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# TOWNSHIP OF FERGUSON

3147 Research Drive • State College, Pennsylvania 16801  
Telephone: 814-238-4651 • Fax: 814-238-3454  
[www.twp.ferguson.pa.us](http://www.twp.ferguson.pa.us)

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**FERGUSON TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING AGENDA  
TUESDAY, December 1, 2020  
6:00 PM**

**Zoom Meeting**

<https://us02web.zoom.us/j/85959764228>

Meeting ID: 859 5976 4228

- I. Call To Order
- II. Approval of Regular Meeting Minutes—October 26, 2020
- III. Citizen Input
- IV. REVIEW AND APPROVAL OF THE 2021 PLANNING COMMISSION CALENDAR
- V. REVIEW AND APPROVAL OF THE 2021 PLANNING COMMISSION WORK PROGRAM
- VI. TREE PRESERVATION ORDINANCE

*The Public Works and Planning & Zoning Department have drafted an amendment to Chapter 22, Subdivision and Land Development to establish a new part, Tree Preservation. The intent of this chapter is to encourage the protection of trees through sound land use and tree management practices. This chapter will preserve, protect and maintain existing trees in Ferguson Township, as well as, increase the overall tree canopy and understory with native species and improve tree and ecosystem health on both public and private lands. The Board authorized staff and the Ferguson Township Tree Commission in September 2018 to draft a Tree Preservation Ordinance. Since that time, the Tree Commission has met to review this ordinance several times. Staff is prepared to provide an overview to the draft ordinance and answer any questions the Board may have.*

*Provided with the agenda is a copy of the draft ordinance*

- VII. OFFICIAL REPORTS AND CORRESPONDENCES
  - A. Board of Supervisors
  - B. CRPC Report
  - C. Land Development Plans
  - D. Staff Updates

**VIII. Adjournment**

**FERGUSON TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING MINUTES  
MONDAY, OCTOBER 26, 2020  
6:00 PM**

**ATTENDANCE**

The Planning Commission held its regular meeting on Monday, October 26, 2020, as a virtual meeting. In attendance:

**Commission:**

Jeremie Thompson – Chair  
Rob Crassweller - Secretary  
Jerry Binney  
Shannon Holiday  
Bill Keough  
Lisa Rittenhouse  
Dr. Ellen Taricani  
Ralph Wheland  
Qian Zhang – Alternate

**Staff:**

Jenna Wargo, Planning & Zoning Director  
Jeff Ressler, Zoning Administrator  
Kristina Aneckstein, Community Planner

Others in attendance: Rhonda Demchak, Recording Secretary

Mr. Thompson noted that the Planning Commission meeting had been advertised in accordance to the PA Sunshine Act as a virtual meeting via Zoom. There was also an audio conference bridge that was accessible by dialing the Ferguson Township’s main line at 814-238-4651 and then dialing extension 3799. Persons attending the meeting as members of the public and wanted to participate were asked to enter their name, municipality, and topic by utilizing the Q&A bubble at the bottom of the screen. C-NET is recording as well.

Ms. Wargo took roll call and the Planning Commission had a quorum.

**I. CALL TO ORDER**

Mr. Thompson called the Ferguson Township Planning Commission’s regular meeting to order on Monday, October 26, 2020 at 6:00 p.m.

**II. APPROVAL OF REGULAR MEETING MINUTES SEPTEMBER 28, 2020**

Mr. Thompson called for a motion to approve the minutes from September 28, 2020. Mr. Wheland made a motion to approve the minutes. Mr. Crassweller seconded the motion. The motion passed unanimously

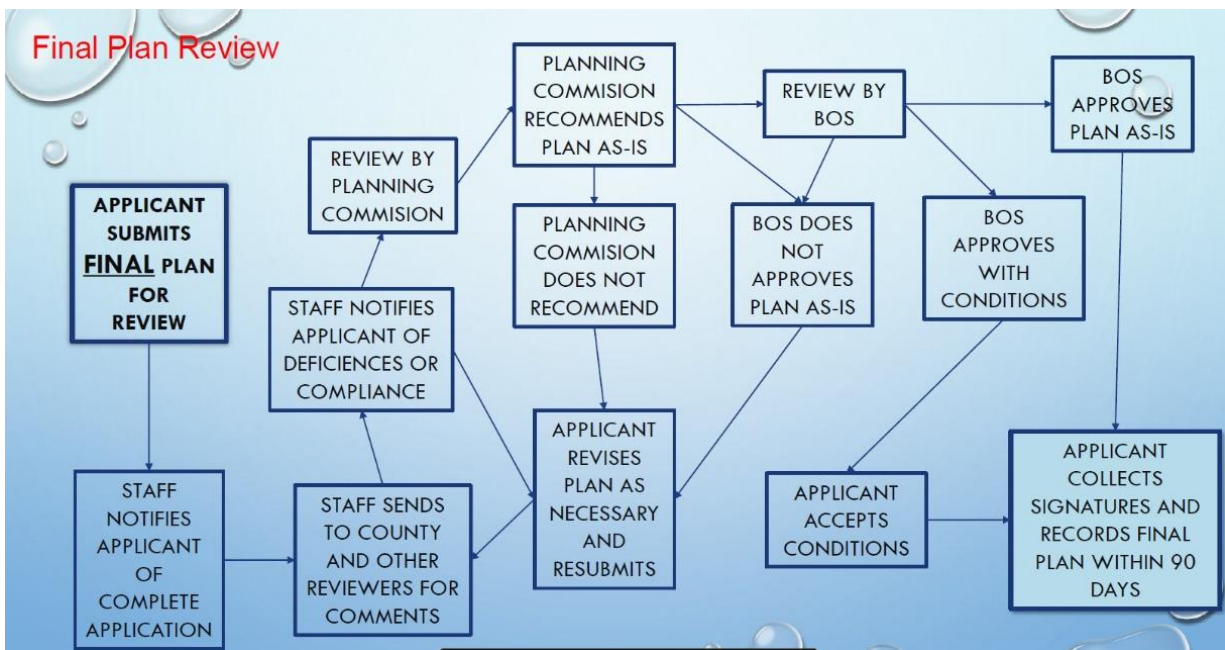
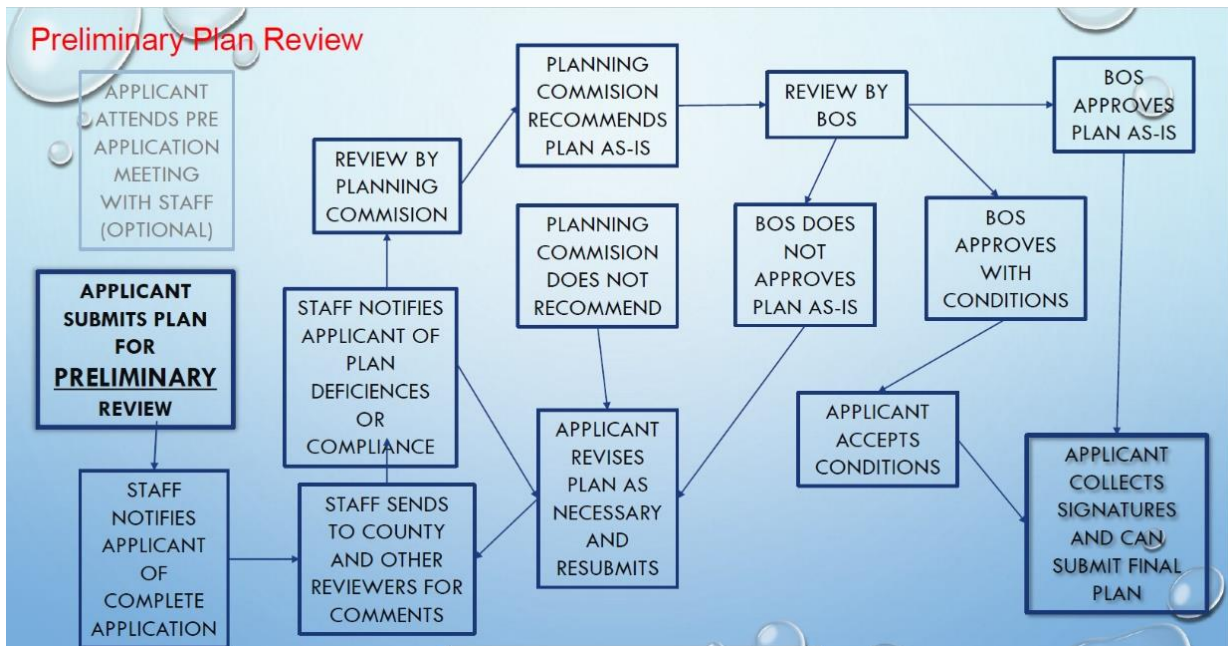
**III. CITIZEN INPUT**

None

**IV. COMMUNITY PLANNING**

**A. Plan Review Process**

Ms. Aneckstein introduced and explained the review process between the Preliminary Land Development Plan and the Final Land Development Plan . Below are the flow charts:



Ms. Aneckstein noted that the applicant may request a meeting with the Planning Commission to review, obtain feedback, and be placed on the agenda, but doesn't happen very often unless it is a major plan. Staff does meet with applicants often to determine the process.

Mr. Keough asked if only the applicant can request for the Planning Commission to be included. Ms. Aneckstein stated that was correct. Mr. Thompson asked if the Planning Commission could request a review. Ms. Wargo noted that staff can

request to have a Pre-Planning Commission meeting with the applicant, but not required. Ms. Rittenhouse asked how often did staff request the Planning Commission to get involved in the last year. Ms. Aneckstein indicated there was none in the last year and there were only four submitted. With regards to the new student housing plan, Mr. Keough stated that he considered that a big plan and would have liked to have reviewed. Mr. Crassweller noted that he disagreed with Mr. Keough due to the cost that it entails. Ms. Wargo stated that the Township can't make the applicant do additional items that are not within the ordinances. A list of reviewers for a plan are listed within the agenda.

Mr. Wheland asked if the State College Area School District (SCASD) has ever responded. Ms. Aneckstein noted that not in her tenure at the Township. Ms. Wargo noted that it is a Planning Commission requirement to send to the SCASD. Mr. Keough noted that he is not clear with the process with regards to individual Planning Commission members providing comments before a meeting. Ms. Wargo stated that comments should be received at the preliminary review and noted Planning Commission is listed for informational purposes. Mr. Ressler noted that Planning Commission is listed so they are aware of upcoming plans.

Mr. Thompson noted that he feels there are plenty of opportunities with larger plans to provide comments. Mr. Keough indicated that if the Planning Commission is on the list to provide initial comments, members who choose to could provide comments. Ms. Wargo is not comfortable with members of the Planning Commission providing comments before a preliminary meeting. Mr. Keough inquired about a submission that meets the ordinance but perhaps a part of it is not ideal, where in the process is this addressed. Ms. Wargo stated that it would be addressed during the preliminary review with the Planning Commission.

Ms. Aneckstein noted that once the conditions are accepted, signatures will be collected from the appropriate authorities and then the plan will be submitted as a final plan. Mr. Keough stated that he has never seen the process depicted like this before and commended the staff for their efforts. Ms. Aneckstein will send the two slides to the Planning Commission.

## **B. Looking Through the Kaleidoscope**

Ms. Aneckstein reviewed the blog "[Looking Through the Kaleidoscope – Land Use in Pennsylvania](#)". The blog was also included with the agenda. Mr. Keough noted that the chart system that was adopted in the zoning ordinance was a great improvement with regards to communicating with the developer.

## **C. Amendments to Chapter 27, Zoning, District Regulations**

Ms. Wargo presented the amendments. The Township sent a business needs survey to all businesses in Ferguson Township. Staff reviewed the survey in September and determined that a key concern was with childcare facilities within single-family residential homes. There are two types of conditional uses, a Family Child-Care Home and a Group Child-Care Home.

Staff recommended to amend the Family Child-Care Home within, R1, R1B, R2, R3, R4 and Village to allow for conditional use for Family Child-Care Home to a permitted use for Single-family Detached Dwellings in these zoning districts and amend the conditional use for Group Child-Care Homes to a permitted use for Single-Family Detached Dwellings in the Single Family Residential (R1) and Suburban Single Family Residential (R1B) zoning districts. The Board reviewed and agreed with staff

recommendations, provided comments, and authorized a public hearing for November 16, 2020. Ms. Wargo will provide a memo to the Board based on the Commission's review from tonight's meeting. Mr. Crassweller and Mr. Binney both agreed this is a good idea. Mr. Crassweller made a motion.

Mr. Keough noted he had no problems with changing the zoning charts, but noted these facilities are highly regulated. Mr. Keough felt this is not the best solution and businesses should be allowed to have a room designated for childcare within their worksites for children of employees.

Mr. Binney seconded the motion.

Mr. Keough encouraged staff to send the survey results that relate to childcare to the Chamber of Business and Industry of Centre County. Ms. Wargo will have Centrice Martin send the information.

The motion passed unanimously.

## **V. OFFICIAL REPORTS AND CORRESPONDENCES**

### **A. Board of Supervisors**

Ms. Wargo noted that at the October 19, 2020, meeting the Board reviewed the Workforce Housing Ordinance, the Childcare Amendments, and Zoning and Map Amendments. Ms. Wargo is working with Public Works and Lance King, the Township's Arborist on the Tree Preservation Ordinance. The Planning Commission will review the tree ordinance in the near future.

### **B. CRPC Report**

Dr. Taricani reported that there was a joint meeting with the Transportation and Land Use Committee and discussed various agenda items, but most importantly they discussed land consumption and issues. There was a presentation on solar use in the region and discussed different types and development of solar use. Dr. Taricani noted that it would be beneficial for the Planning Commission to view the presentation. Ms. Rittenhouse warned the Commission about companies renting solar energy to homeowners because when the house is sold the solar energy is not owned. Ms. Wargo noted that the biggest obstacle for the Township will be that the Stormwater Ordinance considers solar energy panels to be pervious surfaces. Mr. Keough stated that there are concerns with residents in the agricultural community.

### **C. Land Development Plans**

Ms. Aneckstein noted that she is still waiting to hear comments from the consultant on the West College Student Housing project. Mr. Keough expressed concerns with the Microbrewing Project being qualified as minor alterations and being introduced to the Township as two separate projects.

### **D. Staff Updates**

Ms. Wargo reported that the Township building is closed because an employee tested positive of COVID-19, but the Police Station remains open. Ms. Holiday noted that she will be working the election polls on November 3, 2020 and if anyone

would like to volunteer, please let her know. Ms. Rittenhouse volunteered to work the polls. Mr. Keough thanked the staff for the work that has been done with the Planning Review Process and thanked Mr. Thompson for having it on the agenda.

**VI. ADJOURNMENT**

Mr. Binney made a motion to adjourn the October 26, 2020 Planning Commission meeting at 7:50 p.m. The motion passed unanimously.

Respectfully Submitted,

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Rob Crassweller, Secretary  
For the Planning Commission

# 2021 PLANNING COMMISSION MEETING CALENDAR

JANUARY						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31	<i>New Years Day</i>					

FEBRUARY						
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28	<i>President's Day</i>					

MARCH						
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APRIL						
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MAY						
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30	31					
<i>Memorial Day</i>						

JUNE						
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JULY						
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<i>Independence Day</i>						

AUGUST						
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29	30	31				

SEPTEMBER						
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<i>Labor Day</i>						

OCTOBER						
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31						

NOVEMBER						
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28	29	30				
<i>Thanksgiving Day</i>						

DECEMBER						
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26	27	28	29	30	31	
<i>Christmas Day</i>						

Holidays

Planning Commission Regular Meeting | 6PM

## 2021 FERGUSON TOWNSHIP PLANNING COMMISSION WORK PROGRAM

*Key: I= Initiate Planning, IP= In Progress*

*BOS=Refer to Board of Supervisors*

*R/C=Review and Comment, C=Complete*

*H = High, M = Medium, L = Low*

Approved by Planning Commission on : \_\_\_\_\_

Approved by Board of Supervisors on : \_\_\_\_\_

<b>ROUTINE ACTIVITIES</b>		Priority	Board Goals	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Comments
1	Plan Reviews	H	These activities vary greatly in their scope and support the Strategic Plan Goals	All routine items take place on an as needed basis.				
2	Subdivision/Lot Consolidation Reviews	H						
3	Items referred by the Board	H						
4	Capital Improvements Program	H						Ferguson Township Long Range Growth Management Plan
5	Interaction with CRPC	H						
6	FTPC Reports to the Board	H		BOS	BOS	BOS	BOS	
<b>ORDINANCE AMENDMENTS</b>		Priority	Board Goals	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Comments
7	Zoning/SALDO Ordinance Amendments	H		I	→			
8	Village Zoning District	H				I		This will involve coordination with PGMAC and FTPW
9	Tree Preservation Ordinance	H		IP				This will involve coordination with FTPW
10	Workforce Housing Ordinance	M	Goal 3: Growth Management	I	→			This will involve coordination with Centre County Housing & Land Trust.



## 2021 FERGUSON TOWNSHIP PLANNING COMMISSION WORK PROGRAM

2021 FERGUSON TOWNSHIP PLANNING COMMISSION WORK PROGRAM								
<b>PLAN IMPLEMENTATION &amp; REVISIONS</b>		Priority	Board Goals	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Comments
12	Assist with implementation activities as identified in the Pine Grove Mills Small Area Plan	M	These activities vary greatly in their scope and support the Strategic Plan Goals	As needed				Implementation of priority recommendations/items and identification of partnerships/resources needed.
13	Post- COVID-19 Planning and Zoning Observations				I			
14	Participate in revisions to the 2009 Recreation, Park, and Open Space Plan	M	Goal 4: Environmental Stewardship	As needed				This will involve coordination with Ferguson Township Parks Committee
2021 FERGUSON TOWNSHIP PLANNING COMMISSION WORK PROGRAM								
<b>ADDITIONAL DUTIES</b>		Priority	Board Goals	1st Qtr	2nd Qtr	3rd Qtr	4th Qtr	Comments
16	Recreation Economy in Ferguson Township	M	Goal 2: Economic Development				I	This will involve coordination with PGMAC
17	Provide input and technical assistance where necessary to the Ferguson Township Climate Action Ad Hoc Advisory Board	L		As needed				

ORDINANCE NO. \_\_\_\_\_

FERGUSON TOWNSHIP  
TREE PRESERVATION AND PROTECTION ORDINANCE

**Intent.**

The purpose of these regulations is to encourage the protection of trees through sound land use and tree management practices. Trees improve air and water quality, reduce soil erosion, noise and glare, provide habitat for desirable wildlife, moderate the climate and enhance community image and property values, and protect the public health, safety, and general welfare by:

1. Preserve, protect and maintain existing native trees in Ferguson Township and to increase the overall tree canopy and understory with native species and improve tree and ecosystem health on both public and private lands.
2. To preserve healthy trees on site whenever possible by ensuring that all applications for grading permit, and subdivision and land development shall respect existing trees as a natural resource.
3. To preserve and protect all individual and groups of heritage trees as defined herein.

**Definitions.**

Words and terms in this part shall have the meanings given herein. Unless expressly stated otherwise, and pertinent word or term not part of this part but vital to the interpretation of this part shall be construed to have their legal definition, or in absence of a legal definition, their meaning as commonly accepted.

1. Words used in the present tense shall include the future tense;
2. Words used in the plural number shall include the singular and plural number, and the plural number shall include the singular number;
3. The words "shall" and "will" are mandatory and are not discretionary;
4. The word "may" is permissive;
5. The word "lot" shall include the words "place," "parcel," and "premises";
6. The word "building" means a structure, including any part thereof having a roof and used for shelter or enclosure for persons or property;
7. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," or any other legal activity;
8. The word "person" shall include the words "individual," "corporation," "Governmental agency," "trust," "estate," "partnership," "association," "venture," "joint venture," "participant," or any other legal activity;
9. As used in this part, the following terms shall have the meanings indicated;

**APPLICANT**—The property owner or authorized representative; the term includes "developer".

**ARBORIST**—The Arborist for Ferguson Township. The Arborist is a professional in the practice of arboriculture. This term shall include the Township Arborist as well as any consultants engaged to perform similar services in the promulgation and enforcement of this Part and the Ferguson Township Tree Ordinance.

**APPROVED PRESERVED TREE**—Any tree that is inside the limit of disturbance and is to be properly protected and not destroyed or injured during construction as required by this chapter and as approved by the Township Arborist.

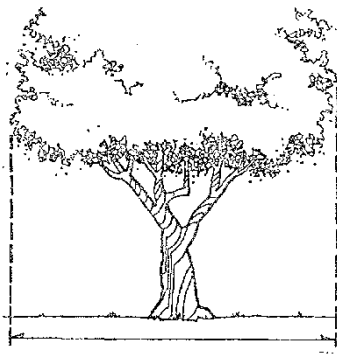
**BOUNDARY TREE**—A tree on an adjacent property whose root drip line intrudes across the property line of the property under consideration.

**CALIPER**—A measure of nursery stock measured in diameter. For four-inch diameter stock or smaller, the measure is taken at six inches above the root ball. For stock above four inches, the measurement is taken at 12 inches above the root ball.

**CANOPY TREE**—A tree, either single-stemmed or multi-stemmed (clump form), which has a caliper of at least 2 inches at planting and is of a species which, at maturity, shall reach a height of at least 30 feet with a spread of at least 30 feet. See the Township’s official plant list for a listing of permitted canopy trees.

**DBH**—Diameter at breast height; a measure of trunk diameter in inches, taken at 4 ½ feet above the natural ground line. The measured section of the tree should be free of branches and representative of the typical age of the tree species. DBH measurement is applied to existing trees (compared to caliper used for nursery stock).

**DRIPLINE**—The boundary created by the outermost branches of a tree.



*Rendering for illustrative purposes only.*

**DRIPLINE**

**EVERGREEN TREE**—A tree, either single-stemmed or multi-stemmed (clump form), which is a minimum of six (6) feet tall at planting and is a species which at maturity can be expected to reach a height of at least 20 feet. See the Township’s official plant list for a listing of permitted evergreen trees.

**FLOWERING/ORNAMENTAL TREE**—A tree, either single-stemmed or multi-stemmed (clump form), which has a caliper of at least 1 ½ inches at planting and is of a species which, at maturity, can be expected to reach a height of at least 10 feet. See the Township’s official plant list for a listing of permitted trees.

**GROUND COVER**—A low-growing perennial plant.

**HEDGEROW**—A narrow linear vegetated area with a mix of woody trees and shrubs formed along farm fields and pastures. Hedgerows may be considered as a desirable visual characteristic of a rural landscape, warranting preservation during the subdivision or land development process.

**HERITAGE TREE**—Any tree or stand of trees located on public or private property, of landmark importance due to age, size, species horticultural quality or historic importance that has a DBH greater than 36 inches or an age greater than 75 years, and has been approved as a heritage tree by the Board of Supervisors and which has been accepted by the tree owner or responsible party.

**INVASIVE SPECIES**—Any plant that appears in the most recent invasive plants list published by the Pennsylvania Department of Conservation and Natural Resources (DCNR).

**LIMIT OF DISTURBANCE**—Boundary line to be shown on a plan delineating the area outside of which no activity of any sort relating to transplanting, demolition, grading, construction, drainage, storage or any other project activities is permitted.

**LOT**—A designated parcel, tract or area of land established by a plot or otherwise as permitted by law to be used, developed or built upon as a unit and which is described and/or held in single and separate ownership.

**NATIVE PLANTS**—A plant species indigenous to the Northeastern United States that occurs naturally in a particular region, state, ecosystem, and habitat without direct or indirect human actions.

**PROPERTY OWNER**—Any person, agent, operator or corporation having a legal or equitable interest in the property; or recorded in the official records of the Commonwealth of Pennsylvania, County of Centre or Ferguson Township as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

**REMOVED TREE**—Any tree that is destroyed, injured or otherwise not protected according to the provisions of this chapter.

**REPLACEMENT TREE**—A tree required to be planted per this chapter to compensate for the removal or damage of existing trees on a site.

**SIGNIFICANT TREE**—Any tree or stand of trees located on public or private property that is of landmark importance due to age, size, species, horticultural quality or historic importance that has been approved as a significant tree by Ferguson Township’s Tree Commission and which status has been accepted by the tree owner or responsible party.

**TREE**—Any hard-wooded perennial plants, whether evergreen or deciduous, or a species which normally reaches a height of eight feet or more at maturity.

**TREE CANOPY**—The layer of leaves, branches, and stems of a tree or trees that cover the ground when viewed from above.

**TREE COMMISSION**—Ferguson Township’s Tree Commission.

**TREE CONDITION**—An assessment of tree health and structure by the Arborist or a qualified arborist as approved by Ferguson Township’s Arborist.

**TREE PROTECTION ZONE**—An area approved by the Arborist that is radial in all directions to the trunk a tree to be protected. The tree protection zone shall be 15 feet from the trunk of the tree to be retained, or the distance from the trunk to the dripline (the line marking the outer edge of the branches of

the tree), whichever is greater. Where a group of trees or woodlands is to be protected, the tree protection area shall be the aggregate of the protection areas for the individual trees.

**TREE RISK RATING**—A method that ranks both the relative degree of risk and consequence of tree failure by considering tree condition and defects, the size of the tree part prone to failure and the vulnerability and value of any target that may be struck. Tree risk ratings include:

**IMPROBABLE**—Tree is not likely to fail even in severe weather.

**POSSIBLE**—Failure could occur but is unlikely during normal weather conditions.

**PROBABLE**—Tree failure is expected under normal weather conditions.

**IMMINENT**—Tree failure has started or will occur in near future.

**TREE SURVEY PLAN**—Plan identifying the size, location, species and canopy of all existing trees having a diameter at breast height (DBH) of six inches or greater.

#### **Applicability.**

1. Any property owner or developer who submits an application for a grading permit, and subdivision and land development application shall comply with the terms of this chapter.
2. Any property owner or developer who submits a Minor Alteration Plan may choose to take advantage of incentives within this chapter by compliance with the terms herein.
3. This chapter is not intended to apply to:
  - a. Agricultural businesses.
  - b. The removal of trees from a lot containing an existing single-family residence, unless such removal is a part of grading activities that impact one acre or more of area. However, no property owner or occupant shall be permitted to remove trees if such trees have been planted or preserved to meet the requirements of Township ordinances or an application approved by the Township.
  - c. The removal of trees identified as dead or diseased by the Township Arborist.
  - d. The removal of trees for sale in the ordinary course of business from horticultural properties, such as farms, nurseries or orchards.
  - e. The removal of any tree, including preserved, Heritage and Significant, which is deemed a probable or imminent hazard by the Arborist as established by ISA Tree Risk Assessment.
  - f. The removal of trees required for approved utility construction and maintenance within established easement areas.
  - g. Timbering and forestry practices as defined by the Pennsylvania Municipalities Planning Code.

#### **Tree preservation, protection and replacement.**

1. Tree Survey Plan.
  - a. Every application for a grading permit, and subdivision and land development application shall include an existing tree survey plan and a proposed tree plan except any action that does not include ground coverage disturbance.

- i. Minor Alteration Plans that choose to take advantage of the incentives within this Chapter shall submit an existing tree survey plan, a proposed tree plan and comply with the terms of this chapter.
  - b. Existing Tree Survey Plan. The existing tree survey plan shall contain existing topographic information at two-foot contour intervals and shall show all existing buildings and structures, driveways, parking areas, drainage structures, water detention/retention areas, utilities and all limits of grading.
    - i. The existing tree survey plan shall denote each tree currently on the lot over 6 inches in caliper and the existing canopy coverage. It will denote each tree that will be saved, the location of the tree protection fences for each tree to be saved and trees to be removed.
      - 1. Existing tree survey methodologies must be approved by the Township Arborist.
  - c. Proposed Tree Plan. The proposed tree plan shall contain proposed topographic information at two-foot contour intervals and shall show all proposed buildings, structures, driveways, parking areas, drainage structures, water detention/retention areas, utilities and all limits of grading.
    - i. The proposed tree plan shall denote the proposed tree replacement schedule, including the pre-existing trees that will be saved, and the proposed tree canopy of the replacement trees at maturity. The species of proposed replacement and additional trees shall be species listed on the Official Township Planting List. The proposed tree plan shall also include the landscaped buffer and all interior landscaping as required in §27-707, Landscaping.
  - d. The existing tree survey plan and proposed tree plan shall be reviewed by the Township Arborist.
  - e. The number of trees shall be calculated using the guidelines listed in this chapter.
  - f. Heritage, Significant and boundary trees shall be individually noted on the existing and proposed tree plans.
- 2. Tree preservation and protection.
  - a. Tree preservation. Every application for a grading permit, and subdivision and land development application shall preserve 20% of the existing tree canopy on the lot, except where it can be demonstrated that it is not practical to do so and approved by the Township Arborist. The conditions for determining the practicality of tree preservation on a given lot shall be as follows:
    - i. Condition: Trees that are dead, or determined to be in poor condition by the Township Arborist are not eligible for preservation.
    - ii. Species: Any invasive species as defined by this ordinance is not eligible for preservation.
  - b. The applicant may preserve more than the required 20% of the existing tree canopy on the lot to offset parking requirements for that site (as required by §22-501.C, Off-Street Parking and Loading in the Subdivision and Land Development Ordinance), not to exceed 20% of parking credited.
  - c. The applicant may plant additional trees on the lot to increase the overall tree canopy to offset parking requirements for that site (as required by §22-501.C, Off-Street Parking and

Loading in the Subdivision and Land Development Ordinance), not to exceed 20% of parking credited.

- d. The credit (round up) for approved preserved trees and additional canopy tree plantings to offset parking requirements shall be calculated as follows:

Percentage of Existing Tree Canopy	Parking Credit
20%	Required
30%	10%
40%	15%
50%	20%

- i. Approved preserved trees around the perimeter of the property may offset the buffer requirements for the subdivision and land development (as required by §27-707, Landscaping, of the Zoning Ordinance). The number of trees required to be planted in buffer yards may be reduced by canopy tree credit for approved preserved trees as follows:
  - 1. The credit for approved preserved trees to offset buffer yard landscaping requirements shall be calculated as follows:

Diameter of Trunk of Preserved Tree (DBH in inches)	Number of Trees Credited
30 or greater	8
18 to 29	6
12 to 17	4
6 to 11	2

- ii. Any tree preserved within 20 feet of any proposed building or within five feet of a proposed road or sidewalk (measured from edge of curb or edge of right of way) shall not be considered an approved preserved tree by this Ordinance.
- iii. The Township Arborist will perform a tree assessment for each proposed preserved tree on the lot to assess the health and structure prior to credit calculations.
- e. The applicant is encouraged to maintain contiguous tree masses.
- f. Additional tree planting requirement.
  - i. If the applicant chooses to increase the tree canopy by planting additional trees, every additional tree must measure at a minimum 2 inches in caliper at time of planting and be listed on the Official Township Plant List.
  - ii. The species of additional planted canopy trees shall be subject to the recommendation of the Tree Commission. Species are to be hardy to the area and noninvasive and 60% shall be native, consistent with the provisions of this section. The applicant can refer to Ferguson Township’s Official Plant List for selections.
  - iii. Subject to the approval of the Tree Commission:

1. A Maximum of 30% of the additional planted canopy trees may be replaced with evergreen trees (at a minimum of 6 feet in height at the time of planting) at a ratio of two evergreen trees per required two-inch-caliper canopy tree.
  2. A maximum of 20% of the additional planted canopy trees may be replaced with ornamental/flowering trees at a ratio of two understory trees per required two-inch-caliper canopy tree.
  3. A maximum of 10% of the additional canopy trees may be replaced as shrubs with a minimum size of 2 gallons at time of planting and will reach 24" in height at maturity at a ratio of six shrubs per required two-inch-caliper canopy tree.
  4. A maximum of 10% of the additional canopy trees may be replaced as groundcover at a ratio of 40 plants to one two-inch-caliper canopy tree. The minimum size of the groundcover will be a one-gallon container.
- iv. Calculation and estimation of existing trees and canopy to be indicated on the existing tree survey plan shall be performed before any clearing commences and shall be performed in the presence of the Township Arborist.
- g. Protective fencing. Every application subject to this Ordinance shall be prepared in such a manner to preserve the healthy trees and shrubs on the site.
- i. Prior to the preconstruction conference with the Township Arborist, protective fencing shall be placed around trees to minimize damage to root systems. Fencing shall be a minimum of 8 feet in height and constructed of chain link or other material approved by the Township Arborist.
  - ii. The protective fencing shall be placed around the dripline of the tree. Nothing shall be stored, stockpiled, temporarily placed, excavated or allowed in the protective fencing
  - iii. This fence will be installed prior to any and all work conducted; e.g., excavation, grading, trenching (especially silt fence), cleaning, etc.
  - iv. No fuel storage, refueling or maintenance of equipment or wash down of cement handling equipment shall be permitted within any protective fencing.
  - v. Any damage to the fencing or encroachment on the protected areas shall be remedied immediately. Any observed damage to the trees or roots shall be immediately reported to the Township and remedied as soon as is practicable.
  - vi. At the discretion of the Township Arborist, approved preserved trees that have not been adequately protected or damaged may be required to be removed and replaced at the expense of the applicant in addition to paying a fine of \$1,000.00.
    1. If the approved preserved tree was identified as a Heritage Tree, the applicant will be required to remove and replace the Heritage Tree in addition to paying a fine of \$1,000.00 and the appraised value of the Heritage tree as determined by the Township Arborist in accordance with established ISA tree appraisal standards.
- h. Preconstruction conference. Upon approval of any permit subject to this Ordinance, and prior to any construction, or earth disturbance on the site, a preconstruction conference shall be held on the site between the Township Arborist and the applicant. The Arborist



shall inspect the tree protection fences and other protective devices which have been installed to protect trees.

- i. Notification. After the preconstruction conference, the Township Arborist shall notify the Planning and Zoning Department of his/her findings in writing. Upon approval of the tree protection measures by the Township, grading and construction may proceed, provided that all pertinent permits have been secured.
- j. Invasive vines. Invasive vines which threaten the health of any approved preserved tree shall be cut at the base using a hand saw, snips or loppers, and treated with a basal herbicide to minimize regrowth. The vine shall not be pulled out of the tree but shall be allowed to die in place.
- k. Post-construction. Calculation of approved trees remaining after construction shall be performed by the applicant and reviewed and approved by the Township Arborist based on a procedure similar to that used in completing the tree survey. In the event the completed project is not in compliance with the approved schedule of preserved trees on the final plan, the applicant shall receive written instructions from the Township addressing reparation for all removed trees. The applicant shall complete the reparation, weather permitting, within 45 days of receiving such notification.
- l. Replacement guarantee. All replacement and additional tree plantings shall be guaranteed and maintained in a healthy and/or sound condition in perpetuity or shall be replaced with a new tree of the same species with a minimum caliper of 2 inches.

#### **Modifications and Waivers.**

1. Where the applicant shows to the satisfaction of the Township that compliance with any mandatory provision of these regulations and causes undue hardship to the Applicant because of peculiar conditions pertaining to the particular property, the Township may grant a modification or waiver to one or more provisions of this Chapter. Such modification and/or waiver, however, shall not have the effect of nullifying the intent and/or purpose of this Chapter.
  - a. The Applicant shall follow the procedure outlined in §22-105. Modification and Waivers.

#### **Violations and Penalties.**

Failure to comply with any provisions of this Chapter shall be a violation of this Chapter.

1. Complaints Regarding Violations. Whenever a violation of this Chapter occurs, or is alleged to have occurred, any person may file a complaint to the Township Arborist stating fully the causes and basis thereof. The Township Arborist shall record such complaint, immediately investigate and take action thereon as provided by this Chapter.
2. Notice of Violation. If the Township Arborist shall find a violation, he/she shall initiate enforcement proceedings by sending an enforcement notice as provided herein:
  - a. The enforcement notice shall be sent to the owner of record of the lot on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
  - b. An enforcement notice shall state the following:
    - i. The name of the owner of record and any other person against whom the Township intends to take action.

- ii. The location of the property in violation.
  - iii. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this Chapter.
  - iv. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
  - v. That the recipient of the notice has a right to appeal to the Courts within thirty (30) days by filing a request for appeal in writing with the Courts within the said thirty (30) days period.
- c. Failure to comply with the notice within the said thirty (30) days, unless extended by appeal by the Courts, constitutes a violation with possible sanctions, which may be as much as five hundred dollars (\$500) per day of each violation plus all court costs, including reasonable attorney fees the Township incurs as a result of prosecution of such violation.
- d. Civil Enforcement. The Township Arborist may institute civil enforcement proceedings as a means of enforcement if authorized by the Manager or the Board of Supervisors.