officially notified by the Zoning Officer or lay service of a summons in a prosecution, or in any other official manner, that he is committing a violation of this Chapter, each day of continuance of such violation after such notification shall constitute a separate offense punishable by a like fine or penalty. Such fines or penalties shall be collected, as like fines or penalties are now collected by law.

(*Ord. 109, 1/4/1982, §1802*)





**Part 19****MH Mobile Home District****§27-1901. Statement of Intent.**

The Mobile Home District is designed with the purpose of providing adequate facilities for the placement of mobile homes. The development of mobile home parks is encouraged to promote a safe and attractive neighborhood environment that will not distract from surrounding properties. The district is established to provide a suitable environment for alternative dwelling types, centralize the placement of mobile homes in specific areas designed for such use and discourage undesirable conditions associated with poorly designed and improperly regulated parks.

(Ord. 109, 1/4/1982, §1901)

**§27-1902. Use Regulations.**

1. *Uses By Right.* In any MH District, a lot or premises shall be used, by right, for any of the following purposes, and for no other:

A. Mobile home park in accordance with all provisions and requirements of such use as specified in the Modena Borough Subdivision and Land Development Ordinance [Chapter 22].

B. Mobile home on an individually-owned lot, not within a mobile home park.

C. Mobile home park office or service buildings.

D. Modena Borough municipal uses.

2. *Accessory Uses.* Accessory uses must be clearly incidental to the principal use and located on the same lot.

A. Customary residential uses.

B. Signs in accordance with Part 12.

C. Uses associated with park office or service buildings except mobile home sales.

3. *Uses By Special Exception.* The following uses shall be permitted as a special exception when authorized by the Zoning Hearing Board subject to Part 16 of this Chapter.

A. Single-family detached dwellings other than mobile homes in accordance with Part 5, except as herein provided.

(Ord. 109, 1/4/1982, §1902)

**§27-1903. Area and Bulk Regulations.**

1. *Lot Area and Width.*

A. *Mobile Home Parks.* In accordance with the following provisions:

(1) Every mobile home park shall not be less than 4 contiguous acres.

(2) Maximum gross density for development of a mobile home park shall not exceed five dwelling units per acre.

B. *Individually Owned Mobile Home Lot.* Every mobile home lot that is held in individual private ownership not within a mobile home park, for placement of a single mobile home unit shall have a lot area of not less than 15,000 square feet. Lot width at the building setback line shall not be less than 100 feet.

2. *Yards.* Front, side, and rear yards shall be provided as follows:

A. *Mobile Home Parks.* Mobile home lots within a mobile home park, shall be so designed that in no instance shall the exterior walls of mobile home units, or additions thereto, come within 25 feet of the exterior walls of an adjacent mobile home, or within 10 feet of any cartway. No mobile home, park office or service structure shall be located within 75 feet of the mobile home park boundary.

B. *Individually-Owned Lots.* In accordance with the following provisions:

(1) A front yard not less than 25 feet.

(2) There shall be two side yards of not less than 15 feet in width each.

(3) There shall be a rear yard of not less than 25 feet in depth:

C. *Accessory Structures.* Accessory structures shall be located to the side or rear of the principal structure and not be within 15 feet of any structure or accessory structure on an adjacent mobile home lot.

3. *Height Regulations.* Maximum height for mobile homes shall be 15 and 25 feet for park office and service structures.

4. *Minimum Inhabitable Floor Area.* Seven hundred square feet, exclusive of additions and accessory structures.

5. *Additional Standards.* All mobile home parks must comply with the following standards:

A. *Common Open Space.* All mobile home parks must include a minimum of 15 percent of the gross area as common open space for the enjoyment of park residents. A minimum of 25 percent of the common open space shall be usable for active recreation. All common open space areas shall be administered and maintained by park management.

B. *Service Buildings and Facilities.* No mobile home park service building or associated facility shall be closer than 50 feet to a public street right-of-way. Suitable uses related to service buildings may include management office, laundry facilities, and repair shop and/or commercial uses to supply essential goods to park residents only.

(Ord. 109, 1/4/1982, §1903)

#### **§27-1904. Improvement Standards.**

All mobile home parks and mobile homes shall be designed and constructed with respect to the following improvements:

A. All roadways within mobile home parks shall conform to the minimum roadway standards specified in the Modena Borough Subdivision and Land Development Ordinance [Chapter 22].

B. Connection to a public sewage system and public water supply system is required.

C. The management of stormwater runoff shall be incorporated in all mobile home park designs. Satisfactory erosion control measures shall be practiced during the construction of the park and thereafter exposed ground surface shall be suitably covered or planted. Storm drainage and control measures shall meet requirements as contained in the Modena Borough Subdivision and Land Development Ordinance [Chapter 22].

D. The storage of and design of fuel systems including liquified petroleum gas systems and fuel oil supply systems shall be in conformance with specifications in the Modena Borough Subdivision and Land Development Ordinance [Chapter 22].

E. All other utilities and utility infrastructure, such as pipeline and wiring, shall conform to standards pertaining to utility installation in the Modena Borough Subdivision and Land Development Ordinance [Chapter 22].

F. Landscaping shall be required as an essential feature of each mobile home park. The use of naturally occurring and existing vegetation shall be encouraged. Specific landscaping and buffering requirements are contained in the Modena Borough Subdivision and Land Development Ordinance [Chapter 22].

G. Each mobile home lot will be provided with a walkway light located between the mobile home and parking area. Lighting shall be in compliance with standards set forth in the Modena Borough Subdivision and Land Development Ordinance [Chapter 22].

H. All mobile homes shall be fully skirted within 90 days of placement on a mobile home lot. Skirting material shall be specifically designed for the purpose of skirting mobile homes. Skirted mobile homes shall be adequately vented and allow for access to all utility connections. In no instance shall the area beneath mobile homes be used for storage.

I. It shall be unlawful for any person to construct, alter or extend or operate a mobile home park in the Borough of Modena unless and until permit and licensing requirements stated in the Modena Borough Subdivision and Land Development Ordinance [Chapter 22] are satisfied.

*(Ord. 109, 1/4/1982, §1904)*



## Summary of Zoning District Regulations

### The Borough of Modena Chester County, Pennsylvania

Zoning District	Area (sq. ft.)	Lot Width at the Building Line	Minimum			Aggregate Side	Maximum		Height Buildings
			Front	Rear	Yard Side		Building (percent)	Lot on Im- pervious Surfaces (percent)	
R-1 *	22,000	100	35	30	12	30	35	--	35
**	40,000	150	35	30	12	30	35	--	35
R-2 *	12,000	80	30	30	8	20	40	--	35
**	30,000	100	30	30	8	20	40	--	35
R-3									
Single-family *	12,000	80	25	25	12	20	40	--	35
Two-family*	7,500 (per dwelling unit)	70 (Aggregate for two-dwelling units)	25	25	12	20	40	--	35
Multi-family*	8 (Dwelling units per acre)	100	25	25	15	30	--	50	35/50
C-1	7500	60	15	30	10	10/20	50	75	35

Zoning District	Area (sq. ft.)	Lot Width at the Building Line	Minimum				Maximum		Height Buildings
			Front	Rear	Side	Aggregate Side	Coverage Building (percent)	Lot on Im- pervious Surfaces (percent)	
MH									
Park*	4 acres	–	See Zoning and Subdivision Regulations for specifics				--	--	--
Individually* owned lot	15,000	100	-25	25	15	30	--	--	15
POR	20,000	80	30	30	15	30	50	75	40
I	44,000	125	40	50	20	40	60	75	50

\* Lots with public sewage system and public water supply system.

\*\* Lots without public sewage system and without public water supply system.

## Appendix

The following ordinances and resolutions are no longer of general interest, primarily because their provisions were carried out directly after their enactment. Since they are mainly of historical or administrative interest, it has not been considered necessary to include their entire text. Instead, they are arranged in groups, according to subject matter, and within each group listed by title in chronological order. The annual budget and tax ordinances have been listed only in the "Key to the Disposition of Ordinances." Any person who desires to read the full text of any of the ordinances or resolutions may do so by consulting the original Ordinance Books on file in the Borough Offices.

The enactments included in this Appendix are grouped under the following headings:

- A . . . . . Annexation of Territory
- B . . . . . Bond Issues and Loans
- C . . . . . Franchises and Services
- D . . . . . Governmental and Intergovernmental Affairs
- E . . . . . Plan Approval
- F . . . . . Public Property
- G . . . . . Sewers
- H . . . . . Streets and Sidewalks
- I . . . . . Water
- J . . . . . Zoning; Prior Ordinances





**Appendix A**  
**Annexation of Territory**

[Reserved]



## Appendix B

### Bond Issues and Loans

Ord./Res	Date	Subject
Res. 33	12/4/1950	Borrow \$1,500 for tax anticipation
Res. 35	3/5/1952	Borrow \$1,000 for tax anticipation
Res. 36	3/1/1954	Borrow \$1,00 for tax anticipation
Ord. 97	11/5/1979	Borrow \$650,000 for sanitary sewer construction
Ord. 106	4/5/1981	Authorizing incurring nonelectoral debt to provide funds to retire a portion of the Borough's bond anticipation note of 1979 to finance the costs of the sanitary sewer, in the amount of \$65,000, by the issuance of a general obligation note.



## Appendix C

### Franchises and Services

<b>Ord./Res</b>	<b>Date</b>	<b>Subject</b>
Ord. 21	6/10/1924	Authorizing Bell Telephone Company of Pennsylvania to operate in the Borough
Ord. 24	4/13/1926	Authorizing the Chester Valley Electric Company, its successors and assigns, to operate in the Borough
Res. 6	5/6/1941	Five year agreement with Philadelphia Electric Company for street lighting



## Appendix D

### Governmental and Intergovernmental Affairs

Ord./Res	Date	Subject
Ord. 11	7/13/1922	Establishing a police force
Ord. 35	2/7/1927	Authorizing claims of J. Willis Hardy, Engineer, for compensation
Res. 9	6/1/1942	Created Defense Council for Borough
Res. 7/9/1942	7/9/1942	Joined District Council of Defense
Res. 8	7/22/1942	Tax Sales Procedure
Res. 21	3/4/1946	Established National Bank of Chester County as depository of Borough funds
Res. 45	5/3/1976	Approved regulations and rules of Central Tax Bureau of Pennsylvania, Inc.
Res. 51	6/6/1977	Accept and approve the engineering proposal of Huth Engineers, Inc. in connection with the Second Year Community Block grant
Res. 54	4/3/1978	Approved request for a community facilities grant of \$50,000 from State Department of Commerce
Res. 56	11/6/1978	Requested the State to establish a separate Borough Officials Ethics Code
Res. 59	1/10/1979	Agreed to standards for training under Act 120
Res. 62	5/7/1979	Approving joining Central Chester County Regional Planning Program and allotting \$325 for purpose
Res. 65	7/2/1979	Approved request for Chester County Planning Commission to aid in preparing a Comprehensive Plan, a Zoning Ordinance and a Subdivision Ordinance
Res. 66	8/8/1979	Approved the tax bureau initiating litigation against Coatesville Tax Agency, <i>et al.</i> to gain funds owed to the Borough
Res. 69	12/3/1979	Approve a separate escrow account in Provident National Bank for the Community Facilities Act funds
Res. 74	5/5/1980	Approved participation in the State Cooperative Purchasing program
Res. 81	8/3/1981	Approved procedure to carry out Act 222 in the Borough in regard to Building Energy Conservation Act
Res. 11/17/1982	11/17/1982	Penns Valley Publishers will update the ordinances (codify) them and give out 15 copies at a cost of \$3,650
Res. 1/3/1984	1/3/1984	Codification of ordinances will be opened to public for 30 days, to be adopted by Council on Feb. 6, 1984.
Ord. 117	2/6/1984	Amending the establishment of a police force
Res. 88	1/7/1985	Increasing the wages of the Streets Department, patrolmen and Chief of Police by \$0.25

<b>Ord./Res</b>	<b>Date</b>	<b>Subject</b>
Res. 89	3/4/1985	Supporting the Federal revenue sharing program
Res. 90	5/6/1985	Joining the re-development program
Res. 91	5/6/1985	Appointing Ruth Ayers as chief administrative office for Act 205 pension plan foreign fire insurance program
Res. 93	12/16/1985	1986 salaries and wages
Res. 94	1/6/1986	Requesting funds from DCA from the RIRA program
Res. 96	6/2/1986	Authorizing Clayton Ayers to sign the Articles of Incorporation for the Borough of Modena.
Res. 97	8/4/1986	Approving articles of incorporation.
Res. 98	11/3/1986	Requesting funds from DCA from RIRA program
Res. 100	8/3/1987	Giving County authority to prepare a solid waste management plan
Res. 103	3/6/1989	To have the question of small games of chance be placed on the May primary ballot
Res. 4/2/1990	4/2/1990	Adopt the resolution for the economic development
Res. 5/6/1991	5/6/1991	A motion to adopt the resolution for emergency response
Res. 1/6/1992	1/6/1992	Authorizing upgrading the existing resolution for emergency response
Res. 109	3/25/1992	Joining the redevelopment block grant program
Res. 111	8/3/1992	Adopting a resolution at request of Chester County Partnership for Economic Development to extend the boundaries of the enterprise zone and to submit an application on the Borough's behalf of the Pennsylvania Department of Community Affairs for an Enterprise Zone Basic Grant
Ord. 133	12/5/1995	Authorizing clean-up of deposits of hazardous materials
Ord. 117E	7/6/1999	Amending the number of police officers composing the police force
Ord. 137	3/5/2001	Authorizing the Borough to join with the other local government units as a settlor of the PLGIT for the purpose of purchasing of the trust
Res. 135	7/9/2001	Applying for the Block Grant money to help with the construction and paving of Lloyd Avenue, the remainder of Woodland Avenue, the overlay of Baker Street for underground pipe and a recreational facility at S. Brandywine Avenue.
Res. 136	10/1/2001	Dealing with conduct at public meetings
Res. 138	10/1/2001	Approving the general account borrowing \$28,506.91 from the sewer account
Res. 139	12/3/2001	Accepting Berkheimer Associates as the Earned Income Tax collector
Res. 144A	1/7/2002	Giving the Borough permission to look for financing for a new garage.



<b>Ord./Res</b>	<b>Date</b>	<b>Subject</b>
Res. 145A	1/7/2002	Moving money from the sewer account into the general account to be refunded as soon as State allocations become available on May 1.
Res. 143	2/4/2002	Allowing the Borough to set up its own web site
Res. 144B	4/1/2002	Stating that the Borough Secretary/Treasurer can open up a general account at a local bank
Res. 145B	4/1/2002	Allowing the Borough to bid on a new garage for the storage of its vehicles
Res. 146B	4/7/2003	Allowing the Borough upon approval of a municipal loan to build a municipal garage to relocate their local banking account to the First National Bank of Chester County
Res. 147B	4/7/2003	Authorizing Stephen Travers, Code Enforcement Officer, to execute for an on behalf of the Borough
Res. 148	5/5/2003	Appointing the President to be the official signer of important documents
Res. 149	6/2/2003	Desire to keep the East Fallowfield Elementary School open and encouraging the School Board to keep the school open for the benefit of the students and residents of Modena
Res. 150	6/2/2003	Approving the filing of the application to apply for the grants for the preparation of the Open Space, Recreation and Environmental Resources Plan
Res. 153	1/5/2004	Appointing the Modena Fire Department to provide fire/EMS services to the Borough
Ord. 137-04	5/3/2004	Changes the Modena Borough insurance from Longley to Hall
Ord. 139-04	7/13/2004	Authorizes the acquisition of one parcel of ground with structure(s) within the municipal limits of the Borough by the use of eminent domain
Ord. 117a-05	12/6/2004	Allows the Borough to hire within or without its jurisdiction or to join with another municipality to hire an engineer, Vollmer Associates, to be in charge of the codes department
Res. 157	3/23/2005	Designation of the National Incident Management System (NIMS) as the basis for all incidents management in the Borough
Res. 158	4/4/2005	Accepts Hall Insurance as the insurance carrier minus the terrorism clause
Res. 159	4/4/2005	Accepting the moving of the Borough Hall to the new location on Union Road
Res. 160	4/4/2005	Adopting the County Wide Mutual Aid Agreement
Res. 161	5/2/2005	Seeking emergency funding to repair the failing sewer system
Res. 162B	6/1/2005	Applying for a Community Development Block Grant for the necessary upgrades to improve the sewer pump house
Res. 164	7/12/2005	Appointing Joe Dietrich as the second engineer for the Borough
Res. 166A	10/3/2005	Applying for a grant for zoning

<b>Ord./Res</b>	<b>Date</b>	<b>Subject</b>
Res. 166B	11/6/2005	Empower Berkheimer to collect delinquent taxes
Res. 167	11/6/2005	President of Council authorized to sign the Master Casting Agreement with PennDOT
Res. 168	11/6/2005	Defining terms of when payment when due and imposing a finance charge for overdue payments
Res. 170A	1/3/2006	Appointing the Modena Fire Company as the Borough's fire Company
Res. 170B	2/6/2006	Accepting Louis Berger Group as consulting engineer
Res. 171	2/6/2006	Accepting the Occupational Health Center to provide a panel of clinicians for treatment for worker's compensation care
Res. 172	2/6/2006	Modena Borough desires to set up and maintain their own website. Appointing Teri DiLibero as webmaster
Res. 173	2/6/2006	Allowing the Borough to apply for a procurement card through PLGIT
Res. 174	2/6/2006	Grant application for money to help monitor and fix sewer I and I flow
Res. 177	4/3/2006	Authorizing a burn ban
Ord. 140-07	3/15/2007	Authorizing the entry into a joint municipal agreement with the Township of East Fallowfield for law enforcement services in the Borough

## Appendix E

### Plan Approval

<b>Ord./Res</b>	<b>Date</b>	<b>Subject</b>
Res. 87	1/7/1985	Adopting South Coatesville Facilities Plan
Res. 101	3/7/1988	Authorizing signing the request from DER stating that Crystal Grove subdivision meets the Act 537 Plan of the Borough
Res. 104	12/4/1989	Adopting emergency management plan
Res. 151	6/2/2003	EMC plan supersedes all other EMC plans from previous years
Res. 155A	4/5/2004	Sale of property located on Lloyd Avenue (the former Marcocelli property)
Res. 156A	4/5/2004	Sale of the complete package of the '86 GMC truck including the snow equipment as it sits
Res. 155B	11/1/2004	Adopting comprehensive plan
Res. 156B	11/1/2004	Adopting Open Space and Revitalization Plan



## Appendix F

### Public Property

<b>Ord./Res</b>	<b>Date</b>	<b>Subject</b>
Res. 24	8/4/1947	Accepted use of lands of Carl G. Pry as a public park or playground
Res. 61	-/-/1979	Approved application for State funds for park
Res. 147A	4/1/2002	Allowing the sale of a 1986 Chevy truck, which includes a 1986 6-foot salt spreader and a 2000 plow. The minimum bid is \$300



## Appendix G

### Sewers

Ord./Res.	Date	Subject
Ord. 93	7/6/1977	Authorized an agreement with the Borough of South Coatesville for the treatment of sewage originating in the Borough of Modena
Res. 55	9/12/1978	Approved two separate accounts for sanitary sewer project
Res. 57	11/6/1978	Approved request for Fifth Year Community Development Block grant program funds for use in sewage system construction
Res. 60	2/5/1979	Authorized Redevelopment Authority to enter into contracts to purchase land for sewage pump station with block grant funds
Res. 63	6/4/1979	Approved agreement to have sanitary sewer cross Conrail lands for \$1,250
Res. 67	8/8/1979	Approved award of contract for sewer work to Brian Construction Company, Inc.
Res. 68	11/5/1979	Request the County Redevelopment Authority to approve the agreement of the Borough with Huth Engineers and Brian Construction Company in regard to sewers and sewage plant
Res. 78	--/--	Request the County Redevelopment Authority to condemn land of C & D Investment Company needed for sewer lines





## Appendix H

### Streets and Sidewalks

This appendix contains an alphabetical listing of streets, and, under each street, a listing of all ordained activities.

*Bench Mark:* All elevations referred to in any ordinance of the Borough of Modena shall be determined by a bench mark on the door sill of the Fire House, which has been determined to be at an elevation of two hundred eighty one and five hundred twenty nine one thousandths feet (281.529') above sea level. (Ord. 28, 4/4/1927)

Name	Activity	Location	Ord./Res.	Date
Baker Street	ordained		Ord. 55	1/11/1943
Baker Street	extension, ordained		Ord. 71	5/1/1950
Baker Street	extension, ordained		Ord. 70A	12/5/1955
Brandywine	ordained		Ord. 7	3/6/1922
Brandywine	north grade established		Ord. 31	4/4/1927
Brandywine	south grade established		Ord. 30	4/4/1927
Coatesville Road	ordained		Ord. 41	8/29/1929
Fulton Street	ordained		Ord. 54	1/15/1943
Graldoun Road	ordained		Ord. 33	4/4/1927
Hephzibah Road	ordained		Ord. 29	4/4/1927
Mary Street	ordained		Ord. 53	1/11/1943
Mary Street	extended		Ord. 70	5/2/1950
Meredith Court	extended		Ord. 42	--/--

<b>Name</b>	<b>Activity</b>	<b>Location</b>	<b>Ord./Res.</b>	<b>Date</b>
Meredith Court	ordained		Ord. 40	8/5/19-
Meredith Court	set additional grades		Ord. 73	8/27/1951
Mortonville Road	ordained		Ord. 34	4/4/1927
Union Road	ordained		Ord. 32	4/4/1927
Union Road	ordained		Ord. 38	8/5/1929
Woodland Avenue	ordained	portion as a public street a portion of a street and regulating the width thereof	Ord. 112	8/2/1982

## Appendix I

### Water

[Reserved]



**Appendix J**

**Zoning; Prior Ordinances**

[Reserved]



## Table to Disposition of All Ordinances

Ordinance	Date	Disposition	Subject
1		Superseded by 19	
2		Repealed by 80	
3		Superseded by R-39	
4		Repealed by 117	
5		Repealed by 10	
6		Superseded by 79	
7	3/6/1922	Appendix H	Streets and Sidewalks
8	4/3/1922	§1-311	Administration and Government
9		Repealed by 20	
10		Repealed by 39	
11	7/13/1922	Appendix D	Governmental and Intergovernmental Affairs
12	8/7/1922	Repealed	Licenses, Permits and General Business Regulations
13		Repealed by 117	
14	8/7/1922	§1-611	Administration and Government
15	8/7/1922	§1-601	Administration and Government
16		Superseded by 76	
17		Superseded by 117	
18		Repealed by 117	
19		Repealed by 117	
20		Repealer	
21	6/10/1924	Appendix C	Franchises and Services
22		Superseded by 73-A	
23		Superseded by 71-A	
24	4/13/1926	Appendix C	Franchises and Services
25	5/18/1925	§§20-101–20-107	Solid Waste
26		Repealed by 65	
27		Repealer	
28	4/4/1927	Appendix H	Streets and Sidewalks
29	4/4/1927	Appendix H	Streets and Sidewalks
30	4/4/1927	Appendix H	Streets and Sidewalks
31	4/4/1927	Appendix H	Streets and Sidewalks

<b>Ordinance</b>	<b>Date</b>	<b>Disposition</b>	<b>Subject</b>
32	4/4/1927	Appendix H	Streets and Sidewalks
33	4/4/1927	Appendix H	Streets and Sidewalks
34	4/4/1927	Appendix H	Streets and Sidewalks
35	2/7/1927	Appendix D	Governmental and Intergovernmental Affairs
36		Repealed by 117	
37		Repealed by 87	
38	8/5/1929	Appendix H	Streets and Sidewalks
39		Repealed by 75-A	
40	8/5/19--	Appendix H	Streets and Sidewalks
41	8/29/1929	Appendix H	Streets and Sidewalks
42	--/--	Appendix H	Streets and Sidewalks
43		1938 Tax Rate	
44	5/2/1938	Superseded by 145-07	Conduct
45		Repealed by 117	
46		1939 Tax Rate	
47		Repealed by 117	
48		1940 Tax Rate	
49	1/10/1941	Superseded by 142-07	Conduct
50		1941 Tax Rate	
51		Repealed by 117	
52		1942 Tax Rate	
53	1/11/1943	Appendix H	Streets and Sidewalks
54	1/15/1943	Appendix H	Streets and Sidewalks
55	1/11/1943	Appendix H	Streets and Sidewalks
56		1943 Tax Rate	
57		1944 Tax Rate	
58		Superseded by 117	
59		1945 Tax Rate	
60		1946 Tax Rate	
61		Superseded by 117	
62		1946 Tax Rate	
63		Superseded by 79	
64		1948 Tax Rate	



<b>Ordinance</b>	<b>Date</b>	<b>Disposition</b>	<b>Subject</b>
65	3/9/1948	Superseded by 117	Streets and Sidewalks
66		Repealed by 117	
67		1949 Tax Rate	
68		Repealed by 117	
69		1950 Tax Rate	
70	5/2/1950	Appendix H	Streets and Sidewalks
71	5/1/1950	Appendix H	Streets and Sidewalks
72A		Superseded by 117	
72		1951 Tax Rate	
73	8/27/1951	Appendix H	Streets and Sidewalks
71A	6/8/1953	§§20-101–20-102, 20-107	Solid Waste
70A	12/5/1955	Appendix H	Streets and Sidewalks
74A	10/1/1956	Superseded by 145-07	Bicycles
74		1952 Tax Rate	
75		1953 Tax Rate	
75A		Repealed by 117	
76		Repealed by 117	
77		1954 Tax Rate	
78		1955 Tax Rate	
79A		Repealed by 117	
79		Superseded by 117	
8/4/1958	5/4/1958	Superseded by	
10/6/1958	10/6/1958	Repealed by 117	
73A	4/1/1960	§§10-101–10-105, 10-108	Health and Safety
80A	4/2/1962	Superseded by 145-07	Licenses, Permits and General Business Regulations
76A	3/2/1964	Superseded by 117B	Animals
77A	10/4/1965	Superseded by 145-07	Taxation; Special
80		Superseded by 117	
81	6/6/1966	Repealed by 145-07	Licenses, Permits and General Business Regulations
4/1/1968	4/1/1968	§10-101	Health and Safety
78A	7/1/1968	Repealed by 78A-2007	Taxation; Special
1969-1	4/7/1969	Repealed by 1987-3	Zoning
82	7/13/1970	§§10-106–10-108	Health and Safety

<b>Ordinance</b>	<b>Date</b>	<b>Disposition</b>	<b>Subject</b>
83	11/6/1972	§§24-301–24-306	Taxation; Special
84	12/4/1972	§§24-401–24-406	Taxation; Special
85		1975 Tax Rate	
86		1975 Approp.	
87		Repealed by 117	
88	11/3/1975	Superseded by 117A	Health and Safety
89		1976 Approp.	
90		1976 Tax Rate	
91		1977 Budget	
92		1977 Tax Rate	
93	7/6/1977	Appendix G	Sewers
94		1978 Budget	
95		1978 Tax Rate	
96		1979 Tax Rate	
97	11/5/1979	Appendix B	Debt and Bond Issues
98		1979 Tax Rate	
99	5/5/1980	§§18-101–18-108	Sewers and Sewer Connections
100	5/5/1980	§§18-201–18-205	Sewers and Sewer Connections
101	8/4/1980	Superseded by 117A-05	Code Enforcement
102	10/6/1980	§§6-201–6-205	Conduct
103	11/3/1980	§18-203	Sewers and Sewer Connections
104	12/31/1980	1981 Tax Levy	
105	1/5/1981	Superseded by 117A-04	Code Enforcement
106	4/6/1981	Appendix B	Debt and Bond Issues
107	8/3/1981	§18-203	Sewers and Sewer Connections
108	12/28/1981	1982 Tax Levy	
109	1/4/1982	§§27-101–27-1904	Zoning
110	4/5/1982	§§22-101–22-804	Subdivision and Land Development
111	4/5/1982	§§13-201–13-209	Licenses, Permits and General Business Regulations
112	8/2/1982	Appendix H	Streets and Sidewalks
113	10/4/1982	Superseded by 117	
114	12/6/1982	Superseded by 117	
115	12/31/1982	1983 Tax Levy	

<b>Ordinance</b>	<b>Date</b>	<b>Disposition</b>	<b>Subject</b>
116	12/28/1983	1984 Tax Levy	
117	2/6/1984	§§1-201–1-203, 1-301, 1-601, 1-611	Administration and Government
		§1-202 Superseded by 141-07	Administration and Government
		§1-203 Superseded by 145-07	Administration and Government
		§§2-101–2-105 Superseded by 117B	Animals
		§3-111 Superseded by 145-07	Bicycles
		§§5-101–5-104 Superseded by 117A-04	Code Enforcement
		§§5-201, 5-203 Superseded by 117A-05	Code Enforcement
		§§6-101, 6-103–6-105 Superseded by 142-07	Conduct
		§§6-401, 6-403 Superseded by 145-07	Conduct
		§§6-205, 6-301–6-302, 6-501–6-502	Conduct
		§10-108	Health and Safety
		§10-205 Superseded by 117A	Health and Safety
		§§10-301–10-305 Superseded by 145-07	Health and Safety
		§107 Superseded by 145-07	Licenses, Permits and General Business Regulations
		§13-209	Licenses, Permits and General Business Regulations
		§§15-101–15-607	Motor Vehicles and Traffic
		§§18-108, 18-301–18-309, 18-311-18-320	Sewers and Sewage Connections
		§20-107	Solid Waste
		§§21-101–21-107	Streets and Sidewalks
		Repealed by 78A-2007	Taxation; Special
		Appendix D	Governmental and Intergovernmental Affairs
119	12/27/1984	1985 Tax Levy	
120-86	<del>1/1985</del>	1986 Tax Levy	
120	12/16/1985	1986 Tax Levy	
121A	12/12/1986	1987 Tax Levy	
121B	12/15/1986	1987 Tax Levy	
122	1/5/1987	§1-501	Administration and Government
123	6/1/1987	Superseded by 123-06	Motor Vehicles and Traffic
124	6/1/1987	Superseded by 117B	Animals
125	6/1/1987	Superseded by 125	

<b>Ordinance</b>	<b>Date</b>	<b>Disposition</b>	<b>Subject</b>
126A	12/12/1987	1988 Tax Levy	
126B	1/6/1988	1988 Tax Levy	
128A	12/21/1988	1989 Tax Levy	
129-90	12/20/1989	1990 Tax Levy	
128B	12/27/1989	1990 Tax Levy	
129	12/27/1990	1991 Tax Levy	
129-91	12/27/1990	1991 Tax Levy	
130	1/7/1991	§15-205	Motor Vehicles and Traffic
131	1/7/1991	§§20-201–20-210	Solid Waste
129-92	12/23/1991	1992 Tax Levy	
129-93	12/28/1992	1993 Tax Levy	
132	9/7/1993	Superseded by 132-06	Floodplains
133	12/5/1995	Appendix D	Governmental and Intergovernmental Affairs
134	12/5/1995	§§4-101–4-108	Buildings
136	1/6/1996	§§26-101–26-105	Water
135	4/1/1996	§1-701	Administration and Government
100-A-96	10/7/1996	Superseded by 100	Sewers and Sewer Connections
109-A-1996	10/7/1996	Superseded by 132	Floodplains
118	8/3/1998	§§11-101–11-106	Housing
100	8/6/1998	Superseded by 100-04	Sewers and Sewer Connections
117E	7/6/1999	Appendix D	Governmental and Intergovernmental Affairs
117	1/15/2001	Superseded by 117A-04	Code Enforcement
117A	1/15/2001	Superseded by 117A-05	Code Enforcement
137	3/5/2001	Appendix D	Governmental and Intergovernmental Affairs
138	4/2/2001	Superseded by 145-07	
120-2002	12/3/2001	2002 Tax Levy	
117B	1/7/2002	§§2-101–2-306	Animals
118.1	5/2/2002	Superseded by 118.1	Housing
125	5/6/2002	§§20-301–20-305	Solid Waste
02-01	5/6/2002	§§24-501–24-507	Taxation; Special
120-2003	1/6/2003	2003 Tax Levy	
100-04	1/–/2004	Superseded by 100-06	Sewers and Sewer Connections

<b>Ordinance</b>	<b>Date</b>	<b>Disposition</b>	<b>Subject</b>
120-2004	1/5/2004	2004 Tax Levy	
120-04	1/14/2004	Tax Rate 2004	
130	1/14/2004	Superseded by 145-07	Fee Resolution
117A-04	4/5/2004	Repealed by 117A-07	Code Enforcement
137-04	5/3/2004	Appendix D	Governmental and Intergovernmental Affairs
139-04	7/13/2004	Appendix D	Governmental and Intergovernmental Affairs
117a-05	12/6/2004	Appendix D	Governmental and Intergovernmental Affairs
120-2005	1/3/2005	2005 Tax Levy	
117A-05	1/12/2005	§§5-101-5-106	Code Enforcement
120-05	1/12/2005	Tax Rate 2005	
78A-05	12/5/2005	Repealed by 78A-2007	Taxation; Special
100-06	1/3/2006	§§18-202, 18-203	Sewers and Sewer Connections
120-06	1/3/2006	Tax Rate 2006	
120-2006	1/3/2006	2006 Tax Levy	
138-06	3/6/2006	§§10-401-10-405	Health and Safety
123-06	4/3/2006	§§15-312-15-316	Motor Vehicles and Traffic
139-06	5/2/2006	§§11-105	Housing
132-06	10/18/2006	§§8-101-8-802	Floodplains
118.1	12/18/2006	§§11-201-11-205	Housing
140-07	3/15/2007	Appendix D	Governmental and Intergovernmental Affairs
77A	4/2/2007	§§24-101-24-117	Taxation; Special
141-07	4/2/2007	§§1-401-1-404	Administration and Government
142-07	6/8/2007	§§6-101-6-108	Conduct
143-07	8/6/2007	§§1-511-1-513	Administration and Government
144-07	8/6/2007	§§6-401-6-403	Conduct
145-07	12/11/2007	Adopting Ordinance	
117A-07	12/11/2007	§§5-201-5-203	Code Enforcement
78A-2007	12/11/2007	§§24-201-24-207	Taxation; Special



### Table to Disposition of Significant Resolutions

<b>Resolution</b>	<b>Date</b>	<b>Disposition</b>	<b>Subject</b>
6	5/6/1941	Appendix C	Franchises and Services
9	6/1/1942	Appendix D	Governmental and Intergovernmental Affairs
7/9/1942	7/9/1942	Appendix D	Governmental and Intergovernmental Affairs
8	7/22/1942	Appendix D	Governmental and Intergovernmental Affairs
15		Superseded by Ord. 117	
16		Superseded by Ord. 117	
17		Superseded by Ord. 117	
18		Superseded by Ord. 117	
3/5/1945	3/5/1945	Repealed by Ord. 117	
21	3/4/1946	Appendix D	Governmental and Intergovernmental Affairs
24	8/4/1947	Appendix F	Public Property
8/31/1950	8/31/1950	Superseded by Ord. 117	
33	12/4/1950	Appendix B	Debt and Bond Issues
35	3/5/1952	Appendix B	Debt and Bond Issues
36	3/1/1954	Appendix B	Debt and Bond Issues
3/12/1962	3/12/1962	Superseded by Ord. 117	
4/7/1969	4/7/1969	Superseded by Ord. 117	
45	5/3/1976	Appendix D	Governmental and Intergovernmental Affairs
51	6/6/1977	Appendix D	Governmental and Intergovernmental Affairs
52	12/12/1977	§§18-301–18-319	Sewers and Sewer Connections
54	4/3/1978	Appendix D	Governmental and Intergovernmental Affairs
55	9/12/1978	Appendix G	Sewers
56	11/6/1978	Appendix D	Governmental and Intergovernmental Affairs
57	11/6/1978	Appendix G	Sewers
61	–/–/1979	Appendix F	Public Property
59	1/10/1979	Appendix D	Governmental and Intergovernmental Affairs
60	2/5/1979	Appendix G	Sewers

<b>Resolution</b>	<b>Date</b>	<b>Disposition</b>	<b>Subject</b>
62	5/7/1979	Appendix D	Governmental and Intergovernmental Affairs
63	6/4/1979	Appendix G	Sewers
65	7/2/1979	Appendix D	Governmental and Intergovernmental Affairs
66	8/8/1979	Appendix D	Governmental and Intergovernmental Affairs
67	8/8/1979	Appendix G	Sewers
68	11/5/1979	Appendix G	Sewers
69	12/3/1979	Appendix D	Governmental and Intergovernmental Affairs
74	5/5/1980	Appendix D	Governmental and Intergovernmental Affairs
75	5/5/1980	Superseded by Ord. 122	Administration and Government
78	-/-/-	Appendix G	Sewers
81	8/3/1981	Appendix D	Governmental and Intergovernmental Affairs
82	8/3/1981	§18-211	Sewers and Sewer Connections
84	1/4/1982	Superseded by Ord. 145-07	Administration and Government
85	4/5/1982	Superseded by 192	Fee Resolution
11/17/1982	11/17/1982	Appendix D	Governmental and Intergovernmental Affairs
1/3/1984	1/3/1984	Appendix D	Governmental and Intergovernmental Affairs
87	1/7/1985	Appendix E	Plan Approval
88	1/7/1985	Appendix D	Governmental and Intergovernmental Affairs
89	3/4/1985	Appendix D	Governmental and Intergovernmental Affairs
90	5/6/1985	Appendix D	Governmental and Intergovernmental Affairs
91	5/6/1985	Appendix D	Governmental and Intergovernmental Affairs
93	12/16/1985	Appendix D	Governmental and Intergovernmental Affairs
94	1/6/1986	Appendix D	Governmental and Intergovernmental Affairs
96	6/2/1986	Appendix D	Governmental and Intergovernmental Affairs
97	8/4/1986	Appendix D	Governmental and Intergovernmental Affairs



<b>Resolution</b>	<b>Date</b>	<b>Disposition</b>	<b>Subject</b>
98	11/3/1986	Appendix D	Governmental and Intergovernmental Affairs
100	8/3/1987	Appendix D	Governmental and Intergovernmental Affairs
101	3/7/1988	Appendix E	Plan Approval
103	3/6/1989	Appendix D	Governmental and Intergovernmental Affairs
104	12/4/1989	Appendix E	Plan Approval
4/2/1990	4/2/1990	Appendix D	Governmental and Intergovernmental Affairs
5/6/1991	5/6/1991	Appendix D	Governmental and Intergovernmental Affairs
1/6/1992	1/6/1992	Appendix D	Governmental and Intergovernmental Affairs
109	3/25/1992	Appendix D	Governmental and Intergovernmental Affairs
4/6/1992	4/6/1992	Superseded by 192	Fee Resolution
111	8/3/1992	Appendix D	Governmental and Intergovernmental Affairs
135	7/9/2001	Appendix D	Governmental and Intergovernmental Affairs
136	10/1/2001	Appendix D	Governmental and Intergovernmental Affairs
138	10/1/2001	Appendix D	Governmental and Intergovernmental Affairs
139	12/3/2001	Appendix D	Governmental and Intergovernmental Affairs
144A	1/7/2002	Appendix D	Governmental or Intergovernmental Affairs
145A	1/7/2002	Appendix D	Governmental and Intergovernmental Affairs
143	2/4/2002	Appendix D	Governmental and Intergovernmental Affairs
144B	4/1/2002	Appendix D	Governmental and Intergovernmental Affairs
145B	4/1/2002	Appendix D	Governmental and Intergovernmental Affairs
146A	4/1/2002	Superseded by 192	Fee Resolution
147A	4/1/2002	Appendix F	Public Property
145C	6/3/2002	Superseded by 192	Fee Resolution
146B	4/7/2003	Appendix D	Governmental and Intergovernmental Affairs

<b>Resolution</b>	<b>Date</b>	<b>Disposition</b>	<b>Subject</b>
147B	4/7/2003	Appendix D	Governmental and Intergovernmental Affairs
148	5/5/2003	Appendix D	Governmental and Intergovernmental Affairs
149	6/2/2003	Appendix D	Governmental and Intergovernmental Affairs
150	6/2/2003	Appendix D	Governmental and Intergovernmental Affairs
151	6/2/2003	Appendix E	Plan Approval
152	1/5/2004	Superseded by Ord. 145-07	
153	1/5/2004	Appendix D	Governmental and Intergovernmental Affairs
155A	4/5/2004	Appendix E	Plan Approval
156A	4/5/2004	Appendix E	Plan Approval
155B	11/1/2004	Appendix E	Plan Approval
156B	11/1/2004	Appendix E	Plan Approval
157	3/23/2005	Appendix D	Governmental and Intergovernmental Affairs
158	4/4/2005	Appendix D	Governmental and Intergovernmental Affairs
159	4/4/2005	Appendix D	Governmental and Intergovernmental Affairs
160	4/4/2005	Appendix D	Governmental and Intergovernmental Affairs
161	5/2/2005	Appendix D	Governmental and Intergovernmental Affairs
162A	5/2/2005	Superseded by 192	Fee Resolution
162B	6/1/2005	Appendix D	Governmental and Intergovernmental Affairs
164	7/12/2005	Appendix D	Governmental and Intergovernmental Affairs
166A	10/3/2005	Appendix D	Governmental and Intergovernmental Affairs
166B	11/6/2005	Appendix D	Governmental and Intergovernmental Affairs
167	11/6/2005	Appendix D	Governmental and Intergovernmental Affairs
168	11/6/2005	Appendix D	Governmental and Intergovernmental Affairs
169	12/5/2005	Superseded by 192	Fee Resolution
170A	1/3/2006	Appendix D	Governmental and Intergovernmental Affairs

<b>Resolution</b>	<b>Date</b>	<b>Disposition</b>	<b>Subject</b>
170B	2/6/2006	Appendix D	Governmental and Intergovernmental Affairs
171	2/6/2006	Appendix D	Governmental and Intergovernmental Affairs
172	2/6/2006	Appendix D	Governmental and Intergovernmental Affairs
173	2/6/2006	Appendix D	Governmental and Intergovernmental Affairs
174	2/6/2006	Appendix D	Governmental and Intergovernmental Affairs
177	4/3/2006	Appendix D	Governmental and Intergovernmental Affairs
178	10/2/2006	Superseded by 192	Fee Resolution
179	10/11/2006	Superseded by 192	Fee Resolution
192	3/5/2007		Fee Resolution



# BOROUGH OF MODENA

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