

NORTH SHENANGO TOWNSHIP
CRAWFORD COUNTY, PENNSYLVANIA

ORDINANCE NO. 2006 - 158

AN ORDINANCE TO AMEND THE NORTH SHENANGO TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE TITLED "SUBDIVISION REGULATIONS OF NORTH SHENANGO TOWNSHIP".

Be it Ordained and Enacted by the Board of Supervisors of North Shenango Township, Crawford County, Pennsylvania, and it is hereby enacted and ordained by and with the authority thereof as follows:

Section 1. Amendment to Subdivision/Land Development Ordinance. The North Shenango Township Subdivision and Land Development Ordinance adopted in February, 1974 and effective March 14, 1974, titled Subdivision Regulations of North Shenango Township, as amended by Ordinance No. 1993 - 145, adopted on December 13, 1993 and as otherwise amended, is hereby amended in accordance with the applicable provisions of the Pennsylvania Municipalities Planning Code by incorporating the amendments set forth in Sections 3 through 9 of this Ordinance, below, into and making same a part of the North Shenango Township Subdivision and Land Development Ordinance.

Section 2. Purpose. The purpose of this Ordinance is to bring the administrative and enforcement provisions of the regulations into conformity with the governing authority of the Pennsylvania Municipalities Planning Code as same has been amended from time to time, and to clarify the intent relative to road construction standards.

Section 3. Amendment to Article I. Article I of the Subdivision Regulations of North Shenango Township, entitled "Purpose and Authority", is amended as follows:

- (A) The Title to Article I is amended to read "Purpose, Authority, Prohibited Acts and Administration."
- (B) Existing Subsections D and E are deleted in their entirety.
- (C) There are hereby added to Article I new subparagraphs D through J to read as follows:

D. Subdivision and Land Development Restricted.

- 1. No subdivision or land development shall be undertaken except in conformity with the requirements, standards and provisions of this Ordinance.

2. No subdivision or land development shall be commenced or undertaken until plans or plats therefore have been approved in accordance with the requirements of this Ordinance.

3. No plat or deed relating to a subdivision or land development shall be recorded with the Office of the Recorder of Deeds until approval has been obtained in accordance with the provisions of this Ordinance.

4. No subdivision or land development of any lot, tract or parcel of land shall be made, no street, sanitary sewer, storm water, water main, or other improvements in connection therewith shall be laid out, constructed, opened or dedicated for public use or travel, or for the common use of occupants of adjoining buildings, except in accordance with the provisions in this Ordinance.

E. Interpretation.

1. *Relation to Municipalities Planning Code.* These regulations shall be interpreted in accordance with and governed by the applicable provisions of the Pennsylvania Municipalities Planning Code as reenacted by Act 170 of 1988 and amendments thereto.

2. *Relation to Public Regulation.* These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provision of this Ordinance imposes restrictions different from those imposed by any other provision of this Ordinance or any other ordinance, rule or regulation, or other provisions of law, whichever provisions are more restrictive or impose higher standards shall control.

3. *Relation to Private Regulation.* These regulations are not intended to abrogate any easement, covenant or other private agreement or restriction, provided that where the provisions of this Ordinance are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of this Ordinance shall govern. Where the privately originated provisions, including but not limited to easements, covenants, or private agreements, impose duties and obligations that are more restrictive than the requirements of this Ordinance, and such private provisions are not inconsistent with this Ordinance, then such private provisions shall be operative and supplemental to this Ordinance.

4. *Relation to Past Subdivisions and Land Developments.* Subdivisions previously recorded, land developments the construction of which have been completed, and subdivisions and land developments for which all required governmental permits were received prior to the effective date of this Ordinance shall

be exempt from the requirements of this Ordinance. However, any alterations, improvements or changes after the effective date of this Ordinance to any pre-existing subdivision or land development, whether the subdivision or land development is recorded or not, shall be subject to regulation in accordance with the requirements of this Ordinance.

F. Administration. The Board of Supervisors of North Shenango Township shall be responsible for the administration and enforcement of this Ordinance and shall be responsible for the final approval of preliminary and final subdivision and land development plans.

G. Action By Board of Supervisors.

1. The Board of Supervisors shall render its decision on the Preliminary and Final Plan applications and communicate it to the applicant no later than ninety (90) days following the date the application for Preliminary or Final Plan submission was accepted as completely filed.

2. The Supervisors shall not approve a subdivision or land development plan, whether preliminary or final, until the County and Township Planning Commissions or their staff shall have had an opportunity to review and comment, or until the expiration of the 30 days allowed for comment.

3. The decision of the Board of Supervisors shall be communicated to the applicant in writing, delivered either personally or mailed to the applicant's last known address, no later than fifteen (15) days following the decision.

4. Failure of the Board of Supervisors to render a decision and communicate it to the applicant within the time stipulated and in the manner required, shall be deemed an approval of the Preliminary Plan or Final Plan (as applicable, as submitted) unless the applicant has agreed in writing to an extension of time or a change in the prescribed manner of communication of the decision, in which case, failure to meet the extended time or change in manner of presentation of the decision, shall also be deemed an approval of the application.

5. The Board of Township Supervisors shall review the Preliminary and Final Plan submissions to assure that they conform with the requirements of this Ordinance, and with the approved Preliminary Plan, if applicable. In processing and rendering a decision on the Preliminary and Final Plan, the Board may take one of the following actions:

(a) Approve the plan.

(b) Approve the plan subject to specified conditions relating to additions, corrections, collateral approvals, and/or changes to be made or supplied in the plan. Provision shall be made for the applicant to accept or reject the proposed conditions. If any condition is rejected, or if the applicant takes no action to accept or reject the conditions within fifteen (15) days of the date of the conditional approval, then the approval of the plan or plat, whether preliminary or final, shall be automatically rescinded. The acceptance or rejection of the conditions shall be noted by signature of the applicant on the form provided by the Township. Final Plan approval shall be conditioned upon the provision of financial security as may be required.

(c) Table action of the plan until additional information, corrections, collateral approvals, and/or changes are made to the plan, but only with written consent of applicant if action will delay decision for more than ninety (90) days from date of application.

(d) Disapprove plan if it finds that the plan does not comply with the requirements of this Ordinance or other applicable ordinances. The action taken by the Board shall be communicated to the applicant in writing and where the plan is disapproved, the written decision shall specify the defects found in the application and describe the requirements which have not been met and cite the provisions of law or ordinance relied upon.

H. Effect of Change. To the extent the provisions of Paragraphs F and G above conflict with or are inconsistent with the provisions of Subparagraphs C.6 through C.9. of Article III of the Subdivision Regulations of North Shenango Township Ordinance entitled "Processing Procedures and Plat Requirements," the inconsistent provisions of Article III, C. 6. through Article III, C. 9 are repealed.

I. Variance or Modification of Requirements.

1. *Variance or Modifications Allowed.* The Township Supervisors may grant a modification of the requirements of one or more provisions if the literal enforcement will exact undue hardship because of peculiar conditions pertaining to the land in question, provided that such modification is not contrary to the public interest and that such modification shall not have the effect of nullifying the intent and purpose of this Ordinance.

2. *Procedure for Obtaining Variance.*

(a) All requests for a variance or modification shall be in writing and shall accompany and be a part of the application for plan approval. The request shall state in full the grounds and facts of unreasonableness or hardship on which the

request is based, the provision or provisions of the Ordinance involved and the minimum modification necessary.

(b) The request for modification may be referred to the Planning Commissions for advisory comments.

(c) The Township Supervisors shall determine whether to grant the variance or modification based upon the criteria set forth above and shall keep a written record of all action taken with respect to the variance or modification request.

J. Subdivision and Land Development Fees. The Township Supervisors shall by Resolution establish a schedule of fees which may be amended from time to time. The required fee shall accompany the Preliminary or Final Plan submissions. No plan shall be approved unless all fees have been paid. Additional fees will be charged for reasonable and necessary charges of the Township Engineer, Township Solicitor and professional consultants for review, inspection, studies and reports necessary for a proper review and consideration of the plans. Their fees shall be based upon a schedule to be adopted by Resolution of the Board of Supervisors. Disputes regarding these fees shall be resolved in accordance with the provisions of the Pennsylvania Municipalities Planning Code as applicable.

Section 4. Amendment to Article V.B. Roads. Subsection B, entitled "Roads", of Article V entitled "Required Improvements and Construction Standards" of the Subdivision Regulations of North Shenango Township Ordinance, is amended to read as follows:

1. Roads, including cul-de-sacs, shall be designed and constructed in accordance with the North Shenango Township Road Construction Standards and Specifications, as adopted from time to time by Resolution of the Board of Supervisors.
2. The developer shall submit plans, profiles, cross-sections, and details for roads to the Township. The developer shall not initiate construction until such plans have been approved by the Township and the Township Engineer, including any revisions required by the Township and the Township Engineer. Construction of roads shall be in accordance with plans that have been approved by the Township.
3. Township Road Specifications shall generally be consistent with applicable Pennsylvania Department of Transportation specifications except that the Township's specifications may be more restrictive than those of PennDOT for good cause shown.

Section 5. Amendment to Article V.C. Storm Water. Subsection C entitled "Storm Water" of Article V entitled "Required Improvements and Construction Standards" of the Subdivision Regulations of North Shenango Township Ordinance is amended to read as follows:

C. Stormwater Management.

1. *Stormwater.* There shall be provided, utilizing storm sewers or a surface drainage system or a combination thereof, an adequate storm sewage system for the subdivision. The design of the system shall be based on the location of the proposed subdivision in the total watershed area. The volume of water to be handled in the subdivision storm sewerage system shall be calculated in accordance with recognized engineering standards.
2. *General Standards.* For all subdivisions and land developments which may affect stormwater runoff characteristics, developer shall design and implement such measures as reasonably necessary, and consistent with the requirements of this Ordinance and recognized engineering practice:
 - (a) To assure that the maximum rate of stormwater runoff is not greater after development than prior to development activities; and
 - (b) To manage the quantity, velocity and direction of resulting stormwater runoff in a manner which otherwise adequately protects persons and property from possible injury.
3. In the design of storm drainage facilities, special consideration shall be given to the avoidance of problems which may arise from the concentration of runoff onto adjacent properties. Where stormwater shall be gathered and concentrated in newly formed swales and waterways within a subdivision or land development and discharged or drained over lands beyond the boundaries of the subdivision or land development, the applicant shall reserve or obtain easements over all lands affected thereby. Where this cannot be done, the water shall be diffused so that it does not enter the adjacent property in a concentrated flow pattern where it did not do so in its natural state.
4. All subdivision and land development plans shall be developed and implemented and shall comply with all Township and other governmental stormwater management regulations.

Section 6. Amendment to Article VIII. Article VIII entitled "Validity and Penalty" of the Subdivision Regulations of North Shenango Township Ordinance is amended to read as follows:

Article VIII - Remedies for Violation.

A. Refusal to Grant Other Permits. The Township may refuse to issue any permit or grant any approval necessary to further improve or develop any real property which has been developed or which has resulted from a subdivision of real property in violation of

this Ordinance. This authority to deny such a permit or approval shall apply to any of the following applicants:

1. The owner of record at the time of such violation.
2. The vendee or lessee of the owner of record at the time of such violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.
3. The current owner of record who acquired the property subsequent to the time of violation without regard as to whether such current owner had actual or constructive knowledge of the violation.
4. The vendee or lessee of the current owner of record who acquired the property subsequent to the time of violation without regard as to whether such vendee or lessee had actual or constructive knowledge of the violation.

As an additional condition for issuance of a permit or the granting of an approval to any such owner, current owner, vendee or lessee for the development of any such real property, the Township may require compliance with the conditions that would have been applicable to the property at the time the applicant acquired an interest in such real property.

B. *Penalty for Violation.* The Township Supervisors may institute a proceeding before the district justice against any person, partnership or corporation who or which has violated the provisions of this Subdivision and Land Development Ordinance. Upon being found liable therefor in a civil enforcement proceeding, the defendant shall pay a judgment of not more than \$500.00 plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation.

C. *Other Remedies as Allowed by Law.* In addition to other remedies, the Township may institute and maintain appropriate actions by law or in equity to restrain, correct or abate violations, to prevent unlawful construction, to recover damages and to prevent illegal occupancy of a building, structure or premises. The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or

transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.

Section 7. Delete Article IX. Article IX of the North Shenango Township Subdivision and Land Development Ordinance entitled “Fees” is deleted in its entirety.

Section 8. Delete Article V. E. and F. Subsection E entitled “Assurance of Improvements” and F entitled “Procedure on Construction, Inspection and Acceptance of Improvements” of Article V of the Subdivision Regulations of North Shenango Township Ordinance are hereby deleted in their entirety.

Section 9. New Article IX Added. A new Article IX is hereby added to the Subdivision Regulations of North Shenango Township Ordinance which shall be entitled “Requirements for Completion of Public Improvements and Financial Assurances” and shall read as follows:

**ARTICLE IX.
REQUIREMENTS FOR COMPLETION OF PUBLIC
IMPROVEMENTS AND FINANCIAL ASSURANCES**

A. Completed Improvements or Financial Security Required for Approval. No final plat or plan shall be approved unless the roads shown on the plat, walkways, curbs, roadway lights, fire hydrants, shade trees, water mains, sanitary sewers, storm sewers, and other improvements required by this Ordinance have been completed in accordance with the requirements of this Ordinance.

Alternatively, the final plat or plan may be approved if sufficient financial security, as required by this Ordinance, is deposited with the Township to cover the costs of completion of such improvements or common amenities including, but not limited to, roads, stormwater detention and/or retention basins and other related drainage facilities, recreational facilities, open space improvements, or buffer or screen plantings which may be required.

B. Financial Security or Guarantee of Completion.

1. Amount of Financial Security Required.

(a) Amount of financial security to be posted for the completion of the required improvements shall be equal to 110% of the cost of completion estimated as of 90 days following the date scheduled for completion by the developer.

(b) The amount of the financial security may be adjusted annually in accordance with the applicable provisions of the Pennsylvania Municipalities Planning Code.

(c) The amount of financial security required shall be based upon an estimate of the cost of completion of the required improvements, submitted by an applicant or developer and prepared by a professional Engineer licensed as such in this Commonwealth and certified by such Engineer to be a fair and reasonable estimate of such cost. The Township, upon recommendation of the Township Engineer, may refuse to accept such estimate for good cause shown. If the applicant or developer and the Township are unable to agree upon an estimate, then the estimate shall be determined in accordance with the applicable provisions of the Pennsylvania Municipalities Planning Code.

2. *Kind of Financial Security Required.* Financial security for completion of improvements may be provided for in one of the following ways upon agreement of the Township and shall provide for and secure to the public and the Township the completion of any improvements which are required in accordance with the requirements of the Ordinance and Final Plan, on or before the date fixed in the formal action of approval or accompanying agreement for completion of the improvements. All financial security must be posted with a bonding company or federal or Pennsylvania chartered lending institution chosen by the party posting the security provided the bonding company or lending institution is authorized to conduct such business in the state of Pennsylvania.

- (a) Performance or surety bond
- (b) Irrevocable letter of credit
- (c) Restrictive or escrow accounts

3. *Public Utility or Municipal Authority Financial Security or Assurances.* If water mains or sanitary sewer lines, or both, along with apparatus or facilities related thereto, are to be installed under the jurisdiction and pursuant to the rules and regulations of a public utility or municipal authority separate and distinct from the township, financial security to assure proper completion and maintenance thereof shall be posted in accordance with the regulations of the controlling public utility or municipal authority and shall not be included with the financial security otherwise required by this section. Evidence that such security has been provided may be required by the Township.

C. Construction of Improvements Before Final Plan Approval.

1. *Certificate of Adequacy of Plan.* Construction of required improvements may be commenced before Final Plat Approval only where the Board of Supervisors has provided written approval of the Preliminary Plan and a Stormwater Management Plan meeting the requirements of this Ordinance and other applicable ordinances and

regulations, and has provided a written statement authorizing early construction based upon the Supervisors' determination that the Engineering plans and specifications for the required improvements have been completed in sufficient detail to assure proper and actual construction in accordance with the requirements of this Ordinance. The developer is responsible for submitting sufficiently detailed plans to satisfy the Supervisors that the actual improvements will be properly completed. No work shall be permitted unless these requirements have been satisfied and all other required permits and government approvals have been obtained.

2. Work to be Completed in 24 Months. When construction of improvements is begun based upon Preliminary Plan approval, all improvements shall be completed within 24 months from the date of such approval. Should circumstances develop where the work cannot be completed in this time period, upon request by the developer, an extension of time may be granted by the Supervisors. Otherwise the developer shall reapply for Preliminary Plan approval.

D. Inspection of Improvements Construction.

1. Inspection of Roadway Construction. During the construction of road and stormwater improvements, the contractor shall be required to notify the Township Supervisors at least 24 hours before critical points in the construction process so the Supervisors, Township Engineer or qualified Township representative may make inspections. Critical inspection points should be specified by the Township Supervisors or the Township Engineer before construction activity takes place.

2. Expenses Incurred in Inspecting Improvements. The developer shall reimburse the Township for the reasonable and necessary expenses incurred for the inspection of improvements. Such reimbursement shall be based upon a schedule established by resolution. Such expense shall be reasonable and in accordance with the ordinary and customary fees charged by the Engineer (or consultant) for work performed for similar services in the community, but in no event shall the fees exceed the rate or cost charged by the Engineer (or consultant) to the Township when fees are not reimbursed or otherwise imposed on developer. In the event the developer disputes the amount of any such expense in connection with the inspection of improvements, the dispute shall be resolved in accordance with applicable law.

E. Construction of Improvements by Stages. In the case where development is projected over a period of years, the Township may authorize submission of final plats 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.

F. Acceptance of Improvements and Release of Financial Security.

1. *Partial Release of or Reduction in Financial Security.* As the work of installing the required improvements proceeds, the party posting the financial security may request the Township Supervisors to release or authorize the release, from time to time, of such portions of the financial security necessary for payment to the contractor or contractors performing the work. Any such requests shall be in writing addressed to the Supervisors, and the Supervisors shall have 45 days from receipt of such request within which to allow the municipal Engineer to certify, in writing, to the governing body that such portion of the work upon the improvements has been completed in accordance with the approved plat. Upon such certification, the Supervisors shall authorize release by the bonding company or lending institution of an amount as estimated by the municipal Engineer fairly representing the value of the improvements completed or, if the Supervisors fail to act within said 45-day period, the Supervisors shall be deemed to have approved the release of funds as requested. The Supervisors may, prior to final release at the time of completion and certification by its Engineer, require retention of 10% of the estimated cost of the aforesaid improvements.

2. *Release Upon Completion of Improvements.*

(a) When the developer has completed all of the necessary and appropriate improvements, the developer shall notify the Township Supervisors, in writing, by certified or registered mail, of the completion of the improvements and shall send a copy thereof to the Township Engineer.

(b) The Supervisors shall, within ten days after receipt of such notice, direct and authorize the Engineer to inspect all of the improvements. The Engineer shall promptly inspect and file a report, in writing, with the Supervisors. He shall promptly mail a copy of the report to the developer by certified or registered mail. The report shall be made and mailed within 30 days after receipt by the Engineer of the authorization from the Supervisors. The report shall be detailed and shall indicate approval or rejection of the improvements, either in whole or in part, and if the improvements, or any portion thereof, shall not be approved or shall be rejected by the Engineer, the report shall contain a statement of reasons for such non-approval or rejection.

(c) The Township Supervisors shall notify the developer, within 15 days of receipt of the Engineer's report, in writing by certified or registered mail of the action of the Supervisors with relation thereto.

(d) If the Township Supervisors or the Township Engineer fails to comply with the time limitation provisions contained herein, all improvements will be deemed to have been approved and the developer shall be released from all liability, pursuant to its performance guaranty bond or other security agreement.

(e) If any portion of the improvements shall not be approved or shall be rejected by the Township Supervisors, the developer shall proceed to complete the same and, upon completion, the same procedure of notification, as outlined herein, shall be followed.

G. Road Acceptance Requirements. The Township shall not accept any road or portion thereof constructed as part of a subdivision or land development unless all planned and necessary improvements which will impact the road have been finally constructed and unless the construction of buildings, residential or otherwise, projected for the development has been substantially completed on 50% or more of the lots in a subdivision or portion thereof.

H. Additional Security Required Upon Acceptance of Dedication of Public Improvements.

1. *Maintenance Assurances After Acceptance.* Where the Township Supervisors accept dedication of all or some of the required improvements following completion, the Supervisors may require the posting of financial security to secure structural integrity of said improvements as well as the functioning of said improvements in accordance with the design and specifications as depicted on the final plat for a term not to exceed 18 months from the date of acceptance of dedication. Said financial security shall be of the same type as otherwise required in this Article with regard to installation of such improvements, and the amount of the financial security shall not exceed 15% of the actual cost of installation of said improvements.

2. *Conduct Through the 18 Month Maintenance Period.* Once the Township Supervisors accept the improvements, the Township is responsible for the maintenance activities. Should financial security for a period of 18 months be obtained from the developer to assure the integrity of the improvements through this time period, the improvements should be monitored by the Supervisors. Should the Township determine that the developer performed inadequate, substandard construction work subsequent to the initiation of the 18 month period, the Township Supervisors shall give written notice to the developer documenting the deficiencies, no later than 90 days prior to the end of the 18 month "maintenance" period. Thereafter, should the parties be unable to reach a satisfactory agreement regarding the remedy for the deficiencies before the end of the 18 month period, the Township may take the necessary steps to utilize the funds in the financial security to remedy the deficiencies.

I. Remedies to Effect Completion of Improvements. In the event that any improvements which may be required have not been installed as provided in this Ordinance or in accord with the approved final plat, the Township Supervisors shall enforce any bond or other security by appropriate legal and equitable remedies. If proceeds of such bond or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Supervisors may, at their option, install part of such improvements in all or part of the

subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the developer, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.

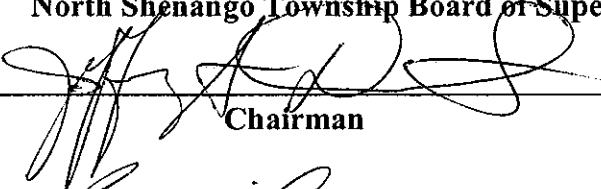
Section 10. Severability. If any part or provision of this Ordinance or application thereof to any person or circumstances is adjudged invalid by any court of competent jurisdiction, or declared by appropriate authority to be unlawful or unconstitutional, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Ordinance or the application thereof to other persons or circumstances. The Board of Township Supervisors hereby declares that it would have enacted the remainder of this Ordinance, even without any such part, provision, or application.


Section 11. Repealer. All ordinances and parts of ordinances inconsistent with this Ordinance are hereby repealed. Those portions of the North Shenango Township Subdivision and Land Development Ordinance, adopted in February, 1974, as amended by Ordinance No. 1993-145, not amended by this Ordinance shall remain unchanged and in effect.

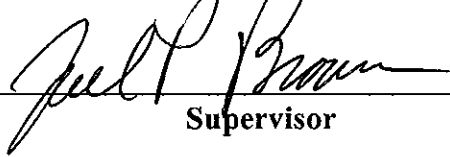
Section 12. Effective Date. This amendment to the North Shenango Township Subdivision and Land Development Ordinance shall take effect five days after its enactment.

ORDAINED AND ENACTED into law by the Board of Supervisors of North Shenango Township this 12th day of June, 2006.

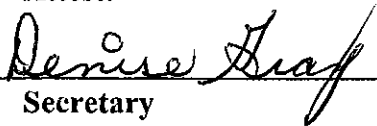
North Shenango Township Board of Supervisors

By: 
Chairman

By: 
Supervisor

By: 
Supervisor

Attest:

By: 
Secretary

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