

UPPER DELAWARE SCENIC AND RECREATIONAL RIVER

Project Review Workbook

A guide for performing substantial conformance review of local plans, laws and ordinances, and proposed development projects in the Upper Delaware Scenic and Recreational River Corridor.



The forms and checklists contained in this guide are available as standalone documents at upperdelawarecouncil.org

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Amendments to this document may be made as new land uses arise within the Corridor. Check the Upper Delaware Council website to assure using the most up-to-date information.



Credits

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Cover photograph by David B. Soete of the Delaware River looking downstream from the bridge on Route 97 over Basket Creek in Long Eddy within the Town of Fremont, NY.

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This map illustrates the Delaware River corridor from Hancock, NY, in the north to Port Jervis, NY, in the south. The river is shown as a blue line, with its course following the border between New York and Pennsylvania. The map includes numerous towns and hamlets, such as Hancock, Stockport, Lordville, Equinunk, Long Eddy, Kellams, Stalker, Hankins, Callicoon, Jeffersonville, Damascus, Cochecton, Milanville, Narrowsburg, Masthope, Lackawaxen, Minisink, Ford, Barryville, Shohola, Pond Eddy, Mongaup, Mill Rift, Sparrowbush, and Port Jervis. The map also shows various roads, including Interstate 86 (I-86), Interstate 84 (I-84), and several state routes. The Delaware River is shown flowing through the region, with its course following the border between New York and Pennsylvania. The map includes a legend in the top right corner, which defines the following symbols: a light green shaded area for 'Recreational River Corridor Designation', a darker green shaded area for 'Scenic River Corridor Designation', a dashed line for 'Town or Township', an orange dot for 'Upper Delaware Hamlet', a brown line for 'Interstate Bridge', and a red line for 'Railroad Bridge'. The map also shows the locations of Sullivan County, NY, and Wayne County, PA. The map is titled 'NEW YORK' and 'PENNSYLVANIA' in large, bold letters. The map is oriented with North at the top.

Delaware Water Gap National Recreation Area

0 1.75 3.5 5.25 7 Miles



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PREFACE : ABOUT THE PROJECT REVIEW WORKBOOK

This Workbook, first published on January 28, 1988 and revised in 2020, specifically outlines review procedures and provides forms, checklists, and timelines for the substantial conformance review process.

The Workbook was developed with several benefits in mind:

- Reviews will be done in an orderly and timely fashion.
- Requirements and paperwork for the local municipalities (“municipalities”) and other local, county, state and other governmental agencies, such as county planning offices, conservation districts, and state agencies (“permitting agencies”) will be reduced.
- A tone of cooperation, one befitting the partnership envisioned in the Final River Management Plan, will be established early.
- All affected parties will know what the basis is for a substantial conformance recommendation by the Upper Delaware Council or a determination by the National Park Service.

PART 1 : INTRODUCTION AND OVERVIEW

Introduction

Purpose

Congress designated the Upper Delaware Scenic and Recreational River as a unit of the National Wild and Scenic Rivers System and a unit of the National Park System on November 10, 1978 (P.L. 95-625). The purpose of the designation is to protect and enhance the free-flowing character, exceptionally high water quality, and the scenic, recreational, ecological, cultural and geological values (Values) of the designated “river corridor” (Corridor). The National Park Service (NPS) was assigned federal responsibility for assuring implementation of the law, which envisioned cooperation with state and local governments in New York and Pennsylvania.

Between 1978 and 1986, the Upper Delaware community collaborated to geographically identify a final Corridor, develop Land and Water Use Guidelines (Guidelines) required under the law, and establish a framework for assuring that no actions contrary to the Values which Congress identified will be taken within the Corridor. The resulting (1986) “Final River Management Plan for the Upper Delaware Scenic and Recreational River” (Plan) was approved by the Secretary of the Interior who retains final authority for its administration and enforcement. The Upper Delaware Council (UDC) was established to coordinate its implementation.

A primary responsibility of UDC is to review development activities and land use regulations of member towns and townships in order for the NPS to determine “**substantial conformance**” with respect to the Schedule of Compatible, Conditional, and Incompatible Land Uses set out in the Guidelines, the substance of the Final River Management Plan, and the substance of each of the principles and objectives set out in the Guidelines and the Plan, so as to carry out the intent of the Upper Delaware legislation. The Plan indicates that “Local governments which adopt land use regulations based on these [G]uidelines will be deemed to be in substantial conformance” (page 41).

The purpose of this Workbook is two-fold:

- To outline the process by which substantial conformance determinations are made, and
- To provide forms, checklists, tables and definitions to assist municipalities, UDC and NPS in performing substantial conformance reviews

Upper Delaware Scenic and Recreational River Corridor

Fifteen municipalities are located in the Upper Delaware Scenic and Recreational River corridor:

New York Towns

Hancock, Delaware County
Fremont, Sullivan County
Delaware, Sullivan County
Cochecton, Sullivan County
Tusten, Sullivan County
Highland, Sullivan County
Lumberland, Sullivan County
Deerpark, Orange County

Pennsylvania Townships

Buckingham, Wayne County
Manchester, Wayne County
Damascus, Wayne County
Berlin, Wayne County
Lackawaxen, Pike County
Shohola, Pike County
Westfall, Pike County

As required under the Wild and Scenic Rivers Act and designated in Section 704(e)(1) of Public Law 95-625, the Upper Delaware Scenic and Recreational River was classified into “Scenic” and “Recreational” segments based on the land use, river conditions, and landscape qualities that existed at the time of classification. In addition, the Land and Water Use Guidelines called for the river communities to delineate “Hamlet” areas where moderate to intensive development was already present. The Schedule of Compatible, Conditional, and Incompatible Land Uses (Appendix A), together with the Definitions (Appendix B), specifically defines what land uses are considered compatible, appropriate with conditional use/special use approval, and incompatible in Scenic and Recreational segments and in Hamlets. General guidelines regarding the three distinct area types from the Final River Management Plan and Land and Water Use Guidelines follow.

“Scenic” river segments are designated to meet the following conditions: 1. Free of impoundments; 2. Show no substantial evidence of human activity; 3. Roads and railroads either occasionally intersect the river or stretches of roads are generally inconspicuous; 4. The view of the riverbank is essentially natural, even though there is evidence of past or ongoing timber harvesting; 5. Agricultural activities are essentially limited to hay production, grazing, and row cropping; and 6. Human communities are essentially limited to dispersed structures or small communities.

“Recreational” river segments are designated to meet the following conditions: 1. The river maintains a generally natural appearance, even if there exist small impoundments, diversions, or other modifications (although no new impoundments are permitted); 2. Existing development is limited to residential development and some commercial activity; 3. There may be evidence of past or ongoing timber harvesting; 4. A full range of agricultural and forestry uses may be present; 5. Parallel roads or railroads may be present along the shoreline; and 6. There may be substantial signs of ongoing human activity.

Physical descriptions of the “Scenic” and “Recreational” segments for the river corridor are found on page 62 of the Final River Management Plan. A GIS shapefile of the Upper Delaware Scenic and Recreational River corridor boundary showing the Scenic and Recreational corridor designations can be obtained as a free download from the National Park Service’s IRMA Data Store at the following link: <https://irma.nps.gov/DataStore/Reference/Profile/2254634>.

“Hamlet” identifies spatially discrete, developed areas of concentrated residential, commercial, and/or industrial development, in or adjacent to these 20 existing developed areas at the time the Plan was written:

In New York: Hancock, Lordville, Long Eddy, Hankins, Callicoon, Cochection, Narrowsburg, Minisink Ford, Barryville, Hillside, Pond Eddy, Mongaup, and Sparrowbush

In Pennsylvania: Equinunk, Damascus, Milanville, Masthope, Lackawaxen, Shohola, and Mill Rift

The boundaries proposed for Hamlets are to be defined by the municipalities in concert with their normal planning procedures; refined during the preparation of laws, plans and ordinances and during substantial conformance reviews; and adopted as amendments to the Land and Water Use Guidelines.

About the Upper Delaware Land and Water Use Guidelines

The Land and Water Use Guidelines provide criteria for the fifteen towns and townships to use in the development or modification of their relevant plans, laws, and ordinances to carry out the purposes of the Upper Delaware legislation. They establish a program designed to permit each unit of local government to meet the overlying principles and objectives in its own way (Final River Management Plan, page 47-48). The Guidelines provide maximum flexibility for local governments and assure the actions of all levels of government—local, state and federal—contribute to a true partnership management of the Upper Delaware and are consistent with the Final River Management Plan and the Wild and Scenic Rivers Act.

The principles contained in the Guidelines are intended to conserve and enhance the unique characteristics of the Upper Delaware River valley, and to protect, encourage and promote the continuation of existing traditional land and water uses. They are:

- **Principle A:** Maintain the high water quality found in the Upper Delaware River
- **Principle B:** Provide for the protection of the health, safety, and welfare of residents and visitors while also providing for the protection and preservation of natural resources
- **Principle C:** Provide for recreational and other public uses while protecting the Upper Delaware as a natural resource
- **Principle D:** Provide for the continuance of agricultural and forestry uses
- **Principle E:** Conserve river area resources
- **Principle F:** Maintain existing patterns of land use and ownership

The principles and objectives contained in the Guidelines are incorporated into the substantial conformance review forms provided in Part 2 of this Workbook.

Activities to Be Reviewed

The Land Management section (pages 39-57) of the Final River Management Plan, which can be downloaded at http://www.upperdelawarecouncil.org/wp-content/uploads/Upper-Delaware_Land_And_Water_Use_Guidelines.pdf, describes the types of local actions (as well as those actions of state, regional, and federal agencies) to be reviewed.

The Land and Water Use Guidelines (pages 114-134 of the Final River Management Plan) are the set of criteria by which these actions are to be assessed.

The Land Management section requires the following actions to be reviewed in all fifteen Upper Delaware River corridor towns and townships:

- **Relevant local laws, plans, ordinances, zoning maps and amendments**
- **Challenges and variances**
- **Significant projects** (development activities that may create a “clear and direct threat” to the protection of the river and its surrounding landscape or take a municipality out of substantial conformance)

Requirements and Responsibilities

Reviews involving Upper Delaware Council member municipalities are completed by the Upper Delaware Council, with **final determination** by the National Park Service, while those involving non-member municipalities are completed by the National Park Service. As of the date of this printing, Manchester Township and Buckingham Township have not exercised their option to join the Upper Delaware Council.

Town and Townships

Towns’ and townships’ greatest responsibility lies in implementing and enforcing comprehensive plans and zoning ordinances to manage land uses within the river corridor in a way that is not detrimental to the purposes for which the river was designated (Final River Management Plan, page 29).

Municipalities that do not have their own land use ordinances are responsible for implementing other relevant local ordinances and abiding by any countywide ordinances that apply to land use in those municipalities.

Upper Delaware Council

The UDC performs substantial conformance reviews for Upper Delaware Council member municipalities, and provides recommendations to the National Park Service, who makes the final determination. The Final River Management Plan defines the UDC's core responsibilities as follows:

"The Upper Delaware Council will review the [T]own's relevant laws, plans, and ordinances to make recommendations regarding substantial conformance with the Upper Delaware legislation, the River Management Plan, and the Land and Water Use Guidelines. ...Procedural and technical criteria will be established by the Council to provide a framework suitable to accomplish this task. There are five parts to this review process:

1. The determination of substantial conformance (Recommendations to be made by the Council with final determination by the National Park Service)
2. The review of ordinance amendments
3. The review of significant projects
4. The review of challenges and variances
5. The review of enforcement programs" (Final River Management Plan, page 26)

National Park Service

NPS performs substantial conformance reviews for those towns and townships that have opted not to join the Upper Delaware Council. This includes review of relevant laws, plans, ordinances, zoning maps and amendments; review of significant projects within the Corridor boundary; review of challenges and variances; and monitoring the enforcement of municipal plans, laws, and ordinances; all without the involvement of the Upper Delaware Council.

NPS also participates in UDC's Project Review Committee meetings and works collaboratively with UDC to conduct substantial conformance reviews involving UDC's member communities. In addition to its role in the Upper Delaware Council's review process, the National Park Service receives the Upper Delaware Council's recommendations and makes the **final determination** regarding the substantial conformance of a participating town or township's laws, plans, and ordinances with the Upper Delaware legislation, the Final River Management Plan, and the Land and Water Use Guidelines.

Counties

Concurrent with actions by the Upper Delaware Council and National Park Service are reviews conducted by the host municipalities and counties. Even though the county review process follows a different schedule from the Project Review process described herein, the UDC/NPS process is not invalidated by their findings. As written in the Final River Management Plan, "The counties should continue to enforce all existing laws and ordinances within their purview as they may pertain to the Upper Delaware" (page 30).

County agencies that receive permit applications for review, such as county planning offices and conservation districts, are requested to provide the UDC and NPS with notices of all land development-related activities within the Corridor boundary. Any projects undertaken by the counties themselves may be submitted directly to UDC for review.

Timeframes for Action

The UDC has no authority to review development projects prior to their formal submission to the relevant town or township agencies. The Final River Management Plan suggests that UDC's review will start at the same time as that of the affected municipal agency/agencies (page 45).

However, prior to formal submission, UDC and NPS encourage early consultation. Though not required, the UDC and NPS's technical assistance can be helpful in avoiding any issues which may arise. The Final River Management Plan emphasizes a cooperative approach to land management within the Upper Delaware River corridor.

Timeframes for each of the three review types are discussed in more detail under the Process heading in the following three sections of this Workbook.

Workbook Organization

The remainder of **Part 1** of this Workbook provides an overview of the process by which substantial conformance determinations are made for:

- Relevant local laws, plans, ordinances, zoning maps and amendments
- Challenges and variances
- Significant projects

Part 2 of this Workbook contains the checklists and forms that assist municipalities, UDC and NPS in performing substantial conformance reviews, organized as follows:

- **Section I:** Forms for reviewing relevant local laws, plans, ordinances, zoning maps and amendments
- **Section II:** Forms for reviewing challenges and variances
- **Section III:** Forms for reviewing significant projects

The Schedule of Compatible, Conditional, and Incompatible Land Uses and the definitions used to interpret the Schedule are contained in this Workbook's Appendices.

Reviews of Local Laws, Plans, Ordinances, Zoning Maps and Amendments

Reviews of a town or township's relevant local laws, plans, ordinances, zoning maps and their amendments are conducted to ensure conformance with respect to the Schedule of Compatible, Conditional, and Incompatible Land Uses, the substance of the Final River Management Plan, and the substance of each of the principles and objectives set out in the Land and Water Use Guidelines and the Plan. Although the procedure described below requests that municipalities submit all such documents to the UDC/NPS in order to allow the UDC/NPS to assemble a complete record of a town or township's land use program, the UDC/NPS will only review for “**substantial conformance**” those relevant local laws, plans, ordinances, zoning maps and amendments that pertain to activities within the designated river corridor.

This determination of substantial conformance is required by Section 704(e)(1) of Public Law 95-625, the law that designated the Upper Delaware Scenic and Recreational River as a component of the National Wild and Scenic Rivers System and a unit of the National Park System.

In order for a municipality to be determined in “substantial conformance,” it:

- Must not approve the development of new incompatible land uses;
- Must permit conditional or special uses only in accordance with the principles and objectives of the Land and Water Use Guidelines; and
- Must meet each of the principles and objectives contained in the Guidelines and the Plan by
 - Employing a combination of management alternatives listed in the Guidelines, or
 - Demonstrating that it meets the objectives in another way.

In municipalities that do not have zoning or land use ordinances, other relevant local ordinances, as well as the countywide ordinances that apply to land use in those municipalities, will be reviewed for substantial conformance.

Municipal Governments' Role

- Documents to be reviewed for substantial conformance prior to formal adoption include: Zoning Ordinance, Subdivision Ordinance/SALDO, Sign Ordinance, Floodplain Ordinance, Master/Comprehensive Plan, Sewage and Septic Ordinance, Junkyard Ordinance, RV Park Ordinance, Mobile Home Park Ordinance, and any other relevant ordinances, laws, or plans.
- **Provide** the Upper Delaware Council (**participating** towns or townships) or the National Park Service (**non-participating** towns or townships) with copies of:
 - All proposed draft and final municipal laws, plans, and ordinances. This applies both to new laws, plans and ordinances and amendments to existing laws, plans and ordinances.
 - Proposed draft and final zoning maps, including zoning districts, overlay districts, the Upper Delaware Scenic and Recreational River corridor boundary, designated Scenic, Recreational and Hamlet areas, and any erosion hazard areas and ridgeline erosion hazard areas mapped by the town or township. The Upper Delaware Scenic and Recreational River corridor boundary, as well as the Scenic and Recreational corridor designations, can be downloaded for free as a GIS shapefile from the IRMA Data Store, Reference Number 2254634, at the following link: <https://irma.nps.gov/DataStore/Reference/Profile/2254634>.
 - The GIS data used to create proposed draft and final zoning maps, including shapefiles for zoning districts and overlay districts.

- In municipalities that do not have their own zoning codes, the municipality is requested to provide:
 - ✦ The countywide zoning ordinance that applies to the municipality,
 - ✦ The most recent version of the municipality’s Subdivision and Land Development Ordinance (SALDO),
 - ✦ If the township has no SALDO, the countywide SALDO that applies to the municipality,
 - ✦ And all other relevant laws, plans, ordinances, and amendments, as listed under the first bullet point, above
 - ✦ After the substantial conformance review has been completed, provide the official, adopted version of all such approved documents, and the GIS shapefiles used to create the official, adopted zoning map (including zoning and overlay districts).

Participating towns and townships, deliver this information by U.S. mail to: Upper Delaware Council, P.O. Box 192, Narrowsburg, NY 12764 or electronically to: applications@upperdelawarecouncil.org.

Non-participating towns and townships, deliver this information by U.S. mail to National Park Service, Attn: Project Review, 274 River Road, Beach Lake, PA 18405, or electronically to: UPDE_Review@nps.gov.

Go to Part 2, Section I of this Workbook for the checklist that Upper Delaware Council and National Park Service use to review local laws, plans, ordinances, zoning maps and amendments.

Process

Municipalities are encouraged to involve UDC and NPS in the early stages of their planning process, before a draft document has been completed. The UDC and NPS can provide technical assistance to assist the municipalities in the preparation of local laws, plans, ordinances, zoning maps and amendments that will meet the requirements of a substantial conformance determination.

The Upper Delaware Council’s Project Review Committee holds a regular monthly meeting at which Significant Projects and substantial conformance items are discussed, voted on, and referred to the full Council. Recommendations regarding substantial conformance are sent by the full Council to the Secretary of the Interior (NPS) for a final determination.

In the case of a UDC member municipality, it may take up to 45 days for the UDC to review the draft document(s), additional time to resolve any differences with the municipality, and could take up to 45 days to review the final, adopted document and make a recommendation to NPS. It may then take up to an additional 45 days for NPS to make its final determination.

Similarly, in the case of a municipality that is not a member of the UDC, the review process, from the point at which NPS receives a draft document up to and including a final determination, may take more than 135 days, depending upon the time needed to resolve any differences with the municipality.

The following outlines the steps of the process:

Review of Local Laws, Plans, Ordinances, Maps, and Amendments – UDC

Applies to participating towns and townships

OBJECTIVE: To determine whether a municipality is in substantial conformance with the Upper Delaware Final River Management Plan and Land and Water Use Guidelines

# Days	Process Steps	Process Step Descriptions
45 DAYS	STEP 1: Assemble Documents	When UDC receives a draft document from a municipality, Council staff gather any other relevant laws, plans, ordinances, maps and GIS shapefiles, and forward the packet to the National Park Service (NPS). Council staff provide a summary notification to the Project Review Committee.
	STEP 2: Study and Review the Material	Prior to initiating formal review, UDC staff and the Project Review Committee study the material in order to understand the full scope and implications of the proposed laws, plans and ordinances and prepare a preliminary Substantial Conformance Review.
	STEP 3: Negotiate a Resolution with Municipality and Preliminary Conclusion	UDC staff and the Project Review Committee contact the town board or board of supervisors to go over the preliminary Substantial Conformance Review results so that the municipality is fully aware of how the review is conducted. If necessary, a meeting occurs at a time and place suitable to the municipality. UDC staff and the Project Review Committee review the results of the meeting and come to a preliminary conclusion.
	STEP 4: Follow Up with Municipality	The Committee makes follow up efforts and takes all action possible to resolve problems. Technical assistance is available to the municipality for coming into substantial conformance.
90 DAYS	STEP 5: Review Final Document and Make Recommendation to the Full Council	Upon receipt of the final adopted law, plan, ordinance, map or amendment, UDC staff and the Project Review Committee prepare a final Substantial Conformance Review using the final document provided by the municipality and refer it to the UDC Full Council.
	STEP 6: Full Council Vote and Recommendation to NPS	The UDC Full Council votes on its final recommendation and informs both the NPS Superintendent and the municipality. The UDC provides an explanation of its recommendation, with supporting Substantial Conformance Review documentation.
	STEP 7: Final Determination	The Superintendent confers with the NPS Regional Director, who makes a final determination of substantial conformance within 45 days of receiving UDC's recommendation. If needed, technical assistance is available to the municipality for coming into substantial conformance. If NPS finds the municipality to be in substantial conformance, the municipality will be subject only to Class II reviews. If not in substantial conformance, (1) reviews of both Class I and Class II projects will be undertaken, (2) towns and townships are encouraged to continue to work with UDC to achieve substantial conformance.


COLLABORATIVELY WITH NPS

A Copy of all Final Determinations and associated documentation will be forwarded to and maintained by NPS–Upper Delaware S&RR

Review of Local Laws, Plans, Ordinances, Maps, and Amendments – NPS

Applies to non-participating towns and townships

OBJECTIVE: To determine whether a municipality is in substantial conformance with the Upper Delaware Final River Management Plan and Land and Water Use Guidelines

# Days	Process Steps	Process Step Descriptions
45 DAYS 	STEP 1: Assemble Documents	When NPS receives a draft document from a municipality, NPS staff gather any other relevant laws, plans, ordinances, maps, and GIS shapefiles.
	STEP 2: Study and Review the Material	Prior to initiating formal review, the staff study the material in order to understand the full scope and implications of the proposed laws, plans and ordinances and prepare a preliminary Substantial Conformance Review.
	STEP 3: Negotiate a Resolution with Municipality and Preliminary Conclusion	NPS contacts the town board or board of supervisors to go over the preliminary Substantial Conformance Review results so that the municipality is fully aware of how the review is conducted. If necessary, a meeting occurs at a time and place suitable to the municipality. NPS comes to a preliminary conclusion.
	STEP 4: Follow Up with Municipality	NPS staff make follow-up efforts and take all action possible to resolve problems. Technical assistance is available to the municipality for coming into substantial conformance.
45 DAYS	STEP 5: Review Final Document and Make Recommendation to the Superintendent	Upon receipt of the final adopted law, plan, ordinance, map or amendment, staff prepare a final Substantial Conformance Review using the final document provided by the municipality and make a final recommendation to the Superintendent. The Superintendent informs the municipality of its recommendation, and provides an explanation of its recommendation with supporting Substantial Conformance Review documentation.
45 DAYS	STEP 6: Final Determination	<p>The Superintendent confers with the NPS Regional Director, who makes a final determination of substantial conformance within 45 days of the public notice. If needed, technical assistance is available to the municipality for coming into substantial conformance.</p> <p>If NPS finds the municipality to be in substantial conformance, the municipality will be subject only to Class II reviews. If not in substantial conformance, (1) reviews of both Class I and Class II projects will be undertaken, (2) towns and townships are encouraged to continue to work with NPS to achieve substantial conformance.</p>

A Copy of all Final Determinations and associated documentation will be forwarded to and maintained by NPS–Upper Delaware S&RR

Review of Challenges and Variances

The Upper Delaware legislation requires that ordinance challenges and variances be reviewed in order to determine their impact on the river corridor. Challenges and variances are provided for in state laws and in the Final River Management Plan itself.

Ordinance Challenges

The Guidelines state that “No successful challenge shall be cause for any community to be found not in substantial conformance with these [G]uidelines” (page 117). However, all challenges will be reviewed for conformance with respect to the Schedule of Compatible, Conditional, and Incompatible Land Uses, the substance of the Final River Management Plan, and the substance of each of the principles and objectives set out in the Guidelines and the Plan.

Variances

Landowners may be entitled to variances under state law in cases of hardship. Under the Upper Delaware legislation, the Secretary of the Interior reserves the authority to prevent an incompatible use from occurring in the designated river corridor, including any provided by a use variance. With respect to area variances, the Guidelines explain that “the Secretary—while he may not decline in advance to exercise his authorities—will not acquire land under the power of eminent domain in situations in which the area variance has been properly granted under existing state law and has been approved by a Zoning Board of Appeals in New York, or a Zoning Hearing Board in Pennsylvania, or upheld in a court of competent jurisdiction, and where the area variance does not constitute an action incompatible with the purposes of the plan and guidelines” (page 118).

The following types of variances will be reviewed:

- Use variances.

In New York and Pennsylvania, a use variance is “the authorization by the zoning board of appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.”^{(1),(2)}

- Area variances (NY) or dimensional (PA) variances which will:

- Involve properties bordering on the river
- Directly vary the development standards for more than one lot, dwelling unit, or equivalent unit
- Reduce a development standard by more than 30% to accommodate a project
- Be proposed in connection with a Class II project

In New York, an area variance is “the authorization by the zoning board of appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations”⁽³⁾ In Pennsylvania, “a dimensional variance seeks relief from requirements in the zoning ordinance that regulate lot size, lot depth or width, setbacks and yards, building heights and lot occupancy, impervious surface, and parking, among others.”⁽⁴⁾

1 New York State Division of Local Services. *Guide to Planning and Zoning Laws of New York State*, Albany, New York Department of State, June 2011, reprinted in 2015, p. 36.

2 Pennsylvania Governor’s Center for Local Government Services. *Planning Series #7: Special Exceptions, Conditional Uses and Variances*, Harrisburg, Pennsylvania Department of Community and Economic Development, Ninth Edition, August 2014, p. 13.

3 New York State Division of Local Services. *Guide to Planning and Zoning Laws of New York State*, Albany, New York Department of State, June 2011, reprinted in 2015, p. 36.

4 Pennsylvania Governor’s Center for Local Government Services. *Planning Series #7: Special Exceptions, Conditional Uses and Variances*, Harrisburg, Pennsylvania Department of Community and Economic Development, Ninth Edition, August 2014, p. 12.

Municipal Governments' Role

Provide complete copies of all variance applications and ordinance challenges that are located within the Upper Delaware Scenic and Recreational River corridor boundary with a completed cover form, found in Part 2, Section II of this Workbook.

Participating towns and townships, deliver this information by U.S. mail to: Upper Delaware Council, P.O. Box 192, Narrowsburg, NY 12764 or electronically to: applications@upperdelawarecouncil.org.

Non-participating towns and townships, deliver information by U.S. mail to National Park Service, Attn: Project Review, 274 River Road, Beach Lake, PA 18405, or electronically to: UPDE_Review@nps.gov.

Go to Part 2, Section II of this Workbook for the checklist that the Upper Delaware Council and National Park Service uses to determine whether a challenge or variance must be reviewed, along with the cover form to be completed by the municipality, and additional procedures for reviewers.

Process

Staff will use the checklists and forms in Part 2 of this Workbook to review the application. If the challenge or variance does not meet the applicable review criteria:

In participating towns and townships: The Council's Project Review Committee will be notified. Then the Upper Delaware Council staff and Project Review Committee will meet with the Zoning Board of Appeals/Zoning Hearing Board to resolve the differences. If the conflict is resolved, the decision will be documented and recorded and a report will be made to the full Council. Whether or not a resolution is reached, UDC will forward its recommendation to NPS.

In non-participating towns and townships: NPS will meet with the Zoning Board of Appeals/Zoning Hearing Board to resolve the problem. If the conflict is resolved, the decision will be documented and recorded.

If no resolution is reached:

In **substantially conforming towns and townships**: A potential "clear and direct threat" is proposed and every effort will be made to resolve remaining differences with the municipality before determining whether the issue is grave enough to bring the municipality out of substantial conformance.

In **towns and townships that are not substantially conforming**: A potential "clear and direct threat" is proposed and every effort will be made to resolve remaining differences with the municipality before the determination of nonconformance is made.

The Upper Delaware Council's Project Review Committee holds a regular monthly meeting at which Significant Projects and substantial conformance items are discussed, voted on, and referred to the full Council. Recommendations regarding substantial conformance are sent by the full Council to the Secretary of the Interior (NPS) for a final determination.

Reviews of challenges and variances for UDC member communities may take more than 90 days, depending upon the time needed to resolve any differences with the municipality. It could take up to 45 days for the UDC to review the documents in order to offer comments on the ruling decision. Once the UDC makes its recommendation to NPS, it may take up to an additional 45 days for NPS to make its final determination.

In the case of a municipality that is not a member of the UDC, the review process, from the point at which NPS receives a copy of the challenge or variance application up to and including a final determination, may take more than 90 days, depending upon the time needed to resolve any differences with the municipality.

The following outlines the steps of the process:

Review of Challenges and Variances – UDC

Applies to participating towns and townships

OBJECTIVE: To determine whether an action is proposed that is a clear and direct threat and/or could bring a municipality out of substantial conformance

# Days	Process Steps	Process Step Descriptions
90 DAYS	STEP 1: Assemble Documents	A municipality notifies UDC that it has received an application for a challenge or variance within the river corridor and provides a copy of the application. Council staff forward the packet to the National Park Service (NPS) and provide a summary notification to the Project Review Committee.
45 DAYS	STEP 2: Study and Review the Material	In order to understand the full scope and implications of the action, Council staff review the application and determine whether it is on the Challenges and Variances Review Checklist on page 32. If the project type is not on the Challenges and Variances Review Checklist, the application is recorded and reported to the Full Council and NPS, and staff inform the municipality.
	STEP 3: Review under Applicable “Significant Project” Criteria OR “Substantial Conformance Review” Criteria	<p>If the project type does fall within one of the categories on the Challenges and Variances Review Checklist, UDC staff contact the municipality to seek any additional information about the application and proceed to review the challenge or variance using the Significant Projects review procedure. If the project type does not fall under Class I or Class II Significant Project Review, UDC staff review the project using the Substantial Conformance Review Checklist for local plans, zoning laws, ordinances, zoning maps and amendments.</p> <p>If the development meets the applicable criteria, the application is recorded and reported to the UDC Full Council, who refers the application to NPS for a final determination and informs the municipality.</p>
	STEP 4: Attend ZBA/Zoning Hearing Board Hearing	If necessary, the UDC staff and the Project Review Committee attend the Zoning Board of Appeals/Zoning Hearing Board Hearing to comment on the application. If the conflict is resolved, the decision is recorded and reported to the UDC Full Council, who refers the application to NPS for a final determination and informs the municipality. If no resolution is reached, the Project Review Committee notifies the Full Council and NPS that a potential clear and direct threat is proposed and proceeds to the next step.
	STEP 5: Full Council Vote and Recommendation to NPS	The Full Council determines whether the issue is grave enough to affect the municipality’s substantial conformance status. The UDC Full Council votes on its final recommendation and informs both the NPS Superintendent and the municipality. The UDC provides an explanation of its recommendation, with supporting documentation.
45 DAYS	STEP 6: Final Determination	The Superintendent confers with the NPS Regional Director, who makes a final determination within 45 days.

A Copy of all Final Determinations and associated documentation will be forwarded to and maintained by NPS–Upper Delaware S&RR

Review of Challenges and Variances – NPS

Applies to non-participating towns and townships

OBJECTIVE: To determine whether an action is proposed that is a clear and direct threat and/or could bring a municipality out of substantial conformance

# Days	Process Steps	Process Step Descriptions
90 DAYS	STEP 1: Assemble Documents	A municipality notifies NPS that it has received an application for a challenge or variance within the river corridor and provides a copy of the application.
45 DAYS	STEP 2: Study and Review the Material	In order to understand the full scope and implications of the action, NPS staff review the application and determine whether it is on the Challenges and Variances Review Checklist on page 32. If the project type is not on the Challenges and Variances Review Checklist, the application is recorded and staff inform the municipality.
	STEP 3: Review under Applicable “Significant Project” Criteria OR “Substantial Conformance Review” Criteria	<p>If the project type does fall within one of the categories on the Challenges and Variances Review Checklist, NPS staff contact the municipality to seek any additional information about the application and proceed to review the challenge or variance using the Significant Projects review procedure. If the project type does not fall under Class I or Class II Significant Project Review, NPS staff review the project using the Substantial Conformance Review Checklist for local plans, zoning laws, ordinances, zoning maps and amendments.</p> <p>If the development meets the applicable criteria, staff record the application, refer it to the NPS Regional Director for a final determination and inform the municipality.</p>
	STEP 4: Attend ZBA/Zoning Hearing Board Hearing	<p>If necessary, NPS staff attend the Zoning Board of Appeals/Zoning Hearing Board Hearing to comment on the application. If the conflict is resolved, the decision is recorded and referred to the NPS Regional Director for a final determination, and staff inform the municipality.</p> <p>If no resolution is reached, NPS notifies the municipality that a clear and direct threat is proposed and proceeds to the next step.</p>
	STEP 5: Recommendation to the Superintendent	NPS determines whether the issue is grave enough to affect the municipality’s substantial conformance status. NPS staff make a final recommendation to the Superintendent. The Superintendent informs the municipality of its recommendation, and provides an explanation of its recommendation with supporting documentation.
45 DAYS	STEP 6: Final Determination	The Superintendent confers with the NPS Regional Director, who makes a final determination within 45 days.

A Copy of all Final Determinations and associated documentation will be forwarded to and maintained by NPS–Upper Delaware S&RR

Reviews of Significant Projects

Significant projects are proposed development activities which could constitute clear and direct threats to the designated river corridor. The review of significant projects is required under Upper Delaware legislation, specifically the Wild and Scenic Rivers Act, P.L. 90-542, §6 (1968) and Upper Delaware Segment Special Provisions, P.L. 95-625, §704 (1978). The purpose is to ascertain that major development projects requiring review by the Upper Delaware Council and the National Park Service meet the intent of the Final River Management Plan and Land and Water Use Guidelines.

Proposed development includes both private and public projects requiring local permits (submitted to the Code Enforcement Officer, Building Inspector or the Planning Board/Commission) and/or requiring permits from state, regional, or federal entities. Examples of local permits include, but are not limited to, site plan review approvals, commercial land development plan approvals, recreational use development approvals, cluster or conservation development approvals, subdivision approvals, special use permits, conditional use approvals, and sign permits.

Project Classes

The Final River Management Plan divides the projects to be reviewed into “Class I” and “Class II” projects. Both Class I and Class II projects are reviewed in municipalities that are not determined to be in substantial conformance. The purpose of this review is to identify issues early enough and to allow remedial action to be taken.

For municipalities whose zoning has been determined to substantially conform with the Guidelines, only Class II projects will be reviewed. The purpose of Class II reviews within substantially conforming towns or townships is to assist in improving development proposals and to conserve the river. For towns and townships that are not members of the Upper Delaware Council, the National Park Service will perform the Class I and Class II project reviews.

Municipal Governments’ or Other Applicable Agencies’ (County Government, State Government, Federal Government, etc.) Roles

Municipalities provide a completed project review checklist and cover form found in Part 2 of this Workbook, along with the entire development application package received by the municipality.

Participating towns and townships, deliver this information by U.S. mail to: Upper Delaware Council, P.O. Box 192, Narrowsburg, NY 12764 or electronically to: applications@upperdelawarecouncil.org.

Non-participating towns and townships, deliver information by U.S. mail to National Park Service, Attn: Project Review, 274 River Road, Beach Lake, PA 18405, or electronically to: UPDE_Review@nps.gov.

Other applicable agencies initiating their own construction projects within the designated river corridor provide a completed project review checklist and cover form found in Part 2 of this Workbook, along with construction drawings and specifications, to UDC and NPS, using the contact information provided above.

County planning offices, conservation districts, state agencies, and federal agencies are requested to notify the UDC and NPS of development applications they have received for projects within the designated river corridor. The UDC or NPS will determine whether the activity rises to the level of a Class I or Class II project. If so, the UDC or NPS will request the complete development application from the agency and complete the appropriate review procedure for the project, using the Cover Form, Project Review Checklist and Project Review Forms.

Additionally, the agencies are requested to consult with NPS on such projects to identify further coordination and permitting that may be required to be conducted with NPS.

Contact the Upper Delaware Council (for participating towns and townships) or the National Park Service (for non-participating towns and townships) to determine whether the municipality is in substantial conformance, then go to Part 2, Section III of this Workbook for review procedures, checklists and forms, including the cover forms to be completed by the municipality.

Process

The Upper Delaware Council's Project Review Committee holds a regular monthly meeting at which Significant Projects and substantial conformance items are discussed, voted on, and referred to the full Council. Recommendations regarding substantial conformance are sent by the full Council to the Secretary of the Interior (NPS) for a final determination.

In the case of a UDC member municipality, it could take up to 45 days for the UDC to review the documents and make a recommendation to the NPS. It may then take up to an additional 45 days for the NPS to make its final determination.

In the case of a municipality that is not a member of the UDC, the review process, from the point at which NPS receives a copy of the development proposal, up to and including a final determination, may take up to 90 days.

The following outlines the steps of the process:

Review of Significant Projects – UDC

Applies to participating towns and townships

OBJECTIVE: To determine whether development is proposed that is a clear and direct threat to the river corridor and to monitor enforcement of local laws, plans and ordinances

# Days	Process Steps	Process Step Descriptions
90 DAYS	STEP 1: Review Development Application, Assemble Documentation, and Identify Whether there is the Potential for a Clear and Direct Threat	<p>Upon receiving a copy of the development proposal, UDC staff gather relevant laws, plans, ordinances for the review; contact the municipality for additional information; and provide a summary packet of the development application to the Project Review Committee and NPS via e-mail. UDC staff then prepare a project review using the appropriate forms.</p> <p>NPS, together with UDC, within 21 days determines whether a project has the potential to be a clear and direct threat to valley resources or, if approved by town government, would mean that the town would not be enforcing its laws, plans and ordinances consistent with the Plan and Guidelines. In this case, the NPS shall immediately notify the Council (which will notify the affected town) and the Secretary of the Interior or his delegated designee (River Management Plan, p. 50).</p>
	STEP 2: Work with Municipality/Agency/Permitting Entity	If necessary, UDC staff contact the municipality, submitting agency and/or permitting agency to go over the project review results and resolve as many issues as possible. A meeting may be arranged with all involved parties to fulfill this requirement. All contacts are with the local, state, regional, or federal agency or agencies; meetings with the applicant can be held only with the approval of the municipality/agency.
	STEP 3: Review Results with Project Review Committee	UDC staff and the Project Review Committee review the results at the monthly Project Review Committee meeting. If the proposed development meets the applicable criteria, the application is recorded and reported to the UDC Full Council, who refers the application to NPS for a final determination and informs the municipality, submitting agency and/or permitting entity of their recommendation. If the proposed development still does not meet the applicable criteria, the Project Review Committee notifies the Full Council and NPS and proceeds to the next step.
	STEP 4: Negotiate a Resolution	If necessary, the UDC staff and Project Review Committee make follow-up efforts to come to an agreement with the affected municipality, submitting agency and/or permitting agency prior to making a recommendation to the Full Council. A record of the Project Review Committee's recommendation is documented and provided to NPS.
	STEP 5: Full Council Vote and Recommendation to NPS	The UDC Full Council votes on the project, either in a formal or special meeting or by proxy/email vote, and informs both the NPS Superintendent and the municipality of its final recommendation. The UDC provides an explanation of its final recommendation with supporting documentation.
45 DAYS	STEP 6: Final Determination	The Superintendent confers with the NPS Regional Director, who makes a final determination within 45 days.

A Copy of all Final Determinations and associated documentation will be forwarded to and maintained by NPS–Upper Delaware S&RR

Review of Significant Projects – NPS

Applies to non-participating towns and townships

OBJECTIVE: To determine whether development is proposed that is a clear and direct threat to the river corridor and to monitor enforcement of local laws, plans and ordinances

# Days	Process Steps	Process Step Descriptions
90 DAYS	STEP 1: Review Development Application, Assemble Documentation, and Identify Whether there is the Potential for a Clear and Direct Threat	<p>Upon receiving a copy of the development proposal, NPS staff gather relevant laws, plans, ordinances for the review; contact the municipality for additional information; and prepare a project review using the appropriate forms.</p> <p>NPS will within 21 days determine whether a project has the potential to be a clear and direct threat to valley resources or which, if approved by town government, would mean that the town would not be enforcing its laws, plans and ordinances consistent with the Plan and Guidelines. In this case, the NPS shall immediately notify the affected town or township and the Secretary of the Interior or his delegated designee (p. 50).</p>
	STEP 2: Work with Municipality/Agency/Permitting Entity	If necessary, NPS staff contact the municipality, submitting agency and/or permitting agency to go over the project review results and resolve as many issues as possible. A meeting may be arranged with all involved parties to fulfill this requirement. All contacts are with the local, state, regional, or federal agency or agencies; meetings with the applicant can be held only with the approval of the municipality/agency.
	STEP 3: Review Results	NPS comes to a conclusion and notifies the municipality, submitting agency and/or permitting agency. Initial contacts are made with the Regional Office and the NPS Solicitor if advisable. If the proposed development still does not meet the applicable criteria, NPS proceeds to the next step.
	STEP 4: Negotiate a Resolution and Recommendation to the Superintendent	If necessary, NPS staff make follow-up efforts to come to an agreement with the affected municipality, submitting agency and/or permitting agency prior to a final recommendation to the Superintendent. The Superintendent informs the municipality of its final recommendation and provides an explanation of its final recommendation with supporting documentation.
45 DAYS	STEP 5: Final Determination	The Superintendent confers with the NPS Regional Director, who makes a final determination within 45 days.

PART 2 : REVIEW CHECKLISTS AND FORMS

Section I : Forms for Reviewing Local Laws, Plans, Ordinances, Zoning Maps and Amendments

How to Review Local Laws, Plans, Ordinances, Zoning Maps and Amendments

A municipality is determined to be in “**substantial conformance**” when its relevant laws, plans and ordinances are in conformance with respect to the Schedule of Compatible, Conditional, and Incompatible Land Uses, the substance of the Final River Management Plan, and the substance of each of the principles and objectives set out in the Guidelines and the Plan.

Substantial conformance reviews of relevant local laws, plans, and ordinances, including, but not limited to, comprehensive plans, zoning ordinances, zoning maps, and their amendments, will be conducted by the Upper Delaware Council and National Park Service through the use of the Substantial Conformance Checklist. The principles and objectives that make up Item III on the checklist are taken from pages 119-124 of the Land and Water Use Guidelines.

This review does not pertain to activities that take place outside the designated river corridor or to town or township actions that do not have an effect on the conservation of natural and cultural resources within the Upper Delaware Scenic and Recreational River corridor boundary.

In order to achieve substantial conformance each of the listed principles and objectives must be met.

- A **principle** will have been met if, on the checklist, all the listed objectives falling under that principle are met.
- An **objective** will have been met if the completed checklist indicates that the town or township has employed the recommended management techniques listed under that objective.

However, if the town or township can show that it meets the objective in a different way than by the listed management techniques, it may also be deemed to meet the objective. If it has met an objective in another way than by the listed management techniques, the reviewer must state how the law, plan or ordinance meets the objective under “Other – explain”.

Although the Upper Delaware Council will make a recommendation regarding substantial conformance to the National Park Service for UDC member towns and townships, the National Park Service, on behalf of the Secretary of the Interior, will make the final determination of substantial conformance for all towns and townships.

SUBSTANTIAL CONFORMANCE CHECKLIST FOR LOCAL LAWS, PLANS AND ORDINANCES

I. If This is a Review of a New or Amended Local Law, Ordinance or Zoning Map:

- ☐ Verify that the Upper Delaware Scenic and Recreational River corridor boundary is on the zoning map.
- ☐ Verify that the corresponding Zoning Districts and (if used) Overlay Districts that appear on the zoning map are fully described in, and incorporated into, the language of the town or township's zoning ordinance.
- ☐ Check the town or township's Schedule of Uses/Zoning Schedule for any zoning districts and overlay districts that occur within the Corridor boundary.
- ☐ If hamlet boundaries are being changed, check to see whether the new hamlet boundaries are consistent with the guiding criteria included on page 117 of the Land and Water Use Guidelines. "...areas within the hamlet should have an existing density of at least one dwelling unit (or equivalent dwelling unit) per two acres, unless the area is surrounded or bordered on several sides by land developed at such densities and would constitute a logical infill area taking into account the existing pattern of development. New development proposed should be encouraged in areas capable of accommodating uses without adversely impacting or degrading the values for which the Upper Delaware has been designated as a component of the National Wild and Scenic Rivers System."
- ☐ Using the worksheet in Appendix C of this Workbook, verify that the uses the municipality allows, allows with conditional/special use approval, and/or prohibits in the districts and overlay districts within the Corridor boundary correspond with the Schedule of Compatible, Conditional, and Incompatible Uses in Appendix A of this Workbook. Use the Definitions in Appendix B of this Workbook to interpret the Schedule.

For a standalone zoning map submittal, the review stops here.

For any other zoning ordinance, or other local law or ordinance, including amendments, use the checklist under Item III, below, to complete the review.

II. If This is a Review of a New or Amended Local Comprehensive or Master Plan:

- ☐ Use the checklist under Item III, below to complete the review.
- ☐ If some of the review criteria are too specific to apply to a comprehensive plan, review the plan against the principles, and supply supporting information under "Other – explain." The "Questions to Guide Reviews of Significant Projects" toward the end of Part 2, Section III of this Workbook contain principles and objectives related to the Values of the Corridor that may also help to review a local Comprehensive or Master Plan.

III. If this is a Review of a Zoning Ordinance or Other Local Law or Ordinance, Including Amendments, Use the Following Checklist to Complete the Review:

PRINCIPLE A

Maintain the high water quality found in the Upper Delaware River

Objective 1 Soil erosion and sedimentation from construction on steep slopes is limited by one or more of the following measures:

- ☐ A. Requiring conditional use/special use review for projects involving slopes over 15% in grade; or
- ☐ B. Requiring a stamped plan prepared by a licensed Professional Engineer for projects involving slopes over 15% in grade; or
- ☐ C. Requiring larger lot sizes for projects on sites containing slopes over 15% in grade; or
- ☐ D. Requiring slopes of less than 16% in grade for the location of all principal structures with exceptions for agricultural and forestry uses, gardens, and the like; or
- ☐ E. Other – explain. (Other regulations designed to achieve this objective should ensure no more than 10% of any lot characterized by slopes in excess of 15% in grade is built upon, covered with an impervious surface, regraded or stripped of, at any one time, vegetation, with the exception of agricultural uses, forestry uses, gardens and the like.)

Objective 2 Maintain natural cover to control stormwater runoff, limit flooding, protect groundwater supplies and provide erosion control by:

- ☐ A. Limiting lot coverage or impervious surface coverage to a maximum of 10% on small lots. Employment of a sliding scale decreasing allowable percentage of impervious lot coverage as lot size increases; or
- ☐ B. Limiting clearing⁽¹⁾ for building purposes to 20% of the lot area with reduction to 10% for slopes over 15% in grade; or
- ☐ C. Requiring conditional use/special use review of projects involving greater than 10% lot coverage or impervious surface coverage; or
- ☐ D. Other – explain. (Other regulations designed to achieve this objective should ensure no more than 12,000 square feet of impervious surface is permitted per dwelling unit or equivalent dwelling unit.⁽²⁾ It is the intent of this objective to encourage sound landscape management practices on private property.)

1 The Land and Water Use Guidelines note that “limited clearing” is not the same as limiting impervious surface coverage.

2 As defined in the Land and Water Use Guidelines, “Equivalent Dwelling Unit - The amount of non-residential development necessary to generate a sewage flow equal to that of a typical dwelling unit” (p. 127).

Objective 3 Protect special erosion hazard areas along river banks through one or more of the following measures:

- _____ A. Requiring that buildings be set back from the River consistent with state-required setbacks of septic systems from streams. In New York: 100 feet from the mean high water mark; in Pennsylvania: 50 feet from the top of the river bank; or
- _____ B. Making construction within 100 feet of the mean high water mark of the River⁽³⁾ subject to conditional/special use review with requirements for plants to prevent erosion; or
- _____ C. Other – explain. (Regulations, other than those suggested above to meet this objective, should prohibit principal structures in erosion hazard areas along river banks if mapped or defined by towns and townships and recognized by the Upper Delaware Council.)

Objective 4 Protect special erosion hazard areas along the ridge lines through one or more of the following measures:

- _____ A. Requiring conditional use/special use review of principal structures within 100 horizontal feet of the ridgeline; or
- _____ B. Prohibiting the erection of structures within ridgeline erosion hazard areas as mapped by the town or township; or
- _____ C. Other – explain. (Regulations, other than those suggested above to meet this objective, should ensure buildings are not located so close to the ridgeline as to cause erosion, sedimentation or landslide conditions.)

Objective 5 Limit pollution problems from septic systems located on poor soils, by one of the following measures:

- _____ A. Requiring a town/ship or district wide minimum lot size for new river corridor lots of not less than two acres outside of Hamlets; or
- _____ B. Requiring a general minimum lot size of two acres with reductions for individual lots with hardship conditions based on soil performance standards or use of innovative technology; or
- _____ C. Other – explain. (Other regulations designed to achieve this objective should ensure a minimum lot size of no less than two acres on soils with severe limitations for conditional subsurface sewage disposal systems under state law.)

Objective 6 Reduce pollution threats from solid and toxic wastes disposal by requiring new solid wastes disposal sites to be located outside the river corridor

- _____ A. Requiring new solid wastes disposal sites to be located outside the river corridor.

³ As defined in the Land and Water Use Guidelines, “High Water Setback - The required distance between the mean high water line of the Upper Delaware River and the building line of any lot” (p. 128).

PRINCIPLE B

Provide for the protection of the health, safety, and welfare of residents and visitors while also providing for the protection and preservation of natural resources

Objective 1 Provide for light and air and maintain an uncluttered landscape through adequate separation of principal structures by using one or more of the following measures:

- ☐ A. Requiring a 150-foot minimum river frontage for new lots with exceptions for clustering; or
- ☐ B. Requiring a 150-foot minimum lot width, average lot width, road frontage or width at the building line (with exceptions for clustering); or
- ☐ C. Requiring a 50-foot minimum side yard; or
- ☐ D. Other – explain. (Other regulations designed to achieve this objective should provide for a 100-foot minimum separation of all principal structures located along the River. Clustering may be permitted as a conditional/special use provided such developments meet single unit density guidelines for the district in order to ensure shoreline protection.)

Objective 2 Provide for light and air and maintain an uncluttered landscape by limiting the height of principal structures using one or more of the following measures:

- ☐ A. Limiting building height to 35 feet with appropriate exceptions for farm structures, water and grain towers, small windmills, bridges, and the like; or
- ☐ B. Requiring conditional use/special use review for structures over 35 feet in height.
- ☐ C. Other – explain.

Objective 3 Provide for light and air and maintain an uncluttered landscape by requiring adequate setbacks of principal structures from highways by using one or more of the following measures:

- ☐ A. Requiring a minimum front yard of 35 feet; or
- ☐ B. Requiring a minimum building setback of 35 feet.
- ☐ C. Other – explain.

Objective 4a. Prevent unnecessary sign proliferation, particularly on the riverfront, by limiting off-premises advertising signs through one or more of the following measures:

- _____ A. Prohibiting off-premises advertising signs,⁽⁴⁾ except those informational signs which may be recommended by the Council for purposes of directing visitors to public access areas; or
- _____ B. Making advertising signs subject to conditional use/special use review with design standards requiring signs to harmonize with the surrounding landscape, and providing that no flashing, oscillating or illuminated signs are permitted; or
- _____ C. Limiting the size of such signs to 32 square feet and the number of such signs to 1 per 1000 linear feet of frontage or 2 per advertiser, whichever is less. River frontage signs should be limited to 1 per riverfront facility and related to providing direction, for reason of health and safety, to such a facility, and providing no flashing, oscillating or illuminated signs are permitted.
- _____ D. Other – explain.

Objective 4b. Business identification (on-premises advertising) signs larger than 10 square feet in size should be limited by one or more of the following measures:

- _____ A. Limiting the total number of such signs to one per property line along a street or the River; or
- _____ B. Limiting the total area of such signs to two square feet of total sign area for each one lineal foot of building frontage or one square foot of sign area for each two lineal feet of lot frontage; or
- _____ C. Making business identification signs subject to conditional use/special use review providing illuminated signs are permitted outside of developed areas and no flashing or oscillating signs are permitted.
- _____ D. Other – explain.

Objective 4c. Public signs, safety signs, announcement signs, temporary signs, professional signs, home occupation signs, farm product signs, political signs, construction signs and for rent/for sale signs generally do not require permits but should be limited by:

- _____ A. Limiting the area of each such sign to less than 10 square feet in size and the number of such signs to two per property. This does not apply to institutional or trespassing signs.

NOTE: The guidelines for Principle B, Objectives 4a, 4b, and 4c are appropriate for Scenic or Recreational segments. Within existing hamlets other approaches are acceptable provided they do not permit a proliferation of signs of substantially different size and character along the river itself.

4 While municipalities have the right to regulate signs in accordance with police power, a zoning ordinance could potentially be challenged if it is deemed to be exclusionary. The implications of the U.S. Supreme Court's decision in *Reed v. Town of Gilbert, Arizona* (June 18, 2015) are still unclear at the State level, however, the decision suggests that municipalities may not be able to regulate signs based on their content (the sign's topic or message), unless the government proves that the restrictions are narrowly designed to serve compelling state interests. The Supreme Court's decision will not prevent governments from enacting effective sign laws to resolve problems with safety and aesthetics, including regulating size, materials, lighting, moving parts, and portability. Although, in New York, the Court of Appeals has upheld local laws that prohibit all off-premises commercial billboards, this has not been the case in Pennsylvania. In *Norate Corp., Inc. v. Zoning Bd. Of Adj.* (1965), the Supreme Court of Pennsylvania determined that an ordinance banning all off-premises signs was too broad and unreasonable.

PRINCIPLE C

Provide for recreational and other public uses while protecting the Upper Delaware as a natural resource

Objective 1 Encourage both private and public recreational providers to locate intensive use recreational facilities outside of undeveloped or Scenic segments of the river corridor by:

- _____ A. Zoning such areas for low intensity recreational activities (i.e. tent campgrounds vs. recreational vehicle parks); or
- _____ B. Limiting the size of recreational facilities consistent with the definition of intensive use recreational facilities in the Land and Water Use Guidelines; or
- _____ C. Restricting intensive use recreational facilities to locations with direct access to a two-lane public highway.
- _____ D. Other – explain.

Objective 2a. Provide for the orderly development, operation and maintenance of campgrounds and recreational vehicle (RV) parks to limit adverse impacts on adjacent landowners and the surrounding environment by:

- _____ A. Limiting gross density to not more than 8 sites per acre for recreational vehicle type camping or 10 sites per acre for tent camping; and
- _____ B. Requiring a minimum of 10 acres of land for a recreational vehicle campground and a minimum of 5 acres for tent campgrounds unless subjected to site plan review; and
- _____ C. Prohibiting permanent or long-term occupancy of any campsite and prohibiting any permanent structures or appurtenances on any individual campsite other than tent platforms and concrete pads; and
- _____ D. Prohibiting independent onsite sewage disposal or water supply systems for individual recreational vehicle campsites.
- _____ E. Other – explain.

Objective 2b. Provide for the orderly development, operation and maintenance of boat liveries and other recreational uses to limit adverse impacts on adjacent landowners and the surrounding environment by:

- _____ A. Requiring a minimum of two acres for any new river-related recreational facility (Pennsylvania Fish and Boat Commission and New York State DEC fishing only access sites excepted) used for the parking of vehicles or the erection of any structures.
- _____ B. Other – explain.

Objective 2c. Provide for orderly development, operation, and maintenance of all recreational uses to limit adverse impacts on adjacent landowners and the surrounding environment by:

- _____ A. Requiring public facilities to meet the same standards as private ones, except as provided above; and
- _____ B. Requiring all river-related recreational facilities to supply evidence of compliance with state health regulations; and
- _____ C. Requiring all proposed river-related recreational facilities be subject to site plan review or conditional use/special use review. Site disturbance should be limited and vegetative screening required where necessary to minimize visual impacts. For erosion control purposes, access to the river bank should be limited. Adequacy of streets should also be examined.
- _____ D. Other – explain.

PRINCIPLE D

Provide for the continuation of agricultural and forestry uses

Objective 1 Encourage and support agriculture uses within the river corridor by:

- _____ A. Ensuring that agricultural zoning districts include all official Agricultural Districts and Agricultural Security Areas created pursuant to NY or PA law and address the purposes of these designations; or
- _____ B. Making agricultural activities principal permitted uses within existing zoning districts.
- _____ C. Other – explain. (Other regulations designed to achieve this objective should, at a minimum, ensure that existing agricultural activities are not made nonconforming by virtue of regulations adopted to meet the Guidelines and that new practices are permitted which do not conflict with the goals of the Upper Delaware legislation, including irrigation, truck farming, and the like.)

Objective 2 Encourage the appropriate location and mitigate the effects of certain intensive livestock operations (not including, because of their traditional nature, dairy operations, the growing of crops or personal use livestock operations) which are likely to create problems of waste disposal or odors by:

- _____ A. Prohibiting intensive livestock operations within the river corridor; or
- _____ B. Making intensive livestock operations subject to conditional use/special use review; or
- _____ C. Implementing performance standards based on a ratio of livestock to acreage or similar concepts, or which require a management plan ensuring adequate control of livestock and disposal of wastes; or
- _____ D. Other – explain. (Other regulations designed to achieve this objective should ensure that beef and hog feedlots and cage-type poultry operations are located within the river corridor only after special use/conditional use review shows that they address the potential impacts of runoff and waste.)

Objective 3 Provide for the use of sound timber practices within the Corridor by:

- _____ A. Implementing a town/ship or county conservation district monitoring program based on industry standards such as those of the Pennsylvania Forestry Association and utilizing the services of county, district or state Foresters or Soil Conservation Service personnel to do such monitoring through field response to technical assistance requests and complaints as well as for reviewing soil erosion control permit applications; or
- _____ B. Prohibiting clear-cuts of over two acres in size; or
- _____ C. Requiring conditional use/special use review for clear-cuts over two acres in size, subject to a professional forester's review with exceptions for agricultural purposes and wildlife management programs of the type conducted by the states; or
- _____ D. Developing local law provisions requiring soil stabilization and setting other performance standards.
- _____ E. Other – explain. (Other regulations designed to achieve this objective should, at a minimum, subject clearcuts to conditional use/special use review and provide for removal of only individual selected trees within 50 feet of either side of the river or other perennial streams so, ideally, 50% or more of the overhead canopy will remain.)

PRINCIPLE E

Conserve river area resources

Objective 1 Ensure traditional resources extraction operations (not including subsurface and major surface mining) are permitted, but consistent with the protection of the public health, safety and welfare by:

- _____ A. Supplementing State and County Conservation District programs for regulation of mining activities, where towns determine necessary, with local standards regarding slope, rehabilitation, noise, vibrations, performance bonding, and the like.
- _____ B. Other – explain. (Other regulations designed to achieve this objective should, at a minimum, require that all natural resource uses comply with the respective state and federal mining laws.)

Objective 2 Ensure town, county, state, and federal activities will promote the conservation of the river corridor resources by:

- _____ A. Prohibiting the location of sewage treatment plants, municipal sewer interceptor lines and the like on lands with frontage on the river or on any agricultural lands except with respect to existing Hamlets or in circumstances where a community is under state or federal orders to do so; and
- _____ B. Prohibiting new impoundments of the Upper Delaware River, or any tributary which is within the Upper Delaware Scenic and Recreational River corridor boundary. Exceptions for small agricultural ponds not on tributaries, eel weirs and other stream improvement structures for fishery management purposes can be made, subject to state fishing and federal navigation regulations; and
- _____ C. Prohibiting construction of new paved four lane roads and bridges in the river corridor. Major highway widening projects on already passable roads meeting state specifications within those sections of the river classified as Scenic should be discouraged. Towns and townships should also, in reviewing subdivision and road plans, consider waiving minimum pavement width requirements to preserve scenery and vegetation. Safety improvement projects such as the addition of passing lanes shall be excluded; and
- _____ D. Prohibiting major oil and gas transmission lines and refining/production facilities for other than local service within the river corridor. Individual wells (subject to special use/conditional use review) and lines constructed to provide service to or collect from individual customers or wells will be permitted⁽⁵⁾; and
- _____ E. Prohibiting the mining of uranium and disposal of low or high level radioactive or toxic wastes in the river corridor; and
- _____ F. Prohibiting large scale groundwater withdrawal projects for low-flow stream augmentation or other water diversion projects within the river corridor; and
- _____ G. Prohibiting power plants, stream channelization and other projects listed as incompatible uses in the Schedule of Uses.
- _____ H. Other – explain.

⁵ This does not prohibit the maintenance of existing facilities and the location of new lines within existing rights-of-way.

PRINCIPLE F

Maintain existing patterns of land use and ownership

Objective 1a. Limit housing density and intensity of uses with consideration to the existing character of the river corridor by:

- _____ A. Establishing a special zoning district for the river corridor portion of the town (or incorporation of this area in a zoning district which includes all of the river corridor) within which the minimum lot size is two or more acres. Municipalities with substantial areas of steep slopes, floodplain or other poor soils should reflect these characteristics in their establishment of permissible densities; or
- _____ B. Using two or more zoning districts classifications to achieve an average density not exceeding one unit per two acres within the river corridor. Specific areas would be mapped by the town or township and reviewed by UDC/NPS during the substantial conformance review process to ensure the existing rural, uncluttered character of the Corridor landscape is maintained; or
- _____ C. Using “overlay districts” or “sub-zones” to set density for those portions of a zoning district within the river corridor and those uses which are of particular concern. A town with a prevailing one acre minimum lot size, for example, might well create an overlay zone which requires a minimum of two acres if that portion of the district happens to be within the river corridor. A sub-zone achieves the same effect or a performance approach could also be used in presently un-zoned communities to establish minimum requirements for residences and other uses wherever they occur, without the necessity for creating zoning districts as such.
- _____ D. Other – explain.

Objective 1b. Regardless of which of the approaches in 1a (above) is used to achieve density control, the following considerations should be given to the development of those measures:

- _____ A. It is appropriate, even desirable, to permit use of clustering techniques which reduce lot sizes while preserving open space. If clustering techniques are used, they should achieve the same overall density which would result from the application of the prevailing minimum lot size for the zoning district; and
- _____ B. If applicable, allowed densities for nonresidential uses should be based on an equivalent dwelling unit concept (tied to estimated sewage effluent)⁶, and
- _____ C. In isolated instances, there may be natural limitations which will, apart from any regulatory action, control lot sizes. If such limitations exist, the impacts of these natural limitations (i.e. the Hawk’s Nest Cliffs) should be considered in arriving at an appropriate minimum lot size for those remaining areas which are suitable for development.
- _____ D. Other – explain.

⁶ Equivalent dwelling unit (EDU) is a concept typically used to predict sewage flows and water use. This should not be interpreted as requiring a tiered minimum lot size in a single Zoning District – one that applies to residential uses and another for non-residential uses. It may, however, apply to a Planned Unit Development Zoning District, for example.

Objective 2 Reinforce existing patterns of land use and private ownership by providing for similar allowed uses:

- _____ A. There are certain uses which are appropriate as principal permitted uses, others which should be treated as conditional or special uses and still others which are inappropriate for the designated river corridor. The Schedule of Compatible, Conditional, and Incompatible Land Uses describes these uses and draws distinctions for those areas which are classified as Scenic, those classified as Recreational and hamlets. **Verify that the uses the municipality allows, allows with Conditional/Special Use approval, and prohibits in the districts and overlay districts within the Corridor boundary correspond with the Schedule of Compatible, Conditional, and Incompatible Uses in Appendix A of this Workbook. Use the Definitions in Appendix B of this Workbook to interpret the Schedule. A sample worksheet for performing this evaluation is included in Appendix C.** New land uses not envisioned when the River Management Plan was published in 1986 will require interpretation to determine how they compare with similar uses defined in the Guidelines.

Attach the completed schedule of uses worksheet to this review.

Section II : Forms for Reviewing Challenges and Variances

How to Review Challenges and Variances

As the first step in the project review process, municipalities are requested to submit a complete application for a challenge or variance occurring within the Upper Delaware Scenic and Recreational River corridor boundary with a completed cover form to the Upper Delaware Council (for UDC member towns and townships) or the National Park Service (for non-UDC member towns and townships).

To review challenges and variances, the UDC and NPS will:

1. **Use the Challenges and Variances Review Checklist** on page 32 to determine whether a challenge or variance is one that must be reviewed.
2. **If the challenge or variance does require review:** Complete the Significant Projects Checklists on pages 33 to 37 in Part 2, Section III of this Workbook, to determine whether the project would be considered a Class I or Class II project, or is even more significant than a Class II project.
3. **If the challenge or variance is related to a Class I or Class II project:** Complete the Project Review Forms found in Part 2, Section III of this Workbook for the proposed development.
4. **If the challenge or variance is not related to a Class I or Class II project:** Review the project using the full Substantial Conformance Checklist found in Part 2, Section I of this Workbook.

Depending on the outcome of the review, the Upper Delaware Council or the National Park Service may determine that their appearance before the Zoning Board of Appeals (in New York) or Zoning Hearing Board (in Pennsylvania) is appropriate to provide comments.

Although the Upper Delaware Council will make a recommendation regarding substantial conformance to the National Park Service for UDC member towns and townships, the National Park Service, on behalf of the Secretary of the Interior, will make the final determination of substantial conformance for all towns and townships.

CHALLENGES AND VARIANCES COVER FORM

Form available at www.upperdelawarecouncil.org.

Participating towns and townships submit to: Upper Delaware Council, P.O. Box 192, Narrowsburg, NY 12764; or applications@upperdelawarecouncil.org.

Non-participating towns and townships submit to: National Park Service, 274 River Road, Beach Lake, PA 18405; or UPDE_Review@nps.gov

Date: _____ Project Identification: _____

Description of Proposed Action:

Municipality in which affected property is located

<input type="checkbox"/> A. Hancock	<input type="checkbox"/> E. Tusten	<input type="checkbox"/> I. Buckingham	<input type="checkbox"/> M. Lackawaxen
<input type="checkbox"/> B. Fremont	<input type="checkbox"/> F. Highland	<input type="checkbox"/> J. Manchester	<input type="checkbox"/> N. Shohola
<input type="checkbox"/> C. Delaware	<input type="checkbox"/> G. Lumberland	<input type="checkbox"/> K. Damascus	<input type="checkbox"/> O. Westfall
<input type="checkbox"/> D. Cochection	<input type="checkbox"/> H. Deerpark	<input type="checkbox"/> L. Berlin	

UDC member municipality? ☐ Yes ☐ No

Check the management area(s) in which the affected property is located:

☐ Scenic ☐ Recreational ☐ Hamlet

Height of All Proposed Structures is 35' or Less? ☐ Yes ☐ No

Construction Proposed Within 100' of the Mean High Water Mark of the River? ☐ Yes ☐ No

Town/ship Zoning District: _____

Section/Block/Lot Number: _____ Parcel Number: _____

Latitude/Longitude Coordinates: _____

Parcel Address: _____

City, State, Zip: _____

Date Proposal was Submitted to the Municipality: _____

Form Completed by: _____ Position: _____

Work Email: _____ Work Telephone: _____

Office Use Only: Reference # _____

CHALLENGES AND VARIANCES REVIEW CHECKLIST

**Please check or circle those criteria that apply.
The following types of variances will be reviewed:**

- ☐ 1. Use Variance *NOTE: If the variance is sought to allow a use that is considered a compatible use in the river corridor classification according to the Schedule of Compatible, Conditional, and Incompatible Uses (in Appendix A of this Workbook), review is not required.*

Describe here: _____

2. Area Variance (New York) or Dimensional Variance (Pennsylvania) which would:

- ☐ Involve property bordering on the River
- ☐ Directly vary the standards for more than one lot, dwelling unit or equivalent unit
- ☐ Reduce a development standard by more than 30% to accommodate a project
- ☐ Be proposed in connection with a Class II project (check any criteria below which apply):

_____ A. Projects subject to conditional use approval, special use permits, and site plan review procedures under local ordinances or which, if approved, would take a town or township out of substantial conformance with the Guidelines.

_____ A. Conditional Use Approval

_____ B. Special Use Permit

_____ C. Site Plan Review

_____ D. If approved, would take a town or township out of substantial conformance with the Guidelines

_____ B. Subdivisions of 25 or more lots

_____ C. River-related recreational use projects

_____ D. Projects involving stream discharge or sewage effluent or the use of central sewage or water services

_____ E. Projects involving facilities in the river corridor to be constructed or operated by government agencies

If any of the above criteria are met, refer to the directions on page 30 for performing the review.

Section III : Forms for Reviewing Significant Projects

How to Review Significant Projects

This review process includes private land development as well as public projects (e.g. municipal buildings, parks, bridges, roads, utilities, etc.). Public projects may include infrastructure projects owned by county, state, or federal government agencies, public utility companies, or private entities, including natural gas or hydroelectric facilities subject to the approval of the Federal Energy Regulatory Commission for environmental impact.

As the first step in the project review process, municipalities and other government agencies will use the checklists⁽¹⁾ below to determine whether the application is for a development within the Upper Delaware Scenic and Recreational River corridor boundary that is subject to review by the Upper Delaware Council and/or the National Park Service. Submit the completed project review checklists with the complete development application package received by the municipality, the completed cover form (if applicable) and the completed project review form (if applicable) to the UDC (for UDC member towns and townships) or NPS (for non-UDC member towns and townships).

Checklist I : Does the Project Require Review?

Place a check next to all that apply. Project Review is **NOT** required if:

- ☐ 1. The parcel on which the project is located is not within the Upper Delaware Scenic and Recreational River corridor boundary
- ☐ 2. The project is a single family home on an existing, pre-approved lot; AND:
 - a. The height of all proposed structures is 35 feet or less; AND
 - b. All construction and improvements are located 100 feet or more from the mean high water mark of the Delaware River.⁽²⁾
- ☐ 3. The project is a customary accessory use or structure, or other minor improvement such as a residential fence, deck, driveway, wall or patio
- ☐ 4. The project is a subdivision of single family detached dwelling units involving four or fewer dwelling units or lots, including all planned phases; AND:
 - a. The height of all proposed structures is 35 feet or less; AND
 - b. All construction and improvements are located 100 feet or more from the mean high water mark of the Delaware River; AND
 - c. No new roads and other improvements are proposed to be constructed; AND
 - d. All lots are at least 2 acres in size; AND
 - e. A conditional use approval, special use permit or site plan review are not required by the municipality; AND
 - f. The project does not involve stream discharge of sewage effluent or the use of central sewer and water services; AND
 - g. The project does not involve a facility to be constructed or operated by a governmental agency or agencies.

1 The checklists are based on the descriptions of Class I and Class II projects on pages 44-45 of the River Management Plan.

2 As defined in the Land and Water Use Guidelines, "High Water Setback—The required distance between the mean high water line of the Upper Delaware River and the building line of any lot" (p. 128).

- _____ 5. The project is a non-residential development in a hamlet, involving sewage flows equaling an equivalent dwelling unit⁽³⁾ of four or fewer dwelling units, including all planned phases; AND:
- a. The proposed use is compatible within the river corridor classification as described in the Schedule of Compatible, Conditional, and Incompatible Uses (in Appendix A of this Workbook); AND
 - b. No more than 20 acres are used for the construction; AND
 - c. Clearing for building purposes does not exceed 10% of any lot; AND
 - d. No lot contains slopes exceeding 15% in grade; AND
 - e. The height of all proposed structures is 35 feet or less; AND
 - f. All construction and improvements are located 100 feet or more from the mean high water mark of the Delaware River; AND
 - g. No new roads and other improvements are proposed to be constructed; AND
 - h. All lots are at least 2 acres in size; AND
 - i. A conditional use approval, special use permit or site plan review are not required by the municipality; AND
 - j. The project does not involve a river related recreational use project; AND
 - k. The project does not involve stream discharge of sewage effluent or the use of central sewer and water services; AND
 - l. The project does not involve a facility to be constructed or operated by a governmental agency or agencies.
- _____ 6. The project involves construction or improvements to agricultural and related structures:
- a. Within 100 feet of the mean high water mark of the Delaware River; or
 - b. That exceed 35 feet in height.

☐ **NO**, Project Review **IS NOT REQUIRED** if the application is any one of the types listed above.
If NO, **STOP** here.

☐ **YES**, Project Review **IS REQUIRED** if the application is not among the types listed above.
If YES, **CONTINUE** with the checklists on the following pages.

Reviewer: _____ Date: _____

³ As defined in the Land and Water Use Guidelines, "Equivalent Dwelling Unit: The amount of non-residential development necessary to generate a sewage flow equal to that of a typical dwelling unit" (p. 127).

Checklist II : Review Type – Is the Project a Class I Project?

Place a check next to **ALL** that apply.

If the project is located within the *Upper Delaware Scenic and Recreational River Corridor Boundary* and any of the following apply, **THE PROJECT IS A CLASS I PROJECT**:

- ☐ 1. The project is a subdivision of single family detached dwelling units involving between five and twenty-four dwelling units, and no more than 24 lots, including all planned phases; and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- ☐ 2. The project is a non-residential development involving sewage flows equaling an equivalent dwelling unit⁴ of five to twenty-four dwelling units, including all planned phases; and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- ☐ 3. The project involves construction of multi-family residential units, which may include, but are not limited to garden apartments and townhouses; and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- ☐ 4. The project is a subdivision involving the construction of new roads and other improvements; and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- ☐ 5. The project is NOT made up exclusively of single family detached dwelling units AND any of the following are true: more than 20 acres will be used for the construction, OR more than 10% of any lot will be cleared for building purposes, OR any lot is on slopes exceeding 15% in grade; and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- ☐ 6. The project is a subdivision (other than a land transfer for lot improvement purposes) involving lots of less than 2 acres in size; and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- ☐ 7. The project is an off-premises advertising sign.
- ☐ 8. The project involves construction or improvements within 100 feet of the mean high water mark of the Delaware River (excluding agricultural and related structures); and meets all the Supplementary Criteria for Class I Projects listed on this checklist.
- ☐ 9. The project involves construction of a structure with a height exceeding 35 feet (excluding agricultural and related structures); and meets all the Supplementary Criteria for Class I Projects listed on this checklist.

Supplementary Criteria for Class I Projects

All Supplementary Criteria must be met for a project to be considered a Class I Project.

- ☐ a. No more than 24 lots or equivalent dwelling units are proposed, including all planned phases; AND
- ☐ b. A conditional use approval, special use permit or site plan review are not required by the municipality; AND
- ☐ c. The proposed use is compatible within the river corridor classification as described in the Schedule of Compatible, Conditional and Incompatible Land Uses (Appendix A in this Workbook); AND
- ☐ d. The project does not involve a river related recreational use; AND

4 As defined in the Land and Water Use Guidelines, "Equivalent Dwelling Unit: The amount of non-residential development necessary to generate a sewage flow equal to that of a typical dwelling unit" (p. 127).

- _____ e. The project does not involve stream discharge of sewage effluent or the use of central sewer and water services; AND
- _____ f. The project does not involve a facility to be constructed or operated by a governmental agency or agencies.

☐ **YES**, the application **IS FOR A CLASS I PROJECT**.

- **For municipalities that are in substantial conformance:** IF YES, no further action is required.
- **For municipalities that are NOT in substantial conformance:** IF YES, submit this completed checklist along with the **COMPLETE** development application package received by the municipality and a completed Project Cover Form to the UDC (for UDC member towns and townships) or NPS (for non-UDC member towns and townships).

☐ **NO**, the application is **NOT FOR A CLASS I PROJECT**, if the application is not among the types listed above. If NO, **CONTINUE** with the checklist on the following pages.

Reviewer: _____ Date: _____

Checklist III : Review Type – Is the Project a Class II Project?

PLACE A CHECK NEXT TO ALL THAT APPLY.

If the project is located within the *Upper Delaware Scenic and Recreational River Corridor Boundary* and any of the following apply, **THE PROJECT IS A CLASS II PROJECT:**

- ☐ 1. The project requires a conditional use approval under local ordinances
- ☐ 2. The project requires a special use permit under local ordinances
- ☐ 3. The project requires site plan review under local ordinances
- ☐ 4. If approved, the project would take the municipality out of substantial conformance with the Guidelines BECAUSE:
 - a. The proposed use is incompatible within the river corridor classification as described in the Schedule of Compatible, Conditional and Incompatible Land Uses (Appendix A in this Workbook), OR
 - b. The proposed use would require special use/conditional use approval within the given river corridor classification as described in the Schedule of Compatible, Conditional and Incompatible Land Uses (Appendix A in this Workbook), but the municipality is not requiring a conditional use/special use permit application
- ☐ 5. 25 or more lots or equivalent dwelling units⁽⁵⁾ are proposed, including all planned phases
- ☐ 6. The project involves a river related recreational use
- ☐ 7. The project involves stream discharge of sewage effluent or the use of central sewer and water services
- ☐ 8. The project involves a facility to be constructed or operated by a governmental agency or agencies
- ☐ 9. The project was found to require project review under Checklist I, and is not a Class I Project according to Checklist II.

☐ **YES**, the application **IS FOR A CLASS II PROJECT.**

- **For all municipalities:** IF YES, submit this completed checklist along with the **COMPLETE** development application package received by the municipality and a completed Project Cover Form to the UDC (for UDC member towns and townships) or NPS (for non-UDC member towns and townships).

☐ **NO**, the application is **NOT AMONG** the application types listed in **Checklist I, II, or III.**

- **For all municipalities:** IF NO, submit this completed checklist along with the **COMPLETE** development application package received by the municipality, a completed Project Cover Form, **AND** the “Questions to Guide Review of Significant Projects,” found in this Workbook to the UDC (for UDC member towns and townships) or NPS (for non-UDC member towns and townships).

Reviewer: _____ Date: _____

5 As defined in the Land and Water Use Guidelines, “Equivalent Dwelling Unit: The amount of non-residential development necessary to generate a sewage flow equal to that of a typical dwelling unit” (p. 127).

How to Conduct A Project Review

A proposed development activity is found to be in “**substantial conformance**” when it is in conformance with respect to the Schedule of Compatible, Conditional, and Incompatible Land Uses, the substance of the Final River Management Plan, and the substance of each of the principles and objectives set out in the Guidelines and the Plan.

To conduct the review, the municipality is requested to:

1. Use the Project Review Checklist included in this Section to determine whether the proposed development activity to be reviewed is a Class I or Class II project, and enter this information on the cover form.
2. Conduct the project review using the Project Review Forms. The principles and objectives that make up these forms are taken from pages 119-124 of the Land and Water Use Guidelines.
3. Submit the following documents to the Upper Delaware Council (for UDC member towns and townships) or the National Park Service (for non-UDC member towns and townships):
 - The **COMPLETE** development application package received by the municipality
 - Completed Significant Projects Checklists (pages 33 to 37)
 - A completed Project Cover Form (page 40)

In order to achieve substantial conformance, on the project review forms, a proposed development project must meet all of the objectives under which it is reviewed.

- An **objective** will have been met if the completed checklist indicates that the development proposal has employed the recommended management techniques listed under that objective.

However, if the project meets the objective in a different way than by the listed management techniques, it may also be deemed to meet the objective. If it has met an objective in another way than by the listed management techniques, the reviewer must state how the proposed development activity meets the objective under “Other – explain”.

Not every objective will apply to a project. If an Objective does not apply, the reviewer must state why under “Other – explain.”

The project review forms for are organized into five parts:

- **Review Criterion 1:** Applies to all projects.
- **Review Criterion 2:** Applies only to off-premises advertising signs, excluding land posting notices.
- **Review Criterion 3:** Applies only to projects that involve recreational uses. Use with the forms for Review Criterion 1, and any of the other project review criteria that apply.
- **Review Criterion 4:** Applies only to projects that involve stream discharge of sewage effluent or the use of central sewage or water services. Use with the forms for Review Criterion 1, and any of the other project review criteria that apply.
- **Review Criterion 5:** Applies only to projects that involve project involves a facility to be constructed or operated by a governmental agency or agencies. Use with the forms for Review Criterion 1, and any of the other project review criteria that apply.

Additional Review of Significant Projects

A Class II project will require additional review if it meets one of the following criteria:

- The project requires a state, federal, or Delaware River Basin Commission permit, action, or agreement and is therefore not subject to the normal permitting procedures of local municipalities
- The project requires a local permit, but the Land and Water Use Guidelines do not provide sufficient guidance on the nature of the proposed development

If either criteria are met, the reviewer should complete and submit the Project Review forms **and also** review the project against the Questions to Guide Review of Significant Projects (in this Workbook, after the Project Review Forms).

Although the Upper Delaware Council will make a recommendation regarding substantial conformance to the National Park Service for UDC member towns and townships, the National Park Service, on behalf of the Secretary of the Interior, will make the final determination of substantial conformance for all towns and townships.

PROJECT COVER FORM

Form available at www.upperdelawarecouncil.org.

Participating towns and townships submit to: Upper Delaware Council, P.O. Box 192, Narrowsburg, NY 12764; or applications@upperdelawarecouncil.org.

Non-participating towns and townships submit to: National Park Service, 274 River Road, Beach Lake, PA 18405; or UPDE_Review@nps.gov

Date: _____ Project Identification: _____

Project Class (Check One): ☐ Class I Project ☐ Class II Project

Description of Proposed Action:

Municipality in which affected property is located

___ A. Hancock	___ E. Tusten	___ I. Buckingham	___ M. Lackawaxen
___ B. Fremont	___ F. Highland	___ J. Manchester	___ N. Shohola
___ C. Delaware	___ G. Lumberland	___ K. Damascus	___ O. Westfall
___ D. Cochection	___ H. Deerpark	___ L. Berlin	

UDC member municipality? ☐ Yes ☐ No

Check the management area(s) in which the affected property is located:

☐ Scenic ☐ Recreational ☐ Hamlet

Height of All Proposed Structures is 35' or Less? ☐ Yes ☐ No

Construction Proposed Within 100' of the Mean High Water Mark of the River? ☐ Yes ☐ No

Town/ship Zoning District: _____

Section/Block/Lot Number: _____ Parcel Number: _____

Latitude/Longitude Coordinates: _____

Parcel Address: _____

City, State, Zip: _____

Date Proposal was Submitted to the Municipality: _____

Form Completed by: _____ Position: _____

Work Email: _____ Work Telephone: _____

Office Use Only: Reference # _____

PROJECT REVIEW FORMS

Review Criterion 1

Use for All Projects

NOTE: If an objective can be met in another way than by the listed alternatives, or if an objective does not apply, please state how under "Other – explain."

SCHEDULE OF USES COMPARISON

- ☐ A. **The proposed use is compatible** within the river corridor classification as described in the Schedule of Compatible, Conditional and Incompatible Land Uses (Appendix A in this Workbook); or
- ☐ B. **The proposed use requires special use/conditional use approval** within the river corridor classification as described in the Schedule of Compatible, Conditional and Incompatible Land Uses (Appendix A in this Workbook), and is being reviewed by its municipality under conditional use/special use procedures

Explain here: _____

**ONE OF THE ABOVE OPTIONS MUST BE CHECKED,
for the project to be found to substantially conform.**

PRINCIPLE A

Maintain the high water quality found in the Upper Delaware River

Objective 1 Soil erosion and sedimentation from construction on steep slopes is limited by one or more of the following measures:

- ☐ A. The project does not involve slopes over 15% in grade; or
- ☐ B. The project meets the town or township's conditional use/special use permit criteria for projects involving slopes over 15% in grade; or
- ☐ C. A stamped plan has been prepared by a licensed Professional Engineer for projects involving slopes over 15% in grade and submitted as part of the development application; or
- ☐ D. For projects on sites containing slopes over 15% in grade, lots are larger than 2 acres; or
- ☐ E. All principal structures, with exceptions for agricultural and forestry uses, gardens, and the like, are located on slopes of less than 16% grade; or
- ☐ F. No more than 10% of any lot characterized by slopes in excess of 15% in grade is built upon, covered with an impervious surface, regraded or stripped of, at any one time, vegetation, with the exception of agricultural uses, forestry uses, gardens and the like.)
- ☐ G. Other – explain.

Objective 2 Maintain natural cover to control stormwater runoff, limit flooding, protect groundwater supplies and provide erosion control by:

- _____ A. Lot coverage or impervious surface coverage on small lots is limited to a maximum of 10%, and a sliding scale is used that decreases the allowable percentage of impervious lot coverage as lot size increases; or
- _____ B. Clearing⁽⁶⁾ for building purposes is limited to 20% of the lot area for slopes 15% in grade or flatter, and is limited to 10% for slopes over 15% in grade; or
- _____ C. The project does not involve greater than 10% lot coverage or impervious surface coverage; or
- _____ D. The project meets the town or township's conditional use/special use permit criteria for projects involving greater than 10% lot coverage or impervious surface; or
- _____ E. Impervious surface is limited to 12,000 square feet per dwelling unit or equivalent dwelling unit.⁽⁷⁾
- _____ F. Other – explain.

Objective 3 Protect special erosion hazard areas along river banks through one or more of the following measures:

- _____ A. Buildings are set back from the River consistent with state-required setbacks of septic systems from streams. In New York: 100 feet from the mean high water mark; in Pennsylvania: 50 feet from the top of the river bank; or
- _____ B. No construction is proposed within 100 feet of the mean high water mark of the River;⁽⁸⁾ or
- _____ C. The project meets the town or township's conditional use/special use permit criteria for construction within 100' of the River, including requirements for plants to prevent erosion; or
- _____ D. No principal structures are proposed in erosion hazard areas along river banks if mapped or defined by towns and townships and recognized by the Upper Delaware Council.
- _____ E. Other – explain.

6 Please note that "limited clearing" is not the same as limiting impervious surface coverage.

7 As defined in the Land and Water Use Guidelines, "Equivalent Dwelling Unit – The amount of non-residential development necessary to generate a sewage flow equal to that of a typical dwelling unit" (p. 127).

8 As defined in the Land and Water Use Guidelines, "High Water Setback – The required distance between the mean high water line of the Upper Delaware River and the building line of any lot" (p. 128).

Objective 4 Protect special erosion hazard areas along the ridge lines through one or more of the following measures:

- _____ A. No principal structures are proposed within 100 horizontal feet of the ridgeline; or
- _____ B. The project meets the town or township's conditional use/special use permit criteria for projects involving principal structures within 100 horizontal feet of the ridgeline; or
- _____ C. No structures are proposed within ridgeline erosion hazard areas as mapped by the town or township; or
- _____ D. Buildings are not located so close to the ridgeline as to cause erosion, sedimentation or landslide conditions.
- _____ E. Other – explain.

Objective 5 Limit pollution problems from septic systems located on poor soils, by one of the following measures:

- _____ A. New lots outside of Hamlets are a minimum size of 2 acres; or
- _____ B. New lots that are smaller than 2 acres are only granted lot size reductions based on soil performance standards or use of innovative technology; or
- _____ C. Lots on soils with severe limitations for conditional subsurface sewage disposal systems under state law are a minimum size of 2 acres.
- _____ D. Other – explain.

PRINCIPLE B

Provide for the protection of the health, safety, and welfare of residents and visitors while also providing for the protection and preservation of natural resources

Objective 1 Provide for light and air and maintain an uncluttered landscape through adequate separation of principal structures by using one or more of the following measures:

- ☐ A. New lots include a 150-foot minimum river frontage (with exceptions for clustering); or
- ☐ B. New lots have a 150-foot minimum lot width, average lot width, road frontage or width at the building line (with exceptions for clustering); or
- ☐ C. New lots have a 50-foot minimum side yard; or
- ☐ D. A 100-foot minimum separation is provided between all principal structures located along the River (with exceptions for clustering).
- ☐ E. Other – explain.

Objective 2 Provide for light and air and maintain an uncluttered landscape by limiting the height of principal structures using one or more of the following measures:

- ☐ A. No building height exceeds 35 feet with appropriate exceptions for farm structures, water and grain towers, small windmills, bridges, and the like.
- ☐ B. The project meets the town or township's conditional use/special use permit criteria for projects involving structures over 35 feet in height; or
- ☐ C. Other – explain.

Objective 3 Provide for light and air and maintain an uncluttered landscape by requiring adequate setbacks of principal structures from highways by using one or more of the following measures:

- ☐ A. Front yards are a minimum of 35 feet; or
- ☐ B. Buildings are setback a minimum of 35 feet.
- ☐ C. Other – explain.

Objective 4b. Business identification (on-premises advertising) signs larger than 10 square feet in size should be limited by one or more of the following measures:

- _____ A. No more than one such sign per property line along a street or the River has been provided; or
- _____ B. The total area of such signs has been limited to two square feet of total sign area for each one lineal foot of building frontage or one square foot of sign area for each two lineal feet of lot frontage; or
- _____ C. The project meets the town or township's conditional use/special use permit criteria for business identification signs, including requirements that illuminated signs are permitted outside of developed areas and that no flashing or oscillating signs are permitted; or
- _____ D. Other – explain.

Objective 4c. Public signs, safety signs, announcement signs, temporary signs, professional signs, home occupation signs, farm product signs, political signs, construction signs and for rent/for sale signs generally do not require permits but should be limited by:

- _____ A. The area of each such sign is no more than 10 square feet in size and the number of such signs is no more than two per property. This does not apply to institutional or trespassing signs.

NOTE: Within existing hamlets other approaches for signage are acceptable provided they do not permit a proliferation of signs of substantially different size and character along the river itself.

PRINCIPLE E

Conserve river area resources

Objective 1 Ensure town, county, state, and federal activities will promote the conservation of the river corridor resources by:

- _____ A. The project does not include a new paved four lane road or bridge in the river corridor. New road and pavement widths are minimized to preserve scenery and vegetation. (Safety improvement projects such as the addition of passing lanes are permitted.)

PRINCIPLE F

Maintain existing patterns of land use and ownership

Objective 1a. Limit housing density and intensity of uses with consideration to the existing character of the river corridor by:

- _____ A. Proposed lots are a minimum size of 2 acres (with an exception for logical infill lots within Hamlets); or
- _____ B. Other – explain.

Objective 1b. The following measures, if applicable, have been used to control density:

- _____ A. If a cluster development, the overall density is the same as that which would result from the application of the prevailing minimum lot size for the zoning district.
- _____ B. If applicable, for nonresidential uses, densities are based on an equivalent dwelling unit⁹ concept (tied to estimated sewage effluent).
- _____ C. Impacts of certain isolated natural limitations (i.e. the Hawk's Nest Cliffs), if such limitations exist, have been considered in arriving at an appropriate minimum lot size for those remaining areas which are suitable for development.
- _____ D. Other – explain.

9 As defined in the Land and Water Use Guidelines, "Equivalent Dwelling Unit – The amount of non-residential development necessary to generate a sewage flow equal to that of a typical dwelling unit" (p. 127). This provision may apply within a Planned Unit Development Zoning District, for example.

Review Criterion 2

Use for off-premises advertising signs, excluding land posting notices

NOTE: If the objective is met in another way than by the listed alternatives, please state how under "Other – explain."

PRINCIPLE B

Provide for the protection of the health, safety, and welfare of residents and visitors while also providing for the protection and preservation of natural resources

Objective 4a. Prevent unnecessary sign proliferation, particularly on the riverfront, by limiting off-premises advertising signs through one or more of the following measures:

- _____ A. The off-premises advertising sign is an informational sign recommended by the Council for purposes of directing visitors to public access areas; or
- _____ B. The proposed sign harmonizes with the landscape and no flashing, oscillating, or illuminated signs are proposed; or
- _____ C. The size of any such proposed signs is limited to 32 square feet and the number of such signs to 1 per 1000 linear feet of frontage or 2 per advertiser, whichever is less. River frontage signs, if proposed, are limited to 1 per riverfront facility and related to providing direction, for reason of health and safety, to such a facility, and no flashing, oscillating or illuminated signs are proposed.
- _____ D. Other – explain.

NOTE: Within existing hamlets other approaches for signage are acceptable provided they do not permit a proliferation of signs of substantially different size and character along the river itself.

Review Criterion 3

Additional criteria for projects that involve recreational uses

Use in conjunction with Review Criterion 1, at a **minimum**, and any other review criteria that apply.

NOTE: If an objective can be met in another way than by the listed alternatives, or if an objective does not apply, please state how under "Other – explain."

PRINCIPLE C

Provide for recreational and other public uses while protecting the Upper Delaware as a natural resource

Objective 1 Encourage both private and public recreational providers to locate intensive use recreational facilities outside of undeveloped or Scenic segments of the river corridor by:

- ☐ A. No recreational facilities consistent with the definition of intensive use recreational facilities in the Land and Water Use Guidelines are proposed within undeveloped or Scenic segments of the river corridor; or
- ☐ B. All intensive use recreational facilities have direct access to a two-lane public highway.
- ☐ C. Other – explain.

Objective 2a. Provide for the orderly development, operation and maintenance of campgrounds and recreational vehicle (RV) parks to limit adverse impacts on adjacent landowners and the surrounding environment by:

- ☐ A. Gross density is limited to a maximum of 8 sites per acre for recreational vehicle type camping or 10 sites per acre for tent camping; and
- ☐ B. A minimum of 10 acres of land is provided for a recreational vehicle campground and a minimum of 5 acres for tent campgrounds unless subjected to site plan review; and
- ☐ C. Permanent or long-term occupancy of any campsite is not proposed and no permanent structures or appurtenances are proposed on any individual campsite other than tent platforms and concrete pads; and
- ☐ D. No independent onsite sewage disposal or water supply systems are proposed for individual recreational vehicle campsites.
- ☐ E. Other – explain.

Objective 2b. Provide for the orderly development, operation and maintenance of boat liveries and other recreational uses to limit adverse impacts on adjacent landowners and the surrounding environment by:

- ☐ A. A minimum of two acres are provided for any new river-related recreational facility (Pennsylvania Fish and Boat Commission and New York State DEC fishing only access sites excepted) used for the parking of vehicles or the erection of any structures.
- ☐ B. Other – explain.

Objective 2c. Provide for orderly development, operation, and maintenance of all recreational uses to limit adverse impacts on adjacent landowners and the surrounding environment by:

- ☐ A. Public facilities meet the same standards as private ones, except as provided above; and
- ☐ B. All river-related recreational facilities have supplied evidence of compliance with state health regulations; and
- ☐ C. All proposed river-related recreational facilities are subject to site plan review or conditional use/special use review. Site disturbance has been limited and vegetative screening required where necessary to minimize visual impacts. For erosion control purposes, access to the river bank is limited. Adequacy of streets has been examined.
- ☐ D. Other – explain.

Review Criterion 3

Additional criteria for projects that involve stream discharge of sewage effluent or the use of central sewage or water services

Use in conjunction with Review Criterion 1, at a **minimum**, and any other review criteria that apply.

NOTE: If the objective can be met in another way than by the listed alternatives, or if the objective does not apply, please state how under "Other – explain."

PRINCIPLE E

Conserve river area resources

Objective 1 **Ensure town, county, state, and federal activities will promote the conservation of the river corridor resources by:**

- _____ A. Sewage treatment plants, municipal sewer interceptor lines and the like are not located on lands with frontage on the river or on any agricultural lands except with respect to existing Hamlets or in circumstances where a community is under state or federal orders to do so.
- _____ B. Other – explain.

Review Criterion 4

Additional Criteria for projects involving facilities in the river corridor to be constructed or operated by a governmental agency or agencies

Use in conjunction with Review Criterion 1, at a **minimum**, and any other review criteria that apply.

NOTE: If the objective can be met in another way than by the listed alternatives, or if the objective does not apply, please state how under "Other – explain."

PRINCIPLE E

Conserve river area resources

Objective 1 Ensure town, county, state, and federal activities will promote the conservation of the river corridor resources by:

- _____ A. Sewage treatment plants, municipal sewer interceptor lines and the like are not located on lands with frontage on the river or on any agricultural lands except with respect to existing Hamlets or in circumstances where a community is under state or federal orders to do so; and
- _____ B. New impoundments of the Upper Delaware River, or any tributary which is within the Upper Delaware Scenic and Recreational River corridor boundary are not proposed. Exceptions for small agricultural ponds not on tributaries, eel weirs and other stream improvement structures for fishery management purposes can be made, subject to state fishing and federal navigation regulations; and
- _____ C. New paved four lane roads and bridges are not proposed in the river corridor. Major highway widening projects on already passable roads meeting state specifications within those sections of the river classified as Scenic should be discouraged. Towns and townships should also, in reviewing subdivision and road plans, consider waiving minimum pavement width requirements to preserve scenery and vegetation. Safety improvement projects such as the addition of passing lanes shall be excluded; and
- _____ D. Major oil and gas transmission lines and refining/production facilities for other than local service are not proposed within the river corridor. Individual wells (subject to special use/conditional use review) and lines constructed to provide service to or collect from individual customers or wells will be permitted;⁽¹⁰⁾ and
- _____ E. Mining of uranium and disposal of low or high level radioactive or toxic wastes in the river corridor are not proposed; and
- _____ F. Large scale groundwater withdrawal projects for low-flow stream augmentation or other water diversion projects within the river corridor are not proposed; and
- _____ G. Power plants, stream channelization and other projects listed as incompatible uses in the Schedule of Uses are not proposed.
- _____ H. Other – explain.

¹⁰ This does not prohibit the maintenance of existing facilities and the location of new lines within existing rights-of-way.

Questions to Guide Reviews of Significant Projects

Purpose

These additional questions are necessary for significant projects requiring state or federal permits which may fall beyond the bounds of the normal procedure employed for reviewing local and minor state and federal projects. This review does not constitute any additional burden. It simply outlines a procedure for examining major projects in a way that identifies significant impacts and allows the Upper Delaware Council and National Park Service to consider their consistency with the Final River Management Plan.

Procedure

While filling out the worksheets that accompany a Class II Project review, the project should be evaluated to determine if one of the following circumstances apply:

- Does the project require a state, federal, or Delaware River Basin Commission permit, action, or agreement and is therefore not subject to the normal permitting procedures of local municipalities?
- Does the project require a local permit, but the Land and Water Use Guidelines do not provide sufficient guidance on the nature of the proposed development?

If the answer to either of these questions is “yes,” the reviewer should plan to also evaluate the project against the following Questions to Guide Reviews of Significant Projects as a necessary step in the review process.

This approach is intended to look at projects from a broader perspective, and ensure that all information is available to make recommendations regarding projects and permit applications.

Project Review Questions

Based on the six principles to be met by participating governments in carrying out the requirements of the Upper Delaware legislation and the purposes of the Land and Water Use Guidelines, as described in the Final River Management Plan (pp. 40-41), questions are asked about landscape character and land use patterns. Additional questions are drawn directly from the resource management objectives of the Final River Management Plan (pp. 64-84). They are drawn from the sections on cultural resources, water resources management, fisheries and wildlife, threatened and endangered species, and unique land resources. Based on the Water Use Guidelines, additional questions are asked about recreation resources.

Conditions may be proposed that limit the secondary impacts of a project, or limit subsequent projects in the Corridor.

Land Management

Principles

1. Maintain the high water quality found in the Upper Delaware River.
2. Provide for the protection of the health, safety, and welfare of residents and visitors; and provide for the protection and preservation of natural resources.
3. Provide for recreational and other public uses while protecting the Upper Delaware River as a natural resource.
4. Provide for the continuation of agricultural and forestry uses.
5. Conserve river area resources.
6. Maintain existing patterns of land use and ownership.

Questions

1. Will the project detract from or degrade the unique landscape characteristics (aesthetic or functional) of the Upper Delaware River corridor?
2. Does the project protect, encourage, or promote the continuation of traditional land and water uses that existed at the time the Final River Management Plan was adopted?
3. If the project involves a use that was not specifically addressed in the Schedule of Compatible, Conditional, and Incompatible Land Uses or in the Definitions in Section 5, is that use similar to other uses considered Compatible with the river corridor classification (Scenic, Recreational, or Hamlet area) and is that use consistent with the Principles and Objectives of the Land and Water Use Guidelines?
4. Will the project have an adverse impact on the visual character and traditional land use pattern of the affected segment of the river corridor, whether Scenic, Recreational, or Hamlet?

Water Resources

Objectives

1. Advocate flow release schedules from tributary reservoirs adequate to protect or improve water quality and aquatic ecosystems, in order to conserve and enhance the values that qualified the Upper Delaware as a Scenic and Recreational River.
2. Maintain or improve the existing quality of the water in the Upper Delaware River.
3. Upgrade Upper Delaware water quality monitoring so that conditions throughout the river corridor will be assessed at regular intervals.
4. Prohibit water resource development on the main stem of the Upper Delaware Scenic and Recreational River. Prohibited development shall include ice booms and the use of groundwater withdrawals to augment river flows.
5. Ensure that water resources development on tributaries of the Upper Delaware River do not invade the area or unreasonably diminish the resource values for which the river was designated.

Questions

1. Does the project restrict the free-flowing nature of the river or any of its tributaries within the river corridor?
2. Does the project call for the placement of any construction, bank stabilization device, or other object below the ordinary high water mark?
3. Does the project reduce or change the volume or pattern of flow in the river or its tributaries?
4. Does the project produce discharge that may increase the river or tributary's pollution or sediment load?
5. Does the project call for the placement of an ice boom or similar construction?
6. Does the project include the removal of large volumes of groundwater for flow augmentation purposes?
7. Will the project produce changes in flow volume, velocity or temperature that may affect fish and wildlife or aquatic flora population within the river corridor?
8. If any of the above conditions exist, are there any conditions that may be recommended to eliminate the impact without recommending that the permit not be granted?
9. What will be the cumulative impact of this project on water resources in the river corridor?

Cultural Resources

Objectives

1. Foster a widespread preservation ethic in the Upper Delaware Valley.
2. Upgrade the management efforts of state and local governments, and the private sector by drawing upon the resources and technical expertise of the National Park Service and the Upper Delaware Council.
3. Assure compliance by state and federal agencies with relevant federal and state historic preservation laws, regulations, and policies that may affect the river corridor.
4. Identify and secure appropriate management for several specific resources in the valley.

Questions

1. Will the project negatively affect the structure or grounds surrounding any of the key sites identified in the RMP?
2. Will the project negatively affect the structure or grounds surrounding any site on the National or State Register of Historic Places or identified as eligible for either of these Registers?
3. If any of the above conditions exist, are there any conditions that may be recommended to eliminate the impact without recommending that the permit not be granted?
4. Is there a management action which can be taken to upgrade the protection, rehabilitation or interpretation of this site that is within the scope of this proposal?
5. What will be the cumulative impact of this project on cultural resources in the river corridor?

Fish and Wildlife Resources

Objectives

1. Ensure the continued public use and enjoyment of the traditional and historical use(s) of the public lands and waters of the river corridor for hunting, fishing, trapping and commercial taking of eels and bait, as well as for non-consumptive uses such as camping, hiking, and photography.
2. Encourage the continued ownership of, and management by, landowners and private groups of lands for wildlife production, hunting, fishing, and trapping; such management is consistent with this management Plan and the Upper Delaware legislation.
3. Continue the use of sound forest management practices such as the harvesting of timber, since it is vital to the perpetuation of healthy wildlife populations as well as for the maintenance of successional forest cover types which enhance the essential scenic quality of the river corridor.
4. Continue and strive to improve the vital conservation releases program as well as other sound management practices to conserve the fishery's quality and integrity.

Questions

1. Will the proposed project have any effect on critical fish or wildlife habitat?
2. Will the project restrict uses of the public lands and waters in the Corridor for fish or wildlife harvesting?
3. Will the project restrict uses of available land for camping, hiking or photography?
4. Will the project change the use of lands now being used for fish or wildlife habitat?
5. Will the project affect the conservation release program in any way?
6. If such a situation exists, are there any conditions that may be recommended to eliminate the impact without recommending that the permit not be granted?
7. What will be the cumulative impact of this project on fish and wildlife resources in the river corridor?

Threatened and Endangered Species

Objectives

1. The objective of the threatened and endangered species section is to identify and protect rare, threatened, and endangered species within the river corridor.

Questions

1. Will the proposed project be developed on land that has been identified as habitat for any state or federal threatened or endangered species or for any rare species in the Corridor?
2. Will the proposed project affect the habitat of any state or federal threatened or endangered species or species rare in the river corridor?
3. If such a situation exists, are there any conditions that may be recommended to eliminate the impact without recommending that the permit not be granted?
4. What will be the cumulative impact of this project on threatened and endangered species or rare species in the river corridor?

Unique Land Resources

Objectives

1. Undertake a study of the river corridor to identify the landforms in the river corridor that have national, regional, state, and local significance.
2. Develop and implement a plan to provide interpretation for the public of the most significant landscape features identified.
3. Undertake these management objectives only with the approval of private property owners where private lands are involved.

Questions

1. Will the proposed project be developed on land that has been identified as a unique landform by the Upper Delaware Land Resources Assessment?
2. Will the proposed project disturb the land in such a way that its unique characteristics will be diminished?
3. If such a situation exists, are there any conditions that may be recommended to eliminate the impact without recommending that the permit not be granted?
4. What will be the cumulative impact of this project on unique land resources in the river corridor?

Recreation Resources

Relevant Objectives

1. Maintain and, where necessary, improve present water quality. (Addressed under Water Resources Management)
2. Prevent riverbank erosion. (Addressed in the Land Use Guidelines)
3. Provide an adequate number and type of basic support facilities for all river users, including public access points, river rest stops, camping areas, and fishing access points along the Upper Delaware.
4. Manage the Upper Delaware primarily for the traditional recreational activities which have occurred on the river in the past.
5. Conserve the Upper Delaware fishery which is unique and represents a natural resource that cannot be replaced. (Addressed under Fish and Wildlife)
6. Design and locate recreation areas and facilities to avoid conflicting activity situations.
7. Encourage local towns, townships and counties to provide close-to-home recreational facilities as needed.

Questions

1. If the proposed development is a public recreation development, is it consistent with the approved list of facilities contained in the Facilities section of the Plan?
2. Will the proposed development create additional recreational conflicts in the river corridor?
3. Will the proposed development expand river use or provide additional services to existing recreational users?
4. Are appropriate actions being taken under the proposed development to minimize or repair riverbank erosion problems or will the project create additional riverbank erosion problems?
5. If any of the above conditions exists, are there any conditions that may be recommended to eliminate the impact without recommending that the permit not be granted?
6. What will be the cumulative impact of this project on recreational resources in the river corridor?

Appendix A: Supplement to the Schedule of Compatible, Conditional, and Incompatible Land Uses

Supplement to the Schedule of Compatible, Conditional, and Incompatible Land Uses

To assist the reviewer, a supplement to the Land and Water Use Guideline's Schedule of Compatible, Conditional, and Incompatible Uses is provided that organizes all of the uses considered compatible, appropriate with conditional/special use review, and incompatible by river corridor classification. The intent of the supplement is to provide a user friendly reference that eliminates the need for the reviewer to cross-reference the other river corridor classifications in order to understand how uses are treated in any given classification.

There may be a number of unforeseen future uses that cannot be specifically provided for in the Schedule. When those situations arise, the affected town or township, the Upper Delaware Council and the National Park Service will compare those uses to similar uses that are defined in the Guidelines (see the Definitions in Appendix B of this document) and make their judgments accordingly.

Please refer to Appendix B for definitions of the land use types listed in the Schedule Supplement.

Schedule of Uses Supplement: SCENIC SEGMENTS

Classification	Compatible Uses	Appropriate Special Uses/Conditional Uses	Incompatible Uses
Scenic Segments	Agricultural Use Nurseries and Wholesale Greenhouses Forest Management Fish and Wildlife Management Single-Family Dwelling Unit Hunting/Fishing Cabins and Seasonal Residences Customary Accessory Uses Home Occupations Places of Worship Bed & Breakfast Places	Cluster Development Garden Apartments and Townhouses (at density of 1 unit per 2 acres) Small Craft Shops Substantially Set Back from the River Bait and Tackle Shops Boarding Homes Small Motels/Hotels Sawmills Gas/Oil Fields and Lines (see Section 111-E-2) Minor Surface Mining Operations Other Recreational Uses	Intensive Use Recreational Facilities Other Commercial Development Institutional Uses Major Commercial Development Industrial Uses Other Motels/Hotels Heavy Industrial Uses Junkyards Subsurface Mining Operations Major Surface Mining Operations Impoundments Channel Modifications Landfills Major Airports Paved 4-Lane Roads and Bridges Marinas Power Generating Stations Major Electric Lines Ice Breaking Structures Major Commercial Recreational Development Major Oil and Gas Transmission Lines

**Amendments to this Schedule may be made if the original Schedule is amended to include new land uses within the Corridor. Check the UDC website for the most up-to-date information.*

Schedule of Uses Supplement: RECREATIONAL SEGMENTS

Classification	Compatible Uses	Appropriate Special Uses/Conditional Uses	Incompatible Uses
Recreational Segments	Agricultural Use Nurseries and Wholesale Greenhouses Forest Management Fish and Wildlife Management Single-Family Dwelling Unit Two-Family Dwelling Units Hunting/Fishing Cabins and Seasonal Residences Customary Accessory Uses Home Occupations Places of Worship Bed & Breakfast Places Small Hotels/Motels Bait and Tackle Shops Other Recreational Uses	Cluster Development Garden Apartments and Townhouses (at density of 1 unit per 2 acres) Small Craft Shops Substantially Set Back from the River Boarding Homes Other Minor Commercial Development Business and Professional Offices Eating and Drinking Establishments Sawmills Gas/Oil Fields and Lines (see Section 111-E-2) Minor Surface Mining Operations Intensive Use Recreational Facilities Institutional Uses	Major Commercial Development Industrial Uses Other Motels/Hotels Heavy Industrial Uses Junkyards Subsurface Mining Operations Major Surface Mining Operations Impoundments Channel Modifications Landfills Major Airports Paved 4-Lane Roads and Bridges Marinas Power Generating Stations Major Electric Lines Ice Breaking Structures Major Commercial Recreational Development Major Oil and Gas Transmission Lines

**Amendments to this Schedule may be made if the original Schedule is amended to include new land uses within the Corridor. Check the UDC website for the most up-to-date information.*

Schedule of Uses Supplement: HAMLETS

Classification	Compatible Uses	Appropriate Special Uses/Conditional Uses	Incompatible Uses
Hamlets	Agricultural Use Nurseries and Wholesale Greenhouses Forest Management Fish and Wildlife Management Single-Family Dwelling Unit Two-Family Dwelling Units Hunting/Fishing Cabins and Seasonal Residences Customary Accessory Uses Home Occupations Places of Worship Bed & Breakfast Places Small Hotels/Motels Other Motels and Hotels Bait and Tackle Shops Commercial Development (This includes Small Craft Shops) Retail Establishments Business and Professional Offices Eating and Drinking Establishments Other Recreational Uses Intensive Use Recreational Facilities Institutional Uses	Cluster Development Garden Apartments Townhouses Boarding Homes Sawmills Gas/Oil Fields and Lines (see Section 111-E-2) Minor Surface Mining Operations Light Industrial Uses	Heavy Industrial Uses Junkyards Subsurface Mining Operations Major Surface Mining Operations Impoundments Channel Modifications Landfills Major Airports Paved 4-Lane Roads and Bridges Marinas Power Generating Stations Major Electric Lines Ice Breaking Structures Major Commercial Recreational Development Major Oil and Gas Transmission Lines

**Amendments to these supplements may be made if the original Schedule is amended to include new land uses within the Corridor. Check the UDC website for the most up-to-date information.*

Appendix B: Definitions from the Land and Water Use Guidelines

Definitions from Land and Water Use Guidelines

Use these definitions to inform judgments regarding where a proposed land use falls within the Schedule of Compatible, Conditional, and Incompatible Land Uses (found in Appendix A).

Access Area – A property used as an area of entry to a stream or other body of water for the purpose of launching or landing of watercraft. The access area may also include ancillary services or facilities other than base operations for watercraft rentals and may be operated as a private business.

Agricultural Use – A use involving the production, keeping, or maintenance for sale, lease or personal use of plants and animals useful to man, including but not limited to forages, grain and seed crops, dairy animals, poultry, beef, sheep, horses, pigs, bees, fur animals, trees, food of all kinds, vegetables, nurseries, and lands devoted to soil conservation or forestry management programs.

Average Lot Width – The average of: (1) width of a lot at the building setback line and (2) the width of a lot at the rear of the property.

Bait and Tackle Shop – A retail establishment in which hunting and fishing equipment, supplies and accessories are sold to the public.

Bed and Breakfast – An existing residence which is used, in the manner of a home occupation, to provide overnight lodging with breakfast as part of the consideration and involving shared bath and dining facilities, also including youth hostels.

Boarding House – A lodging house at which meals are provided.

Building Height – The vertical distance measured from the average elevation of the proposed finished grade to the highest point of the roof for flat roofs; to the deckline of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Business and Professional Offices – An office in which an occupation or vocation requiring training or advanced study in a specialized field is practiced, including, but not limited to, medical, legal, and real estate offices.

Campground – A tract of land providing two or more sites (for rent or sale) for the parking of travel trailers or the erection of tents or other portable sleeping accommodations.

Canoe (Watercraft) Livery – A business or facility for the leasing or renting of waterborne vessels (primarily canoes) for outdoor water based recreation

Channel Modification – Any channel widening, deepening, realignment or lining other than for the support of existing highway, bridge and rail facilities.

Clearcutting – The removal from more than two acres of a forested tract of substantially all trees, for other than agricultural or approved wildlife management purposes.

Clear and Direct Threat – An instance where a new land use is proposed which is either: (1) identified on the list of new land uses which are incompatible within the Upper Delaware River Corridor; or (2) identified as a land use which would, if developed in such a way, be counter to one or more of the principles and objectives set out in the River Management Plan and the Land and Water Use Guidelines.

Cluster Development – A development design technique concentrating buildings on specific areas of a site to allow the remaining land to be used for recreation, open space, and preservation of environmentally sensitive features.

Commercial Development – Any use, except home occupations, involving the offer for sale, rental, or distribution of goods, services, or commodities or the provision of recreational facilities or activities for a fee, but not including the manufacture of goods or commodities.

Commercial Facility – A place of retail or wholesale trade or the location from which services are provided that are privately operated for pecuniary gain.

Conditional Use – In Pennsylvania, a use generally appropriate for a zoning district but permitted only after review by local officials with attachment of conditions pursuant to criteria set forth in the zoning ordinance for this class of uses. Although not synonymous, a similar type of procedure in New York is the special use procedure.

Customary Accessory Use – A structure or use which (a) is subordinate to and serves a principal building or principal use, including but not limited to the production, harvesting, and storage as well as washing, grading, and packaging of unprocessed produce grown on-site; (b) is subordinate in area, extent, and purpose to the principal structure or principal building or a principal use; (c) contributes to the comfort, convenience, or necessity of the occupants, business or industry of the principal structure or principal use served; and (d) is located on the same lot as the principal structure or principal use served, except as otherwise authorized by this River Management Plan.

Density – The number of families, individual dwelling units or principal structures per unit of land.

Dwelling Unit – One or more rooms designed, occupied or intended for occupancy as separate living quarters with cooking, sleeping and sanitary facilities provided for the exclusive use of a single-family maintaining a household.

Eating and Drinking Establishment – A facility, open to the public, which serves prepared food and beverages.

Equivalent Dwelling Unit – The amount of nonresidential development necessary to generate a sewage flow equal to that of a typical dwelling unit.

Erosion Hazard Area – Areas especially subject to the detachment and movement of soils or rock fragments or the wearing away of the land surface by water, wind, ice and gravity, particularly those areas located along the escarpments lining either side of the Upper Delaware River valley.

Fish and Wildlife Management – The management of the characteristics and interactions of fish and wildlife populations and their habitats in order to promote, protect or enhance the ecological integrity of those populations.

Floodplain – The channel and relatively flat area adjoining the channel of a natural stream or river which has been or may be covered by flood water, including at a minimum, those areas designated by the Federal Insurance Administration and/or the Federal Emergency Management Agency as “flood hazard areas.”

Forest Management – The business of operating timber tracts, tree farms and forest nurseries; the gathering of forest products; and other forest services, not including saw mills or other wood industry manufacturers.

Garden Apartments – A building not more than two-and-one-half stories in height containing more than two dwelling units.

Gas and Oil Fields – Any oil or natural gas exploration activities such as drilling or seismic testing, or any new operation which extracts petroleum related products such as crude oil or natural gas from the earth.

Hamlet – The following spatially discrete, developed areas of concentrated residential, commercial, and or industrial development, in or adjacent to existing developed areas: in the State of New York – Hancock, Lordville, Long Eddy, Hankins, Callicoon, Cochection, Narrowsburg, Minisink Ford, Barryville, Hillside, Pond Eddy, Mongaup, and Sparrowbush; in the Commonwealth of Pennsylvania – Equinunk, Damascus, Milanville, Masthope, Lackawaxen, Shohola, and Mill Rift.

Heavy Industrial Use – The manufacturing, production or refining of raw materials or the large scale assembly of component parts for non-local distribution or consumption, typically involving the generation of waste by-products, extensive buildings and ancillary transportation modes, but not including home occupation or traditional activities such as lumber yards or dairy processing plants.

High Water Setback – The required distance between the mean high water line of the Upper Delaware River and the building line of any lot.

Home Occupation – An activity carried out for gain by a resident in the resident's dwelling unit or an accessory building, subject to reasonable restrictions on the number of non-resident employees (if any), controls on signs (if allowed) and the maximum area to be used for the home occupation as well as parking requirements, provided the exterior appearance of the principal structure and premises is maintained as a residential dwelling.

Hotel – A building in which lodging, or boarding and lodging are provided and offered to the public for compensation and in which ingress and egress to and from all rooms are made through an inside lobby.

Hunting/Fishing Camp – A small structure used to provide shelter during hunting and fishing outings.

Ice Breaking Structure – A facility or structure placed within the river or on its banks for the purpose of breaking up ice, not including measures employed to protect individual existing structures.

Impervious Surface – Any material which reduces and prevents the absorption of stormwater into previously undeveloped land.

Impoundment – Any body of water located on a tributary, brook, stream, kill, or river formed by any new manmade structure within the boundary of the designated river; this does not apply to structures for fishery management such as eel weirs, or small agricultural ponds not on tributaries.

Incompatible Use – A new land use which, if permitted, would pose a “clear and direct threat” to the objectives of the Upper Delaware legislation and the River Management Plan.

Industrial Use – An establishment, other than a home occupation, used for the assembly, manufacturing, or processing of goods, not including farming.

Institutional Use – Any land use, generally serving no less than 25 persons at one time, for the following public or private purposes: educational facilities, including universities, colleges, elementary, secondary and vocational schools, kindergartens and nurseries, cultural facilities such as libraries, galleries, museums, concert halls, theaters and the like; hospitals, including such educational, clinical, research and convalescent facilities as are integral to the operation of the hospital; medical and health service facilities, including nursing homes, supervised residential institutions, rehabilitation therapy centers and public health facilities; military facilities; law enforcement facilities; and other similar facilities, not including small day care centers, Montessori schools, institutional re-use of existing properties, and similar uses.

Intensive Livestock Operation – The fattening or raising in relative confinement (using feedlots) of beef cattle or hogs or the keeping in cages of 100,000 or more fowl.

Intensive Use Recreational Facility – Boat rentals, canoe or other watercraft liveries, tourist recreational facilities, recreational vehicle campgrounds, golf courses, public recreational facilities, clubhouses and other recreational uses likely to require significant amounts of parking, restaurant facilities, rest room facilities, and other accessory services; not including lands used as access points only, whether publicly or privately operated; and not including major commercial recreational development; nor town open space parks, playgrounds, or ballfields.

Junkyard – Any new commercial use of land, with or without buildings, principally for the outside storage, dismantling, processing, salvage and sale of uses and discarded materials including, but not limited to, wastepaper, rags, metal, building materials, house furnishings, machines, and vehicles or parts of vehicles. This definition does not apply to yard sales or “flea markets.”

Landfills – Any new site where trash or refuse is buried as part of a public or private business operation, including toxic or radioactive wastes disposal.

Light Industrial Use – A use involving generally unobtrusive processes. This would include research, engineering or testing laboratories, assembly from components, fabrication of models, textiles, clothing manufacturing, warehousing distribution centers, wood products industries, etc.

Lot Coverage – That portion or percentage of the lot area which is covered by buildings, pavement, or other impervious surfaces (also known as building coverage).

Major Airports – A tract of land that is maintained with a paved runway for the landing and taking off of aircrafts and for the receiving and discharging passengers and cargo.

Major Commercial Development – Commercial uses with 2,000 square feet or more of floor space, or five or more employees, not including Minor Commercial Development.

Major Commercial Recreational Development – Any new recreational uses which have significant impacts on land and water resource values, including, but not limited to, amusement parks, drive-in theaters, auto race tracks, fairgrounds and sports arenas, but not including retail sales, boat rentals, and similar uses.

Major Electric Lines – Any new electric power lines, cables, or conduits used for the transmission of power between two points which has a design capacity of 125 kilovolts or greater and extending a distance of one mile or more in length, or of between 100 kilovolts and 125 kilovolts, extending a distance of ten miles or more in length. This definition does not include telephone and electric distribution lines.

Major Oil and Gas Lines – Any pipe or conduit used for the transmission of natural gas, oil or other fuel which is one thousand (1000) feet or longer and is under pressure of 125 pounds per square inch (p.s.i.) or greater. This does not apply to natural gas, oil, or other fuel distribution lines for residential, industrial and commercial use.

Major Surface Mining Operations – Any new land use operation which extracts minerals from the earth from active operations exceeding two (2) acres in size, including, but not limited to, strip mining, dredging, quarrying, coal or uranium mining.

Major Tributary – Any tributary, stream to the Upper Delaware River which is depicted on the U. S. Geological Survey Maps for the Upper Delaware River area, not including any portion of the stream outside the river corridor.

Marinas – Any new commercial boat basin providing secure mooring for motorboats. This does not include livery operations and individual residential boat docks.

Mineral and Soil Resource Products – Clay, gravel, stone, top soil and other products extracted from the ground.

Minor Commercial Development – In recreational areas, commercial uses are limited to professional offices associated with residences, small neighborhood retail convenience stores, farm stands or similar retail facilities with less than 2,000 square feet of floor space, or less than five people, and compatible with the natural and scenic qualities of a designated recreational river.

Minor Surface Mining Operation – Any new extraction of minerals by, but not limited to, strip mining, dredging, or quarrying, not exceeding two acres of active face at one time plus an area equal in size to the active face necessary for accessory use.

Mobile Home – A transportable single-family dwelling intended for permanent occupancy or place of assembly contained in one unit, or two units designed to be jointed into one integral unit capable of being separated and repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations.

Mobile Home Park – A parcel of land under single ownership which has been planned and approved for the commercial renting of mobile homes and/or mobile home spaces for nontransient use.

Motel – A building or group of buildings which: (a) contains living or sleeping accommodations used primarily for transient occupancy, and (b) has individual entrances from outside the building to serve each accommodation.

Natural Cover – Natural vegetation including grasses or other plants which help to keep soil from being washed or blown away.

Non-Conforming (Substandard) Lot – A lot, the area and dimensions or location of which, was lawful prior to adoption, revision or amendment to a Zoning Ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of a Zoning District.

Non-Conforming Use – A use or activity which was lawful prior to the adoption, revision or amendment to a Zoning Ordinance, but which fails by reason of such adoption, revision or amendment to conform to the present requirements of a Zoning District.

Nursery – A businesses in which plants, such as trees and shrubs, are grown for transplanting, for use as stocks for budding and grafting or for sale.

Other Recreational Uses – New recreational uses that are designed for relatively short use periods and that do not provide other than rudimentary visitor services and that do not include infrastructure development except as required to meet state health codes, typically including such uses as river rest stops, river access sites, boat-in tent camping, town open space parks, playgrounds and ball fields.

Overlay District – A zoning district which overlays other zoning districts applicable to any lot and imposes additional requirements without changing any of the requirements normally applicable within the designated district.

Paved Four-Lanes Roads and Bridges – Any construction of new arterial highways and bridges or widening of highways from two to four lanes. This does not apply to repaving of existing highways or bridges, repair projects or the construction and repair of two lane roads and bridges.

Personal Use Livestock Operation – The keeping of livestock including beef animals, dairy animals, poultry and other farm animals for personal use rather than commercial purposes.

Places of Worship – A structure and its accessory properties used for religious observances, such as churches and synagogues.

Power Generating Stations – Any new commercial or public electric generating facility (for base load, cycling or peaking purposes) powered by coal, oil, or natural gas, nuclear power and hydropower.

Principal Structure – The dwelling unit or primary commercial building.

Public Facility – A facility operated by a unit of government.

Public Recreational Facilities and Visitor Centers – Facilities or sites operated by a government entity to provide amusement, entertainment, education, or a recreational service to the public.

Recreational Vehicle Campgrounds – A parcel of land, whether leased or sold, providing sites for travel trailers, truck campers, camper trailers or motor homes for transient use.

Recreational Vehicle Parks Intended for Non-transient Use – A site or facility operated in the manner of a campground, where the individual lots, tracts, parcels or other divisions of land are permanently conveyed, leased on a long-term basis or the recreational vehicles are otherwise permitted to remain permanently or semi-permanently affixed to an individual site for extensive periods of time whether used or not.

Retail Establishment – Commercial developments that sell goods or services to the public.

Ridgeline – The point at which the plane which constitutes the side of the river valley intersects with the plane of the plateau adjacent to the river valley, often resulting in a broad precipice or cliff face overlooking the Delaware River. Ridgeline, as used here, is not intended to mean the boundary of the River Corridor.

River – The Upper Delaware Scenic and Recreational River.

River Area or Corridor – That area included within the landward boundaries of the Upper Delaware Scenic and Recreational River as designated by the River Management Plan.

River Frontage – **The lineal distance in feet which a property fronts on the Upper Delaware National Recreational and Scenic River.**

River Related Recreational Facilities – Recreational uses which are principally oriented toward river users including but not limited to boat accesses and bases, bait and tackle shops, campgrounds, swimming areas, comfort areas, snack stands if part of a larger recreational facility and other facilities which offer an array of recreational activities and services, but not including hotels, motels, restaurants, amusement parks, amenities installed for use by individual residents, and the like.

Sawmill – An establishment for processing logs into finished or semi-finished lumber, but which does not include major wood products industries or lumberyards.

Seasonal Residence – A secondary dwelling unit used on an irregular basis.

Site Plan Review – A procedure whereby, in New York State, Planning Boards are authorized to review and approve, approve with modifications or disapprove site plans as set forth in Zoning Ordinances or in regulations of the Planning Board and directed toward such elements of concern as screening, drainage, availability of services and traffic impacts. Also, in Pennsylvania, a similar review by the Township Planning Commission with final action pursuant to a conditional use permit from the Township Board of Supervisors.

Side Yard – A space extending from the front yard to the rear yard between the principle building and the side lot line and unobstructed from the ground upward except as may be permitted elsewhere in the ordinance. (Front and rear yards are similarly defined in terms of front and rear lot lines).

Small Craft Shop – An establishment for the sale of items which require the maker to have manual dexterity or artistic skill, including but not limited to, pottery, carpentry, and sewing shops.

Small Hotel – A building, in which (a) lodging or boarding are provided and offered to the public for compensation, (b) ingress and egress to and from all rooms are made through an inside lobby, (c) includes, but is not limited to, country inns and youth hostels, and (d) meets the following conditions: (1) does not exceed 12 rental units in size, (2) is located immediately adjacent to an arterial road, and (3) is compatible with the natural and scenic characteristics for which the river was designated.

Small Motel – A building or set of buildings, which (a) contains living or sleeping accommodations used primarily for transient occupancy, and (b) has individual entrances from outside the building to serve such living and sleeping, and (c) meets the following conditions: (1) does not exceed twelve rental units in size, (2) is located immediately adjacent to an arterial road, and (3) is compatible with the natural and scenic characteristics for which the river was designated.

Special Use – In New York State, a use which, because of its unique characteristics, requires individual consideration through a site plan review process by the Planning Board as established by Section 274A of the Town Law or through the review process by the Zoning Board of Appeals as established by Section 267 of the Town Law. Such a use may require certain conditions and safeguards before being permitted. Although not synonymous, a similar type of procedure in Pennsylvania is the conditional use procedure.

Stream Discharge – The discharge of treated or untreated effluent to a stream.

Substantial Conformance – Conformance with respect to the list of Compatible, Conditional, and Incompatible Land Uses set out in these guidelines and with the substance of each of the principles and objectives set out in these guidelines so as to carry out the intent of the Upper Delaware legislation.

Townhouses – A group of single-family dwellings, not over two-and-one-half stories in height constructed as part of series of dwellings, all of which are either attached to the adjacent dwelling or dwellings, by party walls or are located immediately adjacent thereto with no visible separation between walls or roofs.

Towns – A New York State Town or Pennsylvania Township.

Tributary – See “Major Tributary.”

Traditional Resource Extracting Operations – Any resource extraction operation not including major surface mining operations or subsurface mining operations.

Variance – Permission to depart from the literal requirements of an ordinance.

Wholesale Greenhouse – An establishment which sells to retail outlets plants cultivated under glass or similar enclosures.

Appendix C: Schedule of Uses Worksheet (for Completing Substantial Conformance Reviews of Zoning Laws/Ordinances)

SCHEDULE OF USES WORKSHEET FOR COMPLETING SUBSTANTIAL CONFORMANCE REVIEWS OF ZONING LAWS/ORDINANCES

NOTE: Modify with new rows and column headings as needed and attach additional pages as necessary.

Name of Zoning District Occurring within Upper Delaware Corridor Boundary			
Permitted Principal Uses (List Each)	If Not in LWUG Schedule, Use is Similar to the Following Use Defined in the LWUG	Conforms with (Scenic/Recreational/Hamlet) Classification (Choose One) Yes/No	How to Bring this Use into Conformance

Requires Conditional /Special Use Approval (List Each)	If Not in LWUG Schedule, Use is Similar to the Following Use Defined in the LWUG	Conforms with (Scenic/Recreational/Hamlet) Classification (Choose One) Yes/No	How to Bring this Use into Conformance

Appendix D: References and Resources

References and Resources

Many of these documents can be found on the Upper Delaware Council website. Others are available from the respective agency.

- Final River Management Plan: Upper Delaware Scenic and Recreational River—New York and Pennsylvania, prepared by the Conference of Upper Delaware Townships in cooperation with the National Park Service, November 1986
- Upper Delaware Land and Water Use Guidelines
- National Wild and Scenic Rivers Act, P.L. 90-542
- Upper Delaware Enabling Legislation, P.L. 95-625 Section 704
- Upper Delaware Scenic and Recreational River Outstandingly Remarkable Values
- Upper Delaware Scenic and Recreational River Design Handbook
- Pennsylvania Municipalities Planning Code
- Pennsylvania Uniform Construction Code
- New York State General Municipal Law, Section 239
- New York State Uniform Code
- Army Corps of Engineers Recreation Facility and Customer Services Standards
- National Recreation and Park Association's Recreation, Parks and Open Space Standards and Guidelines