

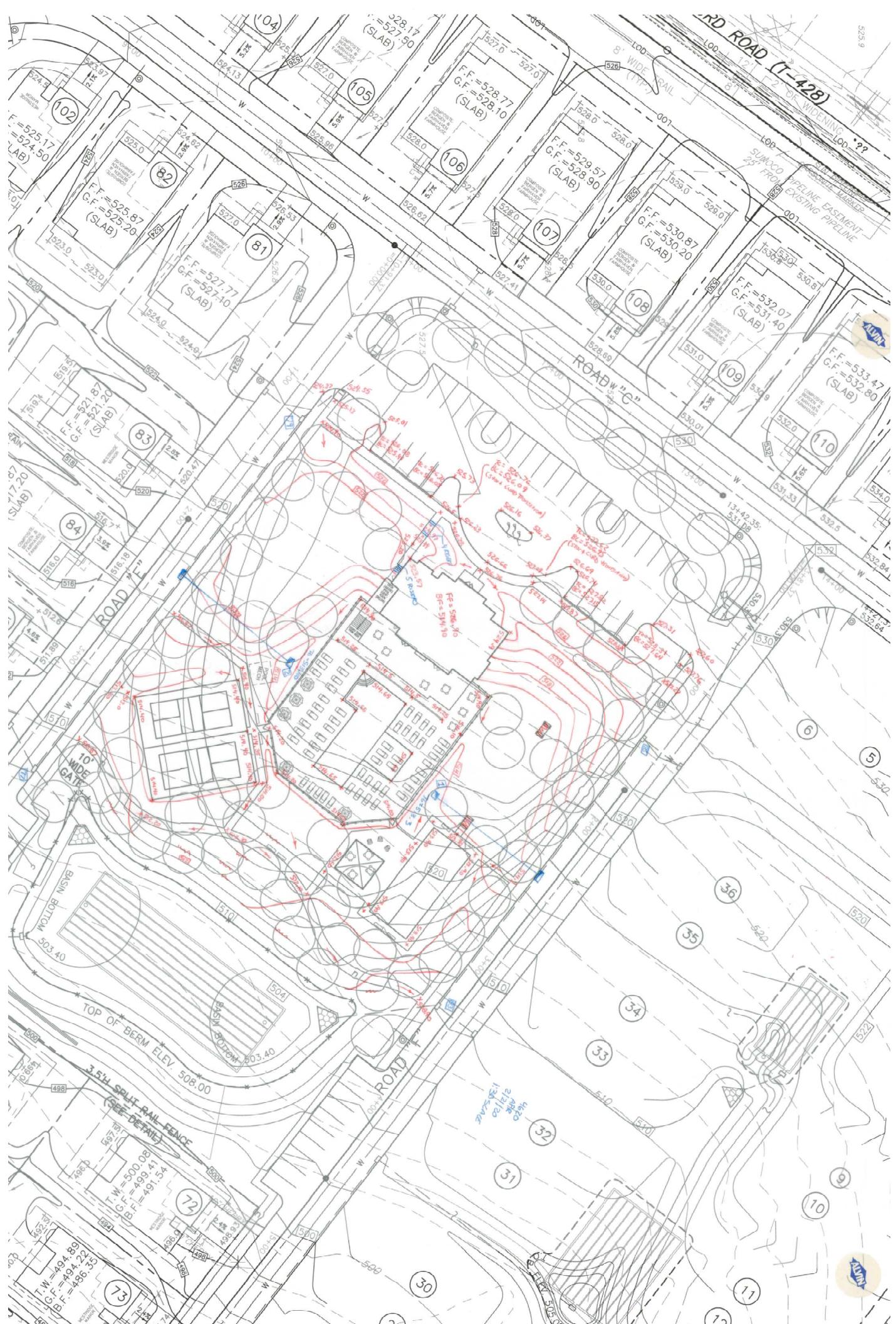


**UPPER UWCHLAN TOWNSHIP  
PLANNING COMMISSION  
AGENDA  
July 9, 2020  
7:00 p.m.**

**LOCATION:** This meeting will be held **virtually**. Any member of the public interested in participating in the meeting should email the Township at [gjonik@upperuwchlan-pa.gov](mailto:gjonik@upperuwchlan-pa.gov) for a link and a password to join in the meeting. In an effort to minimize public exposure to COVID-19 and maintain social distancing, the meeting will be conducted via webinar. No attendance in-person will be allowed. If you require special accommodation, please call the Township office at 610-458-9400.

Packet Page #

I.	Call To Order	
II.	Preserve at Marsh Creek (McKee/Fetters) Clubhouse Modifications Discuss proposed modifications to the clubhouse/amenities.	2
III.	Ordinance Amendments Review and discuss draft ordinance amendments regarding: small wireless facilities, exemption of ag high tunnels, outdoor storage tanks	4 14
IV.	Approval of Minutes: June 11, 2020 Meeting	25
V.	Next Meeting Date: August 13, 2020 7:00 PM Location: Will be noted on the website <a href="http://www.upperuwchlan-pa.gov">www.upperuwchlan-pa.gov</a>	
VI.	Open Session	
VII.	Adjournment	





# THE COUNTY OF CHESTER

CHESTER COUNTY  
WATER RESOURCES AUTHORITY  
Government Services Center  
601 Westtown Road, Suite 260  
P.O. Box 2747  
West Chester, PA 19380-0990



CHESTER COUNTY BOARD  
OF COMMISSIONERS  
Michelle Kichline  
Kathi Cozzone  
Terence Farrell

*A. Sidney Brookes, Jr., Chairman*  
*Janet L. Bowers, P.G., Executive Director*

*Telephone: (610) 344-5400*  
*Fax: (610) 344-5401*

August 12, 2019

Mr. Guy Donatelli, Board of Supervisors Chairman  
140 Pottstown Pike  
Chester Springs, PA 19425

RE: PA Act 15 (2018) Amendment to Chester County Act 167 Stormwater Plan Model Ordinance

Dear Mr. Donatelli,

In 2013, the "County-Wide Act 167 Stormwater Management Plan for Chester County" was completed by Chester County Water Resources Authority (CCWRA). It was adopted by the Chester County Board of Commissioners, and approved by PA Department of Environmental Protection (PADEP), as required under PA Act 167 (1978), also known as the Stormwater Management Act. Subsequently, as required by Act 167, all municipalities within Chester County adopted the model stormwater ordinance that was included in the Plan. The model ordinance also addressed the ordinance requirements of PADEP's municipal separate storm sewer system (MS4) permits.

In April 2018, the Pennsylvania General Assembly passed Act 15 of 2018, which amended Act 167 to require all municipalities which have adopted Act 167 ordinances to amend their ordinances to provide exemption for "high tunnels" (under certain conditions) used in agricultural applications from ordinance regulations. The term "high tunnels" will be exempt if they meet certain criteria set forth in the Act 167 (as amended by Act 15). Specifically, Act 15 states that *"A municipality that has adopted a local ordinance or regulation that regulates high tunnels pursuant to a watershed storm water plan under this section prior to the effective date of this subsection shall amend the ordinance or regulation to comply with this subsection."* Thus, even though high tunnels are not called out in the Chester County Act 167 model ordinance, they are regulated by definition under the ordinance, *and therefore, Act 15 requires that all municipalities amend their ordinances to exempt high tunnels, whether or not they have or will have high tunnels.*

Because all municipalities within Chester County have adopted the Chester County Act 167 stormwater ordinance, CCWRA, with assistance of legal counsel, has prepared the attached model Amendment to the Chester County Act 167 stormwater management model ordinance for use by Chester County municipalities to comply with Act 15 (2018). The Amendment was submitted to and accepted by PADEP for use by Chester County municipalities in revising their Act 167 ordinances. While Act 15 (2018) does not set a deadline as to when the municipality must amend its ordinance, the effective date of the Act 167 amendment is June 17, 2018 and, therefore, municipalities should consult their solicitors and consider taking measures to amend their ordinances at the earliest time possible. In the meantime, municipalities should consult their solicitors regarding what actions to take in accordance with the requirements of Act 15 (2018) should an application involving high tunnels be submitted to the municipality for consideration. CCWRA will incorporate this model Amendment into the Act 167 model ordinance during the upcoming Act 167 Stormwater Management Plan updates process.

Please contact me if you have any questions or require any further information.

Sincerely,

A handwritten signature in black ink that reads "Jan Bowers".

Janet L. Bowers, P.G.  
Executive Director

Encs: 

- County-Wide Act 167 Stormwater Management Model Ordinance Amendment (8/12/2019)
- 2018 Act 15
- PA Department of Environmental Protection (No. 383-4200-001) "Water Management for Agricultural High Tunnels"

cc: Municipal Manager/Secretary

RECEIVED

AUG 19 2019

UPPER UWCHLAN TWP  
ADMINISTRATIVE OFFICES

**STORM WATER MANAGEMENT ACT - EFFECT OF WATERSHED STORM WATER PLANS**

**Act of Apr. 18, 2018, P.L. 91, No. 15**

**Cl. 32**

Session of 2018  
No. 2018-15

HB 1486

**AN ACT**

Amending the act of October 4, 1978 (P.L.864, No.167), entitled "An act providing for the regulation of land and water use for flood control and storm water management purposes, imposing duties and conferring powers on the Department of Environmental Resources, municipalities and counties, providing for enforcement, and making appropriations," further providing for definitions and for effect of watershed storm water plans.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 4 introductory paragraph of the act of October 4, 1978 (P.L.864, No.167), known as the Storm Water Management Act, is amended and the section is amended by adding a definition to read:

**Section 4. Definitions.**

The following words and phrases when used in this act shall have[, unless the context clearly indicates otherwise,] the meanings given to them in this section **unless the context clearly indicates otherwise**:

\* \* \*

"High tunnel." A structure which meets the following:

(1) Is used for the production, processing, keeping, storing, sale or shelter of an agricultural commodity as defined in section 2 of the act of December 19, 1974 (P.L.973, No.319), known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974," or for the storage of agricultural equipment or supplies.

(2) Is constructed consistent with all of the following:

(i) Has a metal, wood or plastic frame.

(ii) When covered, has a plastic, woven textile or other flexible covering.

(iii) Has a floor made of soil, crushed stone, matting, pavers or a floating concrete slab.

\* \* \*

Section 2. Section 11 of the act is amended by adding a subsection to read:

**Section 11. Effect of watershed storm water plans.**

\* \* \*

(c) The following shall apply:

(1) A high tunnel shall be exempted from the provisions of this act if:

(i) the high tunnel or its flooring does not result in an impervious area exceeding 25% of all structures located on the owner's total contiguous land area; and

(ii) the high tunnel meets one of the following:

(A) The high tunnel is located at least 100 feet from any perennial stream or watercourse, public road or neighboring property line.

(B) The high tunnel is located at least 35 feet from any perennial stream or watercourse, public road

or neighboring property line and located on land with a slope not greater than 7%.

(C) The high tunnel is supported with a buffer or diversion system that does not directly drain into a stream or other watercourse by managing storm water runoff in a manner consistent with requirements of this act.

(2) A municipality that has adopted a local ordinance or regulation that regulates high tunnels pursuant to a watershed storm water plan under this section prior to the effective date of this subsection shall amend the ordinance or regulation to comply with this subsection.

(3) Nothing in this subsection shall be construed to exempt high tunnels from other requirements applicable under Federal, State or municipal laws.

Section 3. This act shall take effect in 60 days.

APPROVED--The 18th day of April, A.D. 2018.

TOM WOLF

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
Bureau of Clean Water

**DOCUMENT NUMBER:** 383-4200-001

**TITLE:** Water Management for Agricultural High Tunnels

**EFFECTIVE DATE:** April 21, 2018

**AUTHORITY:** Pennsylvania Clean Streams Law (35 P.S. §§ 691.1-691.1001); Pennsylvania Dam Safety and Encroachment Act (32 P.S. §§ 693.1-693.17); Pennsylvania Storm Water Management Act (32 P.S. §§ 680.1-680.17); Federal Clean Water Act (33 U.S.C.A. § 1342), 40 CFR Part 122 and 25 Pa. Code Chapters 92a, 93, 102 and 105.

**POLICY:** Legislative revisions to Pennsylvania's Storm Water Management Act approved in April 2018 authorized a specific segment of agricultural high tunnel systems constructed and sited according to specific criteria, to be regulated differently than other structures.

**PURPOSE:** The purpose of this guidance is to provide DEP's interpretation regarding the applicability of the Pennsylvania Clean Streams Law, Dam Safety and Encroachment Act, and Storm Water Management Act requirements to high tunnel structures used to carry out agricultural activities.

**APPLICABILITY:** This policy applies to certain agricultural high tunnel systems used to support agricultural production.

**DISCLAIMER:** The policies and procedures outlined in this guidance document are intended to supplement existing requirements. Nothing in the policies or procedures will affect regulatory requirements.

The policies and procedures herein are not an adjudication or a regulation. There is no intent on the part of DEP to give these rules that weight or deference. This document establishes the framework, within which DEP will exercise its administrative discretion in the future. DEP reserves the discretion to deviate from this guidance document if circumstances warrant.

**PAGE LENGTH:** 4 pages

## ***High Tunnel Farming Systems and How They are Addressed Under Pennsylvania's Water Management Laws***

Hoop or high tunnel facilities used on agricultural operations either as an enhancement to a cropping system or as an alternative for conventional storage and animal housing facilities are being used throughout the state as a cost-effective means of addressing various protection and storage needs. The purpose of this document is to describe the water management regulatory requirements relating to these structures and what exemptions may be considered for certain high tunnel structures.

There are primarily three environmental statutes that address water management related to the construction and location of high tunnel structures in Pennsylvania: the Clean Streams Law (CSL), the Dam Safety and Encroachment Act (DSEA) and the Storm Water Management Act (Storm Water Act).

**The Pennsylvania Chapter 102 Erosion and Sedimentation Control regulations** implement certain provisions of the CSL. Under these regulations, any person proposing an earth disturbance activity disturbing one (1) acre or more, either as one activity or as a staged activity affecting one (1) acre or more in total, is required to obtain a National Pollutant Discharge Elimination System (NPDES) permit which includes an erosion and sedimentation control (E&S) plan, as well as a post construction stormwater management (PCSM) plan. The PCSM plan outlines stormwater control practices which must be constructed and continually maintained, to limit the impacts of stormwater runoff to local and regional water courses. High tunnel systems triggering these requirements are required to follow the provisions of this regulation and the permit obligations. It is important to note that if a high tunnel structure causes accelerated erosion and sedimentation or other pollution, whether the structure triggers a Chapter 102 permit or not or is exempt from the Storm Water Act requirements, it may still be subject to enforcement under the CSL.

In addition, **the Pennsylvania Chapter 105 Dam Safety and Waterway Management regulations** implement provisions of the DSEA. Under these regulations, any person planning to construct or operate a structure in, along or across, or projecting into a watercourse, floodway or body of water, whether temporary or permanent, must obtain a Chapter 105 permit from the Department in order to prevent unreasonable interference with water flow and to protect navigation. High tunnel systems triggering these requirements must obtain and follow the appropriate permit from the Department in order to construct or operate the facility.

Lastly, the **Storm Water Act** requires counties to prepare and adopt watershed or county based stormwater management plans for the management of stormwater when land uses are modified. It also requires municipalities to adopt and implement ordinances to regulate development consistent with these county plans. Anyone engaged in construction activities in the watershed is required to implement stormwater management measures consistent with the approved county stormwater management plan and any associated local ordinances. This law affects all structures constructed within the Commonwealth, including high tunnel systems on agricultural lands.

The General Assembly, through an April 2018 amendment to the Storm Water Act, authorized the exemption of certain high tunnel systems from the provisions of the Storm Water Act, if they are constructed and sited in accordance with the provisions of the amendment.

***Storm Water Act applicability to various types of high tunnel structures:***

While all high tunnel systems fall under the permitting obligations of the CSL and DSEA, there are certain high tunnel structures that may be considered for exclusion from the provisions of the Storm Water Act. In accordance with Act 15 of 2018, those high tunnel structures that may be considered by the municipalities or counties for exemption status under the Storm Water Act include those that meet the following three factors:

**Factor 1, Usage: High tunnel structures must be used for one of the following purposes to be considered for exemption from the provisions of the Storm Water Act:**

High tunnel systems that are used for the production, processing, keeping, storing, sale or shelter of an agricultural commodity can be considered for an exclusion from the provisions of the Storm Water Act.

The definition of an agricultural commodity includes the production of plants used for human or animal feed, forestry, and horticultural purposes. The agricultural commodity definition also includes the production and raising of livestock and poultry and the products that they generate.

High tunnel facilities used for the storage of farm equipment and farm supplies can also be considered for this exemption of the Storm Water Act.

**Factor 2, Construction: High tunnel structures must be constructed following all of the below criteria in order to be considered for exemption from the provisions of the Storm Water Act:**

1. Constructed using a metal, wood or plastic frame;
2. The materials used for covering the frames of the high tunnels include plastic, woven textile or other flexible covering; and
3. The floor of the high tunnel needs to be composed of either soil, crushed stone, matting, pavers, a floating concrete slab or a combination of these materials.

**Factor 3, Siting: High tunnel structures must be sited following the below criteria to be considered for exemption from the provisions of the Storm Water Act:**

1. High tunnel structures that result in an impervious area less than or equal to 25% of all structures located on the owner's total contiguous land area; and
2. The high tunnel facility must meet at least one of the following criteria:
  - a. Must be located at least 100 feet from any perennial stream or other watercourse, public road or neighboring property line; or
  - b. Must be located at least 35 feet from any perennial stream or other watercourse, public road or neighboring property line where the slope of the area where the facility is placed is not greater than 7 percent; or
  - c. There is a diversion system or buffer built and managed consistent with the Storm Water Act that ensures that runoff from the high tunnel does not directly drain into a stream or other watercourse.

*The following are some additional recommended construction and operational criteria used for agriculture high tunnel systems to ensure protection of waters of the Commonwealth in Pennsylvania:*

- Vegetative filter areas, diversions, buffers, water catchment basins or tanks, or other conservation measures installed around the structures allow for the management or infiltration of the runoff coming from the coverings on these structures.
- The end walls of these structures used for crop production are generally designed with doors to allow human access and some machinery access to support the planting, management, and harvesting of the crops growing within these structures.
- High tunnels used for the raising of poultry or livestock vary in size and are designed to meet the needs of the animals, the land where they will be used, and may provide for the mobility of these facilities. Frequent movement of these structures allows for maximum plant intake by the animals, minimum denuding of the vegetative areas where the animals have access, and the proper distribution of the manure generated by the animals. To provide for frequent relocation, DEP recommends that these structures be limited in size.
- Where plants are grown within these facilities, watering of the plants will be critical to ensure vigorous plant growth. This can be accomplished through the rolling up or down of the plastic or fabric covering on these facilities to allow for controlled amounts of precipitation to enter the planted area; otherwise irrigation will be necessary. Capturing of runoff from these facilities in a basin or tank can help supplement the water needed to irrigate the plants within the structure, and may also enhance stormwater management.
- When more than one structure is located on a given or adjacent property, maintaining a vegetated area of at least 20 feet between adjacent high tunnels helps to minimize the effect of runoff coming from multiple structures in the same area.
- The walls of the high tunnels are designed to allow for them to be raised or lowered to allow for humidity and temperature adjustment within the structure. Also, seeing that these structures are not typically designed to handle snow load, the sides are often raised, lowered or removed during the winter season to protect the integrity of the supporting frame of the structure.

*What assistance is available to municipalities or others in further understanding high tunnel systems excluded from the Storm Water Act?*

DEP's Bureau of Clean Water or the Bureau of Waterways Engineering and Wetlands staff can provide further direction on the implementation of these laws and the possible exclusion of certain types of high tunnel structures from the provisions of the Storm Water Act. The USDA Natural Resources Conservation Service can provide additional direction on the criteria involved in developing, managing, and financing high tunnel systems used for the production of crops.



UPPER UWCHLAN TOWNSHIP  
CHESTER COUNTY, PENNSYLVANIA  
ORDINANCE NO. DRAFT 6-30-2020

**AN ORDINANCE AMENDING THE UPPER UWCHLAN TOWNSHIP STORMWATER MANAGEMENT ORDINANCE, WHICH IS CODIFIED IN CHAPTER 152 OF THE UPPER UWCHLAN TOWNSHIP CODE; SECTION 152-202 TO DEFINE A "HIGH TUNNEL" AND SECTION 152-106.C TO EXEMPT CERTAIN HIGH TUNNEL FACILITIES FROM THE REQUIREMENTS OF THE ORDINANCE.**

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Upper Uwchlan Township, that the Upper Uwchlan Township Stormwater Management Ordinance, which is codified in Chapter 152 of the Upper Uwchlan Township Code, shall be amended as follows:

**SECTION 1.** Section 152-202, titled, "Definitions", shall be amended to include the following definition:

**High Tunnel** – A structure which meets the following:

1. is used for the production, processing, keeping, storing, sale or shelter of an agricultural commodity as defined in section 2 of the Act of December 19, 1974 (P.L. 973, No. 319), known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974," or for the storage of agricultural equipment or supplies; and
2. is constructed with all the following:
  - a. has a metal, wood or plastic frame;
  - b. when covered, has a plastic, woven textile or other flexible covering; and
  - c. has a floor made of soil, crushed stone, matting, pavers or a floating concrete slab.

**SECTION 2.** Section 152-106.C(5) shall be amended by adding a new subparagraph (c) as follows:

C. Exemptions for Specific Activities

5. Agricultural Related Activities –

- c. High Tunnels (as defined in §152-202), if:
  - i. the High Tunnel or its flooring does not result in an impervious area exceeding 25% of all structures located on the owner's total contiguous land area; and

- ii. the High Tunnel meets one of the following:
  - (1) the High Tunnel is located at least 100 feet from any perennial stream or watercourse, public road or neighboring property line;
  - (2) the High Tunnel is located at least 35 feet from any perennial stream or watercourse, public road, or neighboring property line and located on land with a slope not greater than 7%; or
  - (3) the High Tunnel is supported with a buffer or diversion system that does not directly drain into a stream or other watercourse by managing stormwater runoff in a manner consistent with the requirements of this Ordinance.”

**SECTION 3. Severability.** If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION 4. Repealer.** All ordinances or parts of ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

**SECTION 5. Effective Date.** This Ordinance shall become effective in five days from the date of adoption.

**ENACTED AND ORDAINED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**ATTEST:**

**UPPER UWCHLAN TOWNSHIP  
BOARD OF SUPERVISORS**

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Gwen A. Jonik, Township Secretary

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Sandra M. D'Amico, Chair

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Jamie W. Goncharoff, Vice-Chair

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Jennifer F. Baxter, Member

UPPER UWCHLAN TOWNSHIP

CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. \_\_\_-2020

AN ORDINANCE OF THE TOWNSHIP OF UPPER UWCHLAN, CHESTER COUNTY, PENNSYLVANIA, AMENDING THE UPPER UWCHLAN TOWNSHIP ZONING ORDINANCE, WHICH IS CODIFIED IN CHAPTER 200 OF THE CODE OF UPPER UWCHLAN TOWNSHIP, SECTION 200-49.K AND 200-49.M(1) TITLED, USE REGULATIONS FOR THE PI PLANNED INDUSTRIAL/OFFICE DISTRICT; SECTION 200-80.C(2)(b) TITLED “STORAGE OF FUEL AND OTHER EXPLOSIVE MATERIALS” TO ALLOW THE STORAGE OF FUEL AND OTHER MATERIALS WITHIN THE PI PLANNED INDUSTRIAL/OFFICE ZONING DISTRICT; AMENDING SECTION 200-80.C(2)(c) TO ADD REGULATIONS FOR COMMERCIAL ABOVEGROUND STORAGE TANKS; AND AMENDING SECTION 200-90.A(5) TITLED “STORAGE TANKS” TO PERMIT ABOVEGROUND STORAGE TANKS WITHIN THE PI PLANNED INDUSTRIAL/OFFICE ZONING DISTRICT.

**BE IT ENACTED AND ORDAINED** by the Board of Supervisors of Upper Uwchlan Township that Chapter 200 of the Upper Uwchlan Township Code, titled “Zoning,” is hereby amended as follows:

**SECTION 1.** Section 200-49.K shall be amended as follows:

“K. Wholesaling, warehousing and distributing provided there shall be no evidence of such use other than storage tanks permitted by Sections 200-80 and 200-90 of this chapter.”

**SECTION 2.** Section 200-49.M(1) shall be amended as follows:

“(M)(1). Manufacturing and processing provided there shall be no raw materials or finished products permitted on the exterior of the building.”

**Commented [KC1]:** This language is currently in the ordinance and I question if we want to keep it.

**SECTION 3.** Section 200-80.C(2)(b) shall be amended to state as follows:

“(b) In the C-3 Highway Commercial Zoning District, the LI Limited Industrial Zoning District and the PI Planned Industrial/Office Zoning District, only, commercial aboveground storage tanks that store and supply fuel and other solids, liquids, and gases subject to the requirements in 200-80.C(2)(c) below.”

**Commented [KC2]:** In 2016, it was decided to not allow aboveground storage tanks in the C-3 District. The PC should discuss this.

**SECTION 4.** Section 200-80.C(2)(c) shall be amended to state as follows:

“(c) For any new aboveground storage tanks that may be permitted under Subsection C(2)(b), the following shall apply:

- [1] The tank installation shall be designed and its construction supervised by a registered professional engineer. The applicant shall file, with the Township and at the time of application for a building permit or zoning permit, as may be applicable, a location (site) plan and details for the tank, including a feasibility study describing why a particular site was chosen for the proposed aboveground storage tank, all prepared by the same engineer. The applicant shall also file a written report which establishes the safety measures that shall be followed as well as tank operation, inspection frequency, appropriate coding or labeling of pipes and tanks. Any additional permits required by state or federal agencies for the construction of the tank shall also be submitted to the Township at the same time.
- [2] No commercial aboveground storage tank shall be constructed closer than 50 feet to any property or right-of-way line.
- [3] All commercial aboveground storage tanks shall be either attached to or enclosed within an area that abuts a side of the principal building located on the property.
- [4] The method of storage of fuel and other solids, liquids, and gases shall conform to all applicable federal, state, and local regulations, including, but not limited to, the regulations of the Environmental Protection Agency, the Pennsylvania Department of Environmental Protection, and the Township Fire Code.
- [5] Copies of all current federal or state permits that are required for the aboveground storage tanks shall be on file with the Township Zoning Officer.
- [6] Any Material Safety Data Sheets that must be filed with federal or state agencies for the materials stored in the tanks shall be on file with the Township Zoning Officer.
- [7] At least annually, the owner of the tanks shall conduct an inspection and a review of storage locations, waste locations, materials, chemicals and items in the storage tanks with the Emergency Management Coordinator of the Township, the Zoning Officer and the Fire Chiefs of the first due emergency response organizations as identified by the Township.

**SECTION 5.** Section 200-90.A(5) shall be amended as follows:

“(5) Aboveground storage tanks shall be permitted only in the C-3 Highway Commercial Zoning District, the LI Limited Industrial Zoning District, and the PI Planned Industrial/Office Zoning District, subject to the provisions of § 200-80 of this chapter.”

**SECTION 6. Severability.** If any term, condition, or provision of this chapter shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective.

**SECTION 7. Repealer.** All Ordinances or parts of Ordinances conflicting with any provisions of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

**SECTION 8. Effective Date.** This Ordinance shall become effective five (5) days from the date of enactment.

**ENACTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST:

**UPPER UWCHLAN TOWNSHIP  
BOARD OF SUPERVISORS**

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Gwen A. Jonik, Township Secretary

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Sandra M. D'Amico, Chair

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Jamie W. Goncharoff, Vice-Chair

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Jennifer F. Baxter, Member

## Redlined changes to the Storage Tank Ordinance

### § 200-49. Use regulations.

A building may be erected, altered or used, and a lot may be used or occupied, for any of the following purposes, and no other:

- A. Manufacturing, assembling and/or servicing electronic equipment only.
- A.1. Medical marijuana grower/processor.
- B. Passenger station for public transportation; electric substation; telephone central office.
- C. Hotel and/or conference center where a conference center is designed as a building or series of buildings, designed and used as a professional meeting and training facility and may include conference rooms, recreational facilities, restaurants, sundries shops and other accessory facilities; a minimum of five acres shall be required for this use.
- D. Offices or office building for administrative, executive and professional activity, and similar activities involving the performance or rendering of professional service, such as a bank, financial institution, the sale of real estate and business office including the showing of samples, sale promotion and demonstration of equipment, provided, however, that no merchandise shall be warehoused on the premises for sale, exchange or delivery thereon, and further provided that nothing herein preclude sale or manufacturers' representatives from arranging for the sale of merchandise manufactured, fabricated or warehoused at, or delivered to, locations outside of the PI District.
- E. Restaurant, cafeteria or recreational facilities designed for the comfort and convenience of employees shall be permitted provided such facilities are located inside the confines of the building and provided further that such facilities are not offered for use by the general public.
- F. Churches.
- G. Public uses, structures, or buildings owned or operated by the municipality, a municipal authority organized by the municipality or an authority of which the municipality is a member.
- H. Indoor recreational facilities containing amenities such as a swimming pool, spa, indoor track, nautilus equipment, handball and racquetball courts and facilities typical of a YMCA facility.

- I. Laboratory for scientific research and development including animal research provided such animal research is conducted pursuant to the Guiding Principles in the Use of Animals in Toxicology as adopted by Society of Toxicology in July 1989 and revised in March 1999.
- J. Day-care centers.
- K. Wholesaling, warehousing and distributing, provided ~~that~~ there shall be no exterior evidence of such, and, further, ~~no bulk storage of liquid or gaseous fuels or chemicals shall be permitted except for immediate consumption on the premises, use other than storage tanks permitted by Sections 200-80 and 200-90 of this chapter.~~
- L. Existing agriculture.
- M. Any one of the following uses when authorized as a conditional use by the Board of Supervisors, subject to § 200-116 of this chapter:
  - (1) Manufacturing and processing provided ~~that~~ there shall be no bulk storage of liquid or gaseous fuel or chemicals except for immediate consumption on the premises and no raw materials or finished products shall be permitted on the exterior of the building.
  - (2) Any other use as determined by the Board of Supervisors to be the same general character as the above permitted uses.
  - (3) A building may exceed the thirty-five-foot height limitation as set forth in § 200-50 by conditional use approval; however, in no event shall any building or structure exceed 45 feet in height.
  - (4) Adaptive reuse for historic preservation where indicated as a use subject to approval by the Board of Supervisors as a conditional use in accordance with § 200-72.1.
- N. Any one of the following uses when authorized as a special exception by the Zoning Hearing Board, subject to Article XX of this chapter:
  - (1) A private-use helistop as an accessory use to a permitted principal use subject to Planning Commission review and recommendation.
- O. The following accessory uses shall be permitted provided they are incidental to any of the foregoing permitted uses:
  - (1) Private parking areas pursuant to § 200-73 of this chapter, except that the minimum number of parking spaces for office buildings other than provided for herein shall be one space for each 250 square feet of gross floor area. However, if, in the opinion of the

Board of Supervisors, parking proves to be inadequate, a sufficient number of additional spaces shall be added to alleviate the problem to the satisfaction of the Board of Supervisors. Also, the size of the parking spaces within the entire district for each vehicle shall consist of a rectangular area having a dimension of not less than 10 feet in width and 20 feet in length. Where a parking space abuts a grass median of at least two feet in width or four feet in width where parking spaces are on each side of the median, only 18 feet of paving shall be necessary with the remaining two feet being with the grass median area.

- (2) Other customary accessory uses, structures or buildings, provided such are clearly incidental to the principal use.

P. Adaptive reuse for historic preservation where indicated as a use by right in accordance with § 200-72.1.

#### **§ 200-80 Outdoor storage.**

A. Requirements for all types of storage.

- (1) The restrictions set forth in this section apply to permanent and temporary outdoor storage, as both principal and accessory uses. The restrictions set forth in this section are in addition to any other restrictions and limitations imposed on storage by this chapter and/or other applicable regulation, including, without limitation, the regulations and restrictions applicable to junkyards.
- (2) For the purposes of this section, permanent outdoor storage shall consist only of the storage of materials (e.g., mulch, landscape plant materials) or products that directly pertain to the allowed use(s) of the subject property, except for the outdoor storage of vehicles which is regulated by Subsection D of this section.
- (3) For the purposes of this section, temporary outdoor storage shall consist only of the daily or routine outdoor display of materials or products (e.g., large items for sale at a hardware or grocery store) that are placed inside during nonbusiness hours and that are available for purchase at a business whose use is allowed on the subject property, except for the outdoor storage of vehicles which is regulated by Subsection D of this section.
- (4) Permanent outdoor storage shall be completely screened from view of any public right-of-way and any adjacent uses in accordance with §§ 200-77 and 200-88 of this chapter, and with Chapter 162,

Subdivision and Land Development, unless the permanent outdoor storage is a principal use pursuant to Subsection A(7). Screening shall consist of evergreen plantings, architectural screen, and/or approved safety fence.

- (5) No storage shall be permitted within the front yard of any lot.
- (6) Permanent or temporary outdoor storage as an accessory use shall occupy an area of less than 1/2 the existing building coverage of the building lot's principal use. In no case shall more than 25% of the building area be used for any outdoor storage. Accessory uses requiring a greater land area for storage than specified herein may be permitted as a special exception.
- (7) If permanent or temporary outdoor storage is the principal use of a building lot:
  - (a) The front yard need not be screened; all other provisions of Subsection A(4) apply.
  - (b) Subsection A(5) applies, except that the front yard area of the lot may be used for outdoor display and temporary storage.
  - (c) The provisions of Subsection A(6) do not apply.
  - (d) All other applicable provisions of this chapter apply to outdoor storage as the principal use of a building lot.
- (8) Outside storage shall not occupy any part of any street right-of-way, pedestrian walkway, required parking area or space, or required buffer areas; and shall not be located within 15 feet of any side or rear lot line.

B. Storage of garbage. All organic refuse or other types of solid waste generated by allowed use of the subject property shall be stored in tight vermin-proof containers. In multiple-family, commercial, and industrial developments, garbage storage shall be consolidated to expedite collection and enclosed on three sides by an architectural screen or plantings. Either type of screen must fully enclose the garbage storage area, and must include a secure gate on the fourth side for access and to prevent scattering of empty garbage cans by wind. If an architectural screen is used, materials are limited to wood, brick, or masonry. The architectural screen shall be designed and constructed consistent with the requirements of the zoning district within which the garbage storage is located. If the topography of the garbage storage site allows view of the

garbage storage area from a public right-of-way, trail, or adjoining property above the garbage storage area, then an architecturally compatible roof must also be provided that screens the view into the garbage storage area.

C. Storage of fuel and other explosive materials.

- (1) Outdoor storage facilities for fuel, including aboveground storage tanks, raw materials, and products, but excepting residential storage of firewood and fuel, shall be enclosed with an approved safety fence compatible with the architectural and landscaping style employed on the lot. All fencing shall be erected in accordance with §§ 200-77 and 200-88 of this chapter, and with Chapter 162, Subdivision and Land Development. In addition to a fence, aboveground storage tanks for products that remain liquid upon atmospheric contact shall be enclosed by a moat or berm appropriately designed and constructed to contain potential spillage.
- (2) No highly flammable or explosive liquids, solids, or gases, as defined by applicable regulations, shall be stored in aboveground storage tanks in any of Upper Uwchlan Township's zoning districts, except as follows:
  - (a) Aboveground storage tanks of fuel connected directly with and located and operated on the same lot as the energy devices or heating appliances they serve.
  - (b) In the C-3 Highway Commercial Zoning District, the LI or the L-1 Limited Industrial Zoning District and the PI Planned Industrial/Office Zoning District, only, commercial aboveground storage tanks that store and supply fuel and other solids, liquids, and gases subject to the requirements in 200-80.C(2)(c) below, for heating and other commercial uses.
  - (c) For any new aboveground storage tanks that may be permitted under Subsection C(2)(b), the following shall apply:
    - [1] The tank installation shall be designed and its construction supervised by a registered professional engineer. The applicant shall file with the Township and at the time of application for a building permit or zoning permit, as may be applicable, a location (site) plan and details for the tank, including a feasibility

study describing why a particular site was chosen for the proposed aboveground storage tank, all prepared by the same engineer. The applicant shall also file a written report which establishes the safety measures that shall be followed, as well as tank operation, inspection frequency, appropriate coding or labeling of pipes and tanks. Any additional permits required by state or federal agencies for the construction of the tank shall also be submitted to the Township at the same time.

- [2] No commercial aboveground storage tank shall be constructed closer than 50 feet to any property or right-of-way line.
- [3] All commercial aboveground storage tanks shall be either attached to or enclosed within an area that abuts a side of the principal building located on the property.
- [4] The method of storage of fuel and other solids, liquids, and gases shall conform to all applicable federal, state, and local regulations, including, but not limited to, the regulations of the Environmental Protection Agency, the Pennsylvania Department of Environmental Protection, and the Township Fire Code.
- [5] Copies of all current federal or state permits that are required for the aboveground storage tanks shall be on file with the Township Zoning Officer.
- [6] Any Material Safety Data Sheets that must be filed with federal or state agencies for the materials stored in the tanks shall be on file with the Township Zoning Officer.
- [7] At least annually, the owner of the tanks shall conduct an inspection and a review of storage locations, waste locations, materials, chemicals and items in the storage tanks with the Emergency Management Coordinator of the Township, the Zoning Officer and the Fire Chiefs of the first due emergency response organizations as identified by the Township.

- (d) All pertinent state and federal regulations apply to and otherwise supersede the requirements of this section if a conflict arises.
- D. Storage of vehicles. For the purposes of this section, a vehicle shall be deemed to be stored outdoors unless it is located within a garage or other structure enclosed on at least three sides with a roof. Also:
  - (1) In all districts, unless otherwise approved by Upper Uwchlan Township, no trailer, travel trailer, motorized dwelling, tent trailer, boat trailer, recreational vehicle or similar vehicle shall be stored outdoors within any required front yard area nor within 15 feet of any side or rear lot line, except as provided in Subsection D(2) below.
  - (2) On any property zoned for residential use, currently registered and operable vehicles owned by the resident(s) of the property may be stored (parked) without limitation, where not stored within any required minimum yard or setback area. No more than three currently registered and operable vehicles may be stored within required minimum yard areas.
  - (3) No unlicensed or unregistered motor vehicle other than farm vehicles, and no inoperable farm vehicle, may be stored outdoors on any lot for a period in excess of six months. No more than two unlicensed and/or unregistered vehicles may be stored outdoors on any lot at any one time.

#### **§ 200-90. Storage tanks.**

- A. The following regulations shall apply to aboveground or underground tanks used for the storage of fuels, chemicals, water or any other liquids. See also § 200-80 of this chapter for the further regulation of aboveground storage tanks.
  - (1) Aboveground and underground storage tanks specifically exempted under Act 247, the Municipalities Planning Code, as amended, shall also be exempted from this chapter. If the exemption is for a storage tank proposed or used by a public utility or authority, the provisions of § 200-84 of this chapter shall apply.
  - (2) Underground storage tanks used at vehicular service establishments shall be subject to the provisions of § 200-85 of this chapter.

- (3) All underground storage tanks not used at vehicular service establishments shall comply with all applicable regulations of the U.S. Environmental Protection Agency, the Pennsylvania Department of Environmental Protection, and Upper Uwchlan Township, including notification and registration requirements. If warranted, and as determined by the Township, the applicant may be required to place tanks in a concrete vault, install other impervious liners, and/or install monitoring devices.
- (4) Any underground storage tanks, other than those used at vehicular service establishments, are allowed in only the C-3 Highway Commercial Zoning District or the L-1 Limited Industrial Zoning District as established by this chapter.
- (5) Aboveground storage tanks shall be permitted ~~are allowed~~ only in the C-3 Highway Commercial Zoning District, ~~or the L-1 LI~~ Limited Industrial Zoning District, ~~and the PI~~ Planned Industrial/Office Zoning District, ~~subject to the as established by this chapter and in all cases, shall comply with all applicable~~ provisions of § 200-80 of this chapter.



**UPPER UWCHLAN TOWNSHIP**  
Planning Commission Meeting  
June 11, 2020  
7:00 p.m.  
Minutes  
**DRAFT**

**LOCATION:** This was a virtual meeting, held via Zoom audio/video conferencing, in order to minimize public exposure to COVID-19 and maintain social distancing. The meeting Public Notices instructed those interested in participating in the meeting to email or call the Township Manager for the link and password to join in the meeting.

In attendance:

Bob Schoenberger, Chair; Sally Winterton, Vice-Chair; Chad Adams, Jim Shrimp, Jeff Smith, Brett Hand, Jim Dewees, Kimberly Venzie, Esq. – Buckley Brion McGuire & Morris, Gwen Jonik – Planning Commission Secretary

Bob Schoenberger called the meeting to order at 7:02 p.m. A quorum was present.

**Ordinance Amendments**

Kim Venzie, Esq., revised the Animal Control ordinance amendments as discussed at the Commission's May meeting, including condensing and clarifying several Sections and adjusting penalty text to be consistent with other township ordinances. Terminology was discussed regarding provisions for animals that accompany those with handicaps or disabilities, and it was decided that Section 50-10 should be titled "Exemptions" and change the term handicapped to disabled/disability.

Chad Adams moved, seconded by Jeff Smith, to recommend to the Board of Supervisors approval of the Animal Control Ordinance Amendments (dated June 1, 2020) with the minor modifications noted above. The Motion carried unanimously.

**Small Wireless Facilities Ordinance – Chapter 143**

Kim Venzie provided a draft of the small wireless facilities (SWF) ordinance that incorporated the changes discussed at the Commission's May meeting and she included all of the commercial districts (C-1, C-2, and C-3) for conformity. There was discussion regarding the fees, Form of Agreement, how to properly measure the size of the facility and how far any sound will travel. Ms. Venzie will research the FCC regulations and definitions and return to the Commission's July meeting.

**Small Wireless Facilities Design Guideline – Resolution**

The Commission reviewed a draft Resolution for SWF design, prepared by Ms. Venzie, that will be adopted separately and will accompany the SWF Ordinance. Discussion included:

Section IV.A.2. the measurement of 6 cubic feet should be revised to 3 cubic feet to match what is called out within the Law;

Section IV.D.3. regarding timing for compliance. It was decided to leave as drafted.

Section IV.E.4. regarding the cooling fans. Assign a decibel level, perhaps less than 55?

Section V.C. regarding Homeowners Associations (HOAs). SWF are only for within public rights-of-ways so HOAs wouldn't be involved.

Sally Winterton moved, seconded by Jim Dewees, to recommend to the Board of Supervisors approval of the Resolution for Small Wireless Facilities (SWF) Design Standards. The Motion carried unanimously.

Wireless Communications Facility Ordinance (WCF).

The Commission discussed a draft WCF Ordinance amending Section 200-91 of the Zoning Codes, which cross-references the new Small Wireless Facilities (SWF) regulations, revises the permit fee language to be consistent with FCC language, and in the "Permitted Locations", added text for height of the facilities and the roads that would provide the least impact. The municipality name will be corrected on page 4.

Chad Adams moved, seconded by Jeff Smith, to recommend to the Board of Supervisors approval of the Wireless Communications Facility Ordinance as drafted June 2020. The Motion carried unanimously.

Approval of Minutes

Jim Dewees moved, seconded by Sally Winterton, to approve as presented the minutes of the May 14, 2020 Planning Commission meeting. The Motion carried unanimously.

Bob Schoenberger announced that the next Planning Commission meeting is scheduled for July 9, 2020.

Open Session

Sally Winterton made comment regarding the Zoning Hearing scheduled for June 24, 2020.

Adjournment

Sally Winterton moved, seconded by Chad Adams, to adjourn the meeting at 8:18 p.m. All were in favor.

Respectfully submitted,

Gwen A. Jonik  
Planning Commission Secretary