

BENTON TOWNSHIP

LACKAWANNA COUNTY, PENNSYLVANIA

ZONING ORDINANCE

PROPOSED FOR
NOVEMBER 7, 2002

COMMUNITY PLANNING & MANAGEMENT ASSOCIATES
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BE IT HEREBY ORDAINED AND ENACTED by the Board of Supervisors of Benton Township, Lackawanna County, Pennsylvania by authority of and pursuant to the provisions of Act of 1968, P.L. 805, No. 247 of the General Assembly of the Commonwealth of Pennsylvania, approved July 31, 1968, as reenacted and amended, known and cited as the "Pennsylvania Municipalities Planning Code," as follows:

ARTICLE I - GENERAL PROVISIONS

100 Readoption and Conflict

The Benton Township Zoning Ordinance of 1974, as amended, is hereby amended and restated in its entirety as hereinafter set forth. This Zoning Ordinance is not intended to and shall not be construed to affect or change any other ordinance, code or regulation of the Township of Benton. If any other ordinance, code or regulation of the Township of Benton is in conflict or inconsistent with the requirements of this Zoning Ordinance, the most restrictive standards and provisions shall apply.

101 Title and Short Title

101.1 Title

AN ORDINANCE PERMITTING, PROHIBITING, REGULATING, RESTRICTING, AND DETERMINING THE USES OF LAND, WATERCOURSES, AND OTHER BODIES OF WATER; THE SIZE, HEIGHT, BULK, LOCATION, ERECTION, CONSTRUCTION, REPAIR, MAINTENANCE, ALTERATION, RAZING, REMOVAL AND USE OF STRUCTURES; THE AREAS AND DIMENSIONS OF LAND AND BODIES OF WATER TO BE OCCUPIED BY USES AND STRUCTURES AS WELL AS COURTS, YARDS, AND OTHER OPEN SPACES AND DISTANCES TO BE LEFT UNOCCUPIED BY USES AND STRUCTURES; THE DENSITY OF POPULATION AND INTENSITY OF USE; CREATING ZONING DISTRICTS AND ESTABLISHING THE BOUNDARIES THEREOF; AUTHORIZING THE APPOINTMENT OF A ZONING OFFICER; CREATING A ZONING HEARING BOARD; AND PROVIDING FOR THE ADMINISTRATION, AMENDMENT, AND ENFORCEMENT OF THE ORDINANCE, INCLUDING THE IMPOSITION OF PENALTIES.

101.2 Short Title

This ordinance shall be known and may be cited as the "BENTON TOWNSHIP ZONING ORDINANCE."

102 Purpose

This Ordinance is adopted in accordance with an overall land use control program and with consideration for the character of the municipality, its various parts and the suitability of the various parts for particular uses and structures. This Ordinance is enacted for the following purposes:

- A. To promote, protect and facilitate one or more of the following: the public health, safety, morals, general welfare; coordinated and practical community development; density of population; civil defense and disaster evacuation, airports, and national defense facilities; the provisions of adequate light and air; police protection; vehicle parking and loading space; transportation; natural resources, agricultural land and uses; the safe use of natural or artificial bodies of water, boat docks and related facilities; reliable, safe and adequate water supplies; safe and adequate sewerage disposal, schools, public grounds and other public requirements and other purposes set forth in the Pennsylvania Municipalities Planning Code.
- B. To prevent one or more of the following: overcrowding of land, watercourses and other bodies of water, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

- C. To preserve prime agriculture and farmland considering topography, soil type and classification, and present use.
- D. To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks, provided, however, that no zoning ordinance shall be deemed invalid for the failure to provide for any other specific dwelling type.
- E. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential dwelling types and nonresidential uses.

103 Interpretation

In interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and the general welfare of the Township and its citizens. It is not intended to interfere with or abrogate or annul other rules, regulations, or ordinances of the Township except that where this Ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of a building, or requires larger open spaces than are imposed by such other rules, regulations, or ordinances, the provisions of this Ordinance shall control.

104 Severability

In the event that any provision, section, sentence, or clause of this Ordinance shall be held to be unconstitutional, such invalidity shall not affect or impair any remaining part of this Ordinance, it being the intent of the Township that such remainder shall be and shall remain in full force and effect.

105 Effective Date

This Zoning Ordinance shall take effect immediately upon its adoption.

ARTICLE II

COMMUNITY DEVELOPMENT OBJECTIVES and GOALS

201 General Community Development Objectives

This statement of the Community Development Objectives is included under the authority of Section 606 of the Pennsylvania Municipalities Planning Code. The Community Development Objectives include, but are not limited to the following:

- A. To achieve the best use of the land within the Township, insuring that varying use of land and water bodies will complement one another and thus improve the economic, social, and aesthetic character of the community.
- B. To establish realistic population densities in order to insure health standards, privacy and open space and in order to provide utilities, police protection, and community services and facilities in the most convenient and efficient manner.
- C. To maintain and improve the road system for better internal circulation and movement of through traffic, which will facilitate the efficient and safe movement of people and goods.
- D. To guide the location of future development and establish developmental standards in such a way that negative impacts on the natural environment and natural resources are minimized, and to minimize existing and future water, air, land and noise pollution.
- E. To provide the opportunity for a wide-range and variety of housing types to meet the needs of all Township residents; newly-formed households, growing families and senior citizens.
- F. To update and revise planning goals and objectives, and the operational tools necessary for implementation, in light of new data and changing conditions.
- G. To expand local business and strengthen the economy by encouraging well-planned commercial, industrial, residential, and recreational growth which will provide for local employment, shopping facilities, and recreational opportunities which in turn will strengthen the local tax base.
- H. To strive for coordination between policies, plans, and programs in the community through cooperation among governing officials, community interest groups, and the general populace.

202 Goals and Objectives

Any community conservation and land use control effort by its very nature, must include goals. Without goals, there would be little direction to the future of the community. In the case of planning for a rural community like the Benton Township, goals establish the framework for change and growth management, and the foundation for maintaining key community characteristics. Goals pronounce the community's expectations and provide a vision of how the community is expected to evolve into the future. Objectives are specific actions which are designed to achieve goals and satisfy community needs. Effecting objectives improves the physical condition of the community and sustains and enhances the overall quality of life.

The goals of all residents of the community will not be the same. Some residents will favor increased economic development, while other residents demand environmental protection. Some residents will demand more community facilities and services, while others prefer lower taxes. Some residents will strive for land use diversity, while others would prefer to live in a bedroom community. One function of the community conservation and land use control process is to strike a balance between these varied expectations to meet the overall goals of the community.

The authors of Rural Environmental Planning for Sustainable Communities suggest that rural communities and

residents of rural communities are characteristically unique from their more urban counterparts, and have the opportunity to directly mold their communities. They go on to say,

The rural community is seen as the conservator of its own resources, habitat, and culture. Local citizens are directly involved in the control of community assets as they plan for the retention, enrichment, and equitable use of those assets for present and future generations.

- 1. Rural people place a high value on self-reliance and self determination. They have experience with techniques for cultural and economic survival. They can make decisions regarding their long-term interests, design and carry out programs, evaluate the results of their work, and make necessary adjustments.*
- 2. Rural people value cooperation as a guide to problem solving. This attitude has evolved from generations of experience in rural living, where cooperation is a major tool of survival and community maintenance.*
- 3. Long-term sustainability of a rural environment is achieved when citizens guide economic development according to the "physical carrying capacities" of the ecosystem. Land ownership is valued not just for its market value but also for sustaining a way of life. Consideration of the ecosystem's physical carrying capacity assumes that, although efficiency of use can vary, physical and natural resources are finite and can bear only so much use.*
- 4. Increasing the self-reliance of citizens in rural communities can be the basis for sustainability. A self-reliant community possesses the knowledge, skills, resources, and vision to identify changing conditions, locate appropriate technical assistance, and initiate actions in a manner that conserves the rural environment and distributes benefits in an equitable manner.*

Along with the community's goals, specific objectives must be identified; actions and methods for achieving the goals. Some objectives will be the direct responsibility of local elected and appointed officials. Others will require the cooperation and participation of other levels of government and the private sector.

The following goals and objectives were developed by the Township Planning Commission and Board of Supervisors based on the resident opinions and expectations expressed at public meetings conducted as part of the zoning ordinance development process. The goals and objectives are intended to serve the Township as a guide for land use control decision making. Any significant action taken by a local municipality, be it the adoption or revision of a zoning ordinance or the improvement of a municipal building, should be evaluated in terms of the community's goals and objectives. In addition, community planning and land conservation and development control is an on-going process, and the Township must periodically evaluate its goals and objectives to assure that they adequately reflect current community conditions and the expectations of Township residents and officials.

GOAL 1

MAINTAIN THE TOWNSHIP'S EXISTING RURAL-AGRICULTURAL CHARACTER AND QUALITY LIFESTYLE; AND, CONSERVE OPEN LAND, AGRICULTURAL LAND, AND FOREST LAND AS AN IMPORTANT ELEMENT OF THE LOCAL ECONOMY

The Township's physical environment, regional location and past development practices have shaped and maintained its character as a rural-agricultural community with limited commercial development. The lake communities in the Township are the focus of the higher density residential development and retail and service establishments located in the Township. The balance of the Township remains largely undeveloped with scattered single-family dwellings on lots one acre and larger, along with very limited commercial uses and some home occupations. Agriculture continues to play a role in the character of the community, with several active dairy farms and many acres of agricultural land, primarily in pasture and fodder production. Most of the Township's steep slope areas and other land not suited to agriculture is forested; these areas supporting some lumber and pulp harvesting. Open land was the cornerstone of the foundation of the area when its earliest settlers arrived, and has played a key role in the growth and development of the Township. Without this open land and the natural resources it offered the character of the Township would be dramatically different. Maintaining open land and the quality lifestyle associated with it is key

to the economic future of the area. The extensive participation of the owners of larger properties in the agricultural district program clearly documents the importance of agriculture, forestry and open land in general as an element of the Township's existing character, and future expectations for land conservation.

Benton Township is perceived as an attractive community offering a high quality of life. Future development must be controlled and managed with an overriding concern to sustain the Township's community character.

Objectives:

- A. Preserve agricultural land, open space, significant natural features, and sensitive land areas.
- B. Develop local land use controls including flexible zoning performance standards to control density and minimize conflicts between existing and future development, and update the controls periodically to address changing conditions.
- C. Consider the use of "open land" zoning to cluster residential development away from important natural, scenic and cultural features, and preserve the resulting open space.
- D. Investigate the use of Act 319 "Clean and Green" and other tax incentive programs as a means of forestalling development.
- E. Encourage continued participation in the Pennsylvania Agricultural Security Areas Program which provides operational protection to farmers.
- F. Do not overly restrict agriculture with unnecessary zoning regulations.
- G. Evaluate, in cooperation with the Lackawanna County Planning Commission, more progressive means of open and agricultural land preservation including open land zoning, purchase of easements, and transfer of development rights, especially in cooperation with conservancy and land trust organizations.
- H. Assure that adequate community facilities including sewage disposal and water supply are provided for new development.
- I. Encourage the use of soil based methods for sewage disposal; that is, on-site subsurface disposal and land application, instead of collection and treatment facilities with a surface water discharge.
- J. Avoid the construction of growth inducing community facilities such as central water supplies and central sewage collection and treatment facilities which would encourage the development of areas with important natural, scenic and cultural features, and agricultural areas.
- K. Carefully control the location and scale of commercial establishments while recognizing the importance of such development to the convenience of local residents and the tax base.
- L. Limit heavy commercial uses and industrial uses by establishing performance standards to control noise; outdoor manufacturing, processing and storage; lighting; and other potential effects.
- M. Control common law nuisances and threats to public health and safety due to, among others, noise, lack of property maintenance, poor building practices, junk accumulation, odors and uncontrolled burning.

Specific Objectives for Conservation Design for Residential Development

- A. To conserve open land, including those areas containing unique and sensitive natural features such as

woodlands, steep slopes, streams, flood plains and wetlands, by setting them aside from development.

- B. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development.
- C. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.
- D. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the community's population diversity may be maintained.
- E. To implement adopted municipal policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Township's *Open Space Plan*, including provisions for reasonable incentives to create a greenway system for the benefit of present and future residents.
- F. To implement adopted land use, transportation, and community policies, as identified in the Township's Comprehensive plan.
- G. To protect areas of the Township with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations.
- H. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
- I. To provide for the conservation and maintenance of open land within the Township to achieve the above-mentioned goals and for active or passive recreational use by residents.
- J. To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, flood plain, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls).
- K. To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties.
- L. To conserve scenic views and elements of the Township's rural character, and to minimize perceived density, by minimizing views of new development from existing roads.

GOAL 2

RECOGNIZE THE IMPORTANCE OF THE LAKE S IN THE TOWNSHIP TO THE CHARACTER, TAX BASE AND ECONOMY OF THE COMMUNITY, ALONG WITH THE RECREATIONAL IMPORTANCE TO THE REGION; AND TAKE THE NECESSARY ACTION TO SUSTAIN THIS ROLE.

Careful regulation of development around the lakes, and within their watersheds, is vital to continued good water

quality and recreational appeal.

Objectives:

- A. Use zoning to direct new commercial and residential development to areas where land is adequate to provide facilities necessary to support development (e.g., parking) and safeguards to protect the lakes (e.g., setbacks, maximum lot coverage).
- B. Require as part of the land use control process the assessment of development, residential and nonresidential, on the water quality and use of the lakes.
- C. Provide standards to control the use of existing lots in the lakes' watersheds to minimize negative effects on water quality.
- D. Consider adopting use regulations applicable to the lakes recognizing that Article VI of the Pennsylvania Municipalities Planning Code enables local municipalities to adopt zoning ordinances which *may permit, prohibit, regulate, restrict and determine uses of land, watercourses and other bodies of water*.
- E. Work with the Pennsylvania Fish Commission, the Pennsylvania Department of Environmental Protection and other agencies to identify and address water quality and public safety issues.

GOAL 3

CONSERVE NATURAL RESOURCES AND OPEN SPACE IN BENTON TOWNSHIP AND USE THE RESOURCES IN A WAY TO SUSTAIN THE AREA'S ECONOMY.

Exploitation of the natural resources and sensitive environmental areas in the Township can lead to the decline of the attractive rural character of the area and the quality lifestyle it affords, with eventual direct threats to public health and safety. Of special concern are soil and water resources.

Objectives:

- A. Identify sensitive natural areas such as wetlands, groundwater recharge areas, woodlands, steep slopes, poor soils and flood plains, and adopt regulations to protect such areas.
- B. Evaluate Township land use controls in terms of effects on open space and modify to maintain open space to the greatest extent possible.
- C. Maintain up-to-date standards in Township ordinances for storm water control, soil erosion and sedimentation control, sewage disposal, solid waste disposal and other environmental concerns.
- D. Consider the use of land use control incentives, such as a density bonus, for the preservation of large sensitive areas such as prime agricultural land.
- E. Consider the use of "open land" zoning to cluster residential development away from important natural, scenic and cultural features, and preserve the resulting open space.
- F. Encourage local landowner participation in the Agricultural Securities Program and Agricultural easement program, and other conservation easements.

GOAL 4

ENCOURAGE COMMERCIAL AND INDUSTRIAL DEVELOPMENT LOCATED AND DESIGNED TO BE COMPATIBLE WITH EXISTING LAND USE.

A healthy economy fosters a healthy community by providing business development and employment opportunities.

Given the historical development pattern of the Township with limited commercial development, residents rely on the greater Scranton area for employment, shopping and personal services. Local government may choose to not take a direct role in economic development, but can institute land use control and development policies that have a positive effect on the local economy and tax base, while addressing community conservation concerns.

Objectives:

- A. Use the Township Zoning Ordinance to direct new commercial development to areas of existing commercial development and where community facilities are adequate.
- B. Limit heavy commercial uses and industrial uses by establishing performance standards to control noise; outdoor manufacturing, processing and storage; lighting; and other potential effects
- C. Promote local economic viability by allowing home occupations consistent with residential and agricultural zoning districts and the overall community character.
- D. Recognize the importance of the regional economy and monitor and participate in county and regional business development activities.
- E. Adopt commercial and industrial development standards to protect the public health and safety and preserve community character.

GOAL 5**PROVIDE FOR A VARIETY OF HOUSING TYPES AND DENSITIES**

Families and individuals of all income levels reside in the Township and need continued access to decent and affordable housing with proper community facilities. The special needs of young families looking for their first home and senior citizens on fixed incomes must be addressed.

Objectives:

- A. Allow residential development in certain areas at a density sufficiently high to moderate the increasing cost of housing.
- B. Encourage the rehabilitation and adaptive reuse of existing older homes which typically are larger and more difficult to maintain, especially for individuals on fixed incomes.
- C. Investigate and encourage participation in all county, state and federal housing rehabilitation and assistance programs to assure Township residents have the opportunity to receive full benefit from such programs.
- D. Require all residential development to meet adequate design standards and provide proper community facilities via the Subdivision and Land Development Ordinance.
- E. Require in the Subdivision Ordinance the continued ownership and maintenance of all improvements and facilities associated with residential development.
- F. Foster a housing market affordable to younger and fixed-income residents by carefully evaluating the affect of land use controls on the cost of housing.

GOAL 6**ASSURE THAT COMMUNITY FACILITIES AND SERVICES WHICH WILL BE ADEQUATE TO MEET EXPECTED NEEDS ARE PROVIDED.**

Township residents rely on community and public facilities and services to meet their transportation, educational, water supply, sewage disposal, police protection, emergency response, recreation and other daily living needs. The Township does not, and cannot, provide all the facilities and services demanded by its residents, many such services being provided by other levels of government or volunteer organizations. Nevertheless, without diligent and ongoing attention to the operation and maintenance of existing facilities and services, and planning for new facilities and services, a municipality can fall short in adequately serving its residents.

Objectives:

- A. Systematically identify local municipal community facilities and services needs, including useful life replacement of existing facilities, and develop a capital budget to meet the needs.
- B. Provide necessary maintenance of existing Township community facilities to extend the useful life and forestall unnecessary capital expenditures.
- C. Encourage and continue to support volunteer fire, ambulance and other public service organizations.
- D. Assess recreation needs of Township residents and develop a program to provide recreation opportunities which are not adequately provided by the local school district or other organizations.
- E. Monitor the need for local police protection with a clear understanding of the large financial commitment necessary to maintain a local police department, and consider methods to provide affordable police protection using local and cooperative resources, as well as the Pennsylvania State Police.
- F. Assure that an adequate and safe water supply system, sewage collection and conveyance system, well designed and constructed roads and other facilities are provided by developers as part of any residential development.
- G. Manage all Township facilities and services efficiently and effectively.
- H. Attempt to foster regional, intergovernmental cooperation for community facilities planning and economies of scale for police services, joint purchasing, recreation and other facilities and services.
- I. Maintain up-to-date standards in Township ordinances for storm water control, soil erosion and sedimentation control, sewage disposal, solid waste disposal and other environmental concerns.

GOAL 7**ESTABLISH AND MAINTAIN A ROAD SYSTEM ADEQUATE TO SAFELY AND EFFICIENTLY MOVE GOODS AND PEOPLE THROUGH THE TOWNSHIP.**

Safe and well maintained roads are vital to all communities, serving not only as the means of travel within the community, but as the direct link to the region and beyond. The Township has direct jurisdiction over thirty-eight miles of the roads in the community, being responsible for improvements and maintenance, with the more heavily traveled routes generally owned and maintained by the State. Most Township roads are gravel and are not designed to carry large volumes of traffic or bear the weight of large numbers of commercial truck traffic. Land use controls must take into consideration the capacity of roads, directing commercial and higher density development to areas served by roads capable of carrying increased traffic and the trucks necessary to serve commercial establishments.

Objectives:

- A. Inventory and classify according to function all public roads in the Township and assess maintenance and improvements needed.
- B. Identify key intersections and other problem areas, and plan for improvements.
- C. Maintain the adequacy of roads by requiring adequate off-street parking and loading, limited curb cuts, well defined access points, and standards for dedication of roads to the Township.
- D. Limit higher density and higher traffic impact development to areas with adequate highway capacity to accommodate such development.
- E. Develop a road and intersection maintenance and capital improvements program.
- F. Maintain an up-to-date Township road ordinance setting standards for construction of public roads and establishing procedures for dedication to the Township.
- G. Actively participate in all County and PA DOT highway planning programs.
- H. Encourage intermunicipal cooperation as a means of addressing regional highway needs.
- I. Require as part of zoning approval for new or expanded uses, the issuance of a highway occupancy permit by the Township, or PA DOT as appropriate.
- J. Maintain an up-to-date Township road occupancy ordinance setting standards for driveway access to Township roads and storm water and utility improvements within the Township road right-of-way.

ARTICLE III DEFINITIONS

301 Rules of Construction and Definitions

The following rules of construction shall apply to this Ordinance:

- A. For the purpose of this Ordinance, certain terms and words are herein defined. Whenever used in this Ordinance, they shall have the meaning indicated in this Article, except where there is indicated in context different meaning.
- B. The particular shall control the general.
- C. The word "shall" and "must" are mandatory and not discretionary. The word "may" is permissive.
- D. Words used in the present sense shall include the future; words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- E. The phrase "used for" includes "arranged for", "designed for", "intended for", and/or "occupied for."
- F. The word "person" includes "individual," "profit or non-profit organization," "partnership," "company," "unincorporated association," "corporation," or other similar entities.

302 Terms, Phrases and Words Not Defined

When terms, phrases, or words are not defined, they shall have their ordinarily accepted meanings or such as the context may imply.

303 Definitions

For the purpose of this Ordinance, the following words, terms and phrases have the meaning herein indicated:

Abandoned or Junked Vehicle: Any vehicle not stored in a fully enclosed building which is not in good operating and road-worthy condition.

Abused Person Shelter: A non-profit residential use in which rooms are provided to serve as a temporary safe and supportive environment for persons who, because of actual or threatened physical or mental abuse, are forced to leave their previous living arrangement. Such facilities shall be designed to provide in-house living for persons only until a safe, permanent living arrangement can be obtained.

Accessory Use or Structure: A use of land or of a structure or portion thereof incidental and subordinate to the principal use of the land or building and located on the same lot with such principal use. A portion of a principal building used for an accessory use shall not be considered an accessory structure.

Access Point: One combined entrance/exit point or one clearly defined entrance point, or one clearly defined entrance point separated from another clearly defined exit point. This term shall not include access ways or driveways that are strictly and clearly limited to use by only emergency vehicles; such accesses are permitted by right as needed.

Adult Arcade: Any place to which the public is permitted or invited wherein coin-operated or token-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas". An "Adult Arcade" shall be considered an "Adult Business" for the purpose of this Ordinance.

Adult Bookstore or Adult Video Store: A commercial establishment which, as one of its principal business purposes or as a substantial part of its business, offers for sale or rental for any form of consideration, any one or more of the following:

- A. Books, magazines, periodicals or other printed matter or photographs, films, motion pictures, video cassettes, or video reproductions, slides or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- B. Instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities".

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as "Adult Bookstore" or "Adult Video Store". Such other business purposes will not serve to exempt such commercial establishment from being categorized as an "Adult Bookstore" or "Adult Video Store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas".

The term Adult Bookstore shall include but not be limited to an Adult Video Store, and all such uses shall be considered an "Adult Business" for the purpose of this Ordinance.

Adult Business: Any of the following:

- A. A use of a building or land for a business which has obscene materials as a substantial or significant portion of its stock-in-trade.
- B. A use of a building or land for a business which involves the sale, lease, trade, gift or display of drug paraphernalia as a substantial or significant portion of its stock-in-trade.
- C. Any nightclub, bar, restaurant, arcade, theater, or any other establishment that conducts live performances as a principal part of its business that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas", or where any "specified sexual activities" are conducted for economic gain or any other form of consideration.
- D. Any of the following as defined in this Article II:
 - 1. adult arcade
 - 2. adult bookstore or adult video store
 - 3. adult live entertainment use or facility
 - 4. adult motel
 - 5. adult motion picture theater
 - 6. adult theater
 - 7. escort agency
 - 8. massage parlor
 - 9. nude model studio
 - 10. sexual encounter center

Adult Care Facility: See "Health Facility."

Adult Live Entertainment Use or Facility: A commercial use (including, but not limited to, a use selling food or beverages) including live entertainment involving:

- A. Persons (which may include, but is not limited to, waiters, waitresses, dancers, clerks, bartenders, contractors or others) appearing in a state of nudity; or,
- B. Live performances which are characterized by the exposure of "specified anatomical areas" or simulated or actual "specified sexual activities"; or,
- C. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"

An "Adult Live Entertainment Use or Facility" shall be considered an "Adult Business" for the purpose of this Ordinance.

Adult Motel: A hotel, motel or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or,
- B. Offers sleeping rooms for rent three (3) or more times in one calendar day.

An "Adult Motel" shall be considered an "Adult Business" for the purpose of this Ordinance.

Adult Motion Picture Theater: A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas". An "Adult Motion Picture Theater" shall be considered an "Adult Business" for the purpose of this Ordinance.

Adult Theater: A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or "specified sexual activities". An "Adult Theater" shall be considered an "Adult Business" for the purpose of this Ordinance.

Agricultural Use: The use of any parcel of land for economic gain in the raising of agricultural products, livestock, poultry and/or dairy products. It includes necessary structures within the limits of the parcel and the storage of equipment necessary for production. It excludes the raising of fur bearing animals, riding academies, livery or boarding stables and dog kennels; and excluding the disposal or use of sludge, septage or similar waste products.

Agriculture Products Processing: An industry that involves the processing of raw agricultural products; and transforming those products into a more refined, prepared or marketable state. Includes, but is not limited to, such uses as tanneries, dairies and food canning and freezing operations.

Aircraft: Any contrivance used for manned ascent into or flight through the air.

Aircraft Sales, Repair or Modification: An establishment engaged in the sales, service and/or repair, or modification of any aircraft as its principal use.

Airport: In general, any area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with all airport buildings and facilities thereon, excluding helicopters and other vertical land/take-off aircraft, land and take-off.

Alley: A public or private thoroughfare affording only secondary access to abutting properties.

Alterations: As applied to a building or structure, means any change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

Amusement Arcade: A building or part of a building in which five (5) or more pinball machines, video games, or other similar player-operated amusement devices are maintained. The use of less than five (5) such devices shall be permitted as an accessory use to any lawful principal commercial use.

Amusement Park: A commercially operated park or facility with various devices for entertainment including but not limited to rides, games, electronic games and similar devices, food stands and other associated facilities.

Apartment: See “Dwelling.”

Applicant: An individual, trustee, executor, other fiduciary, corporation, firm, partnership, association, organization or other entity acting as a unit, and his/her/its heirs, successors and assigns, which is seeking an approval or permit pursuant to this Zoning Ordinance.

Archery Range, Indoor: See *Recreational Facility, Private*.

Archery Range, Outdoor: Any area not within a fully enclosed building used for the shooting of arrows for recreational or training purposes, including but not limited to, target shooting ranges, and target shooting courses. Any such commercial operation, any such area operated by any private non-profit entity, any community association, any such area operated by any sportsman’s, recreation or fraternal club or association with twenty-five (25) or more members, and any such area which is used or is intended to be used for more than five (5) hours in any one (1) week shall be considered an outdoor archery range for the purposes of this Zoning Ordinance.

Assisted Care Dwelling Unit for Relative: A living area attached to the principal dwelling unit or separate mobile home especially erected for and limited to the temporary occupancy by a person who is "related" (see definition) to the permanent residents of the principal dwelling unit on the parcel. Such use shall be restricted to a relative who needs such accommodations because of old age, developmental disability, illness, mental illness that does not threaten physical harm to others, or physical handicap. (See §606.)

Bank: An establishment for the custody, loan, exchange or issue of money, for the extension of credit, and for facilitating the transmission of funds. (See “service establishment”)

Basement: An enclosed floor area partly or wholly underground, other than a building which is completely underground.

Bed and Breakfast: Any single-family dwelling in which more than three (3) persons either individually or as families are housed or lodged for hire with meals normally included as a part of the services rendered, and shall be restricted to transient visitors to the area.

Betting Use: A use where lawful gambling activities are conducted, including but not limited to off-track para-mutual betting. This term shall not include betting under the State Lottery programs or betting under the "Small Games of Chance" provisions of State law, which shall instead be regulated under the regulations applicable to the principal use of the property (such as a "membership club").

Boarding or Lodging House: Any dwelling in which more than three (3) persons either individually or as families are housed or lodged for hire with meals normally, but not necessarily included as a part of the services rendered.

Board of Supervisors or Supervisors: The Board of Supervisors of Benton Township, Lackawanna County, Pennsylvania.

Boat Dock: See “water craft dock.”

Boat House: A building at the water’s edge in which boats are kept.

Boat Slip: See “water craft slip.”

Buffer: A strip of land that: separates one use from another use or feature, and is not occupied by any building, parking, outdoor storage or any use other than open space or approved pedestrian pathways. It is used to provide separation between incompatible uses to effect a visual barrier, reduce noise, block physical passage between uses, and reduce noise, dust and litter. The separation may be effected by fencing, dense vegetative planting, the provision

of additional setback distances, berms or a combination thereof; and, in general, widths of buffers are increased as the density or opaqueness of the barrier decreases. A buffer yard may be a part of the minimum setback distance but land within an existing street right-of-way shall not be used to meet a buffer yard requirement.

Building: Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, services, goods or materials of any kind or nature. The word

Building Coverage: The percentage of the area of the lot covered or occupied by the total horizontal projected surface area of all buildings on the lot and including accessory buildings and structures (including covered porches, carports and breeze ways, but excluding open and uncovered patios and decks).

Building Envelope: An area on a lot which has been designated as the area in which development may occur. Building envelopes are identified by building setbacks, conservation areas, site conditions and other factors, and are specifically designated on the development plan and established by deed covenants and restrictions.

Building Height: The vertical distance of a building measured from the lowest exposed portion of the building to the highest point of the uppermost part of the building. (See §501.4.)

Building, Principal: A building in which is conducted the main or principal use of the lot on which said building is situated.

Bulk Fuel Storage Facility: Any facility where fuel, including but not limited to kerosene, home heating oil, gasoline, and propane, is stored in large volume tanks for distribution to retail or wholesale establishments.

Bus Terminal: An area and/or building where buses are stored or parked on a regular basis with or without bus maintenance and repair facilities.

Campground or Recreational Vehicle (RV) Park: Regulated as travel trailer parks and campgrounds by the Township subdivision and land development ordinance. See that ordinance for definition.

Carport: A roofed building intended for the storage of one (1) or more motor vehicles, but which is not enclosed on all sides by walls or doors. If any portion of a carport is attached to a principal building, it shall be considered to be part of that building.

Car Wash: Any building or premises or portions thereof used for washing automobiles for commercial purposes.

Cemetery: Land or buildings used for the burial of deceased humans, but not animals. The internment or scattering or remains of properly cremated humans is not regulated by this ordinance.

Church: A building used for public worship. (See also Semi-public Buildings and Uses).

Clear Sight Triangle: An area of unobstructed vision at a street intersection(s), defined by lines of sight between points at a given distance from the intersecting street right-of-way lines.

Club/Lodge, Private: An area of land or building used by a recreational, civic, social, fraternal, religious, political or labor union association of persons for meetings and routine socializing and recreation that are limited to bona fide members and their occasional guests, and persons specifically invited to special celebrations, but which is not routinely open to members of the general public and which is not primarily operated as a for-profit business. The club shall involve a meaningful and substantial membership system, as opposed to a token system. This use shall not include a target range for outdoor shooting, boarding house, a tavern, a restaurant or an auditorium unless that particular use is permitted in that District and the requirements of that use are met.

Cluster Development: A form of development for single-family residential development that permits a reduction in lot area and certain development standards provided unit densities permitted under a conventional subdivision are maintained and the resultant land area is devoted to common open space.

Commercial Use: An occupation, employment, or enterprise carried on for profit by the owner, lessee, or licensee.

Commercial Communication Device - Any device which is intended for transmitting or receiving commercial television, radio or telephone communications, excluding the following which are not appropriate subject of the zoning ordinance:

1. Industrial, scientific and medical equipment as regulated by the Federal Communications Commission in 47 CFR 18.
2. Military and government radar antennas and associated communication towers used for navigational purposes as regulated by 47 CFR 87.
3. Amateur (ham) and citizen band transmitting and receiving antennas and associated communication towers as regulated by 47 CFR 97 and 47 CFR 95, respectively, and which are less than one hundred (100) feet in height.
4. Radio transceivers normally hand-held or installed in a vehicle, such as an automobile, truck, trailer or water craft.
5. A radio frequency machine which is designated and marketed as a consumer product, such as microwave ovens and radio control toys.

Commercial Communication Device Support Structure - Any pole, telescoping mast, tower, tripod, or any other structure which supports a commercial communication device.

Commercial Communication Device Support Structure Height - The vertical distance measured from the base of the support structure at grade to the highest point of the structure. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the height.

Common Area: All of the real property and improvements dedicated for the common use and enjoyment of the residents of a particular development; including, but not limited to, open land, development improvements, common facilities, and recreation area.

Common Facilities: Improvements in a development that are not required by the Township but have been constructed as part of a development for the common use and enjoyment of the residents of that development; including, but not limited to, community centers, recreation buildings and structures, and administrative and maintenance buildings.

Commission: The Planning Commission of Benton Township, Lackawanna County, Pennsylvania.

Comprehensive Plan: The Benton Township Comprehensive Plan including all maps, charts and textual matter.

Concentrated Animal Feeding Operation (CAFO): Any operation which involves the raising of livestock or poultry where the animal density exceeds two (2) animal equivalent units per acre of crop land or land suitable for application of animal manure. An animal equivalent unit is equal to one thousand (1,000) pounds live weight of livestock or poultry, regardless of the actual number of animals. (See §810.)

Conditional Use: A use which is not appropriate to a particular zone district as a whole, but which may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within this Ordinance are present. Conditional uses are allowed or denied by the Board of Supervisors after recommendations by the Planning Commission.

Condominium: A set of individual dwelling units or other areas of building each owned by an individual person(s) in fee simple, with such owners assigned a proportionate interest in the remainder of the real estate which is designated for common ownership, and which was created under the PA Unit Property Act of 1963 (at the time such law was in effect) or is/was created under the PA Uniform Condominium Act of 1980, as amended.

Conservancy Lot. A large, privately-owned lot comprising part of an area of open land. The purpose of the conservancy lot is to provide surrounding residents with visual access to greenway land, while keeping the land under private ownership and maintenance. Only a small portion of such lots may be developed; the remainder must be protected through conservation easements and used in conformance with standard for greenway land. Public access to conservancy lots is not required.

Conservation Area, Primary: Those areas of a development tract which are comprised of environmentally sensitive lands on which development is not permitted.

Conservation Area, Secondary: Those areas of a development tract which are somewhat less sensitive than primary conservation areas and which may be critical to the effect the development will have on both the natural environment and the rural character of the community.

Construction: The construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of manufactured homes.

Contractor's Yard: Any premises used as the base of operation by any tradesman or contractor for the storage of equipment, vehicles and supplies.

Convenience Store: A one-story, retail store that is designed and stocked to sell primarily food, beverages, and other household supplies to customers who purchase only a relatively few items (in contrast to a "supermarket"), it may also include the sale of gasoline but shall not include the repair or service of vehicles.

Corral: An enclosure for confining livestock and which is typically attached to or situated in close proximity to a stable or barn; as contrasted to a pasture.

Country Club: A recreational property owned and managed by membership organization and including recreational facilities, restaurant and meeting rooms.

County: The County of Lackawanna, Commonwealth of Pennsylvania.

Crematorium: A furnace or establishment for the incineration of corpses.

Crop Production: An agricultural use involving the use of land for the raising of cultivated plants or agricultural produce such as grain, vegetables, silage, or fruit. The definition excludes commercial greenhouses and commercial nurseries as defined by this Zoning Ordinance.

Deck: An elevated (more than 6 inches) attached accessory structure constructed of wood with no walls or roof. As an attached accessory structure, it must meet the required setbacks for the principal building.

Day Care, Adult: A use providing supervised care and assistance primarily to persons to persons who are over age 60 and not in good physical health or suffering from Alzheimer disease or are developmentally handicapped and/or are physically handicapped and who need such daily assistance because of such condition. This use shall not include persons who need oversight because of behavior that is criminal or violent. This use may involve occasional overnight stays, but shall not primarily be a residential use. The use shall involve typical stays of less than a total of 60 hours per week per person.

Day Care, Child: A use involving the supervised care of children under age 16 outside of the children's own home primarily for periods of less than 18 hours during the average day. This use may also include educational programs that are supplementary to State-required education, including a "nursery school." The following three types of day care are permitted without regulation by Ordinance: 1) care of children by their own relatives, 2) care of children within a place of worship during regularly scheduled weekly religious services and 3) care of 1 to 3 children within any dwelling unit, in addition to children who are relatives of care giver. (See also the definition of "Adult day care center.")

- A. (Child) Day Care, as an Accessory Use: A type of "day care" use that provides care for 6 or fewer children at one time who are not relatives of the care giver.
- B. (Child) Day Care Center, as a Principal Use: A type of "day care" use that provides care for 7 or more children at any one time who are not relatives of the primary operator.

Density: The total number of dwelling units proposed on a lot divided by the "lot area", unless otherwise stated.

Detached Building: A building that is surrounded on all sides by open yards and that is not attached to any other building.

Detention Facility: A publicly operated or sponsored facility used to house and/or rehabilitate individuals detained, sentenced by, or under the jurisdiction of the criminal justice system, including but not limited to, jails, prisons, penitentiaries, reformatories, half-way houses and similar facilities.

Developer: Any landowner, agent of such owner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

Development: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land.

Development Improvements: All the physical additions and changes to a tract and the constructed facilities necessary and/or required by the Township to produce a usable and functional development; including, but not limited to roads, parking areas, storm water controls and drainage easements, landscaped areas, utilities, and water supplies and sewage disposal systems.

Development Plan: A proposed development, prepared in accordance with this Ordinance and the Township Subdivision Ordinance, including a plat of the subject parcel and any subdivision, locations of various uses, and all covenants relating to uses, locations and sizes of buildings and other structures, intensity of use or density of development, streets, ways, and parking facilities, common open spaces and public facilities.

District (Or Zoning District): A land area within the Township within which certain uniform regulations and requirements apply under the provisions of this Ordinance.

Disturbance: Any action which results in the cutting or removal of vegetation on any land, and/or which results in the turning, displacement, grading or removal of any soil.

Dock: See "water craft dock."

Drive-in Theater: An area of land which may include accessory uses such as the sale of snacks and which is devoted to the showing of motion pictures which are viewed by persons in vehicles.

Driveway: A privately owned, constructed, and maintained vehicular access from a street or access drive to only one (1) dwelling unit, commercial unit, institutional or industrial principal use. (See also "access drive.")

Drug Paraphernalia: Any objects, devices, instruments, apparatus or contrivances, whose primary and traditionally exclusive use is involved with the illegal use of any and all controlled substances under Pennsylvania Law.

Dwelling: A structure or portion thereof which is used exclusively for human habitation.

Dwelling, Multi-family: A building or buildings designed for occupancy by three (3) or more families living independently of each other in separate dwelling units. The term "multi-family dwelling" shall include condominium as well as non-condominium housing units including the following construction types (See also definition of *Multi-Family Project*):

- A. Conversion Apartments: A new dwelling unit created within an existing building which creates three (3) or more units.
- B. Garden Apartment: A multi-family dwelling not exceeding two and one-half (2 ½) stories in height and containing three (3) or more dwelling units which are located one over the other and which, when more than three (3) units are utilized, are attached side-by-side through the use of common party walls, and which shall have side yards adjacent to each first story end unit. Each dwelling unit is accessible by a common stairwell.
- C. Townhouse: A multi-family dwelling of three (3) or more dwelling units of no more than two and one-half (2 ½) stories in height in which each unit has its own front and rear accesses to the outside, no unit is located over another unit and each unit is separated from any other unit by one or more common fire resistant walls without openings.
- D. Apartment Building: A multi-family dwelling containing dwelling units having only one (1) floor and typically with an entrance door to a common hallway shared by other dwelling units.

Dwelling, Multi-Family Project: See definition of *Multi-Family Project*.

Dwelling, Single-Family: A dwelling unit detached from any other dwelling unit accommodating a single family and having a front, rear and two (2) side yards.

Dwelling, Two-Family: A dwelling accommodating two (2) families either with units which are attached side by side through the use of a party wall, and having one (1) side yard adjacent to each dwelling unit; or upstairs/downstairs units. A two-family dwelling in a multi-family project shall be considered a townhouse for the purposes of regulation by this Ordinance. (See definition of *Multi-Family Project* and §603.)

Dwelling Unit: A single habitable living unit including a kitchen, sleeping facilities, and a separate bath and toilet, designed as a household unit for extended periods of occupancy for living and sleeping purposes by not more than one (1) family at a time.

Earth Disturbance Activity: Any construction or other activity which disturbs the surface of the land including but not limited to excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth.

Easement: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the owner's property.

Escort: A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency: A person or business association or establishment which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. An "escort agency" shall be considered an "adult business" for the purposes of this Zoning Ordinance.

Essential Services: Municipal or utility facilities that do not require enclosure in a building which are necessary for

the public health and safety and which are routine, customary and appropriate to the character of the area in which proposed, including such facilities as poles, towers, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment. Buildings, sewage treatment plants, solid waste disposal facilities, commercial communication towers, utility company offices, storage of trucks or equipment and bulk storage, and any commercial communications devices and/or facilities not specifically regulated by the PA Public Utility Commission shall not be considered essential services. (For essential services requiring enclosure in a building see "semi-public building or use.")

Estate Lot: A large, privately-owned lot comprising all or part of an area of open land in an open land development. The purpose of the estate lot is to provide surrounding residents with visual access to open land, while maintaining the lot under private ownership and maintenance, without public access. Only a small part of an estate lot may be developed.

Exercise Club: A facility that offers indoor or outdoor recreational facilities, such as the following: weight rooms, exercise equipment, non-household pool and racquetball courts.

Family: One or more persons living in a single dwelling unit functioning as a common household unit sharing household expenses and sharing joint use of the entire dwelling unit. If a dwelling unit is rented, in order to qualify as a family, there shall not be more than one (1) lease among all of the occupants. A family shall not include more than 4 persons who are not "related" to each other (see definition in Article II). (See provisions in §605 regarding maximum number of unrelated persons within a "group home." A "treatment center" shall not be considered a "family" or a "group home." See also the definition of a "dwelling unit.")

Fence: A man-made barrier placed or arranged as a line of demarcation, an enclosure or a visual barrier and which is constructed of wood, chain-link, metal, fiberglass, vinyl or aluminum and/or plastic inserts. Man-made barriers constructed principally of masonry, concrete, cinder block or similar mostly solid materials shall be considered a "wall." The term "wall" does not include engineering retaining walls, which are permitted uses as needed in all districts. The terms "fence" and "wall" do not include hedges, trees or shrubs.

Flea Market: An occasional or periodic sales activity held outside a fully enclosed building where stalls or sales areas are set aside, and rented or otherwise provided and which are intended for use by one or more unrelated individuals to sell articles that are either homemade, homegrown, handcrafted, old, obsolete, or antique and may include the selling of goods at retail by businesses or individuals who are generally engaged in retail trade. Flea markets shall not include any operation which involves the sale of any obscene or pornographic material or any activity included in the definition of "adult business" contained in this Ordinance.

Forestry Enterprise: The management of forests and timberlands when practiced in accord with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any of the following: a land development, the operation of a sawmill, or the operation of any other wood manufacturing business.

Functional Acre: The area of a lot determined by deducting from the total lot size the following areas: 1) All land within the rights-of-way of existing public streets or highways, or within the rights-of-way for existing or proposed overhead rights-of-way of utility lines or any other rights-of-way; 2) All land under existing private streets; 3) Wetlands: multiply the acreage of designated wetlands by 0.95; 4) Floodway: multiply the acreage within the floodway by 1.0; 5) Floodplains: multiply the non-wetland portion of the 100-year floodplain by 1.00; 6) Steep Slopes: multiply the acreage of land with natural ground slopes exceeding 25 percent by 0.80; 7) Extensive Rock Outcroppings: multiply the total area of rock outcrops and boulder-fields more than 1,000 square feet by 0.90; 8) Moderately Steep Slopes: multiply the acreage of land with natural ground slopes of between 15 and 25 percent by 0.60; 9) Ponds, lakes and streams: multiply the acreage of ponds, lakes and streams by 1.0. If a portion of the tract is underlain by more than one natural feature subject to a deduction from the total tract acreage, that acreage shall be subject to the most restrictive deduction only. Since acreage that is contained within the public or private rights-of-

way, access easements or access strips is excluded from developable lot area, any portion of these items that also contains a natural feature subject to a deduction from the total tract acreage should not be included when calculating the adjusted tract acreage. (See also §604.1.C, and definition of *slope* for measurement.)

Funeral Parlor: A building or part thereof used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; and d) the storage of funeral vehicles, but shall not include facilities for cremation. Where a funeral parlor is permitted, a funeral chapel shall also be permitted.

Garage, Private Parking: A building or portion thereof used only for the storage of automobiles by the families resident upon the premises or by individuals residing in the immediate vicinity of such storage facilities.

Garden Center, Retail: A retail establishment engaged in the sale of ornamental trees, shrubs and plants and supplies for gardening and landscaping.

Gasoline Service Station: A structure, building, or area of land or any portion thereof that is used for the sale of gasoline and oil or any other motor vehicle fuel and/or other lubricating substance, which may or may not include facilities for lubricating, washing, and sale of accessories, but not including the painting and/or body work thereof and other vehicle and equipment repair operations as defined by this Ordinance. Any business or industry dispensing gasoline and servicing vehicles only for its own use will not be deemed to be a gasoline service station.

Golf Course: A tract of land for playing golf, improved with trees, greens, fairways, hazards, and which may include clubhouses and shag ranges; but does not include miniature golf courses or golf driving ranges. (See definition of "Recreational Facilities, Private")

Golf Course, Miniature: A novelty version of golf played with a putter and golf ball on a miniature course, typically with artificial playing surfaces, and including obstacles such as bridges and tunnels.

Golf Driving Range: A facility arranged with golf tees and used for longer range play of golf balls where balls are supplied for a fee. It may also include a putting green.

Good Operating and Road-Worthy Condition: - A vehicle having both a current and valid registration and current and valid inspection sticker as required by the motor vehicle laws of the Commonwealth of Pennsylvania, or if lacking a registration and/or inspection sticker, is in full and complete working order and condition, but for not having said current registration and inspection sticker could be safely and legally operated on a public roadway. Registrations and inspections which have been expired for less than sixty (60) days shall be considered current for the purposes of this definition.

Greenhouse, Commercial: A structure, typically constructed of metal or wood framework and covered with glass or plastic, used for the propagation of plants for wholesale distribution; and including associated structures for office space and storage; but not including retail sales of any products or services.

Greenhouse, Private: A detached accessory structure, typically constructed of metal or wood framework and covered with glass or plastic, used for private use.

Greenway Land: That portion of a tract that is set aside for the protection of sensitive natural features, farmland, scenic views, and other unique features. Greenway land may be accessible to the residents of the development and/or the municipality, or it may contain areas of conservancy lots which are not accessible to the public.

Gross Floor Area: The sum of the total horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking

spaces, loading space for vehicles, any space where the floor-to-ceiling height is less than six (6) feet, elevator shafts, common stairwells in an apartment building, and unenclosed porches, decks and breeze ways.

Group Home: The use of any lawful dwelling unit which meets all of the following criteria:

- A. Involves the care of the maximum number of persons permitted by the "group home" standards of §605, and meets all other standards of such section.
- B. Involves persons functioning as a common household.
- C. Involves providing non-routine support services and oversight to persons who need such assistance to avoid being placed within an institution, because of physical disability, old age, mental retardation or other "handicap"* as defined by applicable Federal law.
- D. Does not meet the definition of a "treatment center."
- E. Does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.

*NOTE: As of 1992, the Federal Fair Housing Act defined "Handicap" as follows: "1) a physical or mental impairment which substantially limits one or more of such person's major life activities, 2) a record of having such an impairment, or 3) being regarded as having such an impairment, but such term does not include current, illegal use of or addiction to a controlled substance as defined in §802 of Title 21."

*NOTE: A use that would otherwise meet the definition of "group home" but which includes more than the permitted number of residents shall be considered an "Institutional Group Home," which is a distinct use.

Habitable Indoor Heated Floor Area: In relation to minimum dwelling size, the sum of the total horizontal areas of the several floors of a dwelling unit measured from the interior face of walls, but not including interior parking spaces, loading space for vehicles, any space where the floor-to-ceiling height is less than six (6) feet, elevator shafts, common stairwells in an apartment building, and unenclosed porches, decks and breeze ways or any area which is not fully heated for human habitation.

Health Facilities: Publicly or privately operated establishments engaged in providing services for human health maintenance including hospitals, medical clinics, nursing homes, adult care facilities and personal care homes, but not including *treatment centers/clinics* or *abused person shelters* as defined by this ordinance.

Heliport: An area used for the take-off and landing of helicopters and other vertical land/take-off aircraft, together with any related support facilities such as for maintenance, refueling and storage. This Ordinance is not intended to regulate the non-routine emergency landing and take-off of aircraft to pick-up seriously injured or ill persons.

- A. **Public Heliport:** A heliport that does not meet the definition of a Private Heliport.
- B. **Private Heliport:** A heliport limited to a maximum total of 15 flights or take-offs in any 7-day period (in addition to flights necessary for emergency medical purposes) and that is not available for use by the general public. This is also known as a helistop.

Home Based Business: A commercial use conducted in association with a dwelling and carried on by the inhabitants residing therein and which goes beyond the scope of an home occupation as defined by this Ordinance. Home businesses may include professional practice (not limited to a single practitioner) of medicine, dentistry, architecture, law and engineering, artists, beauticians, barbers, and similar types of uses. Retail and service establishments, and light manufacturing shall also be permitted in accord with §503.3.2 of this Ordinance; however, proposed uses which do not meet the requirements of §503.3.2 shall not be permitted.

Home Occupation: Any use customarily conducted entirely within a dwelling and carried on by the inhabitants residing therein, providing that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes, the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling, and no goods are publicly displayed on the premises other than a sign as provided herein; and may include professional practice (limited to a single practitioner) of medicine, dentistry, architecture, law and engineering, artists, beauticians, barbers, and similar types of uses, excluding commercial stables, veterinarians, commercial kennels or

motor vehicle or small engine repair shops and other uses not meeting the requirements of §503.3.1 of this Zoning Ordinance.

Horse: Any animal of the horse family or resembling a horse including, but not limited to, horses, ponies, mules and donkeys.

Hospital: An institution providing primary health services and medical or surgical care to persons, primarily inpatients, suffering from illness, disease, injury, deformity and other abnormal physical or mental conditions, and including, as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities, but not including *treatment centers/clinics* or *abused person shelters* as defined by this ordinance. (See *health facility*).

Hotel: A facility offering temporary (generally for periods of two (2) weeks or less) lodging accommodations to the general public, typically on the basis of daily or weekly rentals, and providing additional services such as restaurants, meeting rooms and recreational facilities.

Impervious Surface: Area covered by roofs, concrete, asphalt or other man-made cover which has a coefficient of runoff of 0.7 or higher. The Township Engineer shall decide any dispute over whether an area is "impervious."

Indoor Archery Range: Any fully enclosed building used for shooting of arrows for recreational or training purposes. Any such commercial operation, any such area operated by any private, non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members, and any such area which is used or is intended to be used for more than five (5) hours in any one (1) week shall be considered an indoor archery range for the purposes of this Zoning Ordinance. Indoor archery ranges shall be considered private recreational facilities for the purposes of this Zoning Ordinance.

Indoor Shooting Range: Any fully enclosed building used for the discharge of any firearm for recreational or training purposes. Any such commercial operation, any such area operated by any private, non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members, and any such area which is used or is intended to be used for more than five (5) hours in any one (1) week shall be considered an indoor shooting range for the purposes of this Zoning Ordinance.

Junk: Any scrap, waste, refuse, reclaimable material or debris, vehicles, appliances, equipment or machinery, or parts thereof, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk shall include, but shall not be limited to:

- A. Scrap iron, tin, brass, copper, lead, zinc and all other metals and alloys; bones, rags, paper, used cloth, used rubber, used rope, and similar materials; old or used, or parts of machinery, vehicles, tools, appliances, furniture, plumbing, heating and other fixtures, and pipe and pipe fittings;
- B. Used lumber, boxes, crates and pallets;
- C. Used tires;
- D. Other worn, deteriorated, or obsolete manufactured goods which are unusable;
- E. Mobile/manufactured homes that are not in habitable condition; and,
- F. Abandoned or junked vehicles.

Junk shall not include:

- A. Any solid or liquid waste the disposal of which is regulated by the Pennsylvania Department of Environmental Protection;
- B. Agricultural vehicles and implements such as tractors, mowers, etc. for use as parts for equipment and machinery used as part of an active, on-going agricultural operation provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and is adequately screened; and,
- C. Construction and contractors equipment for use as parts for equipment and machinery used as part of an active, on-going contracting business legally operating in accord with the Township Zoning Ordinance, provided such equipment is stored on the premises of the operation, can be legitimately used for parts, and

is adequately screened.

Junk Yard: An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of junk as defined by this Ordinance, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. The following shall also be considered junk yards:

- A. The outside storage or deposit on a lot of two (2) or more abandoned or junked vehicles; and,
- B. The outside storage or deposit on a lot of one (1) or more mobile/manufactured homes that are not in habitable condition; and,

Vehicle sales lots managed by licensed vehicle dealers operated in accord with the Township Zoning Ordinance shall not be considered junk yards.

Kennel: Any establishment housing dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business. This definition shall also include any veterinary clinic with outdoor animal runs.

Land Development: Any of the following activities:

- A. The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
 - 1. A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or
 - 2. The division or allocation of land or space, whether initially or cumulatively, between or among two (2) or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- B. A subdivision of land.

The definition of land development shall not include:

- A. The addition of an accessory building on a lot or lots subordinate to an existing principal building;
- B. The conversion of an existing single-family detached dwelling or a two-family dwelling into not more than three (3) residential dwelling units, unless such units are intended to be a condominium.

Landowner: The legal or beneficial owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of a landowner, or other persons having a proprietary interest in land, shall be deemed to be landowners for the purpose of this Ordinance.

Living Space: The sum of the areas of the several floors of a dwelling unit used for human occupancy and including finished basements and attics as measured from the interior faces of the walls. It does not include cellars, crawl spaces, unenclosed porches, attics not used for human occupancy, nor any floor space in an accessory building or in the main building intended or designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance.

Livestock Operation: The raising or keeping of livestock. (See §803.2)

Livestock: Any domesticated animals other than normal household pets including, but not limited to cattle, bison, sheep, goats, llamas, swine, fowl, rabbits, insects and fur bearing animals.

Lot: A designated parcel, tract or area of land, regardless of size, established by a plat or other legal means, and intended for transfer of ownership, use, lease or improvements or for development, regardless of how or if it is conveyed.

Lot, Existing of Record: Any lot or parcel of property which was legally in existence and properly on file with the Lackawanna County Recorder of Deeds prior to the effective date of this Zoning Ordinance, as amended.

Lot, Through: A lot that abuts 2 approximately parallel streets.

Lot Area: The total number of square feet in the lot less any area included in any public road rights-of-way affecting the lot. (See also definition of *functional acre*.)

Lot Coverage: That portion or percentage of the lot area which is covered by buildings, roads, driveways, walkways, parking areas, or other impervious surfaces.

Lot Depth: The average horizontal distance between the front lot line and the rear lot line.

Lot Line, Front: The line separating the lot from a street.

Lot Line, Rear: The lot line most distant from and most parallel to the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line.

Lot Line House: A single-family, detached dwelling on an individual lot, with the building set on, or close to, one side property line, so that the lot essentially has only one side yard. This side yard and the rear yard constitute the primary outdoor living areas for the dwelling. Typically, no windows are placed in the building wall that is on the lot line. If the building is set on the lot line, a five (5) foot easement is provided on the adjacent property along the lot line for necessary access and maintenance of the building wall.

Lot Width: The average horizontal distance between the side lot lines, measured parallel to the front lot line.

Manufactured Home: A transportable, single-family dwelling intended for permanent occupancy, office or place of assembly, contained in one or more sections, which arrives at a site complete and ready for installation except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation; including, but not limited to mobile homes and modular homes.

Manufacturing and Industry: Establishments engaged in the basic mechanical, chemical or other transformation of extracted or raw materials or substances into new products or materials, including, but not limited to, the assembly of component parts, the manufacturing or transformation of products for use by other manufactures, the blending of materials such as lubricating oils, plastics, resins or liquors, other basic industrial processes, and any facility involving processes resulting in the storage of hazardous materials or the generation of hazardous waste products, or other environmentally regulated processes.

Manufacturing, Light: Facilities involving generally unobtrusive processes not resulting in the storage of hazardous materials or the generation of hazardous waste products, or other environmentally regulated processes. Uses producing products predominately from previously prepared materials, finished products and parts, including, but not limited to, research, engineering or testing laboratories, assembly from components, fabrication of products, textile and clothing manufacturing, warehousing, distribution centers, furniture or other wood products production and the like, but excluding basic industrial processing.

Massage: The performance of manipulative exercises using the hands and/or a mechanical or bathing device on a person(s)'s skin other than the face or neck by another person(s) for a certain monetary compensation, and which does not involve persons who are related to each other by blood, adoption, marriage or official guardianship.

Massage Facility, Therapeutic: A service establishment that meets all of the following criteria:

- A. Massages are conducted (see definition); and,
- B. The person conducting the massage is licensed by the state as a health care professional or a therapeutic massage therapist, or is certified by a recognized therapeutic massage organization that requires substantial professional

training.

Massage Parlor: An establishment that meets all of the following criteria:

- A. Massages are conducted (see definition);
- B. The person conducting the massage is not licensed by the state as a health care professional or a therapeutic massage therapist, or is not certified by a recognized therapeutic massage organization that requires substantial professional training;
- C. The massages are not conducted within a licensed hospital, nursing home, personal care center or office of a medical doctor, physical therapist, chiropractor, or other licensed practitioner;
- D. The use is not clearly a customary and incidental accessory use to a permitted exercise club or to a high school or college athletic program.

A *massage parlor* shall be considered an “adult business” for the purposes of this Zoning Ordinance.

Medical Clinic: An establishment where patients are admitted for examination and treatment by one or more physicians, dentists, psychologists or social workers and where patients are not lodged overnight, but not including *treatment centers/clinics* or *abused person shelters* as defined by this ordinance.

Minerals: Any aggregate or mass of mineral matter, whether or no coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

Mobile Home: A transportable, single family dwelling intended for permanent occupancy, office or place of assembly contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent foundation.

Mobile Home Lot: A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home, the said mobile home as defined by this Zoning Ordinance.

Mobile Home Park: A parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobile home lots for the placement thereon of mobile homes, the said mobile homes as defined by this Zoning Ordinance.

Model Home: A residential structure associated with a principal permitted commercial use and not intended for permanent occupancy; and used solely for demonstration purposes to inform potential purchasers of the types of homes available from the seller.

Motel: A facility offering temporary (generally for periods of two weeks or less) lodging accommodations to the general public, typically on the basis of daily or weekly rentals, with at least twenty-five (25) percent of the rooms having direct access to the outside.

Multi-Family Project: Any development of a single parcel of property that includes one (1) or more buildings containing three (3) or more dwelling units, which units may or may not be conveyed with a specified lot after development. Any residential development which proposes the construction of two (2) or more two-family dwellings on a single, parcel of property shall also be considered a multi-family project. A two-family dwelling in a multi-family project shall be considered a townhouse for the purposes of regulation by this Ordinance.

Multiple Occupant Commercial Building: A building containing two (2) or more independent, non-residential uses; such uses also being permitted in the District where the multiple occupant building is proposed.

Natural Resource Use: The mining, removal or recovery by any means whatsoever (including, but not limited to open excavations and quarries, and subsurface mining) of minerals as defined in this Article II and including the incidental screening, washing, crushing and grading of materials originating on the site. Mineral extraction shall not include

- A. The salvage removal of already quarried stone from existing quarries where no additional blasting, ripping or other mechanical operations are required.
- B. The extraction of minerals by a landowner for the landowner's noncommercial use from land owned or leased by the landowner.
- C. The extraction of sand, gravel, rock, stone, earth or fill from borrow pits for public road construction undertaken by a public entity or the extraction of minerals associated with a public construction contract.
- D. The handling, processing or storage of slag on the premises of a manufacturer as a part of the manufacturing process.
- E. The extraction, handling, processing or storing of minerals from a building construction excavation on the site of the construction if the minerals removed are incidental to the building construction excavation, regardless of the commercial value of the minerals. The minerals removed are incidental if the excavator demonstrates that:
 - 1. Extraction, handling, processing or storing are conducted concurrently with construction.
 - 2. The area mined is limited to the area necessary to construction.
 - 3. The construction is reasonably related to the use proposed for the site.

Natural Resources Processing: The refinement of minerals to specifications for sale including, but not limited to, the crushing, screening, washing or grading of minerals; and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products.

Neighborhood: A development of five (5) to twenty-five (25) single-family, detached dwellings clustered in a concentrated area which is surrounded by open land or recreation area.

Non-conforming Lot: Any lot which does not conform with the minimum width, depth and area dimensions specified for the district where such a lot is situated, such lot having been created and recorded in the office of the Lackawanna County Recorder of Deeds prior to the effective date this Zoning Ordinance, as amended, reenacted and replaced. (See also §902)

Non-conforming Structure: A structure or part of a structure which does not comply with the applicable district limitations on structure size and location on a lot, where such structure Ordinance fully existed prior to the enactment of this Zoning Ordinance, as amended, reenacted and replaced; and including, but not limited to, non-conforming signs. (See also §902)

Non-Conforming Use: A use, whether of land or of a structure, which does not comply with the applicable use provisions in this Ordinance or amendments hereto, where such use was Ordinance fully in existence prior to the enactment of this Zoning Ordinance, as amended, reenacted and replaced. (See also §902)

Nude Model Studio: Any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. A "nude model studio" shall be considered an "adult business" for the purposes of this Zoning Ordinance.

Nudity or a State of Nudity: The appearance of a human bare buttock, anus, male genitals, female genitals, or full

female breast.

Nursery, Commercial: A commercial operation where trees and shrubs are grown for transplanting, for use as stocks for budding and grafting, or for sale.

Nursing Home: A facility licensed by the Commonwealth for the housing and intermediate or fully-skilled nursing care of three (3) or more persons needing such care because of old age or a physical illness or disability or a developmental disability, but not including *treatment centers/clinics* or *abused person shelters* as defined by this ordinance. (See *health facility*.)

Obscene Materials: Any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, sound recording, article, instrument or any other written or recorded matter which depicts or describes, any "specified anatomical areas" and/or "specified sexual activities".

Office Building: A building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity.

Open Land or Open Space: That part of a particular development tract set aside for the protection of sensitive natural features, farmland, scenic views and other primary and secondary conservation areas identified by this Zoning Ordinance. Open land may be accessible to the residents of the development and/or the Township, or it may contain areas of farmland, forest land or estate lots which are not accessible to project residents or the public.

Parcel: See definition of "lot".

Parking Area, Private: An open area for the same uses as a private garage.

Parking Area, Public: An open area, other than a street or other public way, used for the parking of automobiles and available to the public whether for a fee, free or as an accommodation for clients or customers.

Patio: An open recreational area or structure, constructed no higher than six (6) inches from the ground level and resting directly on the ground. It may be attached to or detached from the principal building and may be constructed using wood, masonry, pavement, stone, or other material suitable for that purpose.

Permanent Foundation: A cement, concrete, treated wood or cinder block walled foundation erected on a poured concrete, frost-free footer, or a solid reinforced concrete slab of a thickness meeting current Township requirements.

Permit: A document issued by the proper Township authority authorizing the applicant to undertake certain activities.

- A. Zoning Permit: A permit that may be issued indicating that a proposed use, building or structure is, to the best knowledge of the Township Staff, in accordance with this Ordinance and which authorizes an applicant to proceed with said use, building or structure, within all other applicable laws and regulations. For the purposes of this Ordinance, a zoning permit or "a permit under this Ordinance" shall mean the applicable portions of a construction permit, unless a specific system of zoning permits has been established.
- B. Construction Permit: A permit indicating that a proposed construction, alteration, or reconstruction of a structure, is to the best knowledge of the Township Staff, in accordance with the provisions of the Building Code(s) adopted by the Township.
- C. Use Permit: A permit that may be required by the Township that is issued upon completion of the construction of a structure, or change in use of a structure or parcel of land, or re-occupancy of a structure or land indicating that the premises, to the best knowledge of the Building and Zoning Officers, comply with the provisions of Township Ordinances. This shall have the same meaning as a "Certificate of use and Occupancy."

Personal Care Home or Center: A residential use providing residential and support services primarily to persons who

are over age 60, physically handicapped and/or the developmentally disabled and that is licensed as a Personal Care Center by the Commonwealth, but not including *treatment centers/clinics* or *abused person shelters* as defined by this ordinance. (See *health facility*.)

Place of Worship: Buildings, synagogues, churches, religious retreats, monasteries, seminaries and shrines used primarily for religious and/or spiritual worship and that are operated by a tax-exempt organization for nonprofit and noncommercial purposes. A place of worship may include two (2) dwelling units as an accessory use to house full-time religious leaders and their families. If a religious use is primarily residential in nature, it shall be regulated as the appropriate "dwelling type;" for example, a use involving multi-family dwellings shall be regulated as such in terms of district location, density and other design standards.

Planning Commission: The Planning Commission of Benton Township.

Porch: An attached roofed patio or deck. With the exception of the wall adjoining the principal structure, all walls must be open or screened with a wall no higher than four (4) feet above the floor level. A porch is considered an attached accessory structure and must meet those setback requirements for principal structures.

Principal Building: The building in which the principal use of a lot is conducted. Any building that is physically attached to a principal building shall be considered part of that principal building.

Principal Use: A dominant use(s) or main use on a lot, as opposed to an accessory use.

Professional Office: The office of a member of a recognized profession maintained for the conduct of that profession, including the following professions: accountant, architect, author, dentist, engineer, insurance agent landscape architect, lawyer, optometrist, planner, physician, realtor, and other such occupations as may be designated by the Township as part of the conditional use process by virtue of the need for specialized training and experience as a condition of the practice of the profession and that such profession will in no way adversely affect the safety or character of surrounding properties to a greater extent than the specific professions listed herein. The issuance of a federal, state or local license for regulation of any gainful occupation need not be deemed indicative of professional standing.

Public Buildings and Uses: Any structure, building or use owned and operated by a government body or agency including such things as public schools, parks, civic centers, municipal buildings; but excluding solid waste disposal facilities, institutional uses, nursing homes, hospitals and other use specifically defined by this Ordinance.

Public Notice: Notice published once each week for two (2) consecutive weeks in a newspaper of general circulation in the Township. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty (30) days and the second publication shall not be less than seven (7) days from the date of the hearing.

Race Track: A road course, either oval, circuitous or straight, where motor vehicles, including but not limited to automobiles, trucks, go-carts, motorcycles, motor scooters, dune buggies and the like, are driven for testing or competition; or any course where animals are raced for competition.

Recreation Area: A private or public space associated with a residential development, including accessory structures such as fences, backstops and bleachers, used for play and/or recreation by individuals.

Recreation Area, Active: A private or public space associated with a residential development, including accessory structures such as fences, backstops and bleachers and other equipment, used for play and/or recreation by individuals, and including, but not limited to, golf courses, basketball, volleyball and tennis courts, baseball, football and soccer fields, and playgrounds.

Recreation Area, Passive: A private or public space associated with a residential development, not including any accessory structures used for inactive recreation by individuals, and including, but not limited to, trails, picnic areas, community gardens, and lawns.

Recreation Vehicle: A vehicle with or without motor power which may be towed on the public highways by a passenger automobile or truck without a special hauling permit, or which may be driven under its own power. This definition includes, but is not limited to campers, travel trailers, buses, camping trailers, pick-up trucks with slide-in campers, recreational vehicle homes and motor homes.

Recreational Facilities, Private: Outdoor or indoor areas or structures, operated by private non-profit or private commercial entities, open to the public, which may contain entertainment and amusement devices or attractions, including but not limited to picnic groves, animal farms, zoological parks, tennis and racquetball courts, ski areas, miniature golf courses, golf driving ranges, animal racing tracks, and the like, but excluding race tracks, golf courses, theaters, public parks and playgrounds.

Recreational Facilities, Public: Parks, swimming pools, playgrounds, tennis courts, and other recreational facilities owned and operated by the Township, County, school district, state, or federal government.

Recreational Vehicle Park: See Campground and RV Parks.

Recyclables: Materials intended for reuse, remanufacture or reconstitution and including for the purposes of this Zoning Ordinance only the following materials: aluminum beverage containers; glass beverage and food containers; plastic beverage, food and household product containers but not including plastic film or bags; bi-metal food containers; newsprint, magazines, and office paper; and corrugated paper. Recyclables shall not include, except as specifically authorized by the Township in accord with §836 of this Ordinance, tires, large appliances such as stoves, refrigerators, washers and dryers, other scrap metal, used motor oil or any other material defined as "junk" or "solid Waste" by this Ordinance.

Recycling Facility: A center for the collection and/or processing of recyclable materials. A recycling facility does not include storage containers or processing activity located on the premises of a residential, commercial, or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer. Any facility accepting or processing waste or other discarded materials which are not recyclables as defined or authorized under this Ordinance shall be considered a junkyard or solid waste facility as regulated by this Ordinance.

- A. Recyclable Collection Facility: A center for the acceptance by donation, redemption, or purchase of recyclable materials from the public.
- B. Recyclable Collection Facility, Small: A recyclable collection facility which occupies an area of not more than five-hundred (500) square feet (including areas used for containers or other recyclable storage but not parking and loading areas) and may include mobile recycling units, kiosk type units which may include permanent structures and/or unattended containers placed for the deposit of recyclables.
- C. Recyclable Collection Facility, Large: A recyclable collection facility which occupies an area of more than five-hundred (500) square feet (including areas used for containers or other recyclable storage but not parking and loading areas) but not more than twenty thousand (20,000) square feet (including areas used for container or other recyclable storage, structure and parking and loading areas) and which may include permanent structures, and limited recyclable processing for shipment or preparation to an end-user's specifications, by such means as baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding or cleaning or but not including the remanufacturing or conversion of recyclables to new products or raw materials used for new products.
- D. Recycling Unit, Mobile: An automobile, truck, trailer or van, licensed by the Department of Transportation which is used for the collection of recyclable materials, or the bins, boxes or containers transported by trucks, vans or trailers and which are used for the collection of recyclable materials.
- E. Recyclable Processing Facility: Any recycling facility which exceeds the area or processing limits of a

large collection facility or which involves the remanufacturing or conversion of recyclables to new products or raw materials used for new products.

Related or Relative: Persons who are related by blood, marriage, adoption or formal foster relationship to result in one of the following relationships: brother, sister, parent, child, grandparent, great-grandparent, grandchild, great-grandchild, uncle, aunt, nephew, sister-in-law, brother-in-law, father-in-law, mother-in-law or first cousin. It shall not include relationships such as second, third or fourth cousins.

Restaurant, Fast Food

- A. An establishment that sells ready-to-consume food or drink, that routinely involves the consumption of at least a portion of such food on the premises and that does not meet the definition of a "standard restaurant."
- B. A fast-food restaurant may include the accessory sale of alcoholic beverages. However, if such sale is a primary or substantial portion of the total trade, the requirements of a "tavern" or nightclub as applicable must be met.

Restaurant, Standard

- A. An establishment that serves ready-to-consume food or drink for compensation in which the clear majority of sales involve the following: the customers order their food from a waiter or waitress while seated inside a building and then the food is consumed at the table.
- B. A standard restaurant may include the accessory sale of alcoholic beverages. However, if such sale is a primary or substantial portion of the total trade, the requirements of a "tavern" must be met.

Retail Business: An establishment engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods, and which is not otherwise listed as a use in the Schedule of Uses.

Right-of-Way: Land reserved for use as a street, drainage facility or other public or community use. A right-of-way shall not be considered as land area when computing lot size.

Satellite Dish Antenna or "Satellite Antenna": A ground-based reflector, usually parabolic in shape, that receives electronic signals from a satellite. This term shall also include any pedestal or attached structure.

Sawmill: Any facility, including structures, machinery and associated equipment, where timber is sawed into boards. Any facility which includes the drying of boards in kilns or the fabrication of any product shall be considered *agricultural products processing*.

School, Public or Private Primary or Secondary School: - An educational institution primarily for persons between the ages of five (5) and nineteen (19) that primarily provides State-required or largely State-funded educational programs. This term shall not include "Trade Schools" (such as privately operated schools of trade, vocation or business.)

Screened: Not visible from any adjoining or neighboring property, any public or private road right-of-way, or any other premises which is accomplished by fencing, topography, berms, natural and planted vegetation or other means approved by the Township.

Self-Storage Facility: A building or buildings containing separated spaces to be leased or rented to individuals and/or business for the storage of personal belongings, goods or supplies.

Semi-Public Building or Use: Buildings or uses operated by non-profit, community-based organizations for the general use of Township residents, including places of worship, fire houses, ambulance buildings, private schools, libraries and the like, but excluding institutional uses such as nursing homes, hospitals, sanitariums and clinics. It shall also include essential services and public utilities that require enclosure within any structure or building.

Senior Day Care Center: Any establishment enrolling five (5) or more adults where fees or other forms of compensation are charged for the care of the adults, such care limited to only a part of each day and the adults do not reside on the premises and no health services are provided.

Service Establishment: Establishments engaged in providing services involving the care or needs of a person or his or her apparel such as cleaning and garment services, beauty and barber shops, shoe repair, dry cleaning and laundries, photographic studios, etc., and which is not otherwise listed as a use in the Schedule of Uses.

Setback: An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any portion of any building. Front setbacks shall be measured from the edge of the highway right-of-way and other setbacks from property lines. In the case of flag lots, the front setback shall be measured from the lot line closest to the public road right-of-way from which access is gained.

Sewage Disposal System: A system to collect, treat and dispose of sewage. No such system shall be permitted that does not comply with local, State and Federal requirements.

- A. Central or Community Sewage Disposal: A sanitary sewage collection and treatment system meeting the requirements of the Pennsylvania Department of Environmental Protection in which sewage is carried from individual lots or dwelling units by a system of pipes to a central treatment and disposal facility or system which may be publicly or privately owned and operated, including sewage treatment plants, land application systems, and community sewage disposal systems. A system designed to serve a two-family dwelling or two (2) dwelling units located on the same property or adjacent properties shall not be considered as central sewerage for unit density determination, and in such a case all development standards, including but not limited to, unit densities, will apply the same for each dwelling or unit as any single-family unit.
- B. Public Sewage Disposal: A central sewage disposal system owned and operated by a government or governmental agency.
- B. On-Lot or Individual Sewage Disposal: Any sewage disposal system (whether subsurface or above ground) used to treat and dispose of domestic sewage into the soil on an individual lot in accord with Pennsylvania Department of Environmental Protection Rules and Regulations.

Sexual Encounter Center: A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex;
- B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

A "Sexual Encounter Center" shall be considered an "Adult Business" for the purpose of this Ordinance.

Shed: An accessory structure, either attached or detached, used for the storage of tools, minor equipment, and materials.

Shopping Center or Mall: A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on site, provision for goods delivery separated from customer access, aesthetic considerations and protection from the elements.

Shooting Range, Indoor: See *Recreational Facility, Private*.

Shooting Range, Outdoor: Any area not within a fully enclosed building used for the discharge of any firearm for recreational or training purposes, including but not limited to, target shooting ranges, skeet and trap shooting ranges and courses, and sporting clay shooting operations. Any such commercial operation, any such area operated by any private non-profit entity, any community association, any such area operated by any sportsman's, recreation or fraternal club or association with twenty-five (25) or more members, and any such area which is used or is intended to be used for more than five (5) hours in any one (1) week shall be considered an outdoor shooting range for the purposes of this Zoning Ordinance.

Signs: See §505.

Slaughter House: A use involving the killing of animals for the production of food or some other commercial product. A commercial stockyard or similar facility that primarily involves the bulk storage or transferring of animals on the way to slaughter shall also be considered a slaughter house. This shall not include a custom "butcher shop" that does not involve killing of animals (which is a retail sales use.)

Slope: The face of an embankment or cut section; any ground whose surface makes an angle with the plane of the plane of the horizon. The change in elevation, measured in consistent units, from one point to another measured perpendicular to the contours (lines of equal elevation) of the land. Slope is generally expressed as a ratio based on the vertical difference in feet per one hundred (100) feet of horizontal distance. In the case of functional acreage, slope shall be calculated based on the contour interval required by the Township Subdivision Ordinance -- two-foot intervals for major subdivisions and twenty-foot intervals for minor subdivisions. (See Subdivision Ordinance §402.3,B and §404.2,V, respectively). The final determination of slope shall be made by the Township with the advice of the Township Engineer.

Solid Waste or Waste: Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semi-solid or contained gaseous material, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities. The term shall also include any garbage, refuse, other discarded material or other waste. Including solid, liquid, semi-solid or containing gaseous materials resulting from industrial, mining, agricultural operations, local facilities or any other by-product or effluent from an industrial, mining or agricultural water supply treatment facility, waste water treatment facility or air pollution control facility or any other material defined by the PA DEP as solid, liquid, municipal, medical, industrial, toxic or hazardous waste.

Solid Waste Facility, Commercial: Any facility or operation of a private individual or firm pursuant to the laws of the Commonwealth of Pennsylvania governing the management and disposal of solid waste including, but not limited to, liquid, solid, toxic, hazardous and medical waste; and, including but not limited to, transfer stations, solid waste landfills, incinerators, medical waste disposal facilities, hazardous waste disposal facilities and radioactive waste disposal facilities.

Solid Waste Facility, Public: Any facility or operation of a public entity pursuant to the laws of the Commonwealth of Pennsylvania governing the management and disposal of solid waste including, but not limited to, liquid, solid, toxic, hazardous and medical waste; and, including but not limited to, transfer stations, solid waste landfills, incinerators, medical waste disposal facilities, hazardous waste disposal facilities and radioactive waste disposal facilities.

Solid Waste Staging Area: Any parcel of property used for the transfer of solid waste from one vehicle to another vehicle, at a location other than the generation site, for transport to a solid waste facility; or which is used for the parking or storage of vehicles and/or containers used to transport solid waste; and which is not regulated by the PA DEP as a solid waste transfer facility.

Special Exception: A use allowed, with permission granted by the Zoning Hearing Board, to occupy and use land and/or a building for specific purposes in accord with this Ordinance.

Specified Anatomical Areas: Any of the following:

- A. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae.
- B. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

Specified Sexual Activities: Any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.

- C. Masturbation, actual or simulated.
- D. Excretory functions as part of or in connection with any of the activities set forth in Subsections "A", "B" and "C" of this definition.

Stable, Commercial: A structure or land where horses are kept for remuneration, hire, sale, boarding, riding or show, and which includes the commercial hire of horses to the general public for riding or other purposes. (See §805.3)

Stable, Private: An accessory structure or use of land where horses are kept for the sole use of the residents of the principal structure, and which includes no remuneration, hire, boarding or other commercial use. (See §805.2)

Storage Yard For Forest Products and Stone: An area, not on the same parcel where the products are initially harvested or gathered, to which trees, forest products, flag stone, landscaping stone, or wall stone are hauled and stored, and which does not involve any of the following: the operation of a sawmill, the operation of any other wood manufacturing business, or the operation of any natural resources processing.

Story (And Half-story): A level of a building routinely accessible to humans having an average vertical clearance six (6) feet or greater shall be considered a full story, except as provided for in the definition of "basement." Any level of a building having an average vertical clearance from floor to ceiling of less than six (6) feet shall be considered a "half-story."

Street: A public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare except an alley. "Public rights-of-way" shall be those open to the general use of the public, not necessarily publicly dedicated.

Structure: A combination of materials to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Structure, Permanent: Anything constructed, the use of which requires permanent location on the ground, or attachment to something having a permanent location on the ground.

Structure, Portable: Anything constructed that is not permanently affixed to the ground but is designed to be moved from place to place.

Structural Alteration: Any change in the structural members of a building, such as walls, columns, beams or girders, or any addition to any structure.

Subdivision: The division or redivision of a lot, tract, or parcel of land by any means into two (2) or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development: Provided however, that the subdivision by lease of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

Tavern: A place where alcoholic beverages are served as a primary or substantial portion of the total trade and where the sale of food may also occur. (See also the definition of "restaurant".)

Theater: A building or part of a building devoted to the showing of motion pictures or theatrical or performing arts productions as a principal use, but not including an outdoor drive-in theater or adult movie theater.

Therapeutic Massage Facility: A service establishment that meets all of the following criteria:

- A. Massages are conducted (see definition); and,
- B. The person conducting the massage is licensed by the state as a health care professional or a therapeutic massage

therapist, or is certified by a recognized therapeutic massage organization that requires substantial professional training.

Township: Benton Township, Lackawanna County, Pennsylvania.

Tract: See *lot*.

Trade School: A facility that is primarily intended for education of a work-related skill or craft or a hobby and that does not primarily provide State-required education to persons under age sixteen (16). This shall include a dancing school, martial arts school or ceramics school.

Treatment Center/Clinic: A use (other than a detention facility or a permitted accessory use in a hospital) providing housing facilities for persons who need specialized housing, treatment and/or counseling for stays in most cases of less than one (1) year and who need such facilities because of (See also *health facility*.):

- A. Chronic abuse of or addiction to alcohol and/or a controlled substance, or
- B. A type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others.

Truck Terminal: A terminating point where goods are transferred from a truck to a storage area or to other trucks, or picked up by other forms of transportation.

Truck Wash: Any building or premises or portion thereof used for washing trucks with a gross vehicle weight exceeding five thousand (5,000) lbs.

Use: The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any non-conforming use.

Variance: Relief granted pursuant to the provisions of this Ordinance and Articles VI and IX of the Pennsylvania Municipalities Planning Code.

Vehicle - Any device in, upon or by which any person or property is or may be transported or drawn upon a public highway or upon any land, including, but not limited to, automobiles, trucks, vans, buses, utility trailers, tractors, truck tractors, recreational vehicles, motor homes, travel trailers, motorcycles, machinery, trailers, farm machinery and implements, and other wheeled equipment; boats; and aircraft.

Vehicle and Equipment Sales Operation: The use of any building, land area or other premise for the display and sale of new and used automobiles of operable condition; panel trucks or vans; mobile homes or trailers; recreation vehicles; or farm or construction equipment including any warranty repair work and other repair service as an accessory use. No business or facility which generates less than fifty (50) percent of its gross sales from the actual sale of new or used vehicles or equipment of the type herein described (excluding parts and repairs) shall be considered a vehicle and equipment sales operation.

Vehicle or Equipment Repair Operation: An establishment engaged in the service and/or repair of any motor vehicle as its principal use, including but not limited to auto body shops, repair garages, truck repair garages and agriculture equipment repair.

Veterinary Clinic: A place where animals or pets are given medical or surgical treatment and the keeping of animals is limited to short-term care incidental to the clinic use and no outdoor kennels or pens are on the premises.

Wall: See "Fence".

Warehouse: Terminal facilities operated for a specific commercial establishment or group of establishments in a particular industrial or economic field and used for the storage of goods and materials.

Water Craft: Every description of device used on the water or ice or capable of being used as a means of transportation on water or ice. The term includes boats, motorboats, iceboats, all terrain or amphibious vehicles when they are operated on water and all such other devices.

Water Craft Dock: A platform, either floating or supported by any other means, which is designed and constructed for the purpose of providing mooring space for water craft, for swimming or for any other access to or use of a body of water. In any case where a fee is charged for the use of a dock, said dock shall be considered a commercial water craft dock.

Water Craft Dock, Commercial: A platform, either floating or supported by any other means, which is designed and constructed for the purpose of providing mooring space for water craft, for swimming or for any other access to or use of a body of water, and where a fee is charged for the use of the dock.

Water Craft Docking Facility, Commercial: The use of any parcel of land to provide access to water craft docks; and which includes parking but does not include principal structures or the launching of water craft, and for which a fee is charged. Docking facilities serving lot owners in a residential subdivision with deeded lake rights as of the effective date of this Zoning Ordinance, shall be considered commercial docking facilities.

Water Extraction And Bottling: Any use which involves the pumping or removal of water from groundwater sources, with or without bottling, for retail or wholesale sale. *Water extraction and bottling* shall be considered *light manufacturing* for the purposes of regulation by this Ordinance.

Water System or Supply: A system designed to transmit water from a source to users, in compliance with the requirements of the appropriate state agencies and the Township.

- A. **Community or Public Water.** A public or private utility system designed to supply and transmit drinking water from a common off-lot source to two (2) or more dwelling units or uses.
- B. **On-Lot or Individual Water.** Service by a water system that does not meet the definition of a "community or public water." In most cases, this would involve an individual well serving an individual lot, but may also include a common well or another duly approved system.

Wholesale Business: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Wind Farm: A facility where one (1) or more windmills are located and are used for the generation of electricity which is used on-site for commercial purposes or which is sold on the open market. A windmill accessory to a principal structure which is sized and intended to be used to generate electricity primarily for the principal structure to which it is accessory shall not be considered a *wind farm*.

Yard: An open unoccupied space which shall extend the full depth or width of a lot and which shall not be occupied by any building. Front yards shall be measured from the edge of the road right-of-way and other yards from property lines.

Yard Sale: Any offering for sale to the public of used and accumulated normal household and other personal items conducted on a temporary, intermittent basis (not to exceed three [3] sales per year for not more than three [3] consecutive days each) as an accessory use to a residential dwelling. The buying and selling of new or used items or surplus material shall be considered a commercial operation and shall be prohibited, except as otherwise permitted and regulated by this Zoning Ordinance.

Zoning Map: The Official Zoning Map of Benton Township.

Zoning Officer: The administrative officer charged with the duty of enforcing the provision of this Zoning Ordinance.

ARTICLE IV DISTRICT REGULATIONS

401 Designation of Districts

401.1 Designation

For the purposes of this Ordinance, Benton Township is hereby divided into the following Zoning Districts:

- RA Rural Agricultural District
- RR Rural Residential District
- SR Suburban Residential District
- C Commercial District
- IND Industrial District

401.2 Intent

The intent of each District and the uses permitted in each District are set forth on the District Use Schedules contained in §404 of this Ordinance or in the specific sections establishing any overlay district. Bulk and density standards for each District are set forth on the Schedule of Development Standards contained in §404 of this Ordinance.

401.3 Floodplain Overlay District

The Floodplain Overlay District is hereby created to be coterminous with the flood hazard areas established by the Federal Emergency Management Agency for the Township as shown on the most recent Federal Flood Insurance Rate Maps. In addition to all the applicable standards of this Zoning Ordinance, the floodplain regulations contained in §704.3 shall apply in the Floodplain Overlay District.

401.4 Conservation Design Overlay District

The Conservation Design Overlay District is hereby created to promote the conservation of open lands in the Township. The District shall apply to all areas of the Township in Districts where residential development is permitted, and in addition to all the applicable standards of this Zoning Ordinance, the requirements of §601 of this Zoning Ordinance shall apply.

401.5 Observatory Overlay District

The Observatory Overlay District shall include all areas of the Township where any lighting associated with any use or development of land may interfere with the use of the Keystone College Observatory. Lighting shall include individual lights or combinations of lights on several properties. In addition to all the applicable standards of this Zoning Ordinance, within the Observatory Overlay District all lights shall be controlled in accord with §701.8 of this Ordinance in order to preclude interference with the use of the Observatory.

401.6 Reserved

401.7 Airport Overlay District

The Airport Overlay District is hereby created to include all of the land lying beneath the approach surfaces, primary surfaces, transitional surfaces, horizontal surfaces and conical surfaces as applied to airports as defined and regulated by Article XII of this Ordinance. In addition to all other applicable standards of this Zoning Ordinance the requirements of Article XII of this Ordinance shall apply in the Airport Overlay District.

402 Official Zoning Map

The location and boundaries of said districts are hereby established as shown on the Official Zoning Map of Benton

Township; which is hereby adopted by reference and declared to be a part of this Ordinance together with all amendments thereto.

403 District Boundaries

403.1 Establishment

District boundary lines are intended to follow or be parallel to the center line of streets, streams and railroads, and lot or property lines as they exist on a recorded deed or plan of record in the Lackawanna County Recorder of Deed's Office and on the Lackawanna County Tax Maps at the time of the enactment of this Ordinance, unless such district boundary lines are fixed by dimensions or otherwise as shown on the Official Zoning Map.

403.2 Interpretation

Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway right-of-way lines, such center lines, street lines, or highway right-of-way lines shall be construed to be such boundaries. Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries. Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Official Zoning Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Map. Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located in the middle of the main tracks of said railroad line.

403.3 Uncertainty

In the event of uncertainty as to the true location of a district boundary line in a particular instance, the Zoning Officer is authorized to determine the correct district boundary in accord with the guidelines of this Zoning Ordinance. Any decision of the Zoning Officer may be appealed to the Zoning Hearing Board.

404 District Regulations

District regulations are of two types, Use Regulations and Development Standards, which shall apply to any proposed new use, expansion of an existing use or change of use of any land or structure.

404.1 Use Regulations

District Use Regulations are provided in the following Schedule of Uses.

- A. Permits for principal permitted uses and accessory uses shall be issued by the Zoning Officer provided such uses comply with the standards in this Ordinance.
- B. Conditional uses and special exception uses shall be subject to the additional review procedures and criteria as specified in this Ordinance.
- C. No land and no structure in a particular zoning district shall be used for any use which is not specifically listed on the Schedule of Uses for that particular district, and only in accord with all other requirements of this Ordinance. Larger lot sizes, greater setbacks, buffers and other more restrictive standards may be required by other provision of this Ordinance. In cases where this Ordinance provides different requirements for the same use, the most restrictive requirement shall apply.

404.2 Uses Not Specified in Schedule of Uses

- A. Jurisdiction - Whenever a use is neither specifically permitted nor specifically denied in any zoning district established under this Ordinance and an application is made to the Zoning Officer for such use, the application

shall be submitted to the Zoning Hearing Board which shall have the authority to permit the use or deny the use as a special exception.

- B. Findings - The use may be permitted only if the Zoning Hearing Board makes all of the following findings; and, the burden of proof shall be upon the applicant:
1. The use is similar to and compatible with the uses listed for the subject zoning district by the Schedule of Use Regulations.
 2. The use in no way conflicts with the intent of the zoning district and the general purpose and intent of this Zoning Ordinance.
 3. The use is not permitted in any other zoning district.
- C. Planning Commission Review - At the time the application is submitted to the Zoning Hearing Board, the Zoning Officer shall also provide a copy to the Township Planning Commission for its recommendation. The Zoning Hearing Board shall not conduct a public hearing on the application until the comments from the Planning Commission are received or thirty (30) days have passed from the time the application was referred to the Planning Commission.
- D. Conditions - The Zoning Hearing Board may attach reasonable conditions and safeguards to any special exception approval granted for a use not specified in the Schedule of Uses, incorporating standards in this Zoning Ordinance for similar uses in the district and such other conditions as the Zoning Hearing Board may deem necessary to protect and promote the public health, safety, morals and welfare and to implement the purposes of this Zoning Ordinance and the Pennsylvania Municipalities Planning Code.

RA - RURAL AGRICULTURAL DISTRICT -- SCHEDULE OF USES

INTENT: To permit, protect and encourage the continued use of land for agriculture and forestry enterprises. The district is composed of those areas of the Township where agriculture and forestry enterprises are the predominant land uses. The regulations applicable in the district are designed to protect and stabilize the essential elements of the district's existing character, to minimize conflicting land uses detrimental to agriculture and forestry enterprises, to limit development which requires community facilities in excess of those required for agriculture and forestry enterprises, and to maintain land in parcels of adequate size to support economically viable agricultural and forestry operations. Concurrently, a number of other limited non-agricultural uses are permitted to enable the owners of large parcels of land to realize reasonable income from their land, thereby forestalling its sale for development.

PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> - Bed and breakfast establishments - Commercial greenhouses and nurseries - Crop production - Forestry enterprises - Livestock operations - Retail sales of agricultural / forestry products produced and/or processed on the premises - Retail sales limited to 1,000 sq. ft. of agricultural / forestry related products and produce in association with an active agriculture / forestry use - Single-family detached dwellings - Stables, private in association with a single-family detached dwelling 	<ul style="list-style-type: none"> - Agricultural products processing only for products raised on the premises - Aircraft sales, repair or modification - Airports, private and public - Commercial communication device sites - Detention facilities - Junkyards - Natural resource uses - Race tracks - Sawmills - Shooting ranges, outdoor - Treatment centers/clinics 	<ul style="list-style-type: none"> - Archery ranges, outdoor - Cemeteries - Contractor's yards - Day care, adult - Day care, child - Group homes - Home based businesses - Kennels - Places of worship - Public and semi-public buildings and uses - Public parks and playgrounds - Recreational facilities, public - Schools, public or private primary or secondary - Shooting ranges, outdoor - Stables, boarding, commercial, and horses for hire - Storage yards for forest products and stone - Veterinary clinics - Wind farms 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Essential services - Home gardens, home greenhouses and home nurseries - Home occupations* - Pets, keeping of - Private garages, carports, sheds - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales <p>*NOTE: see §503 which classifies certain home occupations as conditional uses.</p>

NOTE: Uses not specifically listed by this schedule shall not be permitted in the RA District.

RR - RURAL RESIDENTIAL DISTRICT -- SCHEDULE OF USES

INTENT: To permit, protect and encourage the continued use of land for agriculture and forestry enterprises, while concurrently allowing moderate density residential development, limited recreational uses and certain institutional uses. A number of other limited non-agricultural uses are permitted to enable the owners of large parcels of land to realize reasonable income from their property, thereby forestalling its sale for development.

PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> - Commercial greenhouses and nurseries - Crop production - Forestry enterprises - Livestock operations - Retail sales of agricultural / forestry products produced and/or processed on the premises - Retail sales limited to 1,000 sq. ft. of agricultural / forestry related products and produce in association with an active agriculture / forestry use - Single-family detached dwellings - Two-family dwellings 	<ul style="list-style-type: none"> - Agricultural products processing only for products raised on the premises - Archery ranges, outdoor - Campgrounds and recreational vehicle parks - Mobile home parks - Natural resource uses - Recreational facilities, private - Townhouses 	<ul style="list-style-type: none"> - Bed and breakfast establishments - Cemeteries - Contractor's yards - Day care, adult - Day care, child - Group homes - Health facilities - Home based businesses - Nursing homes - Places of worship - Public and semi-public buildings and uses - Public parks and playgrounds - Recreational facilities, public - Schools, public or private primary or secondary - Stables, boarding, commercial, and horses for hire - Stables, private in association with a single-family detached dwelling - Storage yards for forest products and stone 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Essential services - Home gardens, home greenhouses and home nurseries - Home occupations* - Pets, keeping of - Private garages, carports, sheds - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales <p>*NOTE: see §503 which classifies certain home occupations as conditional uses.</p>

NOTE: Uses not specifically listed by this schedule shall not be permitted in the RR District.

SR - SUBURBAN RESIDENTIAL DISTRICT -- SCHEDULE OF USES

INTENT: To provide areas adequate to accommodate the Township's single-family housing needs at higher densities than other districts and recognize existing lake communities. To limit unnecessary intrusions of incompatible uses which might pose a threat to the health, safety, or welfare of families and individuals occupying said housing, and to allow certain public and semi-public uses compatible with residential neighborhoods.

PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> - Crop production - Forestry enterprises - Single-family detached dwellings 	none	<ul style="list-style-type: none"> - Bed and breakfast establishments - Day care, adult - Day care, child - Group homes - Places of worship - Public and semi-public buildings and uses - Public parks and playgrounds - Recreational facilities, public - Schools, public or private primary or secondary - Stables, private, in association with a single-family detached dwelling 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Essential services - Home gardens, home greenhouses and home nurseries - Home occupations* - Pets, keeping of - Private garages, carports, sheds - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales <p>*NOTE: see §503 which classifies certain home occupations as conditional uses.</p>

NOTE: Uses not specifically listed by this schedule shall not be permitted in the SR District.

C - COMMERCIAL DISTRICT -- SCHEDULE OF USES

<p>INTENT: To provide areas within the Township for the location of businesses and commercial enterprises of all types catering to the needs of local residents as well as surrounding communities, the region, and travelers.</p>			
PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> - Banks - Bed and breakfast establishments - Boarding and lodging houses - Clubs/lodges, private - Convenience stores - Crop production - Day care, adult - Day care, child - Exercise clubs - Forestry enterprises - Funeral parlors - Medical clinics - Multi-family dwellings - Nursing homes - Places of worship - Professional offices - Office buildings - Recycling units, mobile - Restaurants, traditional - Retail businesses - Self-storage facilities - Service establishments - Single-family detached dwellings - Theaters - Two-family dwellings - Taverns - Vehicle or equipment sales operation - Veterinary clinics - Wholesale businesses 	<ul style="list-style-type: none"> - Abused person shelter - Betting uses - Drive-in theaters - Restaurants, fast-food - Shopping centers and malls 	<ul style="list-style-type: none"> - Amusement arcades - Flea markets - Gasoline service station - Group homes - Health facilities - Hotels - Indoor shooting ranges - Manufacturing, light - Motels - Recycling collection facilities, small and large - Recreational facilities, private - Recreational facilities, public - Public and semi-public buildings and uses - Public parks and playgrounds - Schools, public or private primary or secondary - Stables, private, in association with a single-family detached dwelling - Trade schools - Vehicle or equipment repair operation 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Essential services - Home gardens, home greenhouses and home nurseries - Home occupations * - Pets, keeping of - Private garages, carports, sheds - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales <p>*NOTE: see §503 which classifies certain home occupations as conditional uses.</p>

NOTE: Uses not specifically listed by this schedule shall not be permitted in the C District.

IND - INDUSTRIAL DISTRICT -- SCHEDULE OF USES

<p>INTENT: To reserve those areas in the Township best suited for manufacturing and industry, uses with potential for greater community impact, and other offensive uses based on location, existing uses and facilities, and the relationship to other land uses.</p>			
PRINCIPAL PERMITTED USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	ACCESSORY USES
<ul style="list-style-type: none"> - Crop production - Forestry enterprises - Livestock operations - Manufacturing, light - Recycling collection facilities, large and small - Recycling units, mobile - Self-storage facilities - Wholesale businesses - Warehouses 	<ul style="list-style-type: none"> - Adult businesses - Agricultural products processing - Bus terminals - Commercial communication device sites - Crematoria - Detention facilities - Heliports, accessory - Heliports, commercial - Natural resources processing - Solid waste facilities and staging areas 	<ul style="list-style-type: none"> - Bulk fuel storage - Manufacturing and industry - Recyclable processing facilities - Sawmills - Slaughter houses - Truck terminals 	<ul style="list-style-type: none"> - Accessory uses customary to approved uses - Essential services - Home gardens, home greenhouses and home nurseries - Home occupations* - Pets, keeping of - Private garages, carports, sheds - Private swimming pools - Required parking areas - Signs accessory to approved uses - Satellite dish antennae - Yard sales <p>*NOTE: see §503 which classifies certain home occupations as conditional uses.</p>

NOTE: Uses not specifically listed by this schedule shall not be permitted in the IND District.

404.3 Development Standards

The Schedule of Development Standards which follows establishes minimum standards for lot area; lot depth, average lot width and front, side and rear yards; and establishes maximum standards for building height and lot coverage. The standards also establish specific standards and criteria that apply to the use as may be appropriate to protect the public health, safety and welfare. Larger lot sizes, increased setbacks and other more restrictive standards may be required in accord with other Ordinance sections.

SCHEDULE OF DEVELOPMENT STANDARDS

Note: larger lot sizes, increased setbacks and other more restrictive standards may be required by other Ordinance sections.

PART 1 RESIDENTIAL STANDARDS FOR DWELLINGS <u>PLANNED</u> AS PART OF A SUBDIVISION WITH GREENWAY LAND					
Zoning district →→→→→	RA	RR	SR	C	I
Conservation Design Subdivision	see §601	see §601	not permitted	see §601	see §601

PART 2 RESIDENTIAL LOT SIZE AND DENSITY FOR DWELLINGS <u>PLANNED</u> AS PART OF A SUBDIVISION WITHOUT GREENWAY LAND					
Zoning district →→→→→	RA	RR	SR	C	I
Minimum lot size for SINGLE-FAMILY DWELLINGS in functional acres per dwelling unit (functional acres = total lot area minus areas of constrained land listed in §601.4,C,1)					
On-site sewage & on-site water	2.0	2.0	2.0	2.0	not permitted
On-site sewage & community water	2.0	2.0	1.0	1.0	not permitted
Community sewage & on-site water	2.0	2.0	1.0	1.0	not permitted
Community sewage & community water	2.0	2.0	0.5	0.5	not permitted
Minimum lot size for TWO-FAMILY DWELLINGS in functional acres per dwelling unit (functional acres = total lot area minus areas of constrained land listed in §601.4,C,1)					
On-site sewage & on-site water	not permitted	1.5	not permitted	1.5	not permitted
On-site sewage & community water	not permitted	1.5	not permitted	0.75	not permitted
Community sewage & on-site water	not permitted	1.5	not permitted	0.75	not permitted
Community sewage & community water	not permitted	1.5	not permitted	0.5	not permitted
Development standards for MULTI-FAMILY DWELLINGS --community water and community sewage disposal required					
Garden apartments	not permitted	see §603	not permitted	see §603	not permitted
Townhouses	not permitted	see §603	not permitted	see §603	not permitted
Apartment buildings	not permitted	see §603	not permitted	see §603	not permitted
Development standards for MOBILE HOME PARKS --community water and community sewage disposal required					
Mobile home parks	not permitted	see §607	not permitted	not permitted	not permitted

PART 3 LOT DIMENSIONS FOR DWELLINGS ON EXISTING LOTS OR <u>PLANNED</u> AS PART OF A SUBDIVISION WITHOUT GREENWAY LAND (SEE §601 FOR SUBDIVISIONS WITH GREENWAY LAND)				
SINGLE-FAMILY and TWO-FAMILY residential in all districts where permitted (see §602 for additional two-family dwelling standards)				
STANDARD (see §911 for nonconforming lots)	LOT SIZE (functional acres)			
	Equal to or greater than			Less than
	2.0	1.0	0.5	0.5
Minimum Yards for Proposed Lots and Existing Lots (i.e., building setbacks) (see §503 for accessory structures)				
Front measured from road right-of-way (feet)	100	50	30	25
Rear (feet)	100	50	15	15
Side (feet)	40	40	15	15
Buffers for wetlands and water bodies	see §704.2, §704.3			
Lot Dimensions for Proposed Lots - see §606.3 of the Subdivision and Land Development Ordinance				
Maximum lot coverage (percent) - ratio of all proposed and existing impervious surfaces to the total (not functional) lot size	15	20	25	25
MULTI-FAMILY DWELLINGS - see §603. MOBILE HOMES PARKS - see §607				

PART 4 NONRESIDENTIAL LOT SIZES					
Zoning district →→→→→→→→→→	RA	RR	SR	C	I
Minimum lot size for NONRESIDENTIAL USES in functional acres (functional acres = total lot area minus areas of constrained land listed in §601.4,C,1)					
On-site sewage & on-site water	2.0	2.0	2.0	2.0	2.0
On-site sewage & community water	2.0	2.0	1.0	1.0	1.0
Community sewage & on-site water	2.0	2.0	1.0	1.0	1.0
Community sewage & community water	2.0	2.0	0.75	0.75	0.75

PART 5				
LOT DIMENSIONS FOR NONRESIDENTIAL USES				
STANDARD (see §911 for nonconforming lots)	LOT SIZE (functional acres)			
	Equal to or greater than			Less than
	2.0	1.0	0.75	0.75
Minimum Yards for Proposed Lots and Existing Lots (i.e., building setbacks) (see §503 for accessory structures)				
Front measured from road right-of-way (feet)	40	35	30	25
Rear (feet)	30	20	15	10
Side (feet)	25	20	15	10
Buffers for wetlands and water bodies	see §704.2, §704.3			
Lot Dimensions for Proposed Lots - see §606.3 of the Subdivision and Land Development Ordinance				
Maximum lot coverage (percent) - ratio of all proposed and existing impervious surfaces to the total (not functional) lot size	60	60	60	60

PART 6	
MAXIMUM BUILDING HEIGHT FOR ALL USES IN ALL DISTRICTS (see §501.4 for exceptions)	
Maximum building height	35 feet

ARTICLE V SUPPLEMENTARY REGULATIONS

500 Introduction

The standards that follow shall be applied to the specific situations indicated and are intended to supplement the standards in Article IV. Standards contained in a specific section regulating a specific use shall not exempt said use from other applicable regulations contained in this Ordinance.

501 Deviations From Required Sizes

No part of any structure, whether attached to the principal structure or not; including but not limited to, porches, carports, decks, balconies, chimneys, bay windows or overhangs shall project into any required yard. No lot, yard, or other space shall be so reduced in area or dimension as to make it less than the minimum required by this Ordinance except as follows:

501.1 Nonconforming Lots of Record

See §911 of this Zoning Ordinance.

501.2 Access Drives; Driveways

Access drives serving a permitted use shall be permitted in all yards except as may be otherwise regulated by this ordinance, and provided a buffer of ten (10) feet is maintained from rear and side property lines. The ten-foot buffer shall not be required in the SR District or in the case of shared driveways.

501.3 Front Yard Exception

Where a vacant lot exists between two (2) improved lots, each of which has a building within twenty-five (25) feet of the property line separating the parcels, a building may be erected on the vacant lot with a front yard not less than the greater front yard of the two (2) adjoining buildings. However, the front yard setback shall not in any case be reduced to less than fifteen (15) feet.

501.4 Height Limitations

Unless otherwise regulated by this Ordinance, height regulations shall not apply to spires, belfries, cupolas, domes, not used for human occupancy, nor to chimneys, ventilators, monuments, water towers, masts and aerials, television antennae, public utility structures that are not buildings, silos, chimneys, ventilators, and parapet walls extending not more than four (4) feet above the regulated height of the building, skylights, bulkheads, and ornamental or necessary mechanical appurtenances. Any such non-agricultural structure or any structure associated with a concentrated animal feeding operation which exceeds a height of fifty (50) feet shall be considered a special exception.

501.5 Extension of Non-Conforming Setbacks

A structure which is non-conforming as to a setback requirement may be extended along the non-conforming setback line a distance not to exceed fifty (50) percent of the length of the nonconforming part of the structure as it existed at the effective date of this Ordinance.

501.6 Projections Into Yards (See §503.1 for accessory structures.)

Projections into required yards shall not be permitted. All parts of structures shall meet the required setbacks. Patios may be located in required yards not less than twenty (20) feet to any public road right-of-way or ten (10) to any property line.

501.7 Reduction of Required Area or Space

The area or dimension of any existing lot, yard, parking area or other space shall not be reduced to less than the minimum required by this Ordinance.

502 Unique Lots, Yards and Building Locations

502.1 Two or More Uses on a Lot

- A. Development Standards - Two (2) or more principal buildings or uses located on a parcel in single ownership shall conform to all the requirements of this Ordinance which would normally apply to each building or use if each were on a separate district lot, including but not limited to setbacks, parking, lot coverage, and sewage disposal requirements.
- B. Residential Density - For the purposes of density of residential structures, lot size shall be increased to maintain the density required by this Ordinance. For example, the parcel size required for three (3) single-family dwellings on one parcel would be determined by multiplying the minimum lot size for one (1) dwelling by a factor of three (3).
- C. Non-Residential Uses - In the case of non-residential uses, there shall be no limit on the number of uses or structures on a single parcel provided all other standards of this Ordinance are satisfied. This shall not apply to adult businesses, junkyards, natural resource uses, solid waste facilities, or other uses with a special size requirement listed in this Ordinance, in which case the parcel size shall be increased to provide for the minimum land area for each use on the parcel.
- D. Residential and Non-Residential on the Same Lot
 - 1. RA and RR Districts - Residential dwellings provided for in the District by the Schedule of Uses shall be permitted on the same lot as a permitted non-residential use provided the lot is of sufficient size to meet the residential unit density required by this Ordinance in addition to the land area needed to meet the density requirement for the non-residential use.
 - 2. C and IND Districts - One residential unit per property shall be permitted in association with a non-residential use(s) without an increase in the minimum lot size requirement provided said unit is attached to and is an integral part of the principal non-residential structure. The residential unit shall be occupied only by the owner or employee of the non-residential use(s). Any additional residential dwelling units, if provided for in the District by the Schedule of Uses, shall be permitted on the same lot as a non-residential use only if the lot is of sufficient size to meet the residential unit density required by this Zoning Ordinance in addition to the land area needed to meet the density requirement for the non-residential use.
- E. Structure Separation - Principal structures located on the same lot shall be separated by a distance at least equal to the height of the highest adjoining structure, but in no case less than twenty (20) feet. (See §503.1 for accessory structures.)

502.2 Street Frontage / Front Yards

A principal building shall be permitted only upon a lot with frontage on a public or private road right-of-way. Each yard of a lot which abuts a street shall be equal in size to the front yard required for the district. Any other yards may be considered side yards.

502.3 Clear View At Street Intersections

Visual obstructions at street intersection including, but not limited to, structures, opaque fences, vegetation and signs, (excluding an existing building, post, public utility structures, column or deciduous tree) thirty (30) inches in height shall be prohibited on any lot within the triangle formed by the street right-of-way lines and a line drawn between points along the street right-of-way lines thirty (30) feet distant from their points of intersection. More restrictive standards shall be required in cases where intersection alignment, topography or other circumstances dictate same to maintain adequate clear view.

503 Accessory Structures and Uses

503.1 Accessory Structures

All accessory structures shall conform to the minimum regulations established in Article IV except as permitted below.

- A. **Unattached Accessory Structures** - All unattached accessory structures shall comply with yard requirements for principal structures. However, accessory structures which are not attached to a principal structure and do not exceed ten (10) feet in height and one-hundred and forty-four (144) square feet in total floor area may be erected within the required side and rear yards of a principal structure, provided that no side or rear yard is reduced to less than ten (10) feet. In the case of corner lots, the full yard as specified in §502.2 shall be maintained. In addition, no accessory structure shall be erected within fifty (50) feet of any body of water.
- B. **Attached Accessory Structures** - An accessory structure attached to a principal building shall be considered to be a part of the principal building and shall conform to the setbacks for principal structures.

503.2 Fences and Walls

The erection of any fence or wall in all Districts shall not require a zoning permit, but shall be subject to the following provisions:

- A. All fences and walls shall comply with §502.3 of this Ordinance for clear sight triangles.
- B. Fences and walls may be erected in front yards; however, no such fence or wall shall encroach upon any public right-of-way and shall not exceed a height of four (4) feet. For any fence erected in a front yard the ratio of the open portion of the fence to the solid portion of the fence shall be a minimum of four (4) to one (1).
- C. No fence shall exceed a height of ten (10) feet except for agricultural and garden fences.
- D. Fences and walls not greater than four (4) feet in height may be erected up to the property line of adjoining properties.
- E. Fences and walls exceeding four (4) feet in height may be erected on a side or rear property line provided said property line is clearly located and physically marked on the lots by lot line markers placed in accord with a survey conducted by a Registered Land Surveyor, and the owners of said lots present to the Township a written document executed between said owners establishing agreement for erection of the subject fence or wall.
- F. Fences or walls exceeding four (4) feet in height and not located on the property line in accord with §§D above shall maintain the required front yard setback and shall be set back from side and rear lot lines by at least fifty (50) percent of the side and rear setbacks, respectively, required in the District for principal structures, but in no case less than five (5) feet.
- G. All fence posts and other structural supports shall be located on the side of said fence towards the interior of the property owned by the person erecting the subject fence.

503.3 Home Occupations and Home Based Businesses

503.3.1 Home Occupations

It is the intent of this subsection to regulate the operation of home occupations so that the average neighbor, under normal circumstances, will not be aware of the existence of the home occupation. The burden of proof shall be on the applicant to demonstrate that the standards will be met. Based upon the potential nuisances of a proposed home occupation not specifically permitted by this section, the Zoning Hearing Board may determine that a particular type or intensity of use is unsuitable to be a home occupation or that the proposed lot area or setbacks are not adequate. The following standards shall apply:

- A. The home occupation must be conducted entirely inside a building and shall be clearly incidental and secondary to the use of the dwelling as a residence.
- B. In the SR District the total area used by all home occupations on the premises does not exceed twenty-five (25) percent of the gross floor area of the dwelling unit, including basement, and accessory structures as existed at the effective date of this Ordinance. In all other districts the total area shall not exceed fifty (50) percent.
- C. No outdoor display or display visible from outdoors, or outdoor storage of materials, goods, products, supplies, or equipment used in the home occupation(s) shall be permitted.
- D. There shall be no evidence visible from outside the dwelling (show windows, business displays, advertising, etc.) that the residence is being operated as a home occupation except for a sign, if permitted, and required parking area.
- F. In the SR District the home occupation shall be conducted only by members of the family residing in the dwelling and not more than one (1) person other than residents of the dwelling shall be employed on the premises. In all other districts, the number of nonresident employees shall not exceed three (3).
- G. Off-street parking shall be provided on the premises as required by this Ordinance to prevent parking on any public or private street right-of-way.
- H. No home occupation use shall generate nuisances such as traffic, noise, vibration, glare, odors, fumes, electrical interference, or hazards to any greater extent than what is usually experienced in the residential neighborhood.
- I. No goods or items for retail or wholesale sale shall be permitted except for items hand crafted on the premises or goods and items incidental to the operation of an approved home occupation with the total display and/or storage area limited to two hundred (200) square feet.
- J. The use shall not involve the parking of more than one (1) truck of any type on the lot or on adjacent streets at any period of time. The use shall not require servicing by, deliveries by or parking of tractor-trailer trucks. In the SR District, the use shall not require the parking or servicing by a vehicle with more than 26,000 pounds registered gross vehicle weight, except for deliveries of a maximum of two (2) times per day.
- K. See §505.3 for home occupation signs.
- L. §701, Performance Standards, shall also apply to home occupations.
- M. The following uses shall not be permitted as home occupations: commercial stables, veterinarians, commercial kennels or motor vehicle or small engine repair shops, retail or wholesale sales, restaurant, funeral parlors or other uses not meeting the requirements of this §503.3.
- N. The following types of uses shall be permitted as accessory uses in all districts:
 - 1. Professional offices for individual practitioners
 - 2. Rooming and/or housing of not more than two (2) persons.
 - 3. Custom dressmaking or tailoring.
 - 4. Foster family care for not more than four (4) children simultaneously.
 - 5. Day care that provides care for six (6) or fewer children at any one time who are not relatives of the care giver.
 - 6. Tutoring for not more than four (4) children simultaneously.
 - 7. Mail order or sales businesses not involving customer contact on the premises or wholesale brokering not involving stock on the premises
 - 8. Businesses involving the use of personal computers for sales or services and which do not involve customer

- contact on the premises
9. Single chair beauty shops and barbershops.

- O. All applications for home occupations not specifically enumerated as permitted in §503.3.1,N shall not be permitted in the SR District. In all other districts, all applications for home occupations not specifically enumerated as permitted in §503.3.1,N or excluded by §503.3.1,M, shall be considered special exceptions.

503.3.2 Home Based Businesses

It is the intent of this subsection to regulate as special exceptions the operation of home businesses to permit a variety of commercial uses in the RA and RR Districts under certain conditions established to minimize effects on neighboring properties and the District as a whole. The burden of proof shall be on the applicant to demonstrate that the standards will be met. Based upon the potential nuisances of a proposed home based business not specifically permitted by this section, the Zoning Hearing Board may determine that a particular type or intensity of use is unsuitable to be a home based business or that the proposed lot area or setbacks are not adequate. The following standards shall apply:

- A. The home based business must be conducted entirely inside a building situated on a minimum of five (5) acres.
- B. No outdoor storage of materials, goods, products, supplies, or equipment used in the home based business shall be permitted unless adequate screening and buffers are provided in accord with §701 of this Ordinance.
- C. The home based business shall be conducted by members of the family residing in the dwelling and the number of nonresident employees shall not exceed five (5).
- D. Off-street parking shall be provided on the premises as required by this Ordinance to prevent parking on any public or private street right-of-way.
- E. No home based business shall generate nuisances such as traffic, noise, vibration, glare, odors, fumes, electrical interference, or hazards to any greater extent than what is usually experienced in the District.
- F. The use shall not require the parking of tractor-trailer trucks, however, deliveries by tractor-trailer trucks shall be permitted.
- G. See §505.3 for home based business signs.
- H. §701, Performance Standards, shall also apply to home based businesses.
- I. Any use not meeting the requirements of this §503.3.2 and the following uses shall not be permitted as home based businesses:

Abused person shelters	Heliports
Adult businesses	Hotels
Agricultural products processing	Junk yards
Airports	Manufacturing and industry
Amusement parks	Motels
Amusement arcades	Natural resources processing
Banks	Natural resource uses
Betting uses	Race tracks
Bulk fuel storage facilities	Recyclable processing facilities
Bus terminals	Recycling collection facilities, large
Campgrounds and recreational vehicle parks	Recycling collection facilities, small
Car and truck washes	Restaurants, fast-food
Commercial communications device sites	Restaurants, traditional
Convenience stores	Self-storage facilities
Detention facilities	
Flea markets	
Funeral parlors	
Gasoline service station	

Outdoor shooting ranges
Slaughter houses
Solid waste facilities, public
Solid waste facilities, commercial
Solid waste staging areas
Taverns
Theaters
Treatment centers/clinics
Truck terminals (See §503.3.2,F)

503.4 Private Parking Areas, Garages Accessory to Residential Uses

Accessory off-street parking areas or garages serving the residential or non-residential parking demand created by the principal building are permitted in accord with §504. Accessory garages shall conform with §503.1.

503.5 Home Gardening, Nurseries and Greenhouses

Home gardening, and accessory structures used for nurseries or as greenhouses, are permitted as accessory uses to residential dwellings, provided they are used by the residents thereof for non-commercial purposes.

503.6 Private Outdoor Swimming Pools

- A. A single private outdoor swimming pool per dwelling unit is permitted as an accessory use to a residential structure, provided that such swimming pool is for the private use of the residents of the dwelling unit or for their guests. Pools and decks shall comply with setbacks for accessory structures.
- B. A fence, wall or other enclosure not less than four (4) feet high and of a design to restrict access shall completely surround the area of any ground level swimming pool. This enclosure shall be designed to be difficult for children to climb or slip through. All gates or door openings through such enclosure shall be self-closing and include a self-latching device on the pool side for keeping the gate or door securely closed when the pool is not in use.
- C. Above ground pools shall include a secure fence, wall or other enclosure a minimum of four (4) feet high above the surrounding ground level. This enclosure may include the walls of the pool itself. Such pools shall be equipped with an access ladder that can be raised and locked in a position so that it is a minimum of four (4) feet above the surrounding ground level or otherwise completely inaccessible to children when the pool is unattended.
- D. Access to all pools shall be restricted when the pool is not in use whether by fence, wall or integrated in the design of the pool. A pool cover shall not be deemed adequate to meet this requirement.
- E. A zoning permit or fence shall not be required for wading pools where the water does not exceed ten (10) inches in depth and which are not normally filled on a constant basis.
- F. The Township does not assume the responsibility of guaranteeing to the public that all pools comply with the provisions of this §503.6.
- G. Farm ponds and decorative ponds shall be exempt from this §503.6.

503.7 Temporary Uses

- A. Definition - A use accessory to another permitted principal use that operates at a fixed location for a temporary period of time.
- B. Zoning permit required - No temporary use shall be established unless a zoning permit evidencing the

compliance of such use with the provisions of this §503.7 and other applicable provisions of this Ordinance shall have first been issued.

- C. Particular temporary uses permitted - The following are temporary uses which are subject to the following specific regulations and standards, in addition to the other requirements specified in this Ordinance.
1. Contractor's office and construction equipment sheds.
 - a. Permitted in any district where use is incidental to a construction project. Office or shed shall not contain sleeping or cooking accommodations.
 - b. Maximum length of permit shall be one (1) year.
 - c. Office or shed shall be removed upon completion of construction project.
 - d. Required water supply and sanitary facilities shall be provided.
 2. Real estate sales office.
 - a. Permitted in any district for any new subdivision approved in accord with the Township Subdivision Ordinance. The office may not contain sleeping or cooking accommodations. A model home may be used as a temporary sales office.
 - b. Maximum length of permit shall be one hundred and twenty (120) days.
 - c. The office shall be removed upon completion of the development of the subdivision.
 - d. Required water supply and sanitary facilities shall be provided.
 3. Temporary shelter.
 - a. When fire or natural disaster has rendered a single-family residence unfit for human habitation, the temporary use of a mobile home located on the single-family lot during rehabilitation of the original residence or construction of a new residence is permitted subject to the following additional regulations.
 - b. Required water supply and sanitary facilities must be provided.
 - c. Maximum length of permit shall be twelve (12) months, but the zoning officer may extend the permit for a period or periods not to exceed sixty (60) days in the event of circumstances beyond the control of the owner. Application for the extension shall be made at least fifteen (15) days prior to expiration of the original permit.
 - d. The mobile home shall be removed from the property prior to issuance of any occupancy permit for the new or rehabilitated residence.
- D. Reserved.
- E. Temporary uses by special exception - For temporary structures or uses that are not specifically permitted by right by this Ordinance, and other than customary accessory uses and other than those uses that were lawfully occurring on a periodic basis prior to the adoption of this Ordinance, a temporary permit may be issued by the Board of Supervisors as a conditional use of structures or uses that would not otherwise be permitted, subject to the following additional provisions:
1. Duration. The Zoning Hearing Board shall establish a limit on the duration of the use. In the case of a special event, except under special circumstances, this should be a maximum of 7 days in any 60 day period. The Board of Supervisors may grant a single approval once for numerous occurrences of an event.
 2. Statement from Owner. The applicant shall present a statement from the owner of record of the land accepting responsibility to ensure that the use or structure is removed once the permit expires.
 3. Removal. Such structure or use shall be removed completely upon expiration of the permit without cost to the Township. If the structure or use is not removed in a timely fashion after proper notification, the Township may remove the use or structure at the cost of the person who owns the land upon which the

structure or use is located.

4. Conditions. The temporary use or structure shall: 1) be compatible with adjacent uses and 2) clearly be of a temporary nature.
5. Fee. The Zoning Hearing Board may waive and/or return the required application fee if the applicant is a Internal Revenue Service recognized and well-established nonprofit organization, and the applicant clearly shows that the proposed use is temporary and will be used to clearly primarily serve a charitable or public service purpose.
6. Nonprofit. Only a well-established and Internal Revenue Service-recognized nonprofit organization proposing a temporary use to clearly primarily serve a charitable or public service purpose shall be eligible to receive approval for a temporary commercial use in a district where that use is not permitted.
7. Special Events. For a special event that will attract significant numbers of the public, the Zoning Hearing Board may deny the use if it determines that the following will not be generally appropriate: sanitary and water service, traffic control, off-street parking and protection of the public health and safety.

F. Additional Regulations

1. Documentation must be provided to the Township that adequate arrangement for temporary sanitary facilities has been made.
2. All uses shall be confined to the dates specified in the permit.
3. Hours of operation shall be confined to those specified in the permit.
4. Access and parking for the exclusive use of the facility shall be provided, and a stabilized drive to the parking area shall be maintained with a minimum of six (6) inches or as otherwise needed, of bank-run gravel or equal material.

503.8 Yard Sales

Individual private family yard sales are a permitted accessory use in all zoning districts. A permit shall not be required; however, yard sales shall be subject to the following specific regulations and requirements:

- A. Each individual property location may have a maximum of three (3) yard sales during any one (1) calendar year. Each sale shall last a maximum of three (3) consecutive days.
- B. Yard sales are meant to allow individuals to offer for sale accumulated normal household items or arts and crafts; and the buying and selling of commercial or surplus material shall be considered a commercial operation and shall be prohibited except in Districts where permitted and in accord with the requirements of this Ordinance.

503.9 Private Cemeteries

Private cemeteries shall be permitted as an accessory use in association with parcels of ten (10) acres or more, with the cemetery to be on a separately deeded parcel of one-half (0.5) acre.

503.10 Stables, Private

Private stables are permitted in accord with the Schedule of Uses subject to the requirements of §805.2 of this Ordinance.

503.11 Heliports as an Accessory Use

Heliports as accessory uses, in addition to all other applicable Ordinance requirements, shall comply with the following standards.

- A. Allowed only in the IND District as a conditional use.

- B. The applicant shall document compliance with all applicable state and federal regulations.
- C. The runway and/or landing pad shall be a minimum of two hundred and fifty (250) feet from any residential district or any existing dwelling not located on the parcel for which the airport and/or heliport is proposed.

503.12 Freshwater Ponds

Any freshwater pond constructed in association with any residential, agricultural or commercial use shall comply with the property line setbacks as required by the applicable zoning district. However, no fence and no zoning permit shall be required.

503.13 Satellite Dish Antennae

All private satellite dish antennae shall be considered structures and shall maintain the setbacks required for accessory structures; however, a permit shall not be required for such antennae twenty (20) inches or less in diameter.

504 Off-Street Parking and Loading

504.1 Availability of Facilities

Off-street parking, loading, and unloading facilities shall be provided to lessen congestion in the streets. The facilities required herein shall be available throughout the hours of operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking lot space located off the public right-of-way.

504.2 Size and Design of Parking Spaces

Parking shall be provided in accord with an overall parking plan prepared in accord with generally accepted design standards and which takes into consideration access design and control, size and shape of the parking area, types of vehicles using the parking area, traffic patterns and other applicable considerations. The net parking space per vehicle shall be not less than nine (9) feet wide and eighteen (18) feet long. Garages and carports not in the public right-of-way may be considered parking spaces. Notwithstanding the above, all parking spaces shall be ample in size for the vehicles for which use is intended.

504.3 Lighting

Any lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public right-of-ways.

504.4 Public Right-of-Ways

Parking, loading and unloading of vehicles shall not be permitted on public right-of-ways, except in designated areas and in accord with Township parking regulations. No parking area shall be designed which requires or encourages parked vehicles to be backed into a public street.

504.5 Parking Between Principal Structure and Road

No parking shall be permitted anywhere between the public road right-of-way and the principal structure for any new commercial uses. This requirement shall not apply to additions or expansions of existing businesses or the conversion of one business use to another business use.

504.6 Number of Spaces To Be Provided

- A. Any structure or building which is hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used for commercial purposes, shall be provided with off- street parking spaces adequate to serve such use but with not less then the minimum spaces, as set forth in the following Table, which spaces shall be readily accessible to the uses served thereby. Fractional numbers of parking spaces shall be increased to the next whole number.

- B. For projects involving more than one use and/or structure the total number of parking spaces required shall be determined by summing the number of spaces for each individual use.
- C. Additional parking for the handicapped shall be provided in accord with §504.16.
- D. Should the applicant provide evidence that the number of parking spaces required by this §504 is not necessarily required to meet the immediate needs of the proposed use, the number of spaces provided may be reduced as a special exception by a maximum of fifty percent (50%) provided sufficient and suitable area is dedicated to future parking to meet the normal standards in this §504 and the applicant shall agree in writing to install the parking at the direction of the Township Board of Supervisors. Reserve parking areas shall be included in the calculation of lot coverage area. Parking facilities used jointly by two (2) or more principal uses may be considered for a parking reduction (See §504.12).

USE	PARKING SPACES REQUIRED
A. Dwellings	2 per dwelling unit
B. Homes for handicapped or infirm, nursing homes, group care homes, halfway houses and similar uses	3 per every 5 beds
C. Hotels, motels, boarding and tourist homes, bed and breakfast establishments and other uses providing overnight accommodations	1.1 per bedroom
D. Sales and rental of goods, merchandise and equipment	
1. Retail establishments	1 per 200 SFGFA open to the public
2. Wholesale establishments	1 per 800 SFGFA
3. Flea markets	1 per 200 square feet of lot area designated for display or sales
E. Offices, research facilities and services not primarily related to goods	
1. Serving customers or clients on premises such as attorneys, physicians, insurance and travel agents	1 per 200 SFGFA
2. Drive-in banks	1 per 200 SFGFA open to the public plus reservoir lane capacity equal to 5 spaces per drive-in window
3. Serving little or few customers or clients on premises, such as corporate offices	1 per 250 SFGFA
4. Funeral homes	1 per 100 SFGFA open to the public
F. Manufacturing, processing, renovating, assembling goods, merchandise and equipment	1 per 600 SFGFA
G. Educational, cultural religious social, fraternal uses	
1. Public schools	1.75 per classroom for elementary and middle schools; and 5 per classroom for high schools
2. Trade and vocational schools, colleges	1 per 100 SFGFA open to the public
3. Churches, synagogues and temples	1 per every 4 seats used for services

4. Libraries and museums, social, fraternal clubs and lodges; and similar uses	1 per 300 SFGFA open to the public
H. Recreation, amusement and entertainment	
1. Bowling alleys, skating rinks, indoor athletic or exercise facilities and similar uses	1 per every 3 persons of fully utilized design capacity (if measurable in such fashion), otherwise 1 per 200 SFGFA
2. Movie theaters, stadiums and similar uses with seating accommodations	1 per every 4 seats
3. Public and private outdoor recreation facilities such as golf courses, swimming pools and similar uses	1 per 200 SFGFA open to the public plus 1 per every 2 persons of fully utilized design capacity
4. Commercial water craft docking facilities, including such facilities at waterfront marinas	2 per every 3 slips
I. Hospitals, clinics and other medical treatment facilities	1 per bed or 1 per 200 SFGFA, whichever is greater
J. Restaurants, bars, taverns and other eating establishments	1 per 50 SFGFA open to the public plus reservoir lane capacity equal to 5 spaces per drive-in window
K. Vehicle related uses (See definition of "vehicle" in Article III.)	
1. Sales, service, repair	1 per 250 SFGFA
2. Gas sales	1 per 250 SFGFA plus sufficient parking area at pumps which does not interfere with other required spaces
3. Car wash	1 per 100 SFGFA plus 2 reservoir spaces in front of each stall for self-serve and 5 reservoir spaces for conveyor type
L. Warehousing and storage	1 per 4,000 SFGFA
M. Miscellaneous uses	
1. Veterinary	1 per 200 SFGFA open to the public
2. Nursery schools and day care	1 per 150 SFGFA open to the public
3. Greenhouses	1 per 200 SFGFA open to the public
4. Emergency services	1 per 200 SFGFA open to the public
5. Junk and scrap yards	1 per 200 SFGFA open to the public
6. Post office	1 per 200 SFGFA open to the public
Note: SFGFA means "square feet of gross floor area". Gross floor area is the sum of the total horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for vehicles, or any space where the floor-to-ceiling height is less than six feet.	

For uses not specifically provided above, the Township Board of Supervisors, with the recommendation of the Planning Commission, shall determine the required number of spaces based upon the similarity of the proposed use to the uses provided.

504.7 Loading and Unloading Areas

In addition to the required off-street parking spaces the developer of any building erected, converted or enlarged in any district for commercial, office building, hotel, motel, restaurant, manufacturing, wholesale, hospital or other non-

residential uses, to provide adequate off-street areas for loading and unloading of vehicles. The applicant shall provide details on the type and frequency of vehicles operating in connection with the proposed use to justify the loading and unloading areas proposed. Each required space shall meet the following dimensions:

Largest Type of Truck Service	Minimum Width (feet)	Minimum Length (feet)
Tractor trailer	12	40 with 12 ft clear height
Trucks other than tractor trailers, pick-ups or vans	10	25
Pick-up truck or van	9	18

504.8 Access To Off-Street Parking and Loading Areas

There shall be adequate provisions for ingress and egress to all parking and loading spaces designed for use by employees, customers, delivery services, sales people and/or the general public. Access to and from all off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well-defined separate or common entrances and exits and shall comply with the following provisions:

- A. Width - Unless otherwise required by Penn DOT for access to a state road, the width of the driveway/access way onto a public street at the edge of the cartway shall be as follows:

WIDTH	1-Way Use	2-Way Use
Minimum	12 feet	20 feet
Maximum	35 feet	50 feet

- B. Controlled Access - Each entrance and exit shall be clearly defined with curbing, fencing, landscaping or vegetative screening so as to prevent access to the area from other than the defined entrance and exit.
- C. Highway Occupancy Permit - A Township or State highway occupancy permit, as applicable, shall be required for any new or escalated access to any public street or any other regulated activity within the right-of-way.

504.9 Parking and Loading Area Setbacks

All parking and loading areas (not including parking decks) and parallel circulation and service lanes serving any commercial, industrial, institutional or multi-family use shall be separated from the any public road right-of-way or adjoining property lines by a buffer area not less than fifteen (15) feet in width unless adjoining uses share parking in accord with §504.12.

- A. Measurement - The width of the buffer shall be measured from the curb line or from the legal right-of-way line after development if no curbs will be provided.
- B. Uses Prohibited - The buffer area shall be maintained in natural vegetative ground cover and shall not include:
1. Paving except for approved driveway/access way crossings
 2. Fences unless integral to landscaping
 3. Parking, storage or display of vehicles
 4. Items for sale or rent
- C. Uses Permitted - The buffer area may include the following:

1. Permitted freestanding signs
2. Pervious storm water facilities
3. Approved driveway/access way crossings

D. Sidewalks - If sidewalks exist or will be provided, the buffer area may be provided between the sidewalk and the street or between the sidewalk and the paving.

504.10 Surfacing

Off-street parking areas and driveways/access ways shall be graded for proper drainage and shall be surfaced so as to provide a durable and dustless surface, such as a gravel, concrete or bituminous concrete surface.

504.11 Off-Lot Parking

Required parking may be provided on a different lot than on the lot on which the principal use is located, provided the parking is not more than four hundred (400) feet from the principal use lot. Off-lot parking areas shall be permitted only in a district where the principal use is permitted. Both parcels shall be under the same control, either by deed or long-term lease, as the property occupied by such principal use, and the owner shall be bound by covenants of record filed in the office of the County Recorder of Deeds requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.

504.12 Joint Use Parking

In cases where two principal uses share a common property line, shared parking facilities may be utilized. The arrangement for joint-use parking shall be provided by deed restriction for the portion of each parcel included in the shared arrangement. The joint-use parking area may span the common property line thereby eliminating the setback required in §504.9. The standards in §504.6 for number of spaces to be provided shall apply to joint-use parking. To the extent that principal uses operate at different times, the same spaces may be credited to both uses. (Example: If a church parking lot is generally occupied only to ten (10) percent of capacity on days other than a Sunday, another development not operating on a Sunday could make use of the unused church lot spaces on weekdays.)

504.13 Landscaping

All non-residential improved off-street parking areas not entirely contained in a garage or building shall comply with the following landscaping standards:

- A. Buffer Areas - The buffer area between the parking area and the public street required by §504.9 shall be landscaped to a minimum of thirty (30) inches in height including vegetation; of which a minimum of fifty (50) percent shall be evergreen shrubbery; and shall average at least one shrub for every ten (10) feet of frontage. A similar planting shall be provided where a parking area abuts an existing residential structure or a non-commercial district.
- B. Parking Lot Interiors - A minimum of five (5) percent of the interior of any parking lot having twenty-five (25) or more parking spaces shall be maintained with landscaping, including trees and shrubs in plots of at least sixty (60) square feet in area. One (1) deciduous tree with a trunk diameter of not less than one (1) inch measured at a height of one (1) foot above finished grade shall be provided for every three thousand (3,000) square feet of paved area. Trees and landscaping plots shall be so located to provide visual relief and sun and wind interruption within the parking area and to insure safe patterns of internal circulation. In no case shall more than fifteen (15) spaces be permitted in a continuous row without interruption by landscaping, and not more than sixty (60) spaces shall be permitted in one lot, said lots being separated by landscaping plots a minimum of four (4) feet in width.
- C. Plants - Plant species shall be of a type proven suitable to local soil and climate conditions and which are resistant to disease, road salt and air pollution as determined by the Township. All landscaping including plants shall be protected from damage by vehicles and shall be maintained in a good condition with plants that have died being replaced by similar plants.

- D. Plan - A landscaping plan showing the arrangement of the landscaping and parking areas and including plant sizes and species shall be submitted by the applicant for approval by the Township.

504.14 Existing Parking Areas

No existing parking area or any off-street parking shall be eliminated, reduced in size or otherwise altered so that any use is served by less parking than is required by this Ordinance.

504.15 Parking for Residential Use

Off-street parking shall be provided in accord with this §504 for all residential uses in all Districts.

504.16 Handicapped Parking

- A. Number of Spaces - Any lot including four (4) or more off-street parking spaces shall include a minimum of one (1) handicapped space. The following number of handicapped spaces shall be provided, unless a revised regulation is established under the Federal Americans With Disabilities Act (ADA).

Total # of Required Spaces on Parking Lot	Required Minimum # / % of Handicapped Parking Spaces
4 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1,000	2% of required number of spaces
1,001 or more	20 plus 1% of required number of spaces over 1,000

- B. Location - Handicapped parking spaces shall be located where access to the use is via the shortest reasonable accessible distance. Curb cuts with an appropriate slope shall be provided as needed to provide access from the handicapped spaces.
- C. Minimum Size - Each required handicapped parking space shall be a minimum of eight (8) feet by eighteen (18) feet. In addition, each space shall be adjacent to an access aisle five (5) feet in width. Such access aisle may be shared by two (2) handicapped spaces by being placed between the spaces. One (1) of every eight (8) required handicapped spaces shall have an adjacent access aisle of eight (8) feet in width instead of five (5) feet.
- D. Slope - Handicapped parking spaces shall be located in areas of less than two (2) percent slope in all directions in accord with ADA requirements.
- E. Marking - All required handicapped spaces shall be well-marked by clearly visible signs and/or pavement markings.

504.17 Reserved

504.18 Parking of Commercial Vehicles in SR Districts

A. Purpose - To prevent the character of residential areas from being harmed by nuisances, hazards and visual blight in SR Districts.

B. Storage of Commercial Vehicles.

1. Definitions - For the purposes of this §504.18, the following terms shall have the following meanings:
 - a. Commercial Vehicle - A motor vehicle that has a gross vehicle weights of greater than six thousand (6,000) pounds and is primarily used for business purposes, including but not limited to making service calls, transporting equipment used in a business or in accomplishing physical work as part of a business (such as hauling material.)
 - b. Tractor of a Tractor-Trailer - A truck with a minimum of three (3) axles that is primarily intended to pull a trailer, as defined below, and not primarily to carry goods itself.
 - c. Trailer of a Tractor-Trailer - A commercial vehicle with a length of twenty (20) feet or more that is not self-propelled, that is intended to haul materials, vehicles, goods, gases or liquids and that is intended to be pulled by a tractor (as defined above), and that is not a "recreational vehicle."
2. Commercial Vehicles in SR Districts and on Residential Properties - The following standards shall apply in all SR Districts.
 - a. A maximum of two (2) "commercial vehicles" (as defined above) may be parked for more than eight (8) hours in any forty-eight (48) hour period on private property. Such vehicles shall be permitted only if used by residents of the property as a means of transportation between their home and work. No commercial vehicle in shall have a gross vehicle weight of over fifteen thousand (15,000) pounds if parked outside of an enclosed building.
 - b. The engine of a tractor of a tractor-trailer or any refrigeration unit of a vehicle shall not be idled for more than ten (10) minutes on the property between the hours of 10 p.m. and 6 a.m. or be repaired, except for clearly emergency repairs.
 - c. No trailer of tractor-trailer shall be parked, stored, maintained or kept on a property for more than eight (8) hours in any forty-eight (48) hour period.
 - d. See the requirements of the State Motor Vehicle Code that require vehicles parked on a public street to have current registration.
3. Exceptions - This section does not apply to the following, provided they are in an operational condition:
 - a. Municipally-owned vehicles
 - b. Ambulance, fire and rescue vehicles
 - c. Buses used primarily for transporting public or private school children to and from school or transporting persons to or from a place of worship
 - d. Recreational vehicles - a maximum of two (2)

- e. Vehicles operated by the U.S. Postal Service or a level of government or a Municipal Authority
- f. Vehicles actively engaged in the construction or repair of buildings, streets, curbs, sidewalks, rehabilitation or utilities in the immediate area
- g. Vehicles actively engaged in making routine household deliveries or rendering routine household services to a property that is adjacent or on the same lot as the vehicle is parked.
- h. Equipment and vehicles clearly primarily intended for agricultural use.
- i. Parking of vehicles that is customarily accessory to a lawful non-conforming principal business use.

505 Signs

NOTE: Applicants for sign permits should consult with the Township Zoning officer for any sign design guidelines which are recommended to accomplish the goal of maintaining the rural residential character of the Benton Township.

505.1 Intent and Purpose

Regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities in the Township area without difficulty and confusion, to encourage the general attractiveness of the community and to protect property values therein. Accordingly, it is the intent of this Ordinance to establish regulations governing the display of signs which will:

- A. Promote and protect the public health, safety, comfort, morals, and convenience.
- B. Encourage sign design, placement and landscaping which will promote the maintenance the rural residential character of Benton Township. (See §505.10,E.)
- C. Promote signs which are compatible with their surroundings, are appropriate to the type of activity to which they pertain, and are expressive of the identity of proprietors and other persons displaying signs.
- D. Enhance the economy and the business and industry of the area by promoting the reasonable, orderly, and effective display of signs, and thereby encourage increased communication with the public.
- E. Restrict signs and lights which overload the public's capacity to receive information or which increase the probability of traffic congestion and accidents by distracting attention or obstructing vision.
- F. Reduce conflict among signs and sign lighting and between public and private signs, and;

505.2 Definitions

The definitions in this §505.2 shall supplement the definitions in Article III of this Ordinance as applicable to the regulation of signs.

ATTRACTION BOARD - A permanent sign on which the information is changed periodically and identifies special, unique, limited activities, services, products, or sale of limited duration.

AWNING - A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted to a position against the building.

BANNER - A sign intended to be hung either with or without a frame possessing characters, letters, illustrations, or ornamentations applied to paper, plastic, or fabric of any kind excluding flags, emblems, and insignia or political, professional, religious, education, or corporate organizations providing that such flags, emblems, and insignia are

displayed for noncommercial purposes.

BILLBOARDS AND OFF-PREMISES SIGNS - A sign which directs attention to a business, commodity, service, entertainment or attraction sold, offered, or existing elsewhere than upon the same lot where such sign is displayed. The term off-premises sign shall include an outdoor advertising sign (billboard) on which space is leased or rented by the owner thereof to others for the purpose of conveying a commercial or noncommercial message.

BUSINESS SIGN - A sign which directs attention to a business, profession, activity, commodity, service, product price, or entertainment conducted, sold, or offered upon the premises where such sign is located, or within the building to which such sign is affixed.

CANOPY - A rigid structure other than an awing made of cloth, metal, or other materials with frame affixed to a building and carried by a frame, which is generally supported by the ground.

CONSTRUCTION SIGN - A sign identifying individuals or companies involved in design, construction, wrecking, financing, or development when placed upon the premises where work is under construction, but only for the duration of construction or wrecking.

CURB LEVEL - the level of the established curb in the front of a building or other structure measured at the center of such front. Where no curb elevation has been established, the mean elevation of the center line of the street fronting and building structure shall be considered curb level.

DIRECTIONAL SIGN - A sign, providing no advertising of any kind, which provides direction or instruction to guide persons to facilities intended to serve the public, including, but not specifically limited to, those signs identifying rest rooms, public telephones, public walkways, parking areas, and other similar facilities.

DIRECTORY SIGN - A sign which indicates the name and/or address of the occupant, the address of the premises, and/or identification of any legal business or occupation which may exist at the premises.

EXTERNAL ILLUMINATION - Illumination of a sign which is affected by an artificial source of light which is not contained within the sign itself.

FLASHING SIGN - An illuminated sign on which the artificial source of light is not maintained stationary or constant in intensity and color at all times when such sign is illuminated. For the purpose of this Ordinance, any moving illuminated sign affected by intermittent lighting shall be deemed to be a flashing sign.

GRADE - The average level of the finished surface of the ground adjacent to a sign or the exterior wall of the building to which a sign is affixed.

GROSS SURFACE AREA - The entire area within a single continuous perimeter composed of a single face enclosing the extreme limits of characters, lettering, illustrations, ornamentations, or other figures, together with a material, or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Structural supports bearing no sign copy shall be included in gross surface area; however, if any portion of the required structural supports become enclosed for decorative or architectural purposes, that portion will be included in the total gross surface area of the sign.

GROUND SIGN - A sign supported by structures or supports or upon the ground and not attached or dependent for support from any building.

ILLUMINATED SIGN - A sign in which an artificial source of light is used in connection with the display of such sign.

INSTRUCTIONAL SIGN - A sign, providing no advertising of any kind, which provides direction or instruction to guide persons to facilities intended to serve the public, including, but not specifically limited to, those signs identifying rest rooms, public telephones, public walkway, parking areas, and other similar facilities.

INTERNAL ILLUMINATION - Illumination of a sign which is affected by an artificial source of light, which is contained within the sign itself.

ITEM OF INFORMATION - A word, an abbreviation, a number, a symbol, or a geometric shape contained in a sign. A sign which combines several different geometric shapes of unusual configuration, is assessed one (1) item of information for each non-continuous plane.

MARQUEE - A permanent roof-like structure extending from part of the wall of a building, but not supported by the ground, and constructed of durable material such as metal or glass.

MOVING SIGN - A sign which revolves, rotates, swings, undulates, or otherwise attracts attention through the movement of parts or through the impression of movement, including automatic, electrically controlled copy changes, but not including flags, banners, or pennants.

NEON OR OTHER GAS TUBE ILLUMINATION - Illumination affected by a light source consisting of a neon or other gas tube which is bent to form letters, symbols, or other shapes.

NON-CONFORMING SIGN - A sign which does not adhere to one (1) or more of the provisions contained in this Ordinance.

OPEN SIGN - A sign in which the area exposed to wind is less than fifty (40%) percent of such sign's aggregate gross surface area.

PERMANENT SIGN - A permanent sign displayed in the Township on and after the effective date of this Ordinance.

POLITICAL SIGN - A temporary sign identifying a political candidate, issues, or party.

PORTABLE SIGN - A sign not permanently affixed to the ground, a building, or other structure, which may be moved from place to place.

PROJECTING SIGN - A sign which is affixed to a building or wall and extends beyond the line of such building or wall or beyond the surface of that portion of the building or wall to which it is affixed by more than fifteen (15) inches.

REAL ESTATE SIGN - A sign which is used to offer for sale, lease, or rent that premises upon which such sign is placed.

ROOF SIGN - A sign erected or maintained in whole or in part upon, against, or directly above the parapet line or roof of the building.

SERVICE ISLAND - A set of one or more fuel dispensing pumps arranged in proximity to each other as a raised, concrete island surrounded by paving.

SIGN - Any identification, description, illustration, advertisement, or device illuminated or non-illuminated which is visible to the general public and directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, flag, banner, pennant, or placard designed to advertise, identify, or convey information.

SOLID SIGN - A sign in which the area exposed to wind is fifty (50%) percent or more of such sign's aggregate gross surface area.

TEMPORARY SIGN - A non-permanent sign erected, affixed, or maintained on a premises for a short, usually fixed, period of time.

WALL SIGN - A sign attached directly to an exterior wall of a building or dependent upon a building for support with the exposed face of the sign located in a place substantially parallel to such exterior building wall to which the sign is attached or supported.

WARNING SIGN - A sign containing no advertising material, warning the public of the existence of danger.

WINDOW SIGN - A sign attached to, placed upon, or painted on the interior of a window or door of a building which is intended for viewing from the exterior of such building.

505.3 General Provisions

The display of signs in the Township is hereby regulated on the basis of the following factors:

1. The type of activity displaying the sign; and
2. The following four (4) design features:
 - a. the type of sign
 - b. the area of the sign
 - c. the height of the sign
 - d. the location of the sign

In addition, certain signs and certain activities are regulated on the basis of additional factors, as set forth in this Ordinance.

505.4 Illumination

All signs permitted by this Ordinance may be illuminated, provided that the provisions of this Section are strictly complied with.

A. Type of Illumination - Illumination shall be by external means only.

B. Illumination of Buildings, Structures, and Areas

1. The use of unshielded lighting, including incandescent light bulbs hung or strung on poles, wires, or any other type of support, to illuminate buildings, structures, outdoor sales areas, or outdoor storage area is prohibited except;
 - a. from November 15th through December 31st for areas in which Christmas trees are offered for sale;
 - b. on a temporary basis for areas in which carnivals, fairs, or other similar activities are held;
2. A building sign or other sign structure may be illuminated, but all lighting used for this purpose must be designated, located, shielded, and directed in such a manner that the light source is fixed and not directly visible from any adjacent publicly dedicated roadway and surrounding property.

C. Glare - All signs and lighting shall be so designed located, shielded, and directed so as to prevent the casting of glare or direct light from artificial illumination upon adjacent publicly dedicated roadways and surrounding

property.

505.5 Construction Specifications

All permanent signs permitted by this Ordinance shall be constructed of sound and durable material in accordance with the provisions of this Section.

- A. Obstruction to Exit - No sign shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window, door opening, or wall opening intended as a means of ingress or egress.
- B. Obstruction to Ventilation - No sign shall be erected, constructed, or maintained so as to interfere with any opening required for ventilation.
- C. Clearance from Electrical Power Lines and Communication Lines - All signs shall be located in such a way that they maintain horizontal and vertical clearance of all electrical power lines and communication lines in accordance with the applicable provisions of the National Electrical Code. However, in no instance shall a sign be erected or constructed within eight (8) feet of any electrical power line, conductor, or service drop, or any communication line, conductor, or service drop.
- D. Clearance from Surface and Underground Facilities - All signs and supporting structures shall maintain clearance and non-interference with all surface and underground facilities and conduits for water, sewage, gas, electricity, or communications equipment or lines. In addition, the placement of all signs and their supporting structures shall not interfere with natural or artificial drainage or surface or underground water.
- E. No Obstruction to Any Existing Warning or Instructional Sign - No sign shall be erected, constructed, or maintained so as to interfere with any existing warning or instructional sign.

505.6 Prohibited Signs

The following signs are hereby expressly prohibited for erection, construction, repair, alteration, or relocation within the Township except as otherwise permitted in this Ordinance.

- A. "A" Frame or Sandwich Board Signs - "A" frame or sandwich board and sidewalk, or curb signs, except as a temporary sign as provided for in §505.8 of this Ordinance.
- B. Banners and Pennants - Banners, pennants, streamers, balloons, and other gas-filled figures, except as a temporary sign, are provided for in §505.8 of this Ordinance.
- C. Moving and Flashing Signs - Signs which flash, revolve, rotate, swing, undulate, or otherwise attract attention through the movement or flashing of parts, including automatic, electronically controlled copy changes, or through the impression of movement or flashing except for Time and Temperature indicators whose movement is either digital or analogue.
- D. Portable and Wheeled Signs - Portable and Wheeled signs, except as a temporary sign, as provided for in §505.8 of this Ordinance.
- E. Projecting Signs - Signs which are attached or otherwise affixed to a building and project more than fifteen (15) inches beyond the wall surface of such building to which the sign is attached or otherwise affixed thereto.
- F. Signs and Parked Vehicles - Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property or private property, so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby.
- G. Signs on Trees or utility Poles - Signs which are attached or otherwise affixed to trees or other living vegetation.

- H. Signs Which Imitate Traffic Control Devices - Signs which imitate, interfere with, obstruct the view of, or can be confused with any authorized traffic control sign, signal, or other device.

505.7 Exempt Signs

The following signs are hereby exempt from the provisions of this Ordinance, excepting for such instances where any sign listed herein is found to be unsafe or unlawful as provided for in other Sections of this Ordinance.

- A. Awning, Canopy, and Marquee Signs - Signs, not exceeding an aggregate gross surface area of four (4) square feet, indicating only the name of the activity conducted on the premises on which the sign is to be located and/or a brief generic description of the business being conducted by the activity. Advertising material of any kind is strictly prohibited on signs affixed to awnings, canopies, and marquees.
- B. Civic and Religious - Civic and religious organization signs indicating only the organization insignia, name, meeting place, and time. Such signs shall not exceed two (2) square feet for each exposed surface and four (4) square feet aggregate gross surface area.
- C. Directional or Instructional Signs - Signs, not exceeding four (4) feet in aggregate gross surface area, which provide direction or instruction to guide persons to facilities intended to serve the public, providing that such signs contain no advertising of any kind. Such signs include those identifying rest rooms, public telephones, public walkways, affiliation with motor clubs, acceptance of designated credit cards, and other similar signs providing direction or instruction to persons using a facility, but not including those signs accessory to parking areas. Advertising material of any kind is strictly prohibited on directional and instructional signs.
- D. Non-Commercial Signs - Flags, emblems, and insignia of political, professional, religious, educational, or fraternal organizations providing that such flags, emblems, and insignia are displayed for non-commercial purpose.
- E. Governmental Signs - Governmental signs for control of traffic and other regulatory purposes, street signs, warning signs, railroad crossing signs, and signs of public service companies indicating danger and aids to services or safety which are erected by, or at the order of a public officer or employee in the performance of the officer's or employee's duties.
- F. Holiday Decorations - Signs or other materials temporarily displayed on traditionally accepted civic, patriotic, or religious holidays related to observance of the civic, patriotic, or religious holiday.
- G. Interior Signs - Signs which are fully located within the interior of any building or stadium, or within an enclosed lobby or court of any building, and signs located within the inner or outer lobby court or entrance of any theater.
- H. Memorial Signs - Memorial plaques or tablets, grave markers, statutory, or other remembrances of persons or events that are non-commercial in nature.
- I. Name and Address Plates - Signs, not exceeding two (2) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of four (4) square feet, indicating the name of the occupant, the address of the premises, and identification of any legal business or operation which may exist at the premises.
- J. No Trespassing, No Hunting, No Fishing, No Dumping, No Parking, No Towing, and Other Similar Signs - No trespassing, no hunting, no fishing, no dumping, no parking, towing and other similar signs (as set forth in Title 75 of the Pennsylvania Vehicle Code and its regulations and as set forth in Title 18 of the Pennsylvania Crimes Code and its regulations) not exceeding two (2) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of four (4) square feet.
- K. Parking Lot Directional and Instructional Signs

1. Directional Signs - Signs designating parking area entrances and exits limited to one (1) sign for each entrance and/or exit and not exceeding four (4) square feet in gross surface area for each exposed face. Parking lot directional signs shall not project higher than five (5) feet in height, as measured from the established grade of the parking area to which such signs are accessory.
2. Instructional Signs - Signs designating the conditions of use or identity of parking areas and not exceeding eight (8) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of sixteen (16) square feet. Parking lot instructional signs shall not project higher than ten (10) feet for wall signs and seven (7) feet for ground signs, as measured from the established grade of the parking area(s) to which such signs are accessory.
- L. Patron Advertising Signs - Signs erected on the perimeter of an organizational sponsored youth athletic field for the sole purpose of sponsoring or contributing to the organized youth athletic sport. Signs erected for this purpose shall be one sided with a maximum of thirty-two (32) square feet of gross aggregate surface area. Sponsors advertising on score boards may not exceed twenty-five percent (25%) of the surface area of the score board.
- M. Plaques - Plaques, nameplates, or memorial signs, directly attached or affixed to the exterior walls of a building, not exceeding four (4) square feet in aggregate gross surface area.
- N. Public Notices - Official notices posted by public officers or employees in the performance of the officer's or employee's duties.
- O. Public Signs - Signs required by governmental bodies or specifically authorized for a public purpose by any law, statute, or ordinance. Such public signs may be on any type, number, area, height, location, or illumination as required by law, statute, or ordinance.
- P. Signs on Vehicles - Signs placed on or affixed to vehicles and/or trailers where the sign is incidental to the primary use of the vehicle or trailer. However, this is not in any way intended to permit signs placed on or affixed to vehicles and/or trailers, which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or other property.
- Q. Symbols or Insignia - Religious symbols, commemorative plaques of recognized historical agencies, or identification emblems of religious orders or historical agencies not exceeding two (2) square feet in gross surface area for each exposed face not exceeding four (4) square feet in aggregate gross surface area.
- R. Vending Machine Signs - Permanent, non-flashing signs on vending machines, gasoline pumps, ice or milk containers, or other similar machines indicating only the contents of such devices, the pricing of the contents contained within, directional or instructional information as to use, and other similar information as to the use, and other similar information not exceeding four (4) square feet in gross surface area for each exposed face not exceeding an aggregate gross surface area of eight (8) square feet on each machine.
- S. Warning Signs - Signs warning the public of the existence of danger, but containing no advertising material; to be removed within three (3) days upon the subsidence of danger. Such warning signs may be of any type, number, area, height, location, or illumination as deemed necessary to warn the public of the existence of danger.

505.8 Temporary Signs

Temporary signs may be erected and maintained in accordance with the provisions contained in this §505.8.

A. General Conditions

1. Permit Not Required - Permits for temporary signs shall not be required. Nevertheless, all such signs shall comply with the requirements of this §505.
 2. Materials and Methods - The Zoning Officer shall impose as a condition of the issuance of a permit for temporary signs such requirements as to the material, manner of construction, and method of erection of a sign as are reasonably necessary to assure the health, safety, welfare, and convenience of the public.
 3. Illumination - Temporary signs may be illuminated, subject to §505.4.
 4. Sign Types - Temporary signs shall be limited to non-projecting wall signs, attached ground signs, or portable and wheeled signs as defined herein.
- B. Temporary Business Signs - Temporary business signs identifying a special, unique, or limited activity, service, product, or sale of limited duration shall be subject to the following:
1. Number - There shall not be more than two (2) permits for temporary business signs issued for the same premises within one (1) calendar year. Each temporary business sign permit may be erected and maintained for a period not to exceed thirty (30) days and shall be removed within three (3) days of the termination of the activity, service, project, or sale. Or, alternatively, a temporary business sign permit may be applied for a maximum of five (5) times during one (1) calendar year for the same premises; each permit shall be issued for a maximum of seven (7) days. It is expressly stated that temporary business sign permits shall be issued under one method or the alternative and that the methods may not be used jointly or in combination during any one (1) calendar year.
 2. Area
 - (a) Residential Areas - In residential areas, temporary business signs shall not exceed two (2) square feet in gross surface area for each exposed face not to exceed an aggregate gross surface area of four (4) square feet.
 - (b) Non-Residential Areas - In non-residential areas, temporary business signs shall not exceed sixteen (16) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of thirty-two (32) square feet.
 3. Location - Temporary business signs shall be located only upon the zoning lot upon which the special, unique, or limited activity, service product, or sale is to occur. Such signs may be located in any required yard setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
 4. Height
 - (a) Residential Areas - In residential areas, temporary business signs shall not project higher than seven (7) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
 - (b) Non-Residential Areas - In non-residential areas, temporary business signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
- C. Temporary Construction Signs - Temporary construction signs identifying the parties involved in the construction to occur or occurring on the premises on which the sign is placed shall be subject to the following:
1. Number - There shall not be more than one (1) temporary, construction sign for each project or

development, except that where a project or development abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.

2. Area

- (a) Residential Areas - In residential areas, temporary construction signs shall not exceed eight (8) square feet in gross surface area for each exposed face, not exceeding an aggregate gross area of sixteen (16) square feet.
- (b) Non-Residential Areas - In non-residential areas, temporary construction signs shall not exceed sixteen (16) square feet in gross surface area for each exposed face, not exceeding an aggregate gross surface of thirty-two (32) square feet.

3. Location - Temporary construction signs shall be located only upon the premises upon which construction either is about to occur, or is occurring. Such signs may be located in any required yard setback, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.

4. Height - Temporary construction signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

5. Special Conditions - Temporary construction signs shall be permitted only as accessory to an approved building permit for a project or development. Temporary construction signs may be erected and maintained for a period not earlier than sixty (60) days prior to the commencement of construction of the project or development and must be removed prior to an occupancy permit being issued or if no occupancy permit is required, the sign shall be removed upon project completion.

D. Temporary Event Signs (including Banners) - Temporary event signs announcing a campaign, drive, activity, or event of a civic, philanthropic, educational, or religious organization for non-commercial purposes shall be subject to the following:

- 1. Number, Area, Height, and Location - The permitted number, area, height, location, and construction of temporary event signs shall be determined by the Zoning Officer with consideration given to the public intended purpose. In any event, no sign may exceed sixteen (16) square feet for each exposed surface or thirty-two (32) square feet in gross surface area. Any temporary event sign shall not be permitted to extend over or onto a public right-of-way.
- 2. Timing - Temporary event signs may be erected and maintained for a period not to exceed thirty (30) days prior to the date of which the campaign, drive, activity, or event advertised is scheduled to occur and shall be removed within three (3) days of the termination of such campaign, drive, activity, or event.
- 3. Limit on Number of Permits - No more than two (2) permits for temporary event signs shall be issued for the same premises within one (1) calendar year.

E. Temporary Political Signs - Temporary political signs announcing political candidates seeking office, political parties, and/or political and public issues contained on a ballot shall be subject to the following:

- 1. Location - On private property, temporary political signs may be located in any required yard, but shall not be attached to any tree or utility pole.
- 2. Height - Temporary political signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

3. Timing - Temporary political signs may be erected or maintained for a period not to exceed sixty (60) days prior to the date of the election to which such signs are applicable and shall be removed within seven (7) days following such election. The candidate is responsible for all political signs of candidates of the party if they are located in the public right-of-way.
- F. Temporary Real Estate Signs - Temporary real estate signs advertising the sale, lease, or rent of the premises upon which such sign is located shall be subject to the following:
1. Number - There shall be not more than one (1) temporary real estate sign for each zoning lot except that where a lot abuts two (2) or more streets, additional signs, one (1) oriented to each abutting street, shall be permitted.
 2. Area
 - a. RA, RR and SR Districts - Temporary real estate signs shall not exceed six (6) square feet for each exposed face, nor exceed an aggregate gross surface area of twelve (12) square feet.
 - b. C and IND Districts - Temporary real estate signs shall not exceed sixteen (16) square feet in gross surface area for each exposed face, nor exceed an aggregate gross surface area of thirty-two (32) square feet.
 3. Location - Temporary real estate signs shall be located only upon the premises for sale, lease, or rent. Such signs may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
 4. Height - Temporary real estate signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
 5. Special Conditions - Temporary real estate signs shall be removed within seven (7) days of the sale or lease of the premises upon which the sign is located.
- G. Temporary Yard or Garage Sale, Open House, or Auction Signs - Temporary yard sale or garage sale, open house, or auction signs advertising the sale of items and the sales location shall be subject to the following:
1. Number - There shall not be more than three (3) such signs for each location of a sale.
 2. Area - In all zoning districts no such signs shall exceed four (4) square feet in size.
 3. Location - Such signs may not be located within the street or road right-of-way. No sign may be placed on a utility or municipality owned pole or structure. Any temporary yard or garage sale signs shall be self-supported and shall not create a public hazard.
 4. Height - Such signs shall not exceed thirty (30) inches in height.
 5. Timing - Such signs may be erected no sooner than five (5) days before the sale and must be removed no later than one (1) day after the sale. No temporary yard or garage sale signs shall remain erected for a period longer than ten (10) days.
- 505.9 Residential Use - For all residential uses, only the following signs are hereby permitted and then only if accessory and incidental to a permitted use.
- A. Building Name and Address Signs - Name and address signs of buildings containing six (6) or more residential

units indicating only the name of the building, the name of the development in which it is located, the management thereof, and/or address of the premises shall be subject to the following:

1. Type - Building name and address signs may be either wall signs or ground signs.
 2. Number - There shall not be more than one (1) name and address sign for each building except that where a building abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.
 3. Area - Building name and address signs shall not exceed four (4) square feet in gross surface area for exposed face, nor exceed an aggregate gross surface area of eight (8) feet.
 4. Location - Building name and address signs shall not be located closer than one-half the minimum setback required for the zoning district in which the sign is to be erected or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway. The location and arrangement of all building name and address signs shall be subject to the review and approval of the Zoning Officer.
 5. Height - Building name and address signs shall not project higher than fifteen (15) feet for wall signs and seven (7) feet for ground signs, as measured from base of sign or building to which the sign is to be affixed or grade of the nearest adjacent roadway whichever is higher.
- B. Residential Development Signs - Residential development signs indicating only the name of the development, the management or developer thereof, and/or the address or location of the development shall be subject to the following:
1. Type - The residential development signs shall be ground signs.
 2. Number - There shall not be more than two (2) residential development signs for each point of vehicular access to a development.
 3. Area - Residential development signs shall not exceed twenty (20) square feet in gross surface area.
 4. Location - Residential development signs may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway. The location and arrangement of all residential development signs shall be subject to the review and approval of the Zoning Officer.
 5. Height - Residential development signs shall not project higher than seven (7) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
- C. Exempt Signs - Exempt signs as specified in §505.7 of this Ordinance.
- D. Temporary Signs - Temporary signs as specified in §505.8 of this Ordinance.
- 505.10 Institutional, Commercial and Manufacturing Uses - For all institutional, commercial and manufacturing uses, only the following signs are hereby permitted and then only if accessory and incidental to a permitted use:
- A. Institutional, Commercial and Manufacturing Use Signs - Institutional, commercial and manufacturing use signs, other than those subject to special conditions in later parts of this section, shall be subject to the following:
1. Wall Signs

- a. Number - There shall be not more than one (1) wall sign for each principal building except that where the building abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.
- b. Area - The gross surface area of a wall sign shall not exceed ten (10%) percent of the area of the building wall, including doors and windows, to which the sign is to be affixed or sixty-four (64) square feet, whichever is smaller. The gross surface area of a wall sign may be increased by twenty (20%) percent, except that the gross surface of the sign shall not exceed sixty-four (64) square feet, if such wall sign;
 - (1) consists only of individual, outlined alphabetic, numeric, and/or symbolic characters without background, except that provided by the building surface to which the sign is to be affixed; and
 - (2) if illuminated, such illumination is achieved through shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters.
- c. Location - A wall sign may be located on the outermost wall of any principal building, but shall not project more than sixteen (16) inches from the wall to which the sign is to be affixed. The location and arrangement of all wall signs shall be subject to the review and approval of the Zoning Officer.
- d. Height - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or fifteen (15) feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.
- e. Special Conditions - Where a principal building is devoted to two (2) or more permitted uses, the operator of each such use may install a wall sign upon his/her proportionate share of the building wall to which the sign is to be affixed. The maximum gross surface area of each such sign shall be determined by calculating the proportionate share of the area of the building wall, including doors and windows, to which the sign is to be affixed and applying such proportion to the total permitted wall sign aggregate gross surface area for the building.

2. Ground Signs

- a. Number - There shall not be more than (1) ground sign for each lot.
- b. Area - The gross surface area of a ground sign shall not exceed thirty-two (32) square feet for each exposed face, nor exceed an aggregate gross surface area of sixty-four (64) square feet.
- c. Location - A ground sign may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
- d. Height - A ground sign shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is lower.

3. Awning, Canopy, and Marquee Signs

- a. Number - There shall not be more than one (1) awning, canopy, or marquee sign exceeding an aggregated gross surface area of four (4) square feet for each principal building. Awning, canopy, and marquee signs which are four (4) square feet or less in aggregate gross surface area are exempt from the provisions of this Ordinance, as specified in §505.7.
- b. Area - The gross surface area of an awning, canopy, or marquee sign shall not exceed twenty-four (24)

square feet, but limited to not more than fifty (40%) percent of the gross surface area of the smallest face of the awning, canopy, or marquee to which such sign is affixed.

- c. Height - Any awning, canopy, or marquee sign shall not project higher than the top of the awning, canopy, or marquee to which such sign is to be affixed.

4. Roof Signs - Roof signs shall not be permitted.

5. Attraction Boards

- a. Type - Attraction Boards shall be ground signs.
- b. Number - One (1) attraction board may be erected on the lot identifying special, unique, limited activities, services, products, or sale of limited duration occurring on the premises on which the attraction board is to be located.
- c. Area - The gross surface area of the attraction board shall not exceed ten (10) square feet in gross surface area for each exposed face, nor exceed twenty (20) square feet in aggregate gross surface area.
- d. Location - The attraction board may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from any zoning lot to a public roadway.
- e. Height - If the attraction board is separate from the main ground sign, the attraction board may not project higher than ten (10) feet, as measured from the base of the sign or grade of the nearest adjacent roadway, whichever is higher. The attraction board shall be separated by a minimum of twelve (12) inches from the main ground pole sign.
- f. Items of Information - The information displayed by an attraction board, which is in compliance with the foregoing requirements, shall not be treated as items of information as otherwise specified in §505.3.

6. Billboards and Off-Premises Signs

- a. Number - One (1) billboard or off-premises sign may be erected, constructed, or maintained on any premises in the C-1 Zoning District on a lot which contains no other use or principal structure, and only in accord with the criteria in this section:
- b. Area - An off-premises sign or billboard shall not exceed three hundred (300) square feet in surface area, and each such sign shall have only one (1) exposed face.
- c. Spacing - An off-premises sign or billboard shall not be closer than five hundred (500) feet to another off-premises sign or billboard.
- d. Spacing at Intersections - An off-premises sign or billboard shall not be located within one hundred (100) feet of any street intersection as measured from right-of-way lines.
- e. Location - An off-premises sign or billboard shall only be permitted in the C-1 District. The sign shall be located in accordance with the yard setbacks for structures located in the general commercial zoning district.
- f. Height - An off-premises sign or billboard shall not project higher than thirty-five (35) feet, as measured from the base of the sign or grade of the nearest adjacent roadway, whichever is lower.

- g. Site Plan - An application for an off-premises sign or billboard shall be accompanied by a site plan and contain all of the applicable requirements as required by this Ordinance.
- h. Engineering Certification - Any applications for an off-premise sign or billboard shall be accompanied by certification under seal by a Professional Engineer that the existence of the off-premises sign or billboard, as proposed, shall not present a safety hazard.

B. Shopping Center Signs - Shopping Center signs shall be subject to the following:

1. Wall Signs

- a. Number - There shall not be more than one (1) wall sign for each principal tenant or use contained in a shopping center except that where a tenant or use abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.
 - (1) consists only of individual, outlined, alphabetic, numeric, and/or symbolic characters without background except that provided by the building surface to which the sign is to be affixed; and
 - (2) if illuminated, such illumination is achieved through shielded illumination, shielded silhouette lighting, or shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters; or
- b. Area - The gross surface area of a wall sign shall not exceed ten (10%) percent of the tenant's or user's proportionate share of the building wall to which the sign is to be affixed or sixty-four (64) square feet, whichever is smaller,
 - (1) if such wall sign consists only of individual, outlined, alphabetic, numeric, and/or symbolic characters without background except that provided by the building surface to which the sign is to be affixed; and if illuminated, such illumination is achieved through shielded illumination, shielded silhouette lighting, or shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters; or
 - (2) when all wall signs located in the shopping center utilize lettering and background uniform in style and coloring.
- c. Location - A wall sign may be located on the outermost wall of any principal building, but shall not project more than sixteen (16) inches from the wall to which the sign is to be affixed.
- d. Height - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or fifteen (15) feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.

2. Ground Signs

- a. Number - There shall not be more than one (1) ground sign for each shopping center.
- b. Area - The gross surface area of a ground sign shall not exceed a maximum of one (1) square foot of gross aggregate surface area for each one and one-half (1) lineal feet of front footage of the lot not to exceed one hundred (100) square feet of gross aggregate surface area.
- c. Location - A ground sign may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.

- d. Height - A ground sign shall not project higher than fifteen(15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is lower.
- e. Directory Signs - Each shopping center ground sign may include affixed directly to it a directory indicating only the names of the tenants of the shopping center in which the sign is to be located. The gross surface area of a directory sign shall not exceed ten (10) square feet for each exposed face, nor exceed an aggregate gross surface area of twenty (20) square feet for each tenant located in the shopping center in which the sign is to be located. The information displayed by a shopping center directory sign, which is in compliance with the foregoing requirements, shall not be treated as items of information as otherwise specified in §505.3, B.

3. Awning, Canopy, and Marquee Signs

- a. Number - There shall not be more than one (1) awning, canopy, or marquee sign exceeding an aggregate gross surface area of twenty-four (24) square feet for each principal building. Awning, canopy, and marquee signs which are four (4) square feet or less in aggregate gross surface area are exempt from the provisions of this Ordinance as specified in §505.7.
- b. Area - The gross surface area of an awning, canopy, or marquee sign shall not exceed twenty-four (24) square feet, but limited to not more than fifty (40%) percent of the gross surface area of the smallest face of the awning, canopy, or marquee to which such sign is to be affixed.
- c. Height - An awning, canopy, or marquee sign shall not project higher than the top of the awning, canopy, or marquee to which such sign is to be affixed.

4. Attraction Board

- a. Type - Shopping center attraction boards shall be ground signs.
- b. Number - Each shopping center may erect a single attraction board identifying special, unique, limited activities, services, products, or sale of limited duration occurring within the shopping center in which the attraction board is to be located.
- c. Area - The gross surface area of a shopping center attraction board shall not exceed thirty-two) square feet in gross surface area for each exposed face, nor exceed an aggregate gross surface area of sixty-four) square feet.
- d. Location - A shopping center attraction board may be located in any required yard, but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from any zoning lot to a public roadway.
- e. Height - If the sign is separate from the main ground pole sign, a shopping center attraction board shall not project higher than fifteen (15) feet, as measured from the base of sign or grade of the nearest adjacent roadway, whichever is higher. If the attraction board is part of and mounted on the main ground pole sign, the attraction sign shall be separated by a minimum of twelve (12) inches from the main shopping center sign.
- f. Items of Information - This information displayed by a shopping center attraction board, which is in compliance with the foregoing requirements, shall not be treated as items of information as otherwise specified in §505.3, B.

C. Service Island Identification Signs - Service island identification signs at gasoline service stations indicating the

type of service offered, the price of gasoline and other relevant information or direction to persons using the facility, but containing no advertising material of any kind, shall be subject to the following:

1. Type - Service island identification signs may be either wall signs or ground signs.
 2. Number - There shall not be more than one (1) service island or identification sign for each service or pump island located on the premises.
 3. Location - Service island identification signs may be located on the outermost wall of any principal building, on the pumps, or within the area of a service island.
 4. Area - The gross surface of a service island identification sign shall not exceed six (6) square feet for each exposed face, nor exceed an aggregate gross surface of twelve (12) square feet.
 5. Height - A service island identification sign shall not project higher than fifteen (15) feet, as measured from the base of sign or building to which the sign is to be affixed or the grade of the nearest adjacent roadway, whichever is lower.
 6. Special Conditions - The information displayed by a service island identification sign which is in compliance with the foregoing requirements shall not be treated as items of information as specified in §505.3.
- D. Multiple Uses - Where a principal building is devoted to two (2) or more permitted uses, the operator of each such use may install, in addition to the ground sign permitted by §505.10,A,2, a wall sign upon his/her proportionate share of the building wall to which the sign is to be affixed. The maximum gross surface area of each such wall sign shall be determined by calculating the proportionate share of the area of the building wall, including doors and windows to which the sign is to be affixed and applying such proportion to the total permitted wall sign aggregate gross surface area of the building.
- E. Wood Relief Sign Area Bonus - Ground signs permitted under §505.10,A,2 (Commercial and Manufacturing Uses) and §505.10,B,2 (Shopping Centers) shall be eligible for an increase in size of fifty (50) percent provided:
1. Signs shall be wood or simulated wood relief only with external illumination.
 2. Signs shall be designed as an integral architectural element of the building and component of the site.
 3. Sign colors, materials, and lighting shall be restrained and compatible with the building and site.
 4. Signs shall not exceed a height of fifteen (15) feet.

505.11 Permits

- A. Permit Required - Except for the following, no person may erect, alter, or relocate within the Township any sign without first obtaining a sign permit from the Zoning Officer and paying the required fee:
1. Exempt signs as specified in §505.7.
 2. Real estate and temporary construction signs.
 3. Routine maintenance or changing of the parts or copy of a sign, provided that the maintenance or change of parts or copy does not alter the surface area, height, or otherwise render the sign non-conforming.

- B. Permit Application - Applications for sign permits shall be submitted to the Zoning Officer and shall contain or have attached thereto the following information:
1. The names, addresses, and telephone numbers of the applicant, the owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the person to be erecting or affixing the sign.
 2. The location of the building, structure, or zoning lot on which the sign is to be erected or affixed.
 3. A sketch plan of the property involved, showing accurate placement thereon of the proposed sign.
 4. Two (2) blueprints or ink drawings of the plans and specifications of the sign to be erected or affixed and method of construction and attachment to the building or in the ground. Such plans and specifications shall include details of dimensions, color, materials, and weight.
 5. If required by the Zoning Officer, a copy of stress sheets and calculations prepared by or approved by a registered structural engineer, licensed by the State of Pennsylvania, showing that the sign is designed for dead load and wind pressure in any direction in the amount required by this and all other applicable ordinances of Benton Township.
 6. The written consent of the owner of the building, structure, or property on which the sign is to be erected or affixed.
 7. Such other information as the Zoning Officer may require to determine full compliance with this and other applicable ordinances of the Township.
- C. Issuance of Permits - Upon the filing of an application for a sign permit, the Zoning Officer shall examine the plans, specifications, and other submitted data, and the premises upon which the sign is proposed to be erected or affixed. If it appears that the proposed sign is in compliance with all the requirements of this Ordinance and other applicable ordinances of the Township and if the appropriate permit fee has been paid, the Zoning Officer shall issue a permit for the proposed sign. If the work authorized under a sign permit has not been completed within ninety (90) days after the date of issuance, the permit shall become null and void, unless otherwise extended by the Zoning Officer for a single additional ninety (90) day period.
- D. Permit Fees - Each sign required by this Ordinance requiring a sign permit shall pay a fee as established pursuant to a Resolution by the Board of Supervisors.
- E. Billboard Annual License Fee - An annual license fee for billboards shall be paid in accordance with a resolution setting forth the annual license fee schedule. The annual license fee schedule shall be adopted by the Board of Supervisors.
- F. Penalty Fee - If an annual sign permit renewal fee is paid later than sixty (60) days of the date of the invoice requesting such payment, a penalty fee equal to fifty (50) percent of the cost of the permit renewal fee shall be assessed.
- G. Revocation of Permit - All rights and privileges acquired under the provisions of this Ordinance are mere licenses and, as such, are at any time revocable for just cause by the Township. All permits issued pursuant to this Section are hereby subject to this provision.

505.12 Reserved

505.13 Non-Conforming Signs

- A. Legal, Non-Conforming Signs - Any sign lawfully existing or under construction on the effective date of this Ordinance, which does not conform to one (1) or more of the provisions of this Ordinance, may be continued in operation and maintained indefinitely as a legal non-conforming sign subject to compliance with the requirements of §505.13,B.
- B. Maintenance and Repair of Legal Non-Conforming Signs - Normal maintenance of legal non-conforming signs, including changing of copy, necessary repairs, and incidental alterations which do not extend or intensify the non-conforming features of the sign, shall be permitted. However, no alteration, enlargement, or extension shall be made to a legal non-conforming sign unless the alteration, enlargement, or extension will result in the elimination of the non-conforming features of the sign. If a legal non-conforming sign is damaged or destroyed by any means to the extent of fifty (50) percent or more of its replacement value at the time, the sign may not be rebuilt to its original condition and may not continue to be displayed.

505.14 Removal of Certain Signs

- A. Non-Conforming Signs - If the Zoning Officer shall find that any non-conforming sign, except for those legal non-conforming signs as specified in §505.13 is displayed, he shall give written notice to the owners, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Removal of the sign shall be effected within ten (10) days after receipt of the notice from the Zoning Officer. If such sign is not removed after the conclusion of such ten (10) day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.
- B. Obsolete Signs - Any sign, whether existing on or erected after the effective date of this Ordinance, which advertises a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located, shall be removed within ninety (90) days upon the cessation of such business or sale of such product by the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.

If the Zoning Officer shall find that any such sign advertising a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located has not been removed within ninety (90) days upon the cessation of such business or sale of such product, he shall give written notices to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Removal of the sign shall be effected within ten (10) days after receipt of the notice from the Zoning Officer. If such sign is not removed after the conclusion of such ten (10) day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.

- C. Unsafe Signs - If the Zoning Officer shall find that any sign is unsafe or insecure, or is a menace to the public, he shall give written notice to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Correction to the condition which caused the Zoning Officer to give such notice shall be effected within ten (10) days after receipt of the notice. If such condition is not corrected after the conclusion of such ten (10) day period, the Zoning Officer is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located. Notwithstanding, the foregoing provisions, the Zoning Officer is authorized to cause any sign to be removed summarily and without notice, at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located, whenever the Zoning Officer determines that such sign is an immediate peril to persons or property.

ARTICLE VI - RESIDENTIAL STANDARDS

601 Conservation Design Overlay District

601.1 Purposes and Development Options

- A. Purposes - In conformance with the Pennsylvania Municipalities Planning Code the purposes of this section, among others, are as follows:
1. To conserve open land, including those areas containing unique and sensitive natural features such as woodlands, steep slopes, streams, flood plains and wetlands, by setting them aside from development.
 2. To provide greater design flexibility and efficiency in the siting of services and infrastructure, including the opportunity to reduce length of roads, utility runs, and the amount of paving required for residential development.
 3. To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.
 4. To provide for a diversity of lot sizes, building densities, and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the community's population diversity may be maintained.
 5. To implement adopted municipal policies to conserve a variety of irreplaceable and environmentally sensitive resource lands as set forth in the Township's *Open Space Plan*, including provisions for reasonable incentives to create a greenway system for the benefit of present and future residents.
 6. To implement adopted land use, transportation, and community policies, as identified in the Township's Comprehensive plan.
 7. To protect areas of the Township with productive agricultural soils for continued or future agricultural use, by conserving blocks of land large enough to allow for efficient farm operations.
 8. To create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood open space, and with a strong neighborhood identity.
 9. To provide for the conservation and maintenance of open land within the Township to achieve the above-mentioned goals and for active or passive recreational use by residents.
 10. To provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, flood plain, and steep slopes) and disturbance of natural or cultural features (such as mature woodlands, hedgerows and tree lines, critical wildlife habitats, historic buildings, and fieldstone walls).
 11. To provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties.
 12. To conserve scenic views and elements of the Township's rural character, and to minimize perceived density, by minimizing views of new development from existing roads.
- B. By-Right Development Options - In order to achieve these purposes, this section provides for flexibility in designing new residential subdivisions by allowing four forms of *by-right* development referred to as *options*,

as summarized below:

1. Option One - *Neutral Density and Basic Conservation*, providing for residential uses at the density permitted by the underlying zoning. Greenway lands comprise approximately half the tract. The flexibly-designed layouts work well with either individual wells and septic systems located in the open space, or with central wells and sewage treatment facilities.
2. Option Two - *Enhanced Density with Greater Conservation*, providing for higher density residential uses and a larger percentage (60% or more) of greenway land in more flexibly designed layouts with, other improvements serving the community such as central wells and sewage treatment facilities.
3. Option Three - *Functional Lots with no Greenway Land*, providing for standard subdivisions based on functional acreage (see definition in Article III and Part 2 and Part 3 of the Schedule of Development Standards in Article IV). No greenway land is designated but sensitive environmental areas contained in the lot are not fully calculated as part of the minimum lot size.
4. Option Four - *Country Properties*, providing for very low densities appropriate to rural situations, with flexible and reduced design standards in instances where a permanent conservation easement is offered to maintain such uses.

C. Densities and Required Open Space Percentages - See §601.4.

601.2 General Regulations

The design of all new subdivisions in the Conservation Design Overlay District shall be governed by the following minimum standards:

- A. Ownership - The tract of land may be held in single and separate ownership or in multiple ownership. However, when a tract is held in multiple ownership, it shall be planned as a single entity with common authority and common responsibility.
- B. Site Suitability - As evidenced by the *Existing Resources/Site Analysis Plan*, the Preliminary Subdivision Plan, and the Final Subdivision Plan, the tract incorporating this design option shall be suitable for supporting development in terms of environmental conditions, its size, and configuration.
- C. Combining the Design Options - The various layout and density options described in this Section may be combined at the discretion of the Board, based upon demonstration by the applicant that such a combination would better fulfill the intent of this Ordinance, in particular the stated purposes of this Section, as compared with applying a single option to the property.
- D. Intersections and Access - New intersections with existing public roads shall be minimized. Although two access ways into and out of subdivisions containing more than fifteen (15) dwellings are generally required for safety, proposals for more than two entrances onto public roads shall be discouraged if they would unnecessarily disrupt traffic flow.
- E. Sensitive Area Disturbance - The proposed design shall strictly minimize disturbance of environmentally sensitive areas, as shown on the *Existing Resources and Site Analysis Plan*. Lands within the 100-year floodplain, or having slopes in excess of 25%, and rock outcroppings constitute such environmentally sensitive areas, where disturbance shall be strictly minimized. Demonstration by the applicant that these features will be protected by the proposed application shall be prerequisite to approval of both the Preliminary Subdivision Plan and the Final Subdivision Plan.

601.3 Use Regulations

Land in the Conservation Design Overlay District may be used for the following purposes:

- A. Single-Family Detached Dwellings - Single-family detached dwellings in subdivisions using Option 1 - Basic Conservation, Option 2 - Enhanced Conservation, Option 3 - Functional Lots with no Greenway Land, and Option 4 - Country Properties:
- B. Reserved
- C. Greenway Land - Greenway land comprising a portion of residential development, as specified above and according to requirements of §601.6.
- D. Nonresidential Uses - The following non-residential uses in accordance with the standards of §601.8:
 - 1. Agricultural uses, including horticultural, wholesale nurseries, and the raising of crops, and buildings related to the same.
 - 2. Wood lots, arboreta, and other similar silvicultural uses.
 - 3. Woodland preserve, game preserve, wildlife sanctuary, or other similar conservation use.
 - 4. Municipal or public uses; public park or recreation area owned and operated by a public or private nonprofit agency; governmental or public utility building or use; not to include business facilities, storage of materials, trucking or repair facilities, the housing of repair crews, private or municipal solid waste disposal facilities.
- E. Accessory Uses - Accessory uses shall be permitted on the same lot with and customarily incidental to any permitted use and not conducted as an independent principal use.
 - 1. Accessory dwelling units (including elder cottages and tenant houses) proposed in Option 4 - Country Properties subdivisions subject to the following provisions:
 - a. Accessory dwelling units in principal residences or in new traditional outbuildings (such as barns, stables, carriage houses, and spring houses) shall be designed to harmonize with vernacular rural buildings in the municipality's historic landscape.
 - b. There shall be a maximum of one accessory dwelling unit (ADU) on any legal building lot in an Option 4 - Country Properties subdivision, and a maximum of two accessory dwelling units (ADUs) on any legal building lot containing ten (10) or more acres in an Option 4 - Country Properties subdivision, provided all performance standards of this ordinance are met.
 - c. The gross floor area in the first ADU shall not exceed 900 sq. ft. In the second ADU, where permitted, the maximum area shall be 750 sq. ft. However, on lots exceeding fifteen (15) acres, the second ADU may take the form of a tenant house containing up to 2,000 sq. ft. of floor space. Under this Section, existing historic accessory buildings more than 75 years old that exceed these floor space limits may be permitted to be used as ADU's without having to meet the dimensional setback requirements of this ordinance.
 - d. Building permits for ADUs shall not be issued until the applicant demonstrates to the Township that a restrictive easement has been placed on the subject property prohibiting future enlargement of the ADUs, or the creation of additional ADUs beyond the limits described above. Issuance of permits for ADU's shall be contingent upon DEP approval for any on-site septic sewage disposal systems needed.

601.4 Dimensional Standards and Density Determination

A. Dimensional Standards for Option 1 - Neutral Density and Basic Conservation

1. Density Factor - One dwelling unit per two (2) acres as determined through the Adjusted Tract Acreage approach or yield plan described in 601.4,C.
2. Minimum Required Greenway Land
 - a. The subdivision must include at least fifty (50) percent of the Adjusted Tract Acreage plus all of the constrained land calculated in §601.4,C,1 as greenway land. Greenway land shall not be used for residential lots, except as provided below.
 - b. Large *conservancy lots* of at least ten (10) acres, conforming to the standards for Option 4 - Country Properties subdivisions found in §601.4,E, and owned by individuals may occupy up to eighty (80) percent of the greenway land, with the remainder (not less than 20%) deeded to a homeowners' association, land trust, or the Township. However, the greenway land within each conservancy lot remains subject to the standards for greenway land in §601.6.
3. Average Minimum Lot Area - 0.33 acres, on average. Up to twenty (20) percent of the lots may be reduced to a minimum of 0.25 acres.
4. Minimum Lot Width at Building Line - Eighty (80) feet.
5. Minimum Street Frontage - Twenty (20) feet.
6. Yard Regulations - The builder or developer is urged to consider variations in the principal building position and orientation, but shall observe the following minimum standards:

Front - Twenty (20) feet.
Rear - Forty (40) feet.
Side - Thirty (30) feet separation for principal buildings, with no side yard less than five (5) feet.
7. Maximum Impervious Coverage - Twenty-five (25) percent limit on each lot.
8. Maximum Height Regulations - Thirty-five (35) feet.

B. Dimensional Standards for Option 2 - Enhanced Density with Greater Conservation

1. Density Factor - One dwelling unit per 1.5 acres as determined through the Adjusted Tract Acreage approach or yield plan described in described in 601.4,C.
2. Minimum Required Greenway Land
 - a. The subdivision must include at least sixty (60) percent of the Adjusted Tract Acreage plus all of the constrained land calculated in §601.4,C,1 as greenway land. Greenway land shall not be used for residential lots, except as provided below.
 - b. Large *conservancy lots* of at least ten (10) acres, conforming to the standards for Option 4 - Country Properties subdivisions found in §601.4,E, and owned by individuals may occupy up to eighty (80) percent of the greenway land, with the remainder (not less than 20%) deeded to a homeowners' association, land trust, or the Township. However, the greenway land within each conservancy lot

remains subject to the standards for greenway land in §601.6.

3. Average Minimum Lot Area - 0.25 acres, on average. Up to twenty (20) percent of the lots may be reduced to a minimum of 0.15 acres.
4. Minimum Lot Width at Building Line - Eighty (80) feet.
5. Minimum Street Frontage - Twenty (20) feet.
6. Yard Regulations - The builder or developer is urged to consider variations in the principal building position and orientation, but shall observe the following minimum standards:

Front - Twenty (20) feet.
Rear - Forty (40) feet.
Side - Twenty-five (25) feet separation for principal buildings, with no side yard less than five (5) feet.
7. Maximum Impervious Coverage - Thirty (30) percent limit on each lot.
8. Maximum Height Regulations - Thirty-five (35) feet.

C. Density Determination for Option 1 - Neutral Density and Basic Conservation and Option 2 - Enhanced Density with Greater Conservation Subdivisions - Applicants shall have the choice of two methods of determining the maximum permitted residential building density on their properties. They are as follows:

1. Adjusted Tract Acreage Approach - Determination of the maximum number of permitted dwelling units on any given property shall be based upon the Adjusted Tract Acreage of the site. The Adjusted Tract Acreage shall be determined by multiplying the acreage classified as being in the categories of constrained land (described below) by the numerical density factor” for that category of constrained land.
 - a. The following areas of constrained land shall be deducted from the total (gross) tract area:
 - 1) All land within the rights-of-way of existing public streets or highways, or within the rights-of-way for existing or proposed overhead rights-of-way of utility lines or any other rights-of-way.
 - 2) All land under existing private streets.
 - 3) Wetlands: multiply the acreage of designated wetlands by 0.95.
 - 4) Floodway: multiply the acreage within the floodway by 1.0.
 - 5) Floodplains: multiply the non-wetland portion of the 100-year floodplain by 1.00.
 - 6) Steep Slopes: multiply the acreage of land with natural ground slopes exceeding 25 percent by 0.80.
 - 7) Extensive Rock Outcroppings: multiply the total area of rock outcrops and boulder-fields more than 1,000 square feet by 0.90.
 - 8) Moderately Steep Slopes: multiply the acreage of land with natural ground slopes of between 15 and 25 percent by 0.60.
 - 9) Ponds, lakes and streams: multiply the acreage of ponds, lakes and streams by 1.0.

- b. If a portion of the tract is underlain by more than one natural feature subject to a deduction from the total tract acreage, that acreage shall be subject to the most restrictive deduction only.
 - c. Since acreage that is contained within the public or private rights-of-way, access easements or access strips is excluded from developable lot area, any portion of these items that also contains a natural feature subject to a deduction from the total tract acreage should not be included when calculating the adjusted tract acreage.
2. Yield Plan Approach - Determination of density, or maximum number of permitted dwelling units, shall be based upon density factor of the chosen option (i.e. Option 1 or 2) applied to the gross tract acreage, as demonstrated by an actual Yield Plan. Yield Plans shall meet the following requirements:
- a. Yield Plans must be prepared as conceptual layout plans in accordance with the standards of the Subdivision and Land Development Ordinance, containing proposed lots, streets, rights-of-way, and other pertinent features. Although it must be drawn to scale, it need not be based on a field survey. However, it must be a realistic layout reflecting a development pattern that could reasonably be expected to be implemented, taking into account the presence of wetlands, floodplains, steep slopes, existing easements or encumbrances and, if unsewered, the suitability of soils for subsurface sewage disposal.
 - b. Yield Plans should also reflect the dimensional standards for 2-acre lots, when Option 1 is chosen, and 1.5 acre lots when Option 2 is chosen, found in §601.4,C,2,d below. The Yield Plan must identify the site's primary and secondary resources, as identified in the *Existing Resources/Site Analysis Plan*, and demonstrate that the primary resources could be successfully absorbed in the development process without disturbance, by allocating this area to proposed single-family dwelling lots which conform to the density factory of the chosen option.
 - c. On sites not served by central sewage disposal, density shall be further determined by evaluating the number of homes that could be supported by individual on-lot sewage disposal systems on conventional lots. Based on the primary and secondary resources, identified as part of the inventory and analysis, and observations made during an on-site visit of the property, the Planning Commission shall select a ten (10) percent sample of the lots considered to be marginal for on-lot sewage disposal. The applicant is required to provide evidence that these lots meet the standards for an individual on-lot sewage disposal system before the applicant shall be granted the full density determined by the Yield Plan. Should any of the lots in a sample fail to meet the standard for individual septic system, those lots shall be deducted from the yield plan and a second ten (10) percent sample shall be selected by the township planning commission and tested for compliance. This process shall be repeated until all lots in a given sample meet the standard for an individual on-lot sewage disposal system.
 - d. Yield Plan Dimensional Standards -The following dimensional standards shall be used in the development of Yield Plans for Option 1 and Option 2 subdivisions. These minimum areal dimensions are exclusive of all wetlands, slopes greater than twenty-five (25) percent, and land under high-tension electrical transmission lines (69kV or greater). No more than twenty-five (25) percent of the minimum required lot area may consist of land within the 100-year floodplain, and only then if it is free of wetlands.

<u>Standard</u>	<u>Option 1- Neutral Density and Basic Conservation</u>	<u>Option 2 - Enhanced Density with Greater Conservation</u>
Minimum lot area	2 acres	1.5 acres

Minimum street frontage	250 feet	200 feet
Front yard setback	60 feet	60 feet
Rear yard setback	60 feet	60 feet
Side yard setback	40 feet with both side yards totaling 100 feet	40 feet with both side yards totaling 100 feet

D. Dimensional Standards for Option 3 - Functional Lots with no Greenway Land: See Part 2 and Part 3 of the Schedule of Development Standards in Article IV.

E. Dimensional Standards for Option 4 - Country Properties Subdivisions

1. Maximum Density - One (1) dwelling unit per ten (10) acres (gross).
2. Minimum Lot Area - Ten (10) acres. The lot shapes shall not be irregular, except as allowed for *flag lots*, and shall not have a lot depth-width ratio exceeding 5:1 unless such lots are deed restricted from the development of more than one (1) dwelling. The minimum lot size may be reduced to one (1) contiguous acre in subdivisions of two (2) or more principal dwelling units provided that all remaining land (a minimum of nine acres per principal dwelling) is permanently protected from future development through a conservation easement.
3. Minimum Lot Width at Building Line - Two hundred (200) feet.

4. Yard Regulations

Front - One hundred fifty (150) feet from the right-of-way of existing Township roads, but forty (40) feet from the right-of-way of new subdivision streets, country lanes, or common driveways (where applicable).

Rear - Fifty (50) feet minimum for principal buildings and 10 feet for accessory buildings (except that accessory buildings with a ground floor area exceeding 500 square feet shall conform to the setback requirements for principal structures).

Side - Twenty-five (25) feet.

5. Maximum Impervious Coverage - Ten (10) percent limit on each lot..
6. Maximum Height Regulations - Thirty-five (35) feet.

§601.5 Design Standards for Option 1 - Basic Conservation, and Option 2 - Enhanced Conservation

- A. House Lots - House lots shall not encroach upon Primary Conservation Areas and the layout shall respect Secondary Conservation Areas as identified in the Township Subdivision and Land Development Ordinance.
- B. Setbacks - All new dwellings shall meet the following setback requirements:
 1. From all external road rights-of-way - One hundred (100) feet
 2. From all other tract boundaries - Fifty (50) feet
 3. From crop land or pasture land - One hundred (100) feet
 4. From buildings or barnyards housing livestock - three hundred (300) feet

5. From active recreation areas such as courts or playing fields (not including tot-lots) - one hundred fifty (150) feet
- C. Exterior Views - Views of house lots from exterior roads and abutting properties shall be minimized by the use of changes in topography, existing vegetation, or additional landscaping which meets the landscaping requirements of the Township Subdivision and Land Development Ordinance.
- D. Lot Access - House lots shall generally be accessed from interior streets, rather than from roads bordering the tract.
- E. Greenway Frontage - At least three-quarters of the lots shall directly abut or face conservation land or greenway land across a street.

§601.6 Greenway Land Use and Design Standards

Protected greenway land in all subdivisions shall meet the following standards:

- A. Uses Permitted on Greenway Lands - The following uses are permitted in greenway land areas:
 1. Conservation of open land in its natural state (for example, woodland, fallow field, or managed meadow);
 2. Agricultural and horticultural uses, including raising crops or livestock, wholesale nurseries, associated buildings, excluding residences that are specifically needed to support an active, viable agricultural or horticultural operation. Specifically excluded are commercial livestock operations involving swine, poultry, mink, and other animals likely to produce highly offensive odors.
 3. Pasture land for horses used solely for recreational purposes. Equestrian facilities shall be permitted but may not consume more than half of the minimum required greenway land.
 4. Silviculture, in keeping with established standards for selective harvesting and sustained-yield forestry.
 5. Neighborhood open space uses such as village greens, commons, picnic areas, community gardens, trails, and similar low-impact passive recreational uses specifically excluding motorized off-road vehicles, rifle ranges, and other uses similar in character and potential impact as determined by the Board.
 6. Active non-commercial recreation areas, such as playing fields, playgrounds, courts, and bikeways, provided such areas do not consume more than half of the minimum required greenway land or five acres, whichever is less. Playing fields, playgrounds, and courts shall not be located within one hundred (100) feet of abutting properties. Parking facilities for the same shall also be permitted, and they shall generally be gravel-surfaced, unlighted, properly drained, provide safe ingress and egress, and contain no more than ten parking spaces.
 7. Golf courses may comprise up to half of the minimum required greenway land, but shall not include driving ranges or miniature golf. Their parking areas and any associated structures shall not be included within the 50 percent minimum Greenway requirement; their parking and access ways may be paved and lighted.
 8. Water supply and sewage disposal systems, and stormwater detention areas designed, landscaped, and available for use as an integral part of the greenway.
 9. Easements for drainage, access, sewer or water lines, or other public purposes;
 10. Underground utility rights-of-way. Above-ground utility and street rights-of-way may traverse conservation areas but shall not count toward the minimum required Greenway land.

B. Greenway Design Standards

1. Conservation Areas - Greenway lands shall be laid out in general accordance with the municipality's *Map of Potential Conservation Lands* to ensure that an interconnected network of open space will be provided. The required greenway land consists of a mixture of Primary Conservation Areas (PCAs), all of which must be included, and Secondary Conservation Areas (SCAs). PCAs comprise those areas listed in §601.4,C as being subtracted from the total parcel acreage to produce the Adjusted Tract Acreage. SCAs should include special features of the property that would ordinarily be overlooked or ignored during the design process. Examples of such features are listed and described in the Township Subdivision and Land Development Ordinance.
2. Option 1 - Basic Conservation and Option 2 - Enhanced Conservation - The greenway land shall comprise a minimum of 50% and 60% of the Adjusted Tract Acreage respectively. This land shall generally remain undivided and may be owned and maintained by a homeowners' association, land trust, another conservation organization recognized by the municipality, or by a private individual (typically as part of the original farmhouse). However, in no case shall less than thirty (30) percent of the land comprising the Adjusted Tract Acreage be available for the common use and passive enjoyment of the subdivision residents. These ownership options may be combined so that different parts of the greenway land may be owned by different entities.
3. Option 4 - Country Properties - Greenway lands may be contained within the Country Property lots, or up to eighty (80) percent may be set aside as undivided land with common rights of usage among the subdivision residents.
4. Dedication Requirement - Up to five (5) percent of the total tract acreage in any of the options may be subject to the Township's public land dedication requirement (typically to provide potential connections with the municipal long-range trail network).
5. Buffers for Adjacent Public Park Land: Where the proposed development adjoins public park, state forest or state game land, a natural greenway buffer at least one-hundred-fifty (150) feet deep shall be provided within the development along its common boundary with such public land, within which no new structures shall be constructed, nor shall any clearing of trees or understory growth be permitted (except as may be necessary for street or trail construction). Where this buffer is unwooded, the Board may require vegetative screening to be planted, or that it be managed to encourage natural forest succession through *no-mow* policies and the periodic removal of invasive alien plant and tree species.

C. Other Requirements

1. No portion of any building lot may be used for meeting the minimum required conservation land, except as permitted within Country Properties. However, active agricultural land with farm buildings, excluding areas used for residences, may be used to meet the minimum required greenway land.
2. Pedestrian and maintenance access, excluding those lands used for agricultural or horticultural purposes in accordance with §601.3, shall be provided to greenway land in accordance with the following requirements:
 - a. Each neighborhood shall provide one centrally located access point per fifteen (15) lots, a minimum of thirty-five (35) feet in width.
 - b. Access to greenway land used for agriculture may be appropriately restricted for public safety and to prevent interference with agricultural operations.
3. All greenway land areas that are not wooded or farmed shall be landscaped in accordance with the

landscaping requirements of the Township Subdivision and Land Development Ordinance.

§601.7 Permanent Greenway Protection Through Conservation Easements

- B. In Option 1, and Option 2 Subdivisions - In Option 1 and Option 2, the Greenway land that is required to be reserved and created through the subdivision process shall be subject to permanent conservation easements prohibiting future development and defining the range of permitted activities. (For example, the clearing of woodland habitat shall generally be prohibited, except as necessary to create trails, active recreation facilities, and to install subsurface septic disposal systems or spray irrigation facilities. The determination of necessity shall lie with the Board. A list of permitted and conditional uses of greenway lands is contained in §601.3 and §601.6.
- C. In Option 4 - Country Properties Subdivisions - In Option 4 subdivisions where applicants voluntarily opt to develop their properties at densities conforming with Option 4 standards (minimum ten acres per principal dwelling), and offer to place a restrictive conservation easement preventing future subdivision of the newly created parcels, the Board shall review the proposed easements and shall accept them, provided their wording accomplishes the purposes of this Ordinance and is consistent with the Township Comprehensive Plan and the *Open Space Plan*.

601.8 Discretionary Density Bonuses

Additional density may be allowed by the Board when one of the following public benefits is proposed:

- A. Public Usage of Greenway Land - The Board may encourage the dedication of land for public use (including active and passive recreation areas, spray irrigation areas, municipal buildings, etc.) according to the following standards: A density bonus for greater public usage of greenway land in new subdivisions shall be computed on the basis of a maximum of one (1) dwelling unit per five (5) acres of greenway land or per two thousand five hundred (2,500) feet of trail that becomes publicly accessible. The decision whether to accept an applicant's offer to dedicate greenway land to public usage within a proposed subdivision shall be at the discretion of the Board, which shall be guided by the recommendations contained in the Township Open Space Plan, particularly those sections dealing with active recreational facilities and passive trail networks.

B. Endowment For Greenway Maintenance

1. When greenway land is to be donated to a land trust or to the municipality, the Board may allow up to a ten percent density bonus to generate additional income to the applicant for the sole purpose of endowing a permanent fund to offset continuing costs of maintaining the greenway land (involving activities such as mowing meadows, removing invasive vines, paying insurance premiums and local taxes, etc.), including costs associated with active or passive recreation facilities. Spending from this fund should be restricted to expenditure of interest so that the principal may be preserved. Assuming an annual average interest rate of five percent, the amount designated for the Endowment Fund shall be at least twenty (20) times the estimated annual maintenance costs. Such estimate shall be prepared by an agency, firm, or organization acceptable to the Board, and with experience in managing conservation land and recreational facilities.
2. Because additional dwellings, beyond the maximum that would ordinarily be permitted, may reasonably be considered to be net of development costs and represent true profit, seventy-five (75) percent of the net selling price of the endowment lots shall be donated by the applicant to the *Greenway Maintenance Endowment Fund* for the greenway lands within the subdivision. This fund shall be transferred by the developer to the designated entity with ownership and maintenance responsibilities, at the time this entity is created.
3. When estimating the projected maintenance costs of the greenway land, greenway land that is not accessible by the subdivision residents for their common enjoyment need not be included in the calculations. Such lands would typically include areas designated on the Final Plan for Conservancy Lots or as land reserved

for future agricultural, horticultural, silvicultural, or equestrian uses, which may be leased or sold to another party for those express purposes, and which are protected from future development by a permanent conservation easement. In such cases, the density bonus shall be adjusted proportionately to reflect only the acreage that is accessible to residents for their passive or active recreation.

- D. Provision of Affordable Housing - A density increase is permitted where the subdivision proposal provides on-site or off-site housing opportunities for low- or moderate-income families. When off-site housing provision is proposed, the Board shall require evidence that these units will in fact be constructed by a certain date. The amount of density increase shall be based on the following standard: For each affordable housing unit provided under this section, one additional building lot or dwelling unit shall be permitted, up to a maximum fifteen (15) percent increase in dwelling units. Affordable housing is herein defined as units sold or rented to families earning seventy (70) to one hundred twenty (120) percent of the county median income, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development.
- E. Implementation - For each of the above categories of public purposes, density bonuses may be implemented by reducing the amount of required greenway land by up to ten (10) percent, reducing the minimum lot area requirements by up to ten (10) percent, or by a combination of these approaches, at the discretion of the Board. The cumulative reductions may total up to thirty (30) percent, if the Board is satisfied that the public purposes are being served.

601.9 Ownership and Maintenance of Greenway Lands and Common Facilities

See Article X.

602 Two Family Dwellings

Where permitted by the Schedule of Uses, two-family dwellings shall comply with the requirements of this §602 and other applicable standards in this Ordinance.

602.1 Common Wall

In cases where a two-family dwelling is a duplex involving a common (i.e. party) wall and common property line, said wall shall be located on the common property line separating the adjoining lots. The area of each lot shall not be less than fifty (50) percent of the minimum lot size required in Part 1 of the Schedule of Development Standards in Article IV of this Zoning Ordinance and minimum lot dimensions shall comply with Part 2 of the Schedule of Development Standards in Article IV of this Zoning Ordinance.

602.3 Over/Under Units

In cases where the two-family dwelling consists of two (2) dwelling units constructed with one(1) unit located on the second floor above a first floor dwelling unit, the lot size shall comply with Part 1 of the Schedule of Development Standards in Article IV of this Zoning Ordinance and minimum lot dimensions shall comply with Part 2 of the Schedule of Development Standards in Article IV of this Zoning Ordinance. If such a two-family dwelling is proposed on two (2) or more separate lots of record, said lots shall be combined into one (1) lot prior to the issuance of a Zoning Permit.

602.5 Conversions -- See §604 of this Ordinance.

603 Multi-Family Dwellings

Multi-family projects are permitted in certain districts in accord with the Schedule of Uses in order to provide the opportunity for the development of a variety of housing types in the Township.

603.1 Project Design Process and Procedure

- A. Subdivision and Land Development - Multi-family projects shall be considered major subdivisions and land developments also subject to the Township Subdivision and Land Development Ordinance. This "major

subdivision" classification shall apply to all subdivision of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision.

- B. Design Process and Procedure - All multi-family projects shall be designed and processed in accord with the Adjusted Tract Acreage Approach requirements for Conservation Design Developments contained in §601.4,C,1 of this Ordinance and the Township Subdivision and Land Development Ordinance.
- C. Site Plan - A proposed site plan showing all necessary information to include at a minimum, location of all buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm drainage facilities, water supply and distribution systems, sewage treatment and collection systems and the specific areas provided as open space pursuant to the requirements of this Ordinance. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in the Township. Setbacks from property lines, improvements, and other buildings shall also be specifically shown.
- D. Open Space - Open space area shall be preserved to the maximum extent possible in accord with a schedule or plan, and proposed agreement(s) either with the Township or a property owners' association, for the purpose of preserving the open space in the same manner as required for Conservation Design Developments in §601 of this Ordinance.

603.2 Bulk and Density Standards; Parcel Configuration

The bulk and density factors listed on Table 603.2 shall apply to multi-family dwellings and projects without the application of any density bonuses. All land proposed for a particular multi-family dwelling project shall be part of the same parcel and contiguous.

TABLE 603.2 MULTI-FAMILY DWELLING STANDARDS			
PROJECT STANDARDS	Townhouses	Garden Apartments	Apartment Buildings
Minimum size for project parcel (acres)	6	4	2
Density -- number of dwelling units per acre of useable land area (See §601.4,C,1 for Adjusted Tract Acreage)	2	3	4
Maximum number of dwelling units per building	6	8	12
Maximum building height (feet)	35	35	35
Maximum lot coverage (percent)	--	40	50
ADDITIONAL TOWNHOUSE STANDARDS			
Minimum lot size for townhouse units for individual sale	1,000 square feet		
Minimum lot width at house location	18 feet		
Minimum front and rear yard setback	10 feet front / 15 feet rear		
Minimum side yard setback for end unit	15 feet		
Maximum lot coverage for individual townhouse parcels	75%		

603.3 Design Criteria

The following design criteria shall apply to multi-family projects:

- A. Setbacks - No structure in a multi-family dwelling project shall be constructed within twenty (20) feet of the edge of the shoulder of any access drive (without a designated right-of-way) to or through the development or within ten (10) feet of any parking area. Setbacks of multi-family project buildings from access roads through the project shall meet these minimums, however, setbacks of adjacent buildings shall be varied so that adjacent buildings have a setback variation of not less than five (5) feet. A setback of fifty (50) feet for any structure shall be maintained from all existing or proposed public or private road rights-of-way and the boundary line of the entire project parcel.
- B. Road Standards - Access roads through the development shall comply with the street requirements of the Township Subdivision Ordinance for minor roads. Access drives serving twelve (12) units or less shall be considered driveways and need not meet minor road standards. Direct access of individual parking spaces to a minor road shall not be permitted, and any such access drive shall remain private.
- C. Building Separation - All principal multi-family structures shall be separated by a distance as may be required by any applicable building code, but in no case less than twenty (20) feet.
- D. Landscaped Buffers - Buffers, not less than fifteen (15) feet in width shall be provided in accord with §701.1 of this Ordinance where multi-family structures adjoin existing one-family dwellings, two-family dwellings or any RA, SR, or CA District. In all cases, a landscaping plan shall be prepared and submitted by the developer for approval by the Township.
- E. Pedestrian Access - Walkways of such design and construction as approved by the Township shall be provided from all buildings and/or units to their respective parking area and shall meet the requirements for sidewalks as set forth in the Township Subdivision Ordinance.
- F. Trash Storage - Exterior storage areas for trash and rubbish shall be screened from public view on three sides and shall be contained in covered, vermin-proof containers. Interior storage areas for trash shall at all times be kept in an orderly and sanitary fashion.
- G. Architectural Renderings - Preliminary architectural renderings, models or photos for multi-family dwelling projects of more than ten (10) dwelling units shall be provided at the time of submission of the conditional use application. The exterior appearance of the building(s) shall be unified in type, design, and exterior wall treatment, and so constructed and maintained, in order to retain the residential character of the neighborhood. Fire escapes, when required, shall be in the rear of the building and shall not be located on any wall facing a street unless any building, fire or other code so requires.
- H. Townhouses: Facade Changes - A minimum of two (2) changes in the front wall plane with a minimum offset of four (4) feet shall be provided for every attached grouping of townhouses in one (1) building. This can be met by varying setbacks among different dwellings or varying setbacks along the front of a dwelling, or dwellings set back farther than attached private garages.
- I. Parking - Parking for multi-family dwelling projects shall comply with §6.500 of this Ordinance.

603.4 Non-Residential Use

Non-residential uses and home occupations which employ other than unit residents shall not be permitted in a multi-family dwelling. Such ancillary facilities as laundry areas, service buildings, recreational facilities and the like for the use of the residents of the project shall be permitted.

603.5 Conversions of Existing Structures

Conversions of any existing structures to multi-family dwelling use, regardless of whether such conversions involve

structural alteration, shall be subject to the provisions of this §603, including but not limited to §603.2. (See also §604).

603.6 Common Property Ownership and Maintenance

In cases where the ownership of common property is involved, evidence of arrangements for the continuous ownership and maintenance of same shall be provided by the developer for approval by the Township in accord with Article X of this Ordinance. The developer shall also submit evidence of compliance with the PA Condominium Law or an attorney's opinion that said Law does not apply to the subject project.

603.7 Water Supply and Sewage Disposal

All multi-family dwelling projects shall be served by a community water supply and a community sewage disposal system.

604 Conversion to Dwellings

Any conversion of any building to a residential use or the conversion of any dwelling to accommodate additional dwelling units shall comply with the standards in this §604 and the other requirements applicable to the dwelling type to which conversion is proposed. The conversion of any building into a dwelling or the conversion of any dwelling so as to accommodate an increased number of dwelling units, or families, shall be permitted only within a district in which a new building for similar occupancy would be permitted under this Ordinance, and only when the resulting occupancy will comply with the requirements governing new construction in such district with respect to dwelling unit, living space, lot coverage, dimensions of yards and other open spaces, off-street parking, and other applicable standards.

605 Group Homes

Group homes shall be permitted in any lawful single-family dwelling unit in accord with the Schedule of uses, this §605 and other applicable standards of this Zoning Ordinance.

605.1 Definition

See definition in Article III.

605.2 Supervision

There shall be adequate supervision as needed by an adequate number of person(s) trained in the field for which the group home is intended.

605.3 Certification

The use shall be licensed or certified under an applicable State, County or Federal program for group housing, if applicable. A copy of any such license or certification shall be filed with the Township, and shall be required to be shown to the Zoning Officer in the future upon request. The group home shall notify the Township within fourteen (14) days if there is a change in the type of clients, the sponsoring agency, the maximum number of residents or if an applicable certification/license expires, is suspended or is withdrawn.

605.4 Registration

The group home shall register its location, general type of treatment/care, maximum number of residents and sponsoring agency with the Zoning Officer. Such information shall be available for public review upon request.

605.5 Counseling

Any medical or counseling services provided on the lot shall be limited to residents and a maximum of three (3) nonresidents per day.

605.6 Parking

One off-street parking space shall be provided for each employee on duty at any one time, and every two (2) residents

of a type reasonably expected to be capable of driving a vehicle. Off-street parking areas of more than five (5) spaces shall be buffered from adjacent existing single family dwellings by a planting screen meeting the requirements of §701.1 of this Zoning Ordinance.

605.7 Appearance

If the group home is within a residential district, the building shall be maintained and/or constructed to ensure that it is closely similar in appearance, condition and character to the other residential structures in the area. No exterior signs shall identify the type of use.

605.8 Bulk and Density

The construction of new group homes shall comply with the minimum lot size and other bulk and density requirements applicable to single-family residential dwellings.

605.9 Number of Residents

The following maximum number of persons shall reside in a group home, including the maximum number of employees/supervisors and/or care providers routinely in the group home at any point in time:

A. Existing Single Family Detached Dwellings

1. With minimum lot area of two (2) acres and minimum building setbacks from all "residential lot lines" of fifteen (15) feet: eight (8) total persons.
2. Any other lawful dwelling unit: six (6) total persons.

B. New Structures- New structures shall meet all the normal bulk and density standards for single-family residential dwellings and the maximum number of persons shall be eight (8).

605.10 Visitors

Employees of the group home shall be prohibited from having visitors on the premises, except for visitation necessary for the operation of the group home and except for emergencies.

606 Assisted Care Dwelling Unit for Relative

606.1 Accessory Use Permit

A temporary dwelling unit for the care of a relative, defined as an *Assisted Care Dwelling Unit for Relative* by this Ordinance, shall be considered an accessory use and all applicable zoning permits shall be required. In addition, a renewable accessory use permit shall be required which shall be renewed annually provided all requirements of this Zoning Ordinance are met. Prior to renewal of the permit the Zoning Officer shall confirm that the *relative* status of the occupant(s) of the accessory unit has not changed. In any case, the occupants of the principal dwelling unit shall immediately report to the Zoning Officer any change in the occupancy status of the accessory unit and the timetable for the elimination of the unit.

606.2 Application Requirements

The applicant shall provide a completed building permit application including a plan showing, at a minimum, the information required by §602 of this Ordinance, and any other information deemed necessary by the Zoning Officer to determine compliance. The application shall also include a legally binding agreement for execution between the property owner and the Township to provide for the elimination of the accessory unit in accord with the requirements of this §606 when the accessory unit is no longer occupied by the relative requiring care.

606.3 Subdivision and Land Development Requirements

Approval under the Township Subdivision and Land Development Ordinance shall not be required for accessory units for the care of a relative meeting the definition of *Assisted Care Dwelling Unit for Relative* and the requirements of

this Ordinance.

606.4 Occupancy -- Care Requirement

The accessory unit shall be restricted to occupancy by a "relative" (as defined by Article II of this Zoning Ordinance) of a permanent resident of the principal dwelling unit on the property. Such relative shall need care and supervision because of old age, disability, handicap or illness as documented by a letter from a licensed medical doctor. Such accessory unit shall be permitted only where the relative requiring the care occupies the accessory unit located on the parcel of the care provider.

606.5 Sewage Disposal

The accessory unit may be connected to the existing sewage disposal system provided the Township Sewage Enforcement Officer (SEO) confirms that the system is in good operation condition and any prior malfunctions have been corrected. All applicable permits and approvals for the connection, modification or installation of any sewage facilities necessary to accommodate the accessory unit shall be required. Sewage flows from the accessory unit shall not exceed four hundred (400) gallons per day. The confirmation by the SEO shall not place any liability on the Township or the SEO for any future sewage malfunction nor relieve the property owner from the responsibility of correcting any such malfunction.

606.6 Bulk and Density Requirements

All standards for setbacks, lot coverage, building height and other bulk requirements shall apply and any accessory mobile home shall be not less than twenty (20) feet from the principal dwelling. The accessory unit may be installed on any lot provided all bulk requirements can be met.

606.7 Unit Design

The accessory unit, if attached to the principal unit, shall be designed and installed in such a way that it can easily be reconverted into part of the principal dwelling unit after its use as an assisted living unit is discontinued; or in the case of a mobile home, can be easily removed from the property. Any such attached unit shall not detract from the single family residential exterior appearance of a dwelling. Unattached accessory units shall be limited to mobile homes only.

606.8 Removal of Unit

Once the accessory unit is no longer occupied by the relative requiring care, the dwelling shall be reconverted into part of the principal dwelling unit or be completely removed within ninety (90) days, and such unit shall not be occupied in the interim. The time for removal may be extended by the Board of Supervisors upon petition by the property owner for good cause. When any unit permitted under this §606 is required to be removed, there shall be no physical evidence visible from exterior to the lot lines that such unit existed, other than possibly the expanded size of the dwelling.

607 Mobile Home Parks

Mobile home parks are permitted in certain districts in accord with the Schedule of Uses in order to provide the opportunity for the development of a variety of housing types in the Township.

607.1 Project Design Process and Procedure

- A. Subdivision and Land Development - Mobile home parks shall be considered major subdivisions and land developments also subject to the Township Subdivision and Land Development Ordinance. This "major subdivision" classification shall apply to all subdivision of property in connection with the development, regardless of whether or not the same are connected with building development or home placement, and the approvals required shall be requested and acted upon concurrently as one subdivision.
- B. Design Process and Procedure - All mobile home parks shall be designed and processed in accord with the requirements for Open Land Developments contained in §601 of this Ordinance.

- C. Site Plan - A proposed site plan showing all necessary information to include at a minimum, location of all mobile home sites, buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm drainage facilities, water supply and distribution systems, sewage treatment and collection systems and the specific areas provided as open space pursuant to the requirements of this Ordinance. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other standards which may be applicable in the Township. Setbacks from property lines, improvements, and other buildings shall also be specifically shown.
- D. Open Space - Open space area shall be preserved to the maximum extent possible in accord with a schedule or plan, and proposed agreement(s) either with the Township or a property owners' association, for the purpose of preserving the open space in the same manner as required for Open Land Development in §601.5 of this Ordinance.

607.2 Design; Procedures; Parcel Size; Density; Mobile Home Sites

- A. All mobile home parks shall be designed and processed in accord with the procedure for open land developments in accord with §601.4,B of this Ordinance using the density factors in this §607.2 without the application of any density bonuses.
- B. All land proposed for a particular mobile home park shall be part of the same parcel and contiguous.
- C. The minimum parcel size for a mobile home park shall be fifty (50) acres and the overall density of a mobile home park shall not exceed four (4) units per acre.
- D. Each mobile home site shall have a minimum area of five thousand (5,000) square feet for exclusive use of the occupants of the mobile home placed upon the lot. Minimum lot widths and depths shall be forty-five (45) feet. Each mobile home lot shall be defined by metes and bounds on a survey and shall be shown as such on the development plan, and markers shall be installed at each corner of every lot.

608 Mobile/Manufactured Homes on Individual Lots

Mobile homes placed on lots not in a mobile home park shall comply with all Township regulations applicable to single-family residential dwellings and:

- A. Shall be constructed in accordance with the Safety and Construction Standards of the U.S. Department of Housing and Urban Development. These standards supersede the BOCA Code for the actual construction of the unit itself.
- B. Shall have a site graded to provide a stable and well-drained area.
- C. Shall have the hitch mechanisms removed. The wheels and axles shall be removed or screened from view.
- D. Shall be securely attached to the ground in such as way as to prevent overturning, shifting or uneven settling of the home.
- E. Shall be enclosed from the bottom of the home to the ground or stand using industry-approved skirting material compatible with the home, or if a slab foundation is used, masonry walls underneath the home with soil backfill to result in the surrounding ground level being flush or one (1) normal step height below the first floor elevation. If masonry walls are used, then an appropriate service access area shall be provided.
- F. Shall be attached to a permanent foundation.

609 Reserved**610 Bed and Breakfast Establishments**

Bed and breakfast establishments are considered conditional uses in certain districts as set forth in the Schedule of Uses and shall comply with the following standards in addition to all other applicable standards in this Zoning Ordinance.

- A. Adequate off-street parking is provided in accord with this Ordinance with the minimum number of parking spaces provided as follows: one (1) space for each rentable room; one (1) space for each non-resident employee, and two (2) spaces for the dwelling unit.
- B. Not more than five (5) rentable rooms are provided in the establishment.
- C. The owner or manager of the bed and breakfast must reside on the premises.
- D. Sewage disposal meeting the requirements of the Township and PA DEP is provided.
- E. Bed and breakfast establishments shall not be permitted on lots which are nonconforming in minimum area.

611 Hotels, Motels, and Lodging Facilities

This section is intended to provide specific standards for the development of hotels, motels and other lodging facilities at unit densities that allow full use of the project parcel while at the same time recognizing the limitation of the proposed site. Specific performance standards are provided to allow for flexibility of design and to insure the protection of adjoining properties and the public health, safety and general welfare.

611.1 Density

Density of units and facilities shall be determined by the character of the project parcel and compliance with the standards in this §611 and this Ordinance, and other applicable Township regulations.

611.2 Design Criteria

- A. Yard, building height, lot width and depth, and lot coverage ratios applicable to the District shall be maintained.
- B. All facilities in a hotel, motel or lodging facility project shall be on the same parcel of property and shall not contain any commercial facility unless such commercial facility is otherwise permitted in the District where the subject property is located.

ARTICLE VII PERFORMANCE STANDARDS AND ENVIRONMENTAL PROTECTION

701 Performance Standards Applicable to All Uses in All Districts

The intent of this §701 is to regulate the development and operation of all development in the Township and to protect the environment and the public health, safety and general welfare. No land or building shall be used or occupied in such manner which creates any dangerous, injurious, noxious, or otherwise objectionable condition in such amount to adversely affect the surrounding area, and any such activity is hereby declared to be a public nuisance. However, any use permitted by this Ordinance may be undertaken and maintained if it conforms to all applicable requirements of this Ordinance, including the standards in this §701 which are intended to limit nuisance elements. The following performance standards shall apply to all proposed new or expanded nonresidential uses, and residential uses explicitly referenced by a specific section. The standards in this §701 shall not apply to normal agricultural uses unless explicitly referenced by a specific section.

701.1 Yards and Buffers

Unless otherwise regulated by this Ordinance, where a commercial or manufacturing use is proposed contiguous to any existing residential use or any RA, RR or SR District the minimum size of the abutting yard shall be increased by fifty (50) percent and a landscaped buffer not less than fifteen (15) feet in width shall be provided in accord with this §701.1. Storage of equipment, supplies, products or any other materials shall not be permitted in any front yard or side yard.

In the case of conditional uses and special exceptions, landscaped buffers may be required by the Township in any yard in order to assure the protection of adjoining uses by providing visual barriers that block the glare of lights; reduce noise; serve as a protective barrier by blocking physical passage to dangerous areas; and reduce air pollution, dust and litter; and, to otherwise maintain and protect the rural character of the District.

- A. In determining the type and extent of the buffer required, the Township shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the proposed project to adjoining areas.
- B. The width of the required buffer, as determined by the Township, shall not be less than ten (10) feet.
- C. A mix of ground cover and shrubbery vegetation and canopy trees, of such variety compatible with the local climate, may be required so that a dense screen not less than six (6) feet in height will be formed within three (3) years of planting.
- D. Berms and landscaped walls or fences, compatible with the principal building design, may be incorporated in the required buffer. Front yard buffers shall be provided in the same manner to a height of not less than four (4) feet; however, all clear sight triangles shall be maintained.
- E. In any case, special consideration shall be given to existing residential uses and sites where residential uses are likely to be developed. In cases where the adjoining use is a commercial use, or when two or more adjacent properties are developed under a common site plan, the width and density of the buffer may be reduced if the Township shall determine that the proposed use and adjoining use(s) are not incompatible.
- F. Design details of buffers shall be included on the site plan, and buffers shall be considered "improvements" for the purposes of guaranteeing installation in accord with the requirements for "land developments" in the Township Subdivision and Land Development Ordinance. It shall be the responsibility of the property owner to maintain all buffers in good condition and replace any dying or dead plants or deteriorating

landscape material.

701.2 Landscaping

A landscaping plan for the proposed project shall be prepared by the developer for review and approval by the Township. Landscaping shall be considered an improvement for the purposes of regulation by the Township Subdivision and Land Development Ordinance. The landscaping plan shall include the overall design of the landscaping proposed, the type and size of vegetation to be utilized, and details of installation. Landscaping shall be installed to the following minimum standards.

- A. All disturbed areas of the site shall be included in the landscaping plan, and those areas immediately adjacent to buildings and walkways shall be given extra consideration.
- B. Adequate pedestrian walkways shall be provided for access from parking areas and to common use areas and shall be an integral part of the landscaping; and shall be consistent with the architectural type of the project and shall be a minimum of four (4) feet in width.
- C. Plants shall be of a type which are proven successful in the Township's climate.
- D. Where landscaping is required to serve as a buffer (e.g., between the project and adjoining properties or between buildings and parking areas) the plants used shall be of the evergreen type and of adequate size to provide an effective buffer within a reasonable number of years.
- E. The variety of landscape materials shall be consistent with building architecture and the surrounding area and plant type shall be appropriate for the size and location of the space it is to occupy.
- F. All unusable areas in and around parking areas shall be landscaped.
- G. Attractive natural features of the site, including mature trees, shall be preserved to the greatest extent possible.
- H. Plastic landscape materials shall not be used in place of live trees, shrubs and ground cover.
- I. All trees to be planted shall have a trunk diameter of at least one (1) inch as measured one (1) foot above the ground.
- J. Ground cover shall be spaced to allow for complete fill-in within one (1) year of the date of planting.
- K. Adequate soil preparation in accord with accepted landscape industry practices shall be required.
- L. All landscaping shall be maintained in good growing condition by the property owner.

701.3 Operations and Storage

All facilities and operations of any principal use including the storage of raw material, finished products, fuel, machinery and equipment and any other materials or supplies shall be enclosed and carried out within a building; or shall, as required by the Township for conditional uses and special exceptions, be provided with larger setbacks and/or buffers to afford protection to adjoining uses and any public road rights-of-way. Unenclosed uses and activities shall, in any case, be a minimum of one hundred (100) feet from any existing residential structure or any RA, RR or SR District, unless a greater setback is required by the Township. Storage of equipment, supplies, products or any other materials shall not be permitted in any front yard or side yard.

Storage of materials, supplies or products in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted. In the RA and IND District, trailers, painted one color without advertising

and maintained in good condition, may be used as accessory structures provided all wheels and axles are removed, the trailers are erected and maintained as structures, and are screened from view from adjoining properties in accord with §701.1 of this Ordinance. Trailers, painted one color without advertising and maintained in good condition, shall be permitted for storage for a temporary period on the site of an on-going construction project. The placement of said trailers shall be for a specified time as stated in the required permit from the Township, shall meet the setback requirements of this Ordinance and shall not be used for the storage of any flammable or hazardous material except in accord with applicable state and federal regulations.

701.4 Fire and Explosion Hazards

All activities involving any manufacturing, production, storage transfer or disposal of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices standard in the industry shall be required. Burning of waste materials in open fires is prohibited. The relevant provisions of Federal, State and local laws and regulations shall also apply. Details of the potential hazards and details of planned safety and accident response actions shall be provided by the developer for review by the local fire company(s). In the case of conditional uses and special exceptions, larger setbacks, additional buffer areas or fencing may be required by the Township if the nature of the proposed use as determined by the Township so requires.

701.5 Radioactivity or Electric Disturbance

No activities shall be permitted which emit dangerous radioactivity, electrical disturbance or electromagnetic radiation adversely affecting the operation of any person or any equipment other than that of the creator of such disturbance. All applicable Federal regulations shall apply.

701.6 Noise

The maximum sound pressure level radiated by any use or facility at any lot line shall not exceed the values in the designated octave bands listed in Table 1, after applying the corrections shown in Table 2. The sound pressure level shall be measured with a Sound Level Meter and associated Octave Band Analyzer conforming to standards prescribed by the American Standards Association, Inc., as designated by the Board of Supervisors.

TABLE 1	
Frequency Band (cycles/second)	Sound Pressure Level (decibels re 0.0002 dyne/cm)
20-75	69
76-150	60
151-300	56
301-600	51
601-1,200	42
1,201-2,400	40
2,401-4,800	38
4,801-10,000	35

TABLE 2	
Type of Operation OR Character of Noise	Correction in Decibels
Day time operation only	+ 5
Noise source operation less than: a. 20% of any one-hour period b.. 5% of any one-hour period c.. 1% of any one-hour period	a. + 5* b. +10* c. +15*
Noise of impulsive character (hammering, etc.)	-5
Noise of periodic character (hum, scream, screech, etc.)	-5
* Apply only one of these corrections.	

- A. Maximum Levels - Maximum permissible sound pressure levels at the lot line for noise radiated continuously from any facility or activity between the hours of 9:00 p.m. and 7:00 a.m. shall be as listed in Table 1.

- B. Corrections - If the noise is not smooth and continuous, and is not radiated between the hours of 9:00 p.m. and 7:00 a.m., one (1) or more of the corrections in Table 2 shall be applied to the decibel levels in Table 1.
- C. Exemptions - The maximum permissible sound levels of this §701.4 shall not apply to any of the following noise sources:
1. Sound needed to alert people about an emergency or building, equipment, or facility security alarms.
 2. Repair or construction work to provide electricity, water or other public utilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.
 3. Household power tools and lawn mowers between the hours of 7:00 a.m. and 9:00 p.m.
 4. Construction operations (including occasional blasting in construction) and repairs of public facilities between the hours of 7:00 a.m. and 9:00 p.m., except for emergency repairs which shall not be restricted by time.
 5. Normal agricultural activities.
 6. Motor vehicles when used on public streets in accord with state regulations.
 7. Public celebrations, specifically authorized by the Township, the County, state or federal government body or agency.
 8. Unamplified human voices.
 9. Routine ringing of bells or chimes by a place of worship or municipal clock.
- D. Professional Studies and Costs - If it is determined that professional analysis is required to enforce this §701.6 for a particular situation, the owner shall reimburse the Township for such reasonable costs of such analysis. In addition, the Zoning Officer may base a determination under this §701.6 on a written study prepared and certified by a qualified professional and submitted by an affected party. Any such study shall state the methods used and the credentials of the involved professional(s).

701.7 Vibration

No vibration shall be permitted which is detectable without instruments at or beyond the property line; and no use shall generate any vibration which is capable of causing damage to buildings, structures, equipment alignment, or structural soundness. This requirement shall not apply to occasional blasting conducted in accord with applicable regulations that may be necessary during construction of streets, structure and utilities.

701.8 Lighting and Glare

The standards of this §701.8 shall apply to all uses including residential and agricultural. See also §401.5 for the Observatory Overlay District.

- A. Purpose - The standard established in this section set forth criteria to require and set minimum standards for outdoor lighting to:
1. Provide lighting in outdoor public places where public health, safety and welfare are potential concerns.
 2. Protect drivers and pedestrians from the glare of non-vehicular light sources that shine into their eyes and thereby impair safe traverse.
 3. To protect the privacy of property owners by limiting the potential for glare and light trespass from poorly aimed, placed, applied, maintained or shielded outdoor lighting installations located on adjacent properties and roadways.
 4. To set forth outdoor lighting requirements which are consistent with lighting industry standards and practices, available technologies, and the lighting sciences.

B. Application - Outdoor lighting shall be required for safety and personal security in areas of public assembly and traverse; including but not limited to: multiple family dwelling unit, commercial, industrial, public recreational, and institutional uses. The Board of Supervisors may require lighting to be incorporated for other uses or locations, as they deem necessary. The glare control requirements in this section apply to lighting in all above mentioned uses as well as sign, architectural, landscaping, and residential lighting. Lighting shall be controlled in both height and intensity to maintain community character; and lighting designs be an inherent part of the project design. The standards of the Illuminating Engineering Society, (IES), shall be used as a guideline for the said design. The applicant shall provide the specifications of the proposed lighting and its arrangement on the site; and all required lighting shall be considered improvements for the purpose of regulation by the Township Subdivision and Land Development Ordinance.

C. Definitions

Candela: Unit of luminous intensity, describing the intensity of a light source in a specific direction

Candela Distribution: A curve, often on polar coordinates, illustrating the variation of luminous intensity of a lamp or luminaire in a plane through the light center.

Candlepower: Luminous intensity expressed in candelas A measure of luminous intensity of a light source in a specific direction, measured in candelas.

Cutoff: A light distribution where a negligible amount of light is permitted at a horizontal plane located at the bottom of a luminaire. Light above the horizontal plane at the bottom of a luminaire is not limited, but cutoff luminaires usually have very little light above the luminaire.

Full Cutoff: A light distribution where no light is permitted at or above a horizontal plane located at the bottom of a luminaire. There will be little or no light at the angles that are usually associated with glare.

Semicutoff: A light distribution where slightly more light is permitted at a horizontal plane located at the bottom of a luminaire than the cutoff distribution. Like cutoff, light above the horizontal plane at the bottom of a luminaire is not limited, but the amount of light above the luminaire is relatively small.

Noncutoff: A light distribution that can produce considerable light above the horizontal plane located at the bottom of a luminaire.

Cut off angle, of a luminaire: The angle, measured up from the nadir (i.e. straight down), between the vertical axis and the first line of sight at which the bare source (the bulb or lamp) is not visible.

Floodlight: A fixture designed to "flood" a well defined area with light.

Footcandle: A unit of illuminance. The English measurement unit of illuminance (or light level) on a surface. One lumen is equal to one footcandle per square foot. A unit of light intensity stated in lumens per square foot and measurable with an illuminance meter, a.k.a. footcandle or light meter. One footcandle is equal to 10.76 Lux; One Lux is equal to 0.093 footcandles.

Fully Shielded Light Fixture: A light fixture constructed in such a manner that all light emitted by the fixture, either directly from the lamp or a diffusing element, or indirectly by reflection or refraction from any part of the luminaire, is projected below the horizon.

Glare: Light that hinders or bothers the human eye. The sensation produced by luminances within the visual field

that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance or visibility. The degree of glare is described as such:

Blinding Glare: Glare that is so intense that for an appreciable length of time after it has been removed, no object can be seen.

Direct Glare: Glare resulting from high luminances or insufficiently shielded light sources in the field of view.

Disability Glare: The effects of stray light in the eye whereby visibility and visual performance is significant enough to keep a person from seeing adequately.

Discomfort Glare: Glare that produces discomfort. It does not necessarily interfere with visual performance or visibility.

Reflected Glare: Glare resulting from reflections of high luminances in polished or glossy surfaces in the field of view.

Illuminance: The quantity of light measured in footcandles or lux. A term that quantifies light striking a surface or a plane point. It is expressed either in lumens per square foot (footcandles/the English unit) or lumens per square meter (lux/the metric unit). The areal density of the luminous flux incident at a point on a surface. One footcandle is equal to 10.76 Lux; one Lux is equal to 0.093 footcandles.

Illumination: An alternative term for illuminance. Commonly used in a qualitative or general sense to designate the act of illuminating or the state of being illuminated.

Lamp: A generic term for a man-made source of light.

Light: Radiant energy that is capable of exciting the retina and producing a visual sensation. The visible portion of the electromagnetic spectrum extends from about 380 to 770 nanometers.

Light Trespass: Light emitted by a lighting installation, which extends beyond the boundaries of the property on which the installation is sited. Spill light. Obtrusive light. Undesirable illumination including the following examples:

1. The classic "light shining in a window"
2. Unwanted light on an adjacent property
3. Excessive brightness in the normal field of vision (discomfort glare)

Lumen: Units of measurement of luminous flux representing the quantity of light being produced by a lamp or emitted from a luminaire.

Luminaire: A complete lighting unit consisting of one or more lamps (light sources) together with the parts designed to control the light distribution, and other mechanical and electrical components.

Luminance: A term that quantifies directional brightness of a light source (e.g., a lamp, luminaire, reflecting material) or of a surface that is illuminated and reflects light. The emitted or reflected light from a surface; relates directly to perceived "brightness." The unit of luminance is the candela per square meter (cd/m²). Measurable with a luminance meter.

Lux: A unit of light intensity stated in lumens per square meter. There are approximately 10.76 lux per footcandle.

Nadir: The point directly below the Luminaire when the luminaire is pointed down (0-degree angle).

Nighttime: The hours between the end of evening civil twilight and the beginning of morning civil twilight. Civil twilight ends in the evening when the center of the sun's disk is six (6) degrees below the horizon, and begins in the morning when the center of the sun's disk is six (6) degrees below the horizon.

Spotlight: A fixture designed to light only a small, well-defined area.

D. Criteria

1. Illumination Levels for Nonresidential Uses - Illumination of nonresidential uses, where required by this Ordinance, shall have intensities and uniformity ratios in accordance with the most current recommended practices of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook, from which typical uses are presented in the following table.
2. Outdoor Light Standards for All Uses
 - a. Any lamp over 2000 initial lumens, installed shall be fully shielded such that the lamp itself is not directly visible from any other residential property.
 - b. The use of more than one luminaire or lamp of 2000 initial lumens for the purpose of illuminating the same area shall not be permitted.
 - c. Examples of lamp types of 2000 lumens and below are: 100 Watt Standard Incandescent, 15 Watt Cool White Fluorescent, 15 Watt Compact Fluorescent, 18 Watt Low Pressure Sodium

E. Lighting Fixture Design

1. Fixtures shall be of a type and design appropriate to the lighting application.
2. For lighting horizontal tasks such as roadways, sidewalks, entrances and parking areas, fixtures shall meet full cutoff criteria (no light output emitted above 90 degrees at any lateral angle around the fixture).
3. Fixtures shall be equipped with or be modified to incorporate light directing and/or shielding devices such as shields, visors, skirts or hoods to redirect offending light distribution and/or reduce direct or reflected glare.

F. Control of Nuisance and Disabling Glare

1. All outdoor lighting shall be aimed, located, designed, fitted and maintained so as not to present a hazard to drivers or pedestrians by impairing their ability to safely traverse and so as not to create a nuisance by projecting or reflecting objectionable light onto a neighboring use or property.
2. All outdoor lighting fixtures shall be fully shielded in such a manner that no light is emitted above a horizontal plane passing through the lowest point of the light emitting element, so that direct light emitted above the horizontal plane is eliminated.
3. Floodlights and spotlights shall be so installed or aimed that they do not project their output into the windows of neighboring residences, adjacent uses, skyward or onto a public roadway. Floodlights or spotlights must be aimed no higher than 45 degrees above straight down (half-way between straight down and straight to the side) when the source is visible from any off-site residential property or public

roadway. The use of searchlights or laser source lights for advertising or entertainment purposes is prohibited.

4. To mitigate nuisance glare and sky-lighting consequences, automatic switching devices such as time clocks or combination motion detectors and photocells, to permit the extinguishing of outdoor lighting fixtures is preferable.
5. All illumination for advertising signs, buildings and/or surrounding landscapes for decorative, advertising or esthetic purposes is prohibited between 11:00 p.m. and sunrise, except that such lighting situated on the premises of a commercial establishment may remain illuminated while the establishment is actually open for business, and until one hour after closing.
6. Illumination for flagpole lighting may not exceed 10,000 lumens.
7. Vegetation screens shall not be employed to serve as the primary means for controlling glare. Rather, glare control shall be achieved primarily through the use of such means as cutoff fixtures, shields and baffles, and appropriate application of fixture mounting height, wattage, aiming angle and fixture placement.
8. Externally illuminated signs and billboards shall use only fixtures mounted at the top of the sign and aimed downward shall light. Such fixtures shall be automatically extinguished between the hours of 11:00 p.m. and dawn except as specifically approved by appropriate officers or agents of the Township.
9. Directional fixtures for such applications as facade, fountain, feature and landscape illumination shall be aimed downward so as not to project their output beyond the objects intended to be illuminated. Additionally, they shall be extinguished between the hours of 11:00 p.m. and dawn.
10. The use of white strobe lighting, flashing, flickering or pulsating for tall structures such as smokestacks, chimneys and radio/communications/television towers is prohibited during nighttime hours, except as may be required by the federal Aviation Administration or other governmental agency.

G. Nonconforming Lighting - Any lighting fixture or lighting installation existing on the effective date of this Ordinance that does not conform with the requirements of this Ordinance, shall be considered as a lawful nonconformance subject to the following:

1. Unless minor corrective action is deemed by the Township to be an acceptable alternative, a nonconforming lighting fixture or lighting installation shall be made to conform with the applicable requirements of this Ordinance when:
 - a. It is deemed by the Township to create a safety hazard
 - b. It is replaced, abandoned or relocated
 - c. There is a change in use
2. Nonconforming lighting fixtures and lighting installations shall be made to conform with the requirements of this Ordinance or removed within seven (7) years after the effective date of this Ordinance.

H. Exemptions

1. Emergency lighting, used by police, firefighting, or medical personnel, or at their direction, is exempt from all requirements of this code for as long as the emergency exists.
2. Temporary lighting installations, which include but not limited to, seasonal or holiday displays, carnivals, community fairs, traveling circuses may be employed on a temporary basis not to exceed thirty (30) days in duration.

701.9 Smoke

No emission shall be permitted from any chimney or otherwise, of visible gray smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart, published by McGraw-Hill Publishing Company, Inc., and copyright 1954.

701.10 Odors

No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable without instruments at the property line of the parcel from which the odors are emitted. Because the Township is a rural/agricultural area with many farms, the spreading of manure shall not be considered an offensive odor and shall be exempt from this §701.10.

701.11 Other Forms of Air Pollution

No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any damage to health, to animals, vegetation, or other forms of property, or which can cause any excessive soiling.

701.12 Surface and Ground Water Protection

All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. In cases where any earth disturbance will result in the excavation of bedrock, the Township may require the applicant to submit a report from a qualified engineer or geologist detailing the geologic structure of the area proposed to be disturbed and identifying the probable impacts on groundwater supply and quality. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and details of planned safety devices and contamination response actions shall be provided by the developer. The Township may require a plan to be submitted for review and approval and may require security for insuring contamination response. Monitoring wells and water quality testing may also be required by the Township. The developer shall also provide details about the use of ground water and any processes that could result in the depletion of ground water supplies. No use shall be permitted which would result in the depletion of ground water supplies. In cases where the use is of such a nature that large volumes of ground water are required the developer shall provide appropriate hydro-geologic studies which clearly establish that the proposed use will not cause a reduction in the quantity or the quality of ground water supplies available to other properties located within one-thousand (1,000) feet of any portion of the property where the proposed use will be located.

701.13 Storm Water Management and Soil Erosion Control

A storm water management plan and soil erosion control plan shall be required for review and approval. Said plan shall be prepared and implemented pursuant to the standards contained in the Township Subdivision Ordinance or other applicable Township regulations and County Conservation District standards, and shall be based on generally accepted engineering principles appropriate for the proposed use.

The protection of the quality of ground water and surface water shall be an integral part of all proposed storm water management practices; and all storm water management plans shall include an element specifically addressing water quality. The plan shall provide for the minimization of the discharge of "first flush" sediments off the project site or directly to infiltration structures. Containment of "first flush" sediments shall be accomplished by accepted and proven engineering design and practice, including but not limited to the use of grass buffer/filter strips, grass swales, detention basins, sediment traps, and special inlet devices.

In any area of the Township where a storm water management plan has been prepared and adopted in accord with the

Pennsylvania Storm Water Management Act, the provisions of any applicable storm water control ordinance shall apply.

701.14 Waste Materials

No liquid, solid, toxic or hazardous waste shall be stored or disposed in any commercial area, either above or below ground level, except for the temporary storage thereof pending removal from the premises. Such temporary storage and handling of waste shall be in a designated area and shall be conducted in compliance with all applicable state and federal regulations in order to prevent any water, soil or air contamination and shall be screened from view of adjoining properties and any public road right-of-way by fencing or other buffers. In addition, no waste discharge is permitted into any reservoir, sewage or storm water disposal system, stream, open body of water or onto the ground.

All waste materials shall be disposed of only in accord with all applicable state and federal regulations and applications for any use which results in waste materials regulated by the state or federal government shall include a list of all such wastes and the method of temporary storage, handling and disposal.

701.15 Handicapped Access

Access for handicapped persons to all uses shall be provided in accord with all applicable state and federal requirements.

701.16 Settling and/or Storage Ponds and Reservoirs

All ponds, reservoirs or other such structures which are associated with any manufacturing or industrial process, any sewage or waste disposal process, or agricultural manure management operation shall be fenced or shall otherwise be physically controlled to prevent access by the public. Said fence shall be not less than four (4) feet high and of a design to restrict access to the area to be controlled. Any such structure which contains any material which is poisonous, toxic or caustic, shall be considered a conditional use, and the Board of Supervisors shall, at a minimum, require that such structure be enclosed by a chain link fence not less than eight (8) feet high.

701.17 Security

In cases where deemed necessary by the Township (detention facilities and drug treatment centers, for example), the applicant shall provide a plan addressing security needs to protect the health and safety of the public as well as the occupants of the proposed facility. Such plan shall include a description of the specific services to be offered, types of patients and/or residents, to be served, and the staff to be employed for this purpose. The plan shall identify the forms of security normally required with care of the type to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide appropriate security. The plan shall, at a minimum, reasonably restrict unauthorized entry and/or exit to and from the property and provide for effective separation from adjoining residences by means of fencing, signs or a combination thereof. The plan shall also address measures to ensure that lighting and noise is controlled, particularly with respect to loudspeakers or other amplification devices and floodlights.

701.18 Water Supply

All uses shall be provided with an adequate and safe water supply, as demonstrated by evidence to be provided by the applicant, documenting that the siting, density, and design of all proposed residential, commercial, industrial and other developments or uses will assure the availability of reliable, safe and adequate water supplies to support the proposed land use(s) within the capacity of available water resources.

701.19 Sewage Disposal

Sewage disposal shall be provided by a system meeting the needs of the proposed use and the requirements of the Township and the Pennsylvania Department of Environmental Protection. Discharge to such system shall be limited to normal, domestic and human bodily wastes unless the treatment system has been specifically designed to handle other wastes or the wastes are pre-treated in accord with Pennsylvania Department of Environmental Protection or local sewer authority requirements. No discharge of wastes, by-products or materials in any way associated with a production process, health care or veterinary facility medical wastes, funeral home wastes, or other commercial wastes shall be permitted to any subsurface, land application or other soil based sewage disposal system.

Any sewage treatment plant facilities shall be a minimum of one hundred (100) feet from any public or private road right-of-way or property line.

701.20 Other Regulations

The Zoning Officer, Planning Commission, Board of Supervisors or the Zoning Hearing Board, as the case may be, may require documentation from the Applicant demonstrating that the project complies with all other applicable local, state and federal regulations, and said proposal has obtained all required permits, certifications and authorizations, including but not limited to the PA Department of Transportation, the PA Department of Environmental Protection, the PA Department of Labor and Industry, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency.

702 Reserved

703 Environmental Impact Statement

The intent of this §703 is to provide the identification of environmental and community impacts and means of mitigation of impacts of development projects in the Township. The Board of Supervisors, Planning Commission, or Zoning Hearing Board, as the case may be, may, based upon the nature of a project and potential impacts on the Township, require the developer to prepare and submit to the Township an environmental impact statement (EIS) for the following types of developments and uses:

1. Industrial parks
2. Light manufacturing or manufacturing or industrial uses
3. Junkyards
4. Natural resource uses
5. Natural resource uses processing
6. Agricultural products processing
7. Solid waste facilities and staging areas
8. Warehouses and trucking terminals
9. Any use involving the initial or cumulative disturbance of 87,120 or more square feet of soil surface areas
10. Any use involving the initial or cumulative construction, installation and/or placement of 43,560 square feet or more of buildings, structures or other impervious surface areas
11. Any use involving development in any flood plain area

The requirements of this §703 may be applied to any other proposed conditional use or special exception, which for reasons of location, design, existing traffic or other community or environmental considerations, as determined by the Township, warrants the application of the study required contained herein in order to determine what conditions should be required to mitigate any adverse effects of the proposed use. The Board of Supervisors, Planning Commission, or Zoning Hearing Board, as the case may be, may waive certain components of the EIS should such components be deemed unnecessary for certain uses.

703.1 Purpose of EIS

The purpose of this EIS is to disclose the environmental consequences of a proposed action for consideration by the Township for the determination of approval or denial of the project, and, if the project is approved, for the establishment of conditions of approval. This requirement is made in order to protect the natural environment with respect to water quality, water supply, soil erosion, pollution of all kinds, flooding and waste disposal and to preserve trees and vegetation, to protect water courses, air resources and aquifers.

703.2 Contents of EIS

An Environmental Impact Statement shall include a description of the proposed use including location relationship to other projects or proposals,, with adequate data and detail for the Township to assess the environmental impact.

The EIS shall also include a comprehensive description of the existing environment and the probable future effects of the proposal. The description shall focus on the elements of the environment most likely to be affected as well as potential regional effects and ecological interrelationships.

At a minimum, the EIS shall include an analysis of the items listed below regarding the impact of the proposed use and the mitigation of any such impacts; and said proposal shall comply with all other standards included in this Ordinance and other Township Ordinances:

A. Soil Types

1. U.S.D.A. Soil Types (show on map)
2. Permeability of soil on the site.
3. Rate of percolation of water through the soil for each five acres.

B. Surface Waters

1. Distance of site from nearest surface water and head waters of streams.
2. Sources of runoff water.
3. Rate of runoff from the site.
4. Destination of runoff water and method of controlling down stream effects.
5. Chemical additives to runoff water on the site.
6. Submission of an erosion and sediment control plan meeting the requirements of the PA DEP and the Lackawanna County Conservation District.
7. Said information shall be set forth in a storm water management plan meeting the requirements of the Township Subdivision Ordinance.

C. Ground Cover Including Vegetation and Animal Life

1. Extent of existing impervious ground cover on the site.
2. Extent of proposed impervious ground cover on the site.
3. Type and extent of existing vegetative cover on the site.
4. Extent of proposed vegetative cover on the site.
5. Type of animal life and effect on habitat.

D. Topographic and Geologic

1. Maximum existing elevation of site.
2. Minimum existing elevation of site.
3. Maximum proposed elevation of site.
4. Minimum proposed elevation of site.
5. Description of the topography of the site and any special topographic features, and any proposed changes in topography.
6. Surface and subsurface geology

E. Ground Water

1. Average depth to seasonal high water table.
2. Minimum depth to water table on site.
3. Maximum depth to water table on site.
4. Quality

F. Water Supply

1. The source and adequacy of water to be provided to the site.
2. The expected water requirements (g.p.d.) for the site.
3. The uses to which water will be put.

G. Sewage Disposal

1. Sewage disposal system (description and location on the site, of system).
2. Expected content of the sewage effluent (human waste, pesticides, detergents, oils, heavy metals, other chemical).
3. Expected daily volumes of sewage.
4. Affected sewage treatment plant's present capacity and authorized capacity.

H. Solid Waste

1. Estimated quantity of solid waste to be developed on the site during and after construction.
2. Method of disposal solid waste during and after construction.
3. Plans for recycling of solid waste during and after construction.

I. Air Quality

1. Expected changes in air quality due to activities at the site during and after construction.
2. Plans for control of emissions affecting air quality.

J. Noise

1. Noise levels, above existing levels, expected to be generated at the site, (source and magnitude), during and after construction.
2. Proposed method for control of additional noise on site during and after construction.

K. Land and Water Surface Use and Community Character

1. Past and present use of the site with particular attention to storage or disposal of toxic or hazardous waste.
2. Adjoining land uses and character of the area.
3. Type and concentration of existing water craft uses.

L. Critical Impact Areas - Any area, condition, or feature which is environmentally sensitive, or which if disturbed during construction would adversely affect the environment. Critical impact areas include, but are not limited to, stream corridors, streams, wetlands, slopes greater than 15%, highly acid or highly erodible soils, areas of high water table, and mature stands of native vegetation and aquifer recharge and discharge areas

M. Historic Resources - Identification of structures or sites of historic significance and probable effect of project.

N. Transportation Network - Existing network traffic volumes and capacities and need for improvements required by project.

O. Law Enforcement - Existing law enforcement capabilities of the Township and State; and assess the impact of the proposed development on said law enforcement agencies along with actions proposed to mitigate any burdens created by the development.

- P. Community Facilities and Services - Existing community facilities and services and how the proposed use will effect those facilities and services, including projected needs for additional facilities and services.
- P. Additional Requirements - In addition to the above requirements the Planning Commission and/or Township Board of Supervisors or the Zoning Hearing Board may require such other information as may be reasonably necessary for the Township to evaluate the proposed use for its effect on the community.

703.3 Additional Considerations

The following shall also be addressed:

- A. A description of alternatives to the proposed use.
- B. A statement of any adverse impacts which cannot be avoided.
- C. Environmental protection measures, procedures and schedules to minimize damage to critical impact areas during and after construction.
- D. A list of all licenses, permits and other approvals required by municipal, county or state law and the status of each.
- E. A listing of steps proposed to minimize environmental damage to the site and region during and after construction.

703.4 Qualifications

The EIS shall be prepared by a professional architect, landscape architect, planner, engineer or other qualified individual whose qualifications have been previously approved by the Board of Supervisors or the Zoning Hearing Board as the case may be..

703.5 Procedures for Evaluating the Environmental Impact Statement Shall be as Follows

- A. Upon receipt of the application the Township shall forward the EIS to the Township Engineer and any other Agency or firm which the Township may desire for consultation.
- B. The above mentioned Agencies shall review the applicant's EIS and shall report its comments to the Planning Commission and Board of Supervisors or Zoning Hearing Board.
- C. The Planning Commission and/or Board of Supervisors or Zoning Hearing Board may require the opinion of experts in their review of the EIS.
- D. Fees for the costs of such consultation as described in §§A and §§C above shall be paid by the applicant.
- E. Copies of the EIS shall be on file and available for inspection in the Township office.
- F. The Planning Commission shall evaluate the proposed project and the EIS and recommend action on same to the Board of Supervisors or Zoning Hearing Board.

704 Special Conservation Standards

All uses permitted by this Ordinance shall be subject to the following special conservation performance standards which shall apply to any lands that are characterized as steep slopes, wetlands or flood plains. The procedures and standards are as follows:

704.1 Steep Slope Areas

Steep slopes shall be defined as slopes in excess of twenty-five percent (25%) grade as determined by the Zoning Officer, from United States Geological Survey topographic maps or U.S.D.A. Soil Conservation Service maps. In cases where the slope cannot be specifically determined by said means, the Zoning Officer may require the applicant to provide certification from a Professional Engineer or Registered Land Surveyor of the slope in question. Slope shall be measured at the points where any earth will be disturbed or where structures or other improvements are proposed. Any use or development of such steep slope areas shall be considered a conditional use, and in reviewing applications for use of sites partially or wholly included within an area identified as steep-sloped, the Board of Supervisors and Planning Commission shall be satisfied that the following performance standards have been or will be met:

- A. An accurate map prepared by a Registered Surveyor in the Commonwealth of Pennsylvania has been submitted showing property boundaries, building and drive locations, contours at two (2) foot intervals and any areas to be graded. The proposed location of other factors shall also be shown including streams, wetlands, areas subject to landslides and extent of vegetative cover.
- B. A grading and drainage plan has been prepared showing existing and proposed ground surfaces, plans for drainage devices, plans for walls or cribbing, etc., map of the drainage area affected, computation of the amount of runoff expected, an erosion control plan and schedule for completion of work.
- C. Impervious surfaces are kept to a minimum.
- D. No finished grade where fill is used shall exceed a fifty (50) percent slope.
- E. Where fill is used to later support structures, a minimum compaction of ninety (90) percent of maximum density shall be achieved.
- F. No more than seven thousand (7,000) square feet of area may be totally cleared for building purposes including house, garage, accessory structures, driveway or other impervious areas.
- G. At least fifty (50) percent of the area to be used for any building or construction purposes shall be less than fifteen (15) percent slope.
- H. Soils characterized by the Soil Conservation Service as highly susceptible to erosion shall be avoided.
- I. Roads and utilities shall be installed along existing contours to the greatest extent possible.
- J. Any steep slope areas also characterized by seasonal high water tables shall be avoided.
- K. Natural vegetation shall be preserved to as great a degree as possible.
- L. In cases where structures are proposed, the applicant shall submit plans to the Zoning Officer detailing how the limitations of slope will be mitigated by the design of the structure(s).

704.2 Wetlands; Buffer for Water Bodies

If the Township determines that wetlands may be present or may be impacted by the proposed development, the Township may require wetlands, as defined and regulated by the Pennsylvania Department of Environmental Protection, the U.S. Army Corps of Engineers and the U.S. Fish and Wildlife Service, to be delineated on any application proposing a new use or expanded use of land. The applicant shall be responsible for said delineation and shall warrant that said wetlands have been properly delineated. If no wetlands are present, the applicant shall provide a certified statement to that effect. No development shall be undertaken by the applicant except in accord with all State and Federal wetland regulations; and the applicant shall provide to the Township evidence of such compliance.

No zoning approval granted by the Township shall in any manner be construed to be an approval of compliance by the applicant with any State or Federal wetland regulations; and the Township shall have no liability or responsibility to the applicant or any other person for compliance with said regulations.

For the purposes of protecting water quality and ensuring recreational access to water bodies, a buffer zone/building setback of not less than fifty (50) feet shall be maintained from any body of water or stream. No buildings, structures (except uncovered docks), sewage disposal systems or other impervious surfaces (except approved boat launches and street and driveway crossings) shall be constructed or placed within these buffer zones. In residential subdivisions this strip shall be protected via a protective easement.

704.3 Floodplain

In addition to all the applicable standards of this Zoning Ordinance, the regulations contained in this section shall apply in the Floodplain Overlay District.

- A. Enclosed structures shall not be permitted. This shall not preclude piers, docks, floats or unenclosed shelters, pavilions and accessory structures usually found in developed outdoor recreation areas and which do not impede, constrict or otherwise restrict flood flows.
- B. Any activity undertaken in the floodplain shall require all applicable approvals and permits from the Pennsylvania Department of Environmental Protection (PA DEP).
- C. Special Exception Uses - The following uses are permitted as special exceptions:
 - 1. Outlet installations for sewage treatment plants or sewage pumping stations, with the approval of PA DEP, the Township Engineer and appropriate sewer authority.
 - 2. Sealed public water supply wells with the approval of PA DEP and the Township Engineer.
 - 3. Dams, culverts and bridges with the approval of PA DEP.
 - 4. Sanitary or storm sewers, or impoundment basins with the approval of PA DEP and the Township Engineer.
 - 5. Grading or regrading of lands, but not including the deposit of fills and the grading thereof, and the construction of retaining walls. The special exception application shall be accompanied by:
 - a. Detailed engineering studies documenting the effects of drainage and streams on all adjacent properties as well as the property in question.
 - b. An application for amending the boundaries of the floodplain district.
 - c. Written approval of PA DEP.
- D. Approval for Special Exception Uses - The Planning Commission and Zoning Hearing Board shall exercise discretion by permitting only those uses listed in §§C above which are substantially in accord with the intent of this §704.3. In considering a special exception use, the Commission and Board shall consider the following:
 - 1. The effect of the use shall not substantially alter the cross-sectional profile of the streams and floodplain at the location of the proposed use.
 - 2. Adjacent stream neighbors shall not be unreasonably affected by the use.

3. The general welfare or public interest, either of Township residents or of residents of other municipalities in the watershed, shall not be adversely affected.

704.4 Bedrock Disturbance

See §701.12 and §705.5.

705 Earth - Bedrock Disturbance

705.1 Intent

The intent of this §705 is to regulate earth disturbance, minimize storm water runoff and protect soil resources and water quality. This §705 shall not apply to agricultural uses or forestry enterprises with an approved soil erosion and sedimentation control plan meeting the requirements of the County Conservation District and PA DEP.

705.2 Permit

Any activity, except in cases where zoning or subdivision and land development approval has been otherwise granted, which will result in the earth disturbance of more than 5,000 square feet of land area shall require a zoning permit.

705.3 Plan

The Applicant shall include with the application for a zoning permit a plan setting forth the details of the earth disturbance and including any additional information deemed necessary by the Township to determine compliance.

705.4 Soil Erosion and Sedimentation and Storm Water Control

Any earth disturbance shall comply with §701.13 of this Ordinance and no earth disturbance or clear cutting shall be permitted within twenty-five (25) feet of any water body or stream.

705.5 Bedrock Disturbance - Aquifer Protection

In cases where any earth disturbance will result in the excavation of bedrock, the Township may require the applicant to submit a report from a qualified engineer or geologist detailing the geologic structure of the area proposed to be disturbed and identifying the probable impacts on groundwater supply and quality and how such impacts will be mitigated. (See §701.12.)

705.6 Revegetation/Reforestation

The plan shall include provisions for the revegetation, stabilization, and/or reforestation of any disturbed areas.

706 Property Line Buffer Areas

It is the intent of this section to preserve the rural character of the Township by requiring the conservation of trees and other vegetation, especially during the land development process, and by requiring property line buffers. This effort will also minimize the detrimental effects of soil erosion and sedimentation and storm water run-off. The Township's agricultural and other open land are vital to the rural character of the Township, which is the keystone of the local economy, and the preservation of that character will protect and promote the public welfare. This section is not intended to prescribe specific cutting practices; or to prevent or hinder any landowner from realizing financial return from the sale of trees; or to prevent or hinder commercial tree harvesters from operating in the Township. (Note: This §706 shall not apply to agricultural uses and lands owned by the Commonwealth of Pennsylvania or the Pennsylvania Game Commission.)

706.1 Natural Vegetation

In order to minimize soil erosion and storm water run-off, and to preserve the rural character of the Township, natural vegetation shall be maintained to the greatest extent possible.

- A. Clearing of vegetation shall be limited to those areas of the site needed for proposed and required

improvements.

- B. Any part of a site where existing vegetation has been disturbed and which is not used for buildings, structures, loading or parking spaces and aisles, sidewalks, designated storage areas or other improvements, shall be provided with an all-season ground cover and shall be landscaped.
- C. In the case conditional uses and special exceptions, additional landscaping, screening and/or buffers may be required by the Township where the same are determined by the Township as necessary to protect adjoining uses.

706.2. Buffer Areas

In addition to the requirements of §706.1, the following requirements shall apply to all parcels in C and IND Districts:

- A. A buffer of not less than seventy-five (75) feet in width shall be maintained along all property lines and any road right-of-way. Existing vegetation in this buffer area shall not be disturbed except that trees may be harvested to the extent that the basal area of trees in the seventy-five foot buffer area shall not be reduced below fifty (50) percent of the basal area present before cutting or below sixty-five (65) square feet per acre, whichever is higher. Basal area is the area in square feet per acre occupied by tree stems at four and one-half (4.5) feet above the ground, normally measured by a calibrated prism or angle gauge. This buffer shall be maintained until such time as a development plan is approved for the parcel in accord with this Zoning Ordinance.
- B. Clearing of vegetation and landscaping for a development project shall be in accord with an overall plan to be submitted with the zoning and land development plan application. Such clearing shall not be initiated until the application is approved by the Township. For the purposes of installation, landscaping shall be considered an improvement in accord with the Township Subdivision and Land Development Ordinance. The clearing and landscaping plan shall show the type and extent of existing vegetation, the area proposed for clearing and proposed landscaping.

ARTICLE VIII STANDARDS FOR SPECIFIC USES

801 Adult Businesses

801.1 Findings

In adopting these standards which apply to adult businesses, the Township Board of Supervisors has made the following findings in regard to the secondary effects on the health, safety and welfare of the citizens of The Township. The findings are based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Board of Supervisors, and on findings incorporated in the cases of City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Young v. American Mini Theaters, 427 U.S. 50 (1976), and Northend Cinema, Inc., v. Seattle, 585 P. 2d 1153 (Wash. 1978), and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Saint Paul, Minnesota; Manatee County, Florida; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; Austin Texas; Seattle, Washington; Oklahoma City, Oklahoma; Beaumont, Texas; and New York City, New York; and also on findings found in the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses*, June 6, 1989, State of Minnesota.

- A. The concern over sexually transmitted diseases is a legitimate health concern of The Township which demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of the citizens.
- B. Certain employees of sexually oriented business regulated by this Ordinance as adult theaters and cabarets engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.
- C. Sexual acts, including masturbation, oral and anal sex, occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as regulated by this Ordinance as adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades.
- D. Offering and providing such space, encourages such activities, which create unhealthy conditions.
- E. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.
- F. At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, non B amebiasis, salmonella infections and shigella infections; and, the incidence of many of these diseases is on the increase.
- G. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- H. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.
- I. Classifying adult businesses as conditional uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

- J. There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
- K. It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
- L. The Township desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime; preserve the quality of life, preserve property values and the character of the surrounding community.

801.2 Intent

It is the intent of this §801 to:

- A. Regulate adult business in order to promote the public health, safety and welfare by minimizing the secondary effects on the community which are associated with such businesses, and which include difficulties for law enforcement, trash disposal, deleterious effects on business and residential property values, increased crime (particularly the corruption of morals of minors and prostitution), and drive residents and businesses to move elsewhere.
- B. Designate a zoning district where adult businesses are permitted, and establish reasonable, content neutral standards applicable to such uses.
- C. Have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented or adult materials.
- D. Not totally restrict or deny access by adults to sexually oriented materials or adult materials protected by the First Amendment of the Bill of Rights of the U.S. Constitution.
- E. Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.
- F. Not condone or legitimize the distribution of obscene material, or to encourage any violation of the PA Crime Code or PA Obscenity Code.

801.3 Conditional Use in the I District

Adult businesses are classified as conditional uses in certain districts, which provides a suitable area for the development of such uses away from areas designated for residential development.

801.4 Standards

In addition to the other applicable general standards and the conditional use criteria contained in this Ordinance, the following standards shall apply to adult businesses:

- A. Setback - Adult businesses shall not be located less than:
 - 1. One hundred and fifty (150) feet from any public road right-of-way (or any property line coterminous with or within a public road right-of-way) unless the standards in §§3 and§§ 4 of this §801.4,A require larger setbacks;
 - 2. One hundred and fifty (150) feet from any property line (not coterminous with or within a public road right-

of-way; see §801.4,A,1) unless the standards in §§3 and§§ 4 of this §801.4,A require larger setbacks;

3. Five hundred and fifty (500) feet from any:
 - a. residence
 - b. group care facility
 - c. commercial enterprises catering primarily to persons under eighteen (18) years of age
 - d. public or semi-public building or use
 - e. public park or public recreation facility
 - f. health facility
 - g. any establishment that sells alcoholic beverages; and,
 4. One thousand (1,000) feet from any:
 - a. church or synagogue
 - b. public or private school
- B. Similar Businesses - Adult businesses shall not be located within two hundred and fifty (50) lineal feet of any existing adult business.
- C. Measurement - The setback distances established in this §801 shall be as measured from the nearest edge of the building used for the subject use, measured in a straight line (without regard to intervening structures or objects) to the nearest lot line of the premises of a use from which the required setback applies.
- D. Enlargement - An existing, lawful adult business may be expanded as a conditional use once in total floor area beyond the floor area that lawfully existed in such use at the time of adoption of this provision of the Zoning Ordinance, but only in accord with Article IX of this Ordinance.
- E. Limit of One (1) Use - It shall be a violation of this Ordinance for any person to cause or permit: the operation, establishment, or maintenance of more than one (1) adult business in the same building, structure or portion thereof, or an increase of floor area of any adult business in any building, structure, or portion thereof that contains another adult business.
- F. Nonconformity - Any adult business lawfully operating on the date of enactment of this Ordinance that is in violation of any of the provisions of this §801 shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, altered or extended, except: as permitted in Subsection "E" above. The use may be changed to a conforming use. However, under no circumstances shall a non-conforming use as defined and regulated by this Ordinance be changed to any type of adult business.
- G. Location of New Neighboring Uses -An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if, subsequent to the grant of a conditional use permit, a use from which an adult business is required to provide a setback under Subsection "A" above is developed within the required setback distance. Any additions or expansions of the use shall comply with Subsection "A" above.
- H. Alcohol - No adult business shall be operated in combination with the sale and/or consumption of alcoholic beverages on the premises.
- I. Visibility and Signs: - No sexually explicit material, signs, display, silhouette or word shall be visible at any time from outside of the building. Exterior signs shall comply with the provisions of §505 of this Ordinance; however, business identification signs shall be limited to a maximum of twenty (20) square feet and signs attached to the building facade shall be limited to a maximum total of ten (10) square feet. Content of such signs shall be limited to only the text of the name of the business and the hours of operation.
- J. Exemption for Modeling Class: It is a defense to prosecution under this §801 that a person appearing in a state

of nudity did so in a modeling class operated:

1. By a proprietary school, licensed by the State, or an academically accredited college or university;
2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation;
3. In a structure -
 - a. which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - b. where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
 - c. where no more than one (1) nude model is on the premises at any one time; or
4. By an organization which qualifies under §501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

802 Reserved

803 Agricultural Uses -- Crop Production and Livestock Operations

In addition to the other applicable standards of this Zoning Ordinance, agricultural uses shall be subject to the following requirements:

803.1 Crop Production

Crop production shall be permitted in any district on any size of parcel of land.

803.2 Livestock Operations

Livestock operations shall be permitted only in those districts as designated on the schedule of uses.

803.3 State Protected Agricultural Operations

Nothing in this Zoning Ordinance is intended to preclude the rights and protections of bona fide agricultural operations afforded by the Pennsylvania Right To Farm Law, as amended; the Pennsylvania Agricultural Securities Area Law, as amended; and other applicable state statutes. Such rights and protections, in terms of limiting the application of the standards in this Zoning Law, shall be afforded to such uses of land which meet the minimum definition of agricultural use as established by the applicable state statute.

803.4 Manure Odors

Because the Township is a rural/agricultural area with many farms, the spreading of manure shall not be considered an offensive odor and shall be exempt from §701.10.

803.5 Setbacks

Any barn, building, feed lot, or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or manure storage shall be a minimum of one hundred (100) feet from any property line or road right-of-way and three hundred (300) feet from any existing principal residential or commercial building not located on the premises where the animals are kept. These setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback.

804 Reserved

805 Animals, Keeping of

805.1 Kennels

Kennels are considered conditional uses in the RA District and shall be subject to §1108 of this Ordinance and the following conditions:

- A. Parcel Size - A minimum parcel of ten (10) acres shall be required.
- B. Setbacks - Any structure used for the keeping of dogs shall meet the setbacks on Table 805.
- C. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance with one space for each non-resident employee and one (1) space per four (4) dogs kept on the premises.
- D. Noise Barrier - A noise barrier consisting of a solid fence not less than six (6) feet in height or a dense vegetative planting of not less than six (6) feet in height shall be provided at a distance not to exceed fifteen (15) feet and fully encircling all kennel areas not enclosed in a building.
- E. Hours Outdoors - All animals shall be restricted from using kennel areas not fully enclosed in a building from 8:00 P.M. to 8:00 A.M.
- F. Nuisances - All animal wastes shall be stored in an area meeting the setbacks in §§B of this §805.1 and shall be disposed of properly. The kennel shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property.

TABLE 805 LOT SIZE AND SETBACKS FOR KENNELS AND STABLES					
Type of Use	Minimum Lot Size (acres)	Land Requirements for Horses*	Property Line Setback (ft)	Road** Setback (ft)	Existing Building*** Setback (ft)
Private Stables SR and C	10	1 acres of fenced area per horse	100	100	300
Private Stables RA and RR	5		100	100	300
Boarding or Commercial Stables RA only	25		100	100	300
Kennel RA only	10	not applicable	125	125	300
*In addition to the minimum lot size required for the principal use. **Applies to any public or private road right-of-way. ***Applies to any existing principal residential or commercial building not located on the premises where the animals are kept.					

805.2 Stables, Private

Private stables are permitted as an accessory use to a single-family residence in accord with the Schedule of Uses and the following conditions:

- A. Parcel Size - See Table 805.
- B. Number of Horses - The number of horses permitted shall not exceed one (1) horse per every one (1) acre of land fenced and available to the horse(s). The minimum lot size required for the principal use shall not be counted as any area available for horses
- C. Building Size - The building used to house the horses shall not be less than two hundred (200) square feet in size for one (1) horse, with an additional two hundred (200) square feet for each additional horse.

- D. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by adequate fences or other means.
- E. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance.
- F. Setbacks - Any stable building or corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or manure storage shall meet the setbacks on Table 805. These setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback.
- G. Existing Structures - On parcels meeting the minimum parcel size requirement, the use of an existing structure for housing of horses, which structure does not meet the required setbacks on Table 805-1, may be permitted as a conditional use provided the applicant can document that no nuisances will be created due to noise, odor or other factors; and, the Township can establish adequate conditions to assure the same.
- H. Trails - Riding trails shall be separated from adjoining properties and any public road by a vegetative buffer of not less than fifteen (15) feet in width.
- I. Nuisances; Manure Management - The operation of the stable shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property, and the applicant shall provide a plan for manure management.
- J. Uses Permitted - The following types of uses shall be permitted as part of the operation:
1. Breeding, raising, keeping and sale of horses, and necessary buildings and structures.
 2. Training of horses, and necessary buildings and structures, including facilities for training only, which are set back a minimum of one hundred and fifty (150) feet from all neighboring and adjoining property lines and any public or private road right-of-way.
- K. Uses Prohibited - The following types of uses shall not be permitted as part of the horse farm operation:
1. The hire of horses for riding or other use by persons other than the owners of the horses or the owners' guests.
 2. Boarding of horses
 3. Commercial horse racing.
 4. Sale of horses other than the horses raised on the premises.
 5. Retail or wholesale sales of any goods or merchandise except as may otherwise be permitted in accord with this Zoning Ordinance.

805.3 Stables, Boarding, Commercial and Horses for Hire

Commercial stables, including horses for hire, shall, in addition to all other applicable requirements of this Ordinance, comply with the following requirements:

- A. Parcel Size - A minimum parcel of twenty-five (25) acres shall be required and a single-family residence for the owner or manager shall be permitted on the premises provided all other Sections of this Ordinance and other applicable standards are met.
- B. Number of Horses - No more than ten (10) horses are kept with the exception that one (1) additional horse may be kept for each additional one (1) acre of land in excess of the minimum acreage required in §805.3,A.

- C. Building Size - The building used to house the horses shall not be less than two hundred (200) square feet in size for one (1) horse, with an additional two hundred (200) square feet for each additional horse.
- D. Fences - All horses shall be restricted from grazing or intruding on an adjoining property by fences or other means.
- E. Parking - Adequate off-street parking shall be provided pursuant to this Ordinance with one space provided for each non-resident employee and one (1) space per two (2) horses kept on the premises
- F. Setbacks - Any stable building or corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or manure storage shall meet the setbacks on Table 805. These setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback
- G. Trails - Riding trails shall be separated from adjoining properties and any public road by a vegetative buffer of not less than fifteen (15) feet in width.
- H. Nuisances; Manure Management - The operation of the stable shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property, and the applicant shall provide a plan for manure management.
- I. Uses Permitted - The following types of uses shall be permitted as part of the horse farm operation:
1. Breeding, raising, keeping and sale of horses, and necessary buildings and structures.
 2. Training of horses, and necessary buildings and structures, including facilities for training only, which are set back a minimum of one hundred and fifty (150) feet from all neighboring and adjoining property lines and any public or private road right-of-way.
 3. Boarding of horses, and necessary buildings and structures.
 4. The hire of horses for riding or other use by persons other than the owners of the horses or the owners' guests.
 5. Sale of horses other than the horses raised or boarded on the premises.
- J. Uses Prohibited - The following types of uses shall not be permitted as part of the horse farm operation:
1. Commercial horse racing. (See definition of “private recreation facilities”.)
 2. Retail or wholesale sales of any goods or merchandise except as may otherwise be permitted in accord with this Zoning Ordinance.

806 - 807 Reserved

808 Bulk Fuel Storage Facilities

In addition to all other applicable standards, bulk fuel storage facilities shall be subject to the specific regulations and requirements in this section and shall be permitted only in those districts as specified in the Schedule of Uses. The Township shall establish, as part of the conditional use process, such other conditions such as increased setbacks and construction of dikes as necessary to protect the public health safety and welfare.

808.1 Parcel Size

Bulk fuel storage facilities shall be located on a tract of land not less than three (3) acres in area.

808.2 Setbacks

Storage tanks shall be located not less than one hundred and fifty (150) feet from any property line or any road or street right-of-way line. Cylinder filling rooms, pumps, compressors and truck filling stations shall be located not less than two hundred (200) feet from any property line and not less than one hundred fifty (150) feet from any road or street right-of-way line.

808.3 Fence

The total tank storage area shall be entirely fenced with an eight (8) foot high industrial type security fence or have an equivalent protection barrier approved by the Township.

808.4 Other Regulations

Bulk fuel storage facilities shall be developed in complete compliance with all applicable Local, state, federal and insurance regulations and requirements.

809 Commercial Communication Devices

The following regulations shall apply to commercial communication devices (CCD) including but not limited to, cellular phone antennae, antennae for communication service regulated by the PA Public Utility Commission, and other commercial antennae and associated facilities. Such CCD and support structure and associated facilities shall be permitted only in the districts as provided in this Section 809 and the Schedule of Uses.

809.1 Purposes

- A. To accommodate the need for communication devices while regulating their location and number in the Township in recognition of the need to protect the public health, safety and welfare.
- B. To minimize the adverse visual effects of communication devices and support structures through proper design, siting and vegetative screening.
- C. To avoid potential damage to adjacent properties from communication device support structure failure and falling ice, through engineering and proper siting of support structures.
- D. To encourage the joint use of any commercial communication device support structures and to reduce the number of such structures needed in the future.

809.2 Permits; Use Regulations

A permit shall be required for every CCD and support structure installed at any location and the following use regulations shall apply:

- A. Existing Tall Structures - A CCD site with a CCD that is attached to an existing communications tower, smoke stack, water tower, or other tall structure where the height of the CCD does not exceed the height of the existing structure by more than fifteen (15) feet shall be permitted in all districts as an accessory use and conditional use approval shall not be required. Any subsequent installations above the initial fifteen-foot height increase shall be a conditional use. The applicant shall provide the following information:
 - 1. Evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the Building or other Structure, considering wind and other loads associated with the antenna location.
 - 2. Detailed construction and elevation drawings indicating how the antennas will be mounted on the Structure for review by the Township for compliance with the applicable requirements.
 - 3. Evidence of recorded agreements and/or easements necessary to provide access to the building or structure

on which the antennas are to be mounted so that installation and maintenance of the CCD and associated equipment can be accomplished.

- B. New Structures and CCD Exceeding Fifteen Feet on Existing Structures – IND Only - A CCD site with a CCD that is either not mounted on an existing structure, or is more than fifteen (15) feet higher than the structure on which it is mounted shall be permitted only in RA and I Districts and shall require conditional use approval in accord with this Section 809.
- C. Associated Use - All other uses ancillary to the CCD (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the CCD site, unless otherwise permitted in the zoning district in which the CCD site is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the CCD.
- D. CCD as a Second Principal Use - A CCD shall be permitted on a property with an existing use subject to the following land development standards:
 - 1. The CCD facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
 - 2. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the CCD and support structure shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
 - 3. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
 - 4. The applicant shall present documentation that the owner of the property has granted an easement filed of record or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

809.3 Standards

- A. Location Requirement and Number - The applicant shall demonstrate to the satisfaction of the Township, using technological evidence, that the CCD and support structure must go where it is proposed, in order to satisfy its function in the company's grid system. The number of CCD to be installed at a site by an applicant may not exceed the current minimum necessary to ensure the adequacy of current service required by the Federal Communications Commission (FCC) license held by that applicant. The applicant shall provide information on the general location of other towers/sites planned for the region.
- B. Collocation; New Tower - If the applicant proposes to build a tower (as opposed to mounting the CCD on an existing structure), the Township may require the applicant to demonstrate that it contacted in writing the owners of tall structures within a five-mile radius of the site proposed, asked for permission to install the CCD on those structures, and was denied. This would include smoke stacks, water towers, tall buildings, CCD support structures of other cellular phone companies, other communications towers (fire, police, etc.) and other tall structures. The Township may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the CCD on an existing structure thereby documenting that there exists no other support structure which can reasonably serve the needs of the owner of the proposed CCD. A good faith effort shall demonstrate that one (1) or more of the following reasons apply to a particular structure:
 - 1. The proposed equipment would exceed the structural capacity of the existing structure and its reinforcement cannot be accomplished at a reasonable cost.

2. The proposed equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented at a reasonable cost.
 3. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
 4. Addition of the proposed equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the federal communications commission governing human exposure to electromagnetic radiation.
 5. A commercially reasonable agreement could not be reached with the owners of such structures.
- C. CCD Height - The applicant shall demonstrate that the CCD is at the minimum height required to function satisfactorily and allow for collocation. The Township may require the tower to be designed and constructed to be *stackable* (structurally capable of being increased in height) so that additional antennae arrays can be accommodated in addition to the arrays on the original tower to facilitate future collocation.
- D. Setbacks - If a new CCD support structure is constructed (as opposed to mounting the CCD on an existing structure) or if the CCD height exceeds the height of the existing structure on which it is mounted by more than fifteen (15) feet, the minimum setbacks in this §§D shall apply.
1. Separate Parcel - If the parcel on which the CCD and support structure is a separate and distinct parcel, the distance between the base of the support structure and any adjoining property line shall not be less than the height of the CCD structure. The setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of thirty (30) feet.
 2. Lease, License or Easement - If the land on which the CCD and support structure is leased, or is used by license or easement, the setback for any part of the CCD, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement. In any case, the distance between the base of the support structure and any adjoining property line (not lease, license or easement line) shall not be less than the height of the CCD structure.
- E. CCD Support Structure Safety - The applicant shall demonstrate that the proposed CCD and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed CCD and support structure will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of any applicable building code. Within forty-five (45) days of initial operation, the owner and/or operator of the CCD and support structure shall provide a certification from a Pennsylvania registered professional engineer that the CCD and support structure comply with all applicable regulations.
- F. Fencing - A fence shall be required around the CCD support structure and other equipment, unless the CCD is mounted on an existing structure. The fence shall be a minimum of eight (8) feet in height.
- G. Landscaping - Landscaping may be required to screen as much of the support structure as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the CCD and support structure site from neighboring properties. The Township may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping. If the CCD is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required. In

addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.

- H. Collocation; Other Uses - In order to reduce the number of CCD support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including but not limited to other cellular phone companies, and local fire, police, and ambulance companies. The applicant shall provide evidence of written contact with all wireless service providers who supply service within the Township for the purpose of assessing the feasibility of co-located facilities. The proposed structure, if evidenced by need as determined by the Township, shall be constructed to provide available capacity for other providers should there be a future additional need for such facilities.
- I. Licenses; Other Regulations; Insurance - The applicant must demonstrate that it has obtained the required licenses from the Federal Communications Commission, the PA Public Utility Commission and other agencies. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the CCD; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the CCD and support structure.
- J. Access - Access to the CCD and support structure shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length.
- K. Color and Lighting; FCC and PA DOT Notice - CCD support structures under two hundred (200) feet in height should be painted silver or have a galvanized finish retained, in order to reduce the visual impact. Support structures may be painted green up to the height of nearby trees. Support structures two hundred (200) feet in height or taller, those near airports, or those which are otherwise subject to Federal Aviation Administration (FAA) regulations shall comply with the said regulations. No CCD support structure may be artificially lighted except in accord with Federal Aviation Administration requirements. The applicant shall provide a copy of the response to *Notice of Proposed Construction or Alteration* forms submitted to the FAA and PA DOT Bureau of Aviation, and the CCD and support structure shall comply with all FAA and PA DOT requirements.
- L. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished.
- M. Historic Structures - A CCD shall not be located on a building or structure that is listed on a historic register or within five-hundred (500) feet of such a structure.
- N. Discontinued Use - Should any CCD or support structure cease to be used as a communications facility, the owner or operator or then owner of the land on which the CCD and support structure is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Township to remove the facility and assess the cost of removal to the foregoing parties. The Township may also require a financial guarantee from the applicant for the removal of the structure, such guarantee in an amount deemed adequate by the Township and in a form approved by the Township Solicitor.
- O. Site Plan - A full site plan shall be required for all CCD and support structure sites, showing the CCD, CCD support structure, building, fencing, buffering, access, and all other items required in the Township Subdivision and Land Development Ordinance. The site plan shall not be required if the CCD is to be mounted on an existing structure and the CCD does not exceed the height of the existing structure by more than fifteen (15) feet.
- P. Review Fees - The Applicant shall pay all professional costs incurred by the Township for review of structural, radio frequency and other technical aspects of the proposal, and shall deposit with the Township an amount deemed adequate by the Board of Supervisors to cover the anticipated costs. Should the review costs exceed the

deposit, an additional assessment shall be made. If the deposit exceeds the cost, the balance shall be returned to the Applicant. No approval shall become effective until all costs have been paid by the Applicant.

810 Concentrated Animal Feeding Operations

This section is intended to provide standards for industrial-like agricultural operations with animal densities which are likely to create effects on the environment and community which exceed those effects normally associated with typical farming. It is not intended to supercede the Pennsylvania Nutrient Management Act in terms of regulation of the storage, handling or land application of animal manure or nutrients or the construction, location or operation of facilities used for the storage of animal manure or nutrients or practices otherwise regulated by the Act. The definitions and calculations in this section are intended to be consistent with the Nutrient Management Act, and all information and studies required by this section shall, at a minimum include the information required by the Act.

810.1 Use Classification - Concentrated animal feeding operations shall be considered conditional uses.

810.2 Definition and Calculations

A. Concentrated Animal Feeding Operation (CAFO) - Any operation which involves the raising of livestock or poultry where the animal density exceeds, on an annualized basis, two (2) animal equivalent units per acre of crop land or land suitable for application of animal manure. Acres suitable for application of manure include owned or rented crop land, hay land or pasture land that (1) is an integral part of the operation and (2) is or will be used for the application of manure from the operation. Farmstead (a minimum deduction of 2 acres is required) and forest land do not qualify.

Animal Equivalent Unit (AEU) - One thousand (1,000) pounds live weight of livestock or poultry, regardless of the actual number of animals. To determine the number of AEU's associated with an operation the following formula shall be used:

$$\# \text{ of AEU's} = \frac{(\# \text{ of animals}) (\text{animal weight in pounds}) (\# \text{ of production days per year})}{(365 \text{ days per year}) (1,000 \text{ pounds})}$$

*NOTE: average number on a typical production day

810.3 Standards

The following standards shall be applied to all CAFO's and no conditional use approval shall be granted until all required information and plans have been submitted by the applicant and have been approved by the Township. Failure of the applicant to implement any of the required plans shall constitute a zoning violation subject to the penalties and remedies contained in this Zoning Ordinance.

- A. The minimum parcel size (contiguous owned or rented acres) for a CAFO shall be twenty-five (25) acres for a CAFO involving poultry and one hundred (100) acres for any other CAFO.
- B. CAFO buildings used for housing of animals shall not be less than two hundred fifty (250) feet from any property line and not less than five hundred (500) feet from any existing dwelling not located on the land with the CAFO.
- C. A nutrient management plan shall be prepared in accord with the requirements of Title 25, Chapter 83, Subchapter D, Pennsylvania Code.
- D. A stormwater management plan shall be prepared meeting the requirements of the Township subdivision and land development ordinance.
- E. A conservation plan shall be prepared meeting the requirements of the County Conservation District.
- F. A buffer plan shall be prepared in accord with §701.1 to minimize CAFO visibility from adjoining properties and minimize sound and odor emanating from the property.

- G. Solid and liquid wastes shall be disposed of in a manner to avoid creating insect or rodent problems, and an insect/rodent abatement plan which shall be prepared.
- H. The applicant shall demonstrate that they will meet the operational and management standards as may be set forth in treatises recognized by agricultural authorities or as the same may be produced by the Pennsylvania Department of Agriculture, Department of Environmental Protection, Pennsylvania State University, College of Agricultural Sciences, or similar entity.
- I. No discharges of liquid wastes and/or sewage shall be permitted into a reservoir, sewage or storm sewer disposal system, holding pond, stream or open body of water, or into the ground unless the discharges are in compliance with the standards of local, state and/or federal regulatory agencies
- J. The applicant shall prepare an odor abatement plan and document the ability to comply with the plan. It is recognized that certain agricultural activities do produce odors, but the applicant shall show that odors can be reduced to a minimum or abated. The plan shall include such steps as may be necessary to abate odors or to allow odors at times to minimize interference with the public health, safety and welfare.
- K. The applicant shall dispose of solid and liquid waste daily in the manner that will avoid creating insect or rodent problems and minimize odor.
- L. The applicant shall document that the use of pesticides will meet state and federal requirements.
- M. No CAFO buildings shall be erected in the one hundred-year flood plain.

811 - 812 Reserved

813 Detention Facilities

In addition to all other applicable standards, detention facilities shall be in strict conformity with the following specific requirements and regulations and shall be permitted only in those districts as specified in the Schedule of Uses.

813.1 Parcel Size

In order to provide an adequate buffer area for adjoining private property owners the site shall contain a minimum of fifty (50) acres.

813.2 Site Design Standards

The site shall be improved in accordance with the following minimum requirements:

- A. The building and all secure areas shall not be less than two hundred (200) feet from any property line and the right-of-way line of any abutting public road, and five hundred (500) feet from any:
 - 1. residence
 - 2. group care facility
 - 3. commercial enterprises catering primarily to persons under eighteen (18) years of age
 - 4. public or semi-public building or
 - 5. public park or public recreation facility
 - 6. health facility
 - 7. church or synagogue
 - 8. public or private school
- B. A perimeter security fence, of a height and type determined by the Township, may be required.

813.3 Security

All applications for institutions shall include a plan addressing security needs to protect the health and safety of the public as well as residents of the proposed facility. Such plan shall include a description of the specific services to be offered, types of residents, to be served, and the staff to be employed for this purpose. The plan shall identify the forms of security normally required with care of the type to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide appropriate security. The plan shall, at a minimum, reasonably restrict unauthorized entry and/or exit to and from the property and provide for effective separation from adjoining residences by means of fencing, signs or a combination thereof. The plan shall also address measures to ensure that lighting and noise is controlled, particularly with respect to loudspeakers or other amplification devices and floodlights.

813.4 Accessory Uses and Ancillary Activities

Accessory uses permitted in conjunction with an institution shall include laboratories, offices, snack bars, educational facilities and programs, vocational training facilities and programs, recreational and sports facilities and other accessory uses ordinarily provided in conjunction with such institutions.

814 Reserved**815 Forestry Enterprises****815.1 Soil Erosion and Sedimentation and Storm Water Control**

Any earth disturbance shall comply with §701.13 of this Ordinance and a soil erosion and sedimentation control plan shall be required. No earth disturbance or clear cutting shall be permitted within twenty-five (25) feet of any water body or stream except for approved stream crossings.

815.2 Township Road Bond

The Township may require a bond, letter of credit or other financial guarantee to assure that any damage to Township roads caused by logging or any other forestry enterprise is repaired at the cost of the person causing such damage. The amount of the Bond shall be based on the extent of the operation, the Township roads used by the operation and the recommendation of the Township Engineer, and the term and form of the bond shall be approved by the Township Solicitor.

816 - 819 Reserved**820 Junk Yards**

Junk yards shall be permitted only in those districts as specified in the Schedule of Uses and, in addition to the standards in Article VII, §1108 and other applicable regulations, shall comply with the following requirements:

820.1 State Regulations

All junkyards shall comply with all state rules and regulations and all state-required permit and reporting information shall be made available to the Township upon request.

820.2 Property Owner Responsibility

It shall be the ultimate responsibility of the property owner of the premises upon which any junk is situated and the owner of any such junk to comply with this Ordinance; and to provide for the removal of such junk and remediation of any environmental problems associated with any junk.

820.3 Operating Standards

All proposed junk yards and expansions of existing junkyards shall be established, maintained, and operated in accord with the following standards:

A. Federal and State Regulations - Any junk yard located adjacent to a Federal Aid Highway shall comply with all

regulations of the Federal Highway Administration, and all junk yards shall meet the licensing and screening requirements of the Commonwealth of Pennsylvania.

- B. Fencing - All junk yards shall be completely enclosed by a chain link fence not less than eight (8) feet in height. Said fence shall be completed within six (6) months after the effective date of this Ordinance for existing junk yards and prior to the issuance of a license for a new junk yard. All gates shall be closed and locked when closed for business. All fences and gates shall be maintained in good repair and in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence. The foregoing fencing provisions shall be applicable only to that portion of the premises being immediately used for the storage of junk and shall not be applicable to the balance of the property owned or used by said junk yard operator so long as said remaining portion of land is not being used for the storage of junk as defined in this Ordinance.
- C. Screening - All junk yards shall be screened, to the satisfaction of the Board of Supervisors, from any adjoining or neighboring property, any public road right-of-way, or any other premises; and, natural vegetative cover shall be maintained in all required setback areas. Vegetative plantings of sufficient height and density, berms, topography or fencing of such design may be used to effect the required screening as determined by the Board of Supervisors. All screening shall be maintained in such fashion as to continue to provide the required screening.
- D. Setbacks - The fence enclosing any junk yard and any structures associated with the junk yard shall be located not less than one hundred (100) feet from any public road right-of-way, one hundred (100) feet to any property line or one hundred and fifty (150) feet from any principal residential or commercial structures existing at the time of adoption of this Ordinance. The requirements of this §D shall not apply to junk yards existing prior to the effective date of this Ordinance and which fully complied with prior Township regulations applicable to junk yards. However, the expansion of any such existing junk yard into an area already not used for the storage of junk shall comply with this §D.
- E. Dumping - The area used for a junk yard shall not be used as a dump area for any solid waste as defined by this Ordinance.
- F. Burning - No burning whatsoever shall be permitted on the premises.
- G. Water Bodies - No junk yard shall be located less than two hundred (200) feet from any body of water, stream, wetland or well.
- H. Hazardous Materials - In cases where the junk yard includes ten (10) or more junk vehicles or where the Board of Supervisors deems it necessary to meet the intent of this Ordinance, and to further protect ground water and surface water, all batteries, coolants, gasoline, diesel fuel, engine oil, any other petroleum products and any other noxious or potentially contaminating materials must be removed from all junk within two (2) working days after arrival to the premises and shall be disposed of in a manner meeting all state and federal requirements. Such liquids and materials, while stored on the premises, shall be kept separately in leak-proof containers at a central location on the premises.
- I. Water Quality - In cases where the junk yard includes ten (10) or more junk vehicles or where the Board of Supervisors deems it necessary to meet the intent of this Ordinance, the owner of any junk yard shall be required to monitor the ground and surface water in the vicinity of the junk yard. Water testing shall be conducted every three (3) months on any stream located on the premises or any stream within five hundred (500) feet of any area used for the storage of junk if water drainage from the junk yard area is to said stream. For each testing period two (2) samples shall be collected; one sample shall be taken from the stream at a point upstream of the junkyard drainage area and one sample shall be taken from the stream at a point below the junk yard drainage area. In addition, the well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Board of Supervisors, and results shall be provided to the Township. If said samples exceed

the limits established by the Pennsylvania Department of Environmental Protection, the junkyard shall cease operation until such time as the source of the contamination has been identified and corrected.

- J. Fire Lanes - Fire lanes of a minimum width of twenty (20) feet shall be maintained so that no area of junk shall span a distance of more than fifty (50) feet.
- K. Hours of Operation - Any activity associated with the operation of the junk yard that produces any noise audible beyond the property line shall be conducted only between the hours of 7:00 a.m. and 8:00 p.m. During business hours, an adult attendant shall, at all times, remain on the premises.
- L. Stacking of Junk - Junk vehicles or major parts thereof shall not be stacked on top of any other junk vehicle or major part. No junk shall be stacked or piled to a height of greater than ten (10) feet.
- M. Nuisances - All premises shall, at all times, be maintained so as not to constitute a nuisance, or a menace to the health, safety, and welfare of the community or to the residents nearby, or a place for the breeding of rodents and vermin. Within two (2) days of arrival on the premises, all glass shall be removed from any broken windshield, window or mirror, and all trunk lids, appliance doors and similar closure devices shall be removed. Grass and weeds on the premises shall be kept mowed.
- N. Waste - Waste shall not be stored outside and shall not be accumulated or remain on any premises except temporarily awaiting disposal in accord with this Ordinance. No junk yard shall be operated or maintained in violation of any state or federal regulations governing the disposal of any solid or liquid waste.
- O. Fireproof Structures - Every structure erected upon the premises and used in connection therewith shall be of fireproof construction.

821 - 824 Reserved

825 Natural Resource Uses

825.1 Natural Resource Use Processing a Separate Use

Any use which involves the refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means to specifications for sale or use, and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants and manufacture of concrete and clay products, shall be considered *natural resources processing*, a separate and distinct use regulated by this Zoning Ordinance. This shall not preclude the incidental screening, washing, crushing and grading of materials originating on the site as part of a *natural resource use* operation.

825.2 Location Requirements

Natural resource uses shall be permitted only in those districts specified in the Schedule of Uses and only in accord with the requirements of this Section 825 and all other applicable Ordinance requirements. The natural resource use operation shall comply with the following additional location requirements:

- A. Parcel Size - The minimum parcel size shall be fifty (50) acres.
- B. Property Line Setback - A setback of one hundred (100) feet shall be maintained between any natural resource use operation and adjoining properties. This setback area shall be undisturbed to provide a buffer and the Township may require additional buffers in accord with §701.1 of this Zoning Ordinance.
- C. State Road Access - Natural resource use operations shall be permitted only on sites using access to a state road.

825.3 Local, State and Federal Regulations

Natural resource use operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations. Applicable laws and rules and regulations include, but are not limited to the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law.

825.4 Informational Requirements

The applicant shall provide the information required by this Section 825.3 to enable the Township to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Township based on this information shall serve as a basis for the establishment of conditions of approval in accord with Section 608.4 of this Ordinance and Section 603(c)(2) of the Pennsylvania Municipalities Planning Code.

- A. Conditional Use and Land Development Information - Applicants for natural resource use operations shall, at a minimum, provide the information required for conditional uses specified in this Zoning Ordinance and the information required for land developments in the Township Subdivision and Land Development Ordinance.
- B. DEP Application Information - In addition to the information required in Section 825.3,A, the applicant shall provide a copy of all applications and information required by the applicable DEP Rules and Regulations.
- C. Information for DEP-Defined *Small Noncoal Operations* - Applicants proposing natural resource use operations qualifying as *small noncoal operations* under DEP regulations shall provide all information required by Chapter 77 - Noncoal Mining of DEP Rules and Regulations for operations which are not considered *small noncoal operations*.
- D. Traffic Impact Study and Environmental Impact Statement - The Township may require the applicant to submit an Environmental Impact Statement in accord with §703 of this Zoning Ordinance.

825.5 Reporting Requirements

For any natural resource use operation approved by the Township, the operator shall submit to the Township copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

826 - 840 Reserved

841 Self-Storage Facilities

Self-storage facilities shall be permitted only in those districts as specified in the Schedule of Uses and shall comply with the following standards in addition to all other applicable standards of this Ordinance.

841.1 Bulk Requirements

Minimum lot size, lot width and yards, and maximum lot coverage and building height shall conform to district standards. Minimum distance between buildings shall be twenty (20) feet.

841.2 Setback Areas

There shall be no storage, use or structure within the setback area, with the exception of the access drive(s).

841.3 Fence

The facility shall be surrounded by a fence of such height and design as to restrict access to the warehouse, and said fence shall not be less than six (6) feet in height and shall be located between the warehouse and any required vegetative screening.

841.3 Habitation

No storage unit shall be used for habitation or residential purposes and individual mini-warehouse units shall not be served by a water supply or a sewage disposal system.

841.4 Storage Limitations

No storage unit shall be used for any other purpose except storage and shall not be used for any other type of commercial or manufacturing activity. No material, supplies, equipment or goods of any kind shall be stored outside of the warehouse structure, with the exception of the vehicles required for the operation of the warehouse and boats and recreational vehicles and trailers.

841.5 Lighting

All facilities shall be provided with adequate outdoor lighting for security purposes; and such lighting shall be so directed as to prevent glare on adjoining properties.

841.6 Fire - Water Damage

All storage units shall be fire-resistant and water-resistant.

841.7 Materials Stored

All self-storage facility proposals shall include detailed information on the nature and quantity of materials to be stored on the premises. Proposed space rental agreements shall be submitted with the conditional use application and shall provide specific rules and regulations to insure that the requirements of this §841 are or will be satisfied.

842 to 843 Reserved**844 Commercial Shooting Ranges and Commercial Archery Ranges -- Outdoor**

This §844 is intended to provide minimum standards to regulate commercial outdoor shooting ranges and commercial outdoor archery ranges (hereinafter referred to as *ranges*) in order to protect neighboring property owners and the public at large from dangers of wild or ricocheting projectiles and from excessive noise and other nuisances. Such ranges shall be permitted only in those districts as specified in the Schedule of Uses.

844.1 Setbacks

- A. All outdoor shooting ranges shall be situated not less than five hundred (500) feet from any property line and not less than seven hundred and fifty (750) feet from any principal residential or commercial structure existing on the effective date of this §844. This shall not apply to structures on the same parcel as the shooting range.
- B. All outdoor archery ranges shall be situated not less than two hundred (200) feet from any property line and not less than three hundred (300) feet from any principal residential or commercial structure existing on the effective date of this §844. This shall not apply to structures on the same parcel as the shooting range.

844.2 Safety Design

All ranges shall be designed and constructed with safety facilities to prevent accidental wild or ricocheting projectiles and stray arrows, and the Township may require such additional safety features deemed necessary to meet the intent of this §844. Such features may include but not be limited to increased setbacks, earthen berms and setbacks, range orientation, and a limitation of hours of operation.

844.3 Noise Reduction

All ranges shall be designed and operated to minimize any noise created by the facility and shall at a minimum comply with the requirements of §701 of this Ordinance unless more restrictive standards are required by the Township as a condition of approval.

844.4 Hours of Operation

No firearm shall be discharged outdoors between the hours of 10:00 PM and 9:00 AM prevailing local time. However, the Township may establish more restrictive time limits as a condition of approval.

844.5 Fence

Security fencing may be required by the Township of such extent and design to restrict accidental access to any range.

844.6 Posting

A three hundred (300) foot perimeter around any outdoor range shall be posted with warning signs to adequately inform anyone entering the area.

844.7 NRA, State and Federal Regulations

The applicant shall provide evidence of compliance with any applicable National Rifle Association guidelines and state and federal regulations.

845 Shopping Centers, Malls, and Multiple Occupant Commercial Establishments

It is the intent of this §845 to provide standards for the flexibility of design of shopping centers and malls, and multiple occupant commercial establishments, (referred to as *multiple occupant commercial establishments*) while at the same time to assure the compatibility of the commercial development with the surrounding character of the Township. This shall be accomplished by:

- A. Siting buildings, parking areas and other facilities and improvements based upon the particular topography of development site;
- B. Designing buildings with consideration of architectural style and type of construction material in keeping with the surrounding landscape and development pattern;
- C. Providing safe and convenient access from the public right-of-way based on the existing area-wide traffic circulation pattern and the expected traffic generated by the proposed use;
- D. Designing parking areas to complement patterns of traffic flow and to provide adequate off-street parking for shopping center patrons;
- E. Maintaining to the greatest extent possible natural vegetation and provide landscaping as an integral part of the overall design of the proposed use and parking areas;
- F. Considering the impact of storm water, noise, traffic and lighting on surrounding land uses and providing buffers to minimize adverse impacts;

845.1 Conditional Use and Land Development

Any proposed multiple occupant commercial establishment shall be considered a conditional use, and in addition to the other applicable requirements of this Ordinance, shall be subject to the requirements of this §845.

Said proposal shall also be considered a "land development" as defined by the Pennsylvania Municipalities Planning Code and the Township Subdivision and Land Development Ordinance and shall comply in all respects with all the requirements for plan submission and content for land developments contained therein, as well as the information which follows. The Township may also require any additional information, studies or reports as it deems necessary to meet the intent of this and other Township Ordinances.)

- A. Location, widths, and names of all existing or prior platted streets and utility rights-of-way, parks, and other public open spaces, permanent buildings and structures, houses or permanent easements, and municipal boundary lines, within five hundred (500) feet of the tract;
- B. A traffic flow chart showing circulation patterns from the public right-of-way and within the confines of the shipping center.

- C. Location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes;
- D. Location, arrangement, and dimensions of automobile parking space, width of aisles, width of bays, angle of parking;
- E. Location, arrangement, and dimensions of truck loading and unloading spaces and docks;
- F. Location and dimensions of pedestrian entrances, exits, walks;
- G. Location, height, and materials of walls, fences, screen plantings, and other landscaped areas.
- H. Preliminary architectural drawings for all buildings;
- I. Location, size, height, and orientation of all signs other than signs flat on building facades;

845.2 Ownership

The site proposed for any multiple occupant commercial establishment shall be held in single ownership or in unified control; and the applicant shall provide to the Township evidence of said ownership and/or control.

846 to 847 Reserved

848 Solid Waste

Solid waste facilities, including transfer stations, and staging areas, herein referred to as facilities, shall be permitted only in those districts as specified in the Schedule of Uses, and shall, in addition to the other applicable standards in this Ordinance, be subject to all applicable state and federal regulations and the requirements of this §848.

848.1 Traffic Study

The applicant shall provide evidence by a professional person or firm competent to perform traffic analysis showing that the traffic generated by the site will not cause a reduction in the level of service on the roads used by said facility. The applicant shall provide copies of the completed traffic analysis to the Township Engineer for review and approval. The Township Engineer shall transmit the review in writing to Board of Supervisors, the applicant and other known parties of interest prior to the hearing. If the facility will cause a reduction in the level-of-service approval shall not be granted.

- A. The traffic study and plan shall establish the most direct proposed route or routes for vehicles carrying solid waste to the facility. This route shall minimize impacts on any residence, commercial or retail establishment, public school or religious institution.
- B. The traffic impact study and plan shall include proposed remedial actions to be taken in the event of a solid waste spill or accident involving a vehicle transporting solid waste.

848.2 Yards

No part of any facility created after the effective date of this Ordinance shall be located closer than three hundred (300) feet to an existing public right-of-way, property line or stream. The yard areas shall remain unoccupied with no improvements except required fencing and access road(s). A buffer not less than fifty (50) feet in width shall be provided in all yards in accord with §701 of this Ordinance. Additional buffers and setbacks may be required in accord with this Ordinance.

848.3 Fencing

All facilities shall be completely enclosed by a chain link fence not less than ten (10) feet in height. The erection of said fence shall be completed within six (6) months after the effective date of this Ordinance for existing facilities and prior to the issuance of a certificate -of-use for a new facility. All gates shall be closed and locked when closed for

business. The fence and gate shall be maintained in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence.

848.4 Environmental Impact Statement

As part of the conditional use process, the Township may require the applicant to prepare and submit an Environmental Impact Statement pursuant to §703 of this Ordinance.

848.5 Storage and Loading/Unloading

Storage of materials, supplies or solid waste in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted. Any solid waste stored for more than three (3) hours shall be stored in an enclosed building. For any facility other than a sanitary landfill, all transfer, loading and unloading of solid waste shall only occur within an enclosed building, and over an impervious surface which drains into a holding tank that is then adequately treated.

848.6 Effluent Treatment

The facility shall provide for treatment and disposal for all liquid effluent and discharges generated by the facility due to the storage, loading or unloading, transfer, container or vehicle washing, or other activity undertaken in processing or transporting the solid waste. All such activities shall be conducted only over an impervious surface and all drainage shall be collected for treatment. Any water discharge from the facility after being treated by the wastewater treatment system shall meet all applicable Department of Environmental Protection regulations and Sewer Authority requirements.

848.7 Dangerous Materials

No radioactive, hazardous, chemotherapeutic or infectious materials may be disposed of or stored or processed in any way, except for types and amounts of hazardous substances customarily kept in a commercial business for on-site use. Infectious materials are defined as medical wastes used or created in the treatment of persons or animals with seriously contagious diseases.

848.8 Water Quality

The owner of any facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted every three months on any stream located on the premises or any stream within five hundred (500) feet of any area used for the storage or disposal of solid waste if water drainage from the facility is to said stream. For each testing period two (2) samples shall be collected; one sample shall be taken from the stream at a point upstream of the solid waste disposal facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, the well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Township Board of Supervisors, and results shall be provided to the Township. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the facility shall cease operation until such time as the source of the contamination has been identified and corrected.

848.9 Emergency Access

The operator of the facility shall cooperate fully with local emergency services. This should include allowing practice exercises on the site and the provision of all information needed by the emergency services to determine potential hazards. Adequate means of emergency access shall be provided.

848.10 Hours of Operation

Under the authority granted to the Township under State Act 101 of 1988, all such uses shall be permitted to operate only between the hours of 7:00 a.m. to 7:00 p.m. and are not permitted to operate on Sundays, Christmas Eve Day, Christmas Eve, New Year's Day, 4th of July, Labor Day, Memorial Day or Thanksgiving Day. All deliveries of solid waste shall be made during the hours between 7:00 a.m. to 5:00 p.m. and not on Sundays or the above specified holidays.

848.11 Nuisances

Any facility shall be operated in such a manner to prevent the attraction, harborage or breeding of insects, rodents or vectors. The applicant shall prove to the satisfaction of the Board of Supervisors that the use would not routinely create noxious odors off of the tract. The operator shall regularly police the area of the facility and surrounding street to collect litter that may escape from the facility or truck. The applicant shall provide documentation to the satisfaction of the Board of Supervisors that proposed facility shall operate in such a manner as to not create a general nuisance, endanger the public health, safety and welfare or inhibit the public's use or enjoyment of their property.

848.12 Attendant and Inspections

An attendant shall be present during all periods of operation or dumping. The applicant shall, if granted a Conditional Use Permit, allow access at any time to the facility for inspection by appropriate Township Officials and provide the Township with the name and phone number of a responsible person(s) to be contacted at any time in the event of an inspection.

848.13 State and Federal Regulations and Reporting

The operation and day-to-day maintenance of the facility shall comply with all applicable State and Federal regulations as a condition of the continuance of any permit of the Township. Violations of this condition shall also be considered to be violations of this Ordinance. All solid waste transfer facilities (as defined by this Ordinance) shall be subject to all requirements of 25 PA Code Chapter 279 (as amended) Transfer Facilities, regardless of whether a permit pursuant to said requirement is required. Where a difference exists between applicable State regulations and Township regulations, it is intended for the purposes of this §848 that the more stringent requirements shall apply. A copy of all written materials and plans that are submitted to DEP by the applicant shall be concurrently submitted to the Zoning Officer.

849 Reserved**850 Storage Yards for Forest Products and Stone**

The intent of this section is to provide standards for access to public roads and setbacks for storage yards for forest products and minerals. (See definition of *storage yards for forest products and stone* in Article III.)

850.1 Access to Public Roads

- A. Highway Occupancy Permit - Access roads to Township and State roads shall be in accord with a valid highway occupancy permit.
- B. Stabilization - The access road shall be adequately stabilized with stone, shale or other material to minimize soil erosion and the tracking of mud onto the public road.
- C. Weight Limitations - All operations shall comply with all posted weight limits and road bonding regulations.
- D. Use of Public Roads - Felling or skidding on or across any public road shall be prohibited without the express written authorization of the Township or the Pennsylvania Department of Transportation, as applicable.
- E. Road Ditches - Ditches on the public road shall be cleaned and graded as necessary to be maintained to pre-harvest condition.

850.2 Setbacks

- A. Residential and Nonresidential Buildings - Storage yards shall not be less than three hundred (300) feet from any existing residential, commercial, institutional, public or semi-public building, other than such building located on the property on which the landing is located.

- B. Property Lines - Storage yards shall not be less than fifty (50) feet from any property line other than a property line along a public road right-of-way.
- C. Public Roads - Storage yards shall not be less than fifty (50) feet from any public road right-of-way.
- D. Streams, Water Bodies and Wetlands - Storage yards shall not be less than one hundred (100) feet from any stream, water body or wetland.
- E. Slope - Storage yards shall be located on gently sloping ground that will provide good drainage. Low spots and poorly drained places shall be avoided.

851 Swimming Pool, Commercial

Commercial swimming pools shall be permitted only in those districts as specified in the Schedule of Uses and, in addition to all other applicable requirements of this Ordinance, shall comply with the standards in this §851.

851.1 Setback

The water surface shall be not less than fifty (50) feet from any lot line.

851.2 Parcel Size

The minimum lot area shall be two (2) acre.

851.3 Enclosure

A fence, wall or other enclosure not less than six (6) feet high and of a design to restrict access shall completely surround the area of the swimming pool. This enclosure shall be designed to be difficult for children to climb or slip through. All gates or door openings through such enclosure shall be self-closing and include a self-latching device on the pool side for keeping the gate or door securely closed when the pool is not in use.

851.4 Access

Access to all pools shall be restricted when the pool is not in use.

852 Reserved

853 Treatment Centers/Clinics, Medical Offices, And Health Facilities

In addition to all other applicable standards, treatment centers/clinics, and medical offices and health facilities including, but not limited to, hospital facilities, and nursing and adult homes, whether publicly or privately operated, shall comply with the following requirements and shall be permitted only in those districts as specified in the Schedule of Uses.

853.1 Waste Disposal

Details shall be provided by the applicant about the types and amount of medical and hazardous waste generated anticipated to be generated at the facility and how such waste will be handled, stored and disposed of in accord with state and federal requirements.

853.2 Security

In cases where deemed necessary by the Township, the applicant shall provide a plan addressing security needs to protect the health and safety of the public as well as the occupants of the proposed facility. Such plan shall include a description of the specific services to be offered, types of patients and/or residents, to be served, and the staff to be employed for this purpose. The plan shall identify the forms of security normally required with care of the type to be offered and detail the specific measures to be taken in the construction, development and operation of the facility so as to provide appropriate security. The plan shall, at a minimum, reasonably restrict unauthorized entry and/or exit to and from the property and provide for effective separation from adjoining residences by means of fencing, signs or a combination thereof. The plan shall also address measures to ensure that lighting and noise is controlled,

particularly with respect to loudspeakers or other amplification devices and floodlights.

853.3 Treatment Centers/Clinics

The following additional standards shall apply to treatment centers/clinics.

- A. In order to provide an adequate buffer area for adjoining private property owners the site shall contain a minimum of ten (10) acres.
- B. The building and all secure areas shall not be less than two hundred (200) feet from any property line and the right-of-way line of any abutting public road, and five hundred (500) feet from any:
 - 1. residence
 - 2. group care facility
 - 3. commercial enterprises catering primarily to persons under eighteen (18) years of age
 - 4. public or semi-public building or use
 - 5. public park or public recreation facility
 - 6. health facility
 - 7. church or synagogue
 - 8. public or private school
- C. A security plan shall be provided in accord with §7.117 of this Zoning Ordinance.
- D. A perimeter security fence may be required by the Township, and shall be a minimum of ten (10) feet in height and constructed of chain-link, topped with barbed or concertina wire as may be required by the Township.
- E. Methadone treatment facilities, as defined by §621(d) of the Pennsylvania Municipalities Planning Code, shall, in addition to the other requirements of this §853, comply with the requirements of §621 of the Pennsylvania Municipalities Planning Code.

854 - 855 Reserved

856 Vehicle Related Uses

Vehicle related uses shall be permitted only in those districts as specified in the Schedule of Uses, and in addition to all other applicable standards, shall comply with the standards in this §856.

856.1 Car and Truck Wash Facilities

All car and truck wash facilities shall be subject to the following specific regulations and requirements:

- A. The principal building housing the said facility shall be set back a minimum of sixty (60) feet from the road or street right-of-way line and thirty (30) feet from the side or rear property lines.
- B. Appropriate facilities for the handling of waste water from the washing activities shall be provided including, the prevention of water being dripped onto the adjoining road or street from freshly washed vehicles during periods of freezing weather.
- C. The facility shall have adequate means of ingress and egress to prevent adverse effects to either vehicular or pedestrian traffic. When a wash facility occupies a corner lot, the access driveways shall be located at least seventy-five (75) feet from the intersections of the front and side street right-of-way lines.
- D. The site shall be sufficiently large to accommodate vehicles awaiting washing during peak periods, but in no case shall the waiting area for each stall accommodate less than three (3) automobiles.

- E. Any wash facility located within two hundred (200) feet of any residential district shall not operate between the hours of 9:00 p.m. and 7:00 a.m.

856.2 Gasoline Service Stations and Vehicle or Equipment Repair Operations

All gasoline service stations and vehicle or equipment repair operations shall be subject to the following specific regulations and requirements:

- A. The principal building housing the operation shall be setback a minimum of sixty (60) feet from the road or street right-of-way line and thirty (30) feet from the side or rear property lines.
- B. All service and repair activities shall be conducted within in completely enclosed building where adequate measures shall be taken to minimize motor noise, fumes, and glare; except that minor servicing such as changing tires, sale of gasoline or oil, windshield washing and other similar normal activities may be conducted outside the said building.
- C. Only vehicles with current licenses and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored outdoors. If a legitimate, bonafide, service station stores more than four (4) vehicles per service stall outdoors, it shall comply with the junk regulation set forth in this Ordinance.
- D. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Ordinance.
- E. All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.
- F. Gasoline pumps and other service appliance may be located in the required front yard but shall not be situated closer than thirty (30) feet from the road or street right-of-way line. Any above ground storage tanks shall not be placed in the front setback area.
- G. No vehicles shall be stored in any required setback areas.
- H. Any operation which is primarily intended to serve trucks with three (3) or more axles or tractor-trailer trucks shall have a minimum lot area of two (2) acres, and all areas for fueling and servicing shall be not less than one hundred (100) feet from any residential district.
- I. All major repair, welding, auto body, painting and similar work shall be performed within a building with a fume collection and ventilation system that directs noxious fumes away from any adjacent buildings. All such systems shall meet all required state and federal health and safety standards.

856.3 Vehicle or Equipment Sales Operations

All vehicle or equipment display and sales operations of new and used automobiles, trucks, motorcycles, mobile homes, recreation vehicles, boats, and travel trailers and other vehicles and equipment shall be subject to the following specific requirements:

- A. All principal and accessory buildings and structures shall be in accord with the yard setback, building height and lot coverage requirements of the district.
- B. The outdoor display of new and used cars, trucks, motorcycles, mobile homes, recreation vehicle and travel trailers shall meet the appropriate front, side and rear setback requirements as for the district.

- C. Activities which are normally accessory to such sales operations, such as engine tuneup and repairs, body repairs, painting, undercoating and other similar activities shall be conducted in accord with the applicable standards in §856.2 above.
- D. Only vehicles with current license and current registration waiting to be repaired or serviced or waiting to be picked up by the vehicle owner may be stored in any exterior area. If a legitimate, bonafide, service station stores more than four (4) vehicles per service stall in exterior areas, it shall comply with the junkyard regulations set forth in this Ordinance. Proof of current license and current registration or ownership of any vehicle will be required upon demand by the Zoning Officer.
- E. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Ordinance.
- F. All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening. Piles or stacks of tires or other materials in exterior areas shall be prohibited at all times.
- G. No vehicles shall be stored in any required setback areas.

856.4 Race Tracks

All race tracks for motor driven vehicles, including but not limited to automobiles, trucks, go-carts, motorcycles, motor scooters, dune buggies, water craft, and the like, shall be located not less than one (1) mile from any SR District.

857 **Reserved**

858 Wind Farms

In addition to all other applicable standards in this Ordinance, the following regulations shall apply to wind farms which shall be permitted as conditional uses only in the districts as provided by the Schedule of Uses.

858.1 Purposes

- A. To accommodate the need for wind farms while regulating their location and number in the Township in recognition of the need to protect the public health, safety and welfare.
- B. To avoid potential damage to adjacent properties from windmill structure failure and falling ice, through engineering and proper siting of such structures.

858.2 Permits; Use Regulations

- A. Permits - A permit shall be required for every wind farm and windmill installed at any location in the Township.
- B. Associated Use - All other uses ancillary to the wind farm (including a business office, maintenance depot,, etc., greater than 1,000 sq. ft.) are prohibited from the wind farm, unless otherwise permitted in the zoning district in which the wind farm is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the wind farm.
- C. Wind Farm as a Second Principal Use - A wind farm shall be permitted on a property with an existing use subject to the following land development standards:

1. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the wind farm and windmills shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
2. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
- . The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

858.3 Standards

- A. Wind Farm Height - The applicant shall demonstrate that the windmills are at the minimum height required to function satisfactorily . No windmill that is taller than this minimum height shall be approved.
- B. Parcel Size; Setbacks
 1. Separate Parcel - If the parcel on which the wind farm is a separate and distinct parcel, the zoning district minimum lot size shall apply and in all cases, the lot shall be of such size that all required setbacks are satisfied. No windmill shall be located closer to any property line than its height plus the normal setback for the district. The setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of thirty (30) feet.
 2. Lease, License or Easement - If the land on which the wind farm is leased, or is used by license or easement, the setback for any windmill, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement. In any case, no windmill shall be located closer to any property line (not lease, license or easement line) than its height plus the normal setback for the district.
 3. Principal Structures - No windmill shall be located less than five hundred (500) feet from any principal residential structure existing prior to the erection of the windmill.
- C. Wind Farm Support Structure Safety - The applicant shall demonstrate that the proposed windmills are safe and the surrounding areas will not be negatively affected by structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All windmills shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed Wind farm and support structure will be designed and constructed in accord with accepted engineering practices and all requirements of any applicable construction code. Within forty-five (45) days of initial operation, the owner and/or operator of the wind farm shall provide a certification from a Pennsylvania registered professional engineer that the wind farm and all structures comply with all applicable regulations.
- D. Fencing - A fence may be required around windmills and other equipment, unless the design of the structures adequately provides for safety.
- E. Landscaping - Landscaping may be required to screen as much of the wind farm ground features as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the wind farm ground features from neighboring properties. The Township may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping.
- F. Licenses; Other Regulations; Insurance - The applicant must demonstrate that it has obtained the required

licenses from governing state and federal agencies. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the Wind farm; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the wind farm.

- G. Access; Required Parking - Access to the wind farm shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length. If the wind farm site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
- H. Color and Lighting; FAA and PA DOT Notice - Windmills shall comply with all applicable Federal Aviation Administration (FAA) and PA DOT Bureau of Aviation regulations. No windmill may be artificially lighted except as required by FAA requirements. The applicant shall provide a copy of the response to *Notice of Proposed Construction or Alteration* forms submitted to the FAA and PA DOT Bureau of Aviation.
- I. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished, and this may be accomplished by remedial measures instituted by the wind farm developer.
- J. Historic Structures - A wind farm shall not be located within five-hundred (500) feet of any structure listed on any public historic register.
- K. Discontinued Use - Should any wind farm or windmill cease to be used, the owner or operator or then owner of the land on which the wind farm or windmill is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Township to remove the facility and assess the cost of removal to the foregoing parties. The Township may also file a municipal lien against the land to recover the costs of removal and attorney's fees. In addition, at the time of zoning permit issuance for any windmill, the Township shall require a financial guarantee, in a term, form and amount determined by the Board of Supervisors with the advice of the Township Solicitor, to guarantee the removal of the windmill.
- L. Site Plan - A full site plan shall be required for all wind farm sites, showing the wind farm, windmills, building, fencing, buffering, access, and all other items required for conditional uses by this Ordinance.

ARTICLE IX NONCONFORMITIES

901 Purpose, Applicability, Registration, and Continuation and Change

901.1 Purpose

It is the purpose of this Article to recognize that if, prior to the adoption of the original Benton Township Zoning Ordinance, as amended, reenacted and replaced, property was used for a then lawful purpose or in a then lawful manner which the Zoning Ordinance would render thereafter prohibited and nonconforming, such property is generally held to have acquired a vested right to continue such nonconforming use or nonconforming structure. Nevertheless, this does not preclude the Township from regulating the change, alteration, reconstruction, reestablishment, extension, destruction and abandonment of nonconforming uses in accord with the Pennsylvania Municipalities Planning Code and general case law.

It is also the purpose of this Article is to limit the injurious impact of nonconforming uses and/or structures on other adjacent properties within a particular district and the community as a whole, while recognizing that the change, alteration, reconstruction, reestablishment, or extension of non-conforming uses and/or structures may not be contrary to the public interest or the general purpose of this Zoning Ordinance, when failure to allow such change, alteration, reconstruction, reestablishment, or extension would itself lead to neighborhood or district deterioration.

It is further the purpose of this Article to prescribe those standards which are to be applied by the Township in determining the reasonableness of a proposal to change, alter, reconstruct, reestablish, or extend a non-conforming use. The following are regulations which shall apply.

901.2 Applicability

The provisions and protections of this Article IX shall apply only to those nonconforming lots, structures and uses which legally pre-existed the applicable provisions of this Ordinance, as amended, or which are recognized by §903 or §904 of this Article IX. Any lot, structure or use created, constructed or established after the effective date of the original Zoning Ordinance, as amended, reenacted and replaced, which does not conform to the applicable requirements shall be considered an illegal lot, structure or use subject to the penalties prescribed by this Ordinance, and the said lot, structure or use shall not be entitled to any of the protections afforded to legal, pre-existing nonconforming lots, structures or uses.

901.3 Registration

It shall be the responsibility of the party asserting a nonconformity to provide the evidence that the nonconformity is legal. A property owner may request a written statement of nonconformity from the Zoning Officer after providing sufficient evidence. The Zoning Officer may submit any application for a Certificate of Nonconformance to the Planning Commission for the Commission's review and recommendation with regard to the evidence of nonconformity.

901.4 Continuation and Change

A lawful nonconforming lot, structure or use as defined by this Ordinance may be continued and may be sold and be continued by new owners. Any expansion, alteration, extension or change in a nonconformity shall only proceed in compliance with this Article.

902 Definitions

902.1 Nonconforming Lot

Any lot which does not conform with the minimum width, depth and area dimensions specified for the district where such a lot is situated, such lot having been created and recorded in the office of the Lackawanna County Recorder of Deeds prior to the effective date of this Zoning Ordinance, as amended.

902.2 Nonconforming Structure

A structure or part of a structure which does not comply with the applicable district limitations on structure size and location on a lot, where such structure lawfully existed prior to the enactment of this Zoning Ordinance, as amended; and including, but not limited to, non-conforming signs.

902.3 Nonconforming Structure, Alteration or Expansion

As applied to a nonconforming structure, a change or rearrangement in the structural parts or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

902.4 Nonconforming Structure, Reconstruction

The rebuilding of a nonconforming structure damaged or destroyed by casualty to the exact or less nonconforming condition which existed prior to the casualty.

902.5 Nonconforming Use

A use, whether of land or of a structure, which does not comply with the applicable use provisions in this Ordinance or amendments hereto, where such use was Lawfully in existence prior to the enactment of this Zoning Ordinance, as amended.

902.6 Nonconforming Use, Change

The conversion of a nonconforming use to a different use classification as enumerated on the Schedule of Uses of this Zoning Ordinance.

902.7 Nonconforming Use, Extension

The expansion of a nonconforming use throughout the structure which the said use partially occupies; or the expansion of a nonconforming use onto property not already occupied by the said use.

902.8 Nonconforming Use, Reestablishment

The reopening or reinstitution of a nonconforming use which has been discontinued by the owner of the said use, such reopening effected prior to the abandonment of the nonconforming use as determined under the provisions of this Zoning Ordinance.

903 Nonconformities Under Development

For the purposes of this Article IX, a building, structure or use, legally permitted, planned and substantially under construction in compliance with existing Ordinances prior to the effective date of this Ordinance, or any amendment hereto, and completed within a one-year period after the effective date of this Ordinance or amendment hereto, shall be considered nonconforming.

904 Nonconformities by Variance

A building, structure or use allowed by variance in a district where it is non-conforming with any regulations of this Ordinance, as amended, reenacted and replaced, shall be considered nonconforming for the purposes of this Ordinance.

905 Normal Maintenance and Repair Activities

Normal maintenance and repair, such as painting, replacement of siding, and similar activities is allowed, as well as those interior renovations which do not structurally alter the building or area or result in increased use of the building or area, or a change of nonconforming, or otherwise create more incompatibility with the surrounding permitted uses. Such maintenance and repair activities shall, however, shall comply with all other applicable standards and permit requirements of this Ordinance.

906 Changes of Nonconforming Uses**906.1 Special Exceptions**

All changes of nonconforming uses shall be considered special exceptions subject to the specific procedures and review criteria contained in Article XI of this Ordinance and the review factors in §912 of this Article. A nonconforming use may only be changed to a use of equal or less nonconformity (i.e. more restrictive classification) as determined by the Planning Commission and Zoning Hearing Board in accord with classification of the uses in the Schedule of Uses of this Ordinance. The general standard shall be that no change of a nonconforming use shall be permitted if such change will result in the establishment of a use which is materially different from the existing use in terms of negative affects on the community and the long term application of the Zoning Ordinance to eliminate incompatible uses from specific zoning districts. For example, a change from a nonconforming retail store in an SR District to a bank may be permitted; however, a change to a manufacturing use would not be permitted.

906.2 Conforming Changes and Conversions

- A. **Change** - A change in a nonconforming use to a conforming use shall not be considered a special exception unless the proposed use is classified as a special exception by the Schedule of Uses in this Ordinance. A change of a nonconforming use to a conforming use shall be considered an abandonment of the nonconforming use which shall not thereafter revert to a nonconforming use.
- B. **Conversion** - The conversion of a nonconforming use to a nonconforming use of like classification shall not be considered a special exception. For example, a nonconforming retail establishment selling groceries proposed for conversion to a shoe store would not be considered a change in nonconforming use.

906.3 Other Standards

All changes to nonconforming uses shall also be subject to all other applicable standards in this Ordinance.

907 Extension of Nonconforming Uses**907.1 Special Exceptions**

All extensions of nonconforming uses into more area of a structure or onto more area of property shall be considered special exceptions subject to the specific procedures and review criteria contained in Article XI of this Ordinance, and the review factors in §912 of this Article.

907.2 Extension onto Other Properties of Record in the Same Ownership; New Structures

Extensions of a non-conforming use shall be on land contiguous to the existing use and shall be limited to the same parcel of property on which the non-conforming use is situated as said parcel existed on record at the time of the adoption of this Ordinance. For any non-conforming uses not involving a non-conforming structure, no new structures shall be permitted as part of an extension.

907.3 Extension Limitation

In the RR District and SR District, an extension of land or structure utilized for the non-conforming use shall be limited to a total increase not to exceed twenty-five (25) percent of land and twenty-five (25) percent of structure beyond what existed on the effective date of this Ordinance, as amended. In all other Districts such extension shall be limited to a total increase not to exceed fifty (50) percent of land and fifty (50) percent of structure beyond what existed on the effective date of this Ordinance. All such extensions of a non-conforming use may be permitted in successive increments for a total up to the increase permitted; and each increment shall be a separate application. In the case of non-conforming uses not involving structures, in all Districts an extension of such a non-conforming use may only be permitted in increments of twenty-five (25) percent or less, for a total up to the permitted extension limit; and each increment shall be a separate application. Applications for successive increments shall only be entertained by the Township upon the completion of the previously approved addition or extension.

907.4 Prohibited Extensions

Should the use proposed for extension be one which is specifically prohibited as a new use in the Township or is a use judged by the Township to be one similar to such a use or of such a nature as to impose health, safety or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this Ordinance, the requested extension shall be denied. The Board shall consider past operating performance in making its decision.

908 Reconstruction**908.1 Time Limit**

If any nonconforming structure or use (see Subsections 908.4 below for exception) is damaged it may be restored or reconstructed to its preexisting condition of nonconformity provided:

- A. The application for a building permit is submitted and the reconstruction is completed within eighteen (18) months of the date of the casualty.
- B. The nonconformity is not increased and no new nonconformity is created.

908.2 Procedure - Permits

All applicable permits for the reconstruction of a nonconforming use shall be required. Such reconstruction shall be considered a special exception if the reconstruction involves a change or extension of use as regulated by §906 and §907 of this Ordinance, respectively.

908.3 Reconstruction Prohibited

A nonconforming structure that has been damaged or destroyed by more than seventy-five (75) percent of its appraised fair market value by any cause shall not be rebuilt in any nonconforming manner except as provided for dwellings in §908.4. Any structure not reconstructed within the required eighteen-month period shall be deemed abandoned and any subsequent use of the land or structure shall be for conforming purposes only and said use shall in all respects conform to the applicable provisions of this Zoning Ordinance.

908.4 Extension

The Zoning Hearing Board may, as a special exception and if deemed appropriate by the Board in accord with the Township Comprehensive Plan and the standards in §1108 of this Ordinance, grant a one-time extension of not more than one (1) year for the re-establishment of the non-conforming use. Said extension shall only be considered by the Board upon written application for same submitted by the property owner.

909 Abandonment and Reestablishment of Nonconformities**909.1 Abandonment**

Unless extended in accord with this §909, if a nonconforming use of land or structure ceases operations, is discontinued, is vacated or is otherwise abandoned for a period of eighteen (18) months or more, then this shall be deemed to be an intent to abandon such nonconforming use, and any subsequent use of the land or structure shall be for conforming purposes only and said use shall in all respects conform to the applicable provisions of this Zoning Ordinance. A change of a nonconforming use to a conforming use shall be considered an abandonment of the nonconforming use which shall not thereafter revert to a nonconforming use.

909.2 Extension

The Zoning Hearing Board may, as a special exception and if deemed appropriate by the Board in accord with the Township Comprehensive Plan and the standards in §1108 of this Ordinance, grant a one-time extension of not more than one (1) year for the re-establishment of the non-conforming use. Said extension shall only be considered by the Board upon written application for same submitted by the property owner.

910 Alterations and Expansions of Nonconforming Structures**910.1 Alterations**

The alteration or expansion of nonconforming structures shall be permitted only in accord with this §910.

910.2 Procedure - Permits

All applicable permits for the alteration or expansion of a nonconforming structure shall be required. Such alteration or expansion shall be considered a special exception if the alteration or expansion involves a change or extension of a nonconforming use as regulated by §906 and §907 of this Ordinance, respectively.

910.3 Nonconforming Setbacks

A structure which is non-conforming as to a setback requirement may be extended along the non-conforming setback line a distance not to exceed fifty (50) percent of the length of the nonconforming part of the structure as it existed at the effective date of this Ordinance.

910.4 Increase in Area or Bulk Nonconformity

In the case where a proposed alteration or expansion of a nonconforming structure will result in an increased nonconformity of setback, height, lot coverage or other area or bulk standard, a variance shall be required from the Zoning Hearing Board.

911 Use of Nonconforming Lots of Record**911.1 Single Family Dwelling**

A single-family dwelling may be erected or expanded on any lawful nonconforming lot of record in any District, provided:

- A. Adjoining Property - The lot owner does not own adjoining property all or part of which can be combined to make the lot more conforming.
- B. Setbacks - See Schedule of District regulations, Part 3.
- C. Other Standards - All other applicable standards in this Ordinance are satisfied.
- D. Water Supply - An adequate water supply is provided in accord with Township and other applicable regulations.
- E. Sewage Disposal - Sewage disposal is provided in accord with applicable Township and PA DEP requirements.

911.2 Commercial Uses

A commercial use may be developed on any lawfully existing nonconforming lot where permitted by the Schedule of Uses provided:

- A. Adjoining Property - The lot owner does not own adjoining property all or part of which can be combined to make the more lot conforming.
- B. Setbacks - All setbacks normally required in the District are maintained.
- C. Lot Size Requirement - This Ordinance does not require a lot size for the specific use which is greater than the lot size for the district.
- D. Water Supply - An adequate water supply is provided in accord with Township and other applicable regulations.
- E. Other Standards - All other applicable standards in this Ordinance are satisfied.

- F. Sewage Disposal - Sewage disposal is provided in accord with applicable Township and PA DEP requirements.

912 Review Factors

In addition to the standards in §1108, Article VII, and other applicable requirements, the Township shall consider any nonconformity special exception application in terms of the effect on the following factors:

912.1 Nuisance Considerations

- A. Traffic generation.
- B. Noise, dust, fumes, gases, odor, glare, vibration, fire and explosion hazards and other nuisances.
- C. Amount and nature of outdoor storage
- D. Hours of operation.
- E. Compatibility with the character of the surrounding neighborhood.
- F. Potential of the expansion to reduce existing congestion and alleviate parking shortages by improved site design, addition of parking and improved loading areas.

912.2 Specific Considerations

- A. Storage of Materials - There shall be no increase in the amount of materials, supplies and/or products that are stored outside a non-conforming facility, as on a lot in a non-conforming use, excepting those types of uses outlined in §B below.
- B. Screening - Where the non-conforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as a sawmill, farm machinery sales operation or similar operation), the use may only be expanded if a solid fence of wood and/or buffer, not less than six (6) feet in height, is present on all sides of the immediate area in use. Stored material shall not exceed the height of the screening material and nine (9) feet at the maximum. Yards and buffers shall be provided in accord with §701.1 of this Ordinance.
- C. Yards and Setbacks - No addition, change or expansion of a non-conforming use shall further violate setback and/or height regulations of the district in which it is located.
- D. Parking and Traffic - In no case will a change, addition or expansion of a non-conforming use be allowed which would result in the diversion of traffic, or relocation of a driveway on the site to any point nearer a residential property, or result in violation of any of the parking and unloading requirements of this Ordinance. The Township may require vegetative screening of the parking area from nearby residential areas in accord with §701.1 of this Ordinance.

ARTICLE X
OWNERSHIP AND MAINTENANCE OF
GREENWAY LAND, OPEN LAND, RECREATION LAND, AND COMMON FACILITIES

This Article X shall apply to any development which involves the ownership and maintenance of greenway land, open land, recreation land, or common facilities (referred to as "common area" in this Article) as required by this Ordinance and the Township Subdivision and Land Development Ordinance.

1001 Purpose

The requirements of this Article X are intended to assure in perpetuity the ownership, use and maintenance of common areas. The general principle shall be to assign ownership and maintenance responsibility to that entity which is best suited for the same and which will allocate any associated costs to the individuals which directly benefit from the use of the common area.

1002 Plan and Legal Documents

The developer shall submit a plan and proposed legal documents for the purpose of dedicating, in perpetuity, the use, ownership and maintenance of the approved common area. The Plan shall be approved by the Board of Supervisors with the recommendation of the Township Solicitor. The provisions of the approved Plan shall be incorporated into a development agreement with the Township, deed covenants and restrictions, or other legal document which will effect the Plan and which can be enforced by the Township.

1003 Use Restriction

The use of any common area shall be limited to those uses which are specifically permitted or required by the applicable sections of this Ordinance and the Township Subdivision and Land Development Ordinance.

1004 Development Plan Designations

The subdivision/land development plan which will be recorded following final approval of the development shall clearly show all common areas and specifically note the use, ownership and maintenance responsibility of the same. Reference to the legal document(s) governing the use, ownership and maintenance of common areas shall be noted on the plan. The plan shall also contain the following statement: Open land, recreation land, and common facilities shall not be sold separately or be further subdivided or developed, nor shall such land be used for density for any other development.

1005 Methods for Use Dedication and Common Area Ownership and Maintenance

The use of common areas and common area ownership and maintenance shall be addressed by one or a combination of the methods which follow. In any case, the developer shall document to the satisfaction of the Board of Supervisors that the chosen method(s) will preserve the common area use rights established in accord with this Article and provide for the perpetual ownership and maintenance of all open land, recreation land, and common facilities. All methods shall establish a mechanism for the Township to effect the use dedication and require operation and maintenance of common areas, should the means established by the developer fail to provide the same.

All methods for use dedication and common area ownership and maintenance, and any combination of methods, and any change in method which may be proposed by the ownership and maintenance entity, shall be subject to the approval of the Board of Supervisors. Operation and maintenance provisions shall include, but not be limited to, capital budgeting for repair and/or replacement of common facilities, working capital, operating expenses, casualty and liability insurance, and contingencies.

1005.1 Property Owners Association or Condominium Agreements

All common areas may be owned and maintained by a property owners association (POA) or condominium agreements (CA) including all lot owners in the development provided:

- A. The POA/CA is established by the developer as a non-profit corporation for the express purpose of ownership and maintenance of the common area, or as otherwise may be required by state statute.
- B. Participation in the POA/CA is mandatory for all lot owners.
- C. Provision is made for the maintenance of common areas during the lot sale period and the orderly transition of responsibility from the developer to the POA.
- D. The POA/CA is empowered to assess POA/CA members to fund the administration of the POA/CA and other costs associated with the common area responsibilities.

1005.2 Transfer to a Private Conservation Organization

In the case of open land and recreation land, the landowner may transfer fee simple title to the said areas, or parts thereof, to a private, non-profit organization among whose purposes is the conservation of open land and/or natural resources; provided that:

- A. The deed contains the necessary covenants and restrictions in favor of the Township to effect the use dedication and common area ownership and maintenance standards of this Article and this Zoning Ordinance.
- B. The organization proposed is a bona fide, operating and stable conservation organization with a perpetual existence, as approved by the Board of Supervisors.
- C. The conveyance of title contains the necessary provisions for proper retransfer or reversion should the organization be unable to continue to execute the provisions of title.
- D. A maintenance agreement between the developer, organization and Township is executed to the satisfaction of the Board of Supervisors.

1005.3 Deed Restricted Private Ownership

On privately held lands used for agriculture, forestry enterprises and other uses permitted on open land in accord with this Ordinance, deed restrictions may be used to preserve open land provided such restrictions include a conservation easement in favor of the Township, with provisions for reversion to the Township, POA or trustee holding the remainder of the common area. Title to such restricted lands may be transferred to other parties for use as restricted by the deed.

1005.4 Deed or Deeds of Trust

The landowner may provide, as approved by the Board of Supervisors, for the use, ownership and maintenance of common area by establishing a trust for the same via a deed or deeds. The trustee shall be empowered to levy and collect assessments from the property owners for the operation and maintenance of the development.

1005.5 Conservation Easements Held by the Township

In the case of open lands and recreation lands, the Township may, but shall not be required to, accept title to conservation easements on any such lands. In such cases, the land remains in the ownership of an individual, POA or condominium, while the development rights are held by the Township. The lands may be used for agriculture, forestry enterprises and other uses permitted on open land in accord with this Ordinance, and title to such lands may be transferred to other parties for use as restricted by the conservation easement.

1005.6 Fee Simple and/or Easement Dedication to the Township

In the case of open lands or recreation lands, the Township may, but shall not be required to, accept in fee, the title to any such lands, or any interests (such as development rights or conservation easements) therein, for public use and maintenance, provided:

- A. There is no consideration paid by the Township.
- B. Such land is freely accessible to the public.
- C. The Township agrees to and has access to maintain such lands.

1006 Failure to Preserve Dedication of Use and Operation and Maintenance of Common Area

Should the method established for the dedication of use and operation and maintenance of common area fail to do so in reasonable order and condition in accord with the approved development plan, the Board of Supervisors shall have the right and authority to take all necessary legal action to effect such use dedication, operation and maintenance. The action of the Board of Supervisors shall be in accord with the following:

1006.1 Notice

The Board of Supervisors shall serve written notice on assigned entity or the property owners in the development setting forth the details of the failure of the entity with regard to use dedication and operation and maintenance of common areas.

1006.2 Correction of Deficiencies

The notice shall include a demand that the deficiencies be corrected in a reasonable period of time which shall be stated in the notice.

1006.3 Public Hearing

A public hearing shall be conducted subsequent to the notice and shall be advertised in accord with the definition of "public notice" contained in this Zoning Ordinance. At such hearing, the Board of Supervisors may modify the terms of the original notice as to the deficiencies and may extend the time for correction of the deficiencies.

1006.4 Failure to Correct

In the event the deficiencies in the notice, as may have been modified at the public hearing, are not corrected in accord with the established time period, the Board of Supervisors may enter upon the common area and maintain the same and/or correct the deficiencies. The Board of Supervisors shall continue such action for such time as may be necessary to correct the deficiencies. Said action shall not constitute a taking or dedication of any common areas, nor vest in the public the right to use any common area.

1006.5 Reinstatement of Responsibility

The responsibility of operation and maintenance shall not be reinstated to the assigned entity until such time as the entity has demonstrated to the Board of Supervisors that the proper steps have been effected to modify the terms of use dedication, operation and/or maintenance; and/or to reorganize or replace the responsible entity so that use dedication and operation and maintenance established by the approved development plan will be assured.

1006.7 Appeal

Any party to the action of the Board of Supervisors may appeal such action to court as provided for zoning appeals in the Pennsylvania Municipalities Planning Code, as amended.

1006.8 Public Costs

The costs of the preservation of use dedication and the cost maintenance and operation of any open land conducted by the Township in accord with this Article, and including any administrative and legal costs, shall be assessed ratably

against the properties in the subject development which have a right of enjoyment and/or use of the common areas. The assessment shall be made a lien on the properties, and the Board of Supervisors shall, at the time of the notice in §1006.1 above, shall file the required notice of lien against the properties.

ARTICLE XI ADMINISTRATION

1100 Applicability

1100.1 Conformance

Any activity regulated by this Ordinance shall only occur or be undertaken and be continued in conformance with the requirements of this Ordinance.

1100.2 Authorization

This Ordinance regulates all matters and activities authorized by Article VI of the Pennsylvania municipalities Planning code, as amended.

1100.3 Regulated Activities

Any of the following activities or any other activity or matter regulated by this Zoning Ordinance shall only be undertaken after the required permit or approval has been obtained in full compliance with this Ordinance:

- A. Erection, construction, movement, placement or extension of a structure, building or regulated sign;
- B. Change in the type of use or expansion of the use of a structure or area of land; and/or,
- C. Creation of a lot or alteration of lot lines.

1100.4 Repairs and Maintenance

Ordinary repairs, structural strengthening, facade improvements and maintenance to existing structures that do not infringe upon a required setback may be made without a zoning permit provide such activity does not involve 1) a change in use; 2) an expansion, construction or placement of a structure; 3) an increase in the number of dwelling units or boarding house units; and/or any other activity regulated by this Ordinance.

1101 General Procedure for Permits

1101.1 Principal Permitted Use

Within ninety (90) days of receiving a proper and complete application for a principal permitted use (permitted by right), the Zoning Officer shall either:

- A. Issue the permit under this Ordinance; or,
- B. Refuse the permit, indicating at least one applicable reason in writing to the applicant or his/her representative.

1101.2 Reviews

Certain activities require review and/or approval of the Zoning Hearing Board and/or of the Board of Supervisors, and/or the recommendations of the Planning Commission. In such case, the Zoning Officer shall not issue a Zoning Permit until such required review or approval occurs.

1101.3 Appeal

See §1105.2 which describes processes to appeal actions of the Zoning Officer to the Zoning Hearing Board.

1101.4 Timing

After a zoning permit has been received by the applicant, the applicant may undertake the action permitted by the permit under this Ordinance provided the work complies with other Township Ordinances. However, it is recommended that applicants wait thirty (30) days to begin construction if there is a possibility of an appeal by another

party to have the permit revoked. Any commencement of construction or a use within this thirty (30) day appeal period shall be at the risk of the applicant. (See use permit process in §1102.7)

1102 Permits and Certificates

1102.1 Applicability See §1100.

1102.2 Types of Uses

- A. Principal Permitted Uses (Permitted by Right Uses) - If a use is listed as a principal permitted use by this Ordinance and meets the requirements of this Ordinance, the Zoning Officer shall issue a permit in response to a complete application.
- B. Special Exception Use or Application Requiring a Variance - A permit under this Ordinance for a use requiring a Special Exception or Variance shall be issued by the Zoning Officer only upon the written order of the Zoning Hearing Board after a hearing.
- C. Conditional Use - A permit under this Ordinance for a Conditional Use shall be issued by the Zoning Officer only upon the written order of the Board of Supervisors, after the Planning Commission has been given an opportunity to review the application.

1102.3 Applications

- A. Applications - Any request for a decision, interpretation or variance by the Zoning Hearing Board, application for a conditional use, or for a permit under this Ordinance shall be made in writing on a form provided by the Township and in accord with the procedures established by the Township. Such completed application, with any required fees, and with any required site plans or other required information, shall be submitted to the Township employee responsible for processing such application. The applicant is responsible to ensure that a responsible Township official notes the date of the official receipt on the application.
- B. Number of Copies - Unless waived by the Zoning Officer, five (5) copies of a site plan shall be submitted if an application requires action by the Zoning Hearing Board or Board of Supervisors, and two (2) copies shall be submitted if action by the Zoning Hearing Board or Board of Supervisors is not required.
- C. Information Required - Any application to the Zoning Officer, Zoning Hearing Board, Planning Commission or Board of Supervisors shall include the following information.

In the case of an application involving the construction of any new structure or any addition to an existing structure, all of the information required in this §1102.3 shall be provided by the applicant. However, the Zoning Officer, Planning Commission, Board of Supervisors, or the Zoning Hearing Board, as the case may be, may determine, as part of the review process, that certain information is not required for a particular application, and upon such determination, the specified information need not be provided by the applicant.

In the case of an application which does not involve the construction of any new structure or any addition to an existing structure, a narrative providing details of the project shall be provided as required by this section. However, a plot plan, as required by §§6 which follows, shall not generally be required unless the Zoning Officer, Planning Commission, Board of Supervisors, or the Zoning Hearing Board, as the case may be, deems such plot plan necessary to evaluate and make a decision on the application. The Zoning Officer, Planning Commission, Board of Supervisors, or the Zoning Hearing Board, as the case may be, shall determine, as part of the review process, the type of information and level of detail of the plot plan if such plot plan is required.

In any case, the Zoning Officer, Planning Commission, Board of Supervisors, or the Zoning Hearing Board, as

the case may be, may require any other additional information or any level of detail deemed necessary to determine compliance with this Ordinance or to identify any impacts of the proposed use.

1. Names and address of the applicant, or appellant; and the name and address of the owner of the affected property
 2. A description of the existing and proposed use(s) of the property, including numbers of dwelling units, minimum square feet of proposed dwelling units and number of proposed business establishments, if any.
 3. A description of any proposed non-residential operations and storage in sufficient detail to indicate potential nuisances and hazards regarding noise, large truck traffic, glare, odors, dust, fire or toxic or explosive hazards or other significant public health and safety hazards.
 4. If a principal non-residential use is proposed within close proximity to dwellings, a description of hours of operation and proposed methods of storing garbage outdoors on-site.
 5. A listing of any specific sections of this Ordinances being appealed, with the reasons for any appeal and
 6. A plot plan legible in every detail and drawn to scale but not necessarily showing precise dimensions, and including the following information:
 - a. Name of the development.
 - b. Name and address of land owner and/or land developer. (if corporation give name of officers.)
 - c. Location map.
 - d. North arrow, true or magnetic.
 - e. Graphic scale.
 - f. Written scale.
 - g. Date plot plan was completed.
 - h. Names of adjacent property owners and tax map numbers, including those across adjacent roads.
 - i. Proposed and existing street and lot layout including street names and right-of-way widths.
 - j. Existing and proposed man-made and/or natural features:
 1. Water courses, lakes and wetlands (with names).
 2. Rock outcrops, ledges and stone fields.
 3. Buildings, structures, signs and setbacks required by the Zoning Ordinance.
 4. Approximate location of tree masses.
 5. Utility lines, wells and sewage system(s).
 6. Entrances, exits, access roads and parking areas including the number of spaces.
 7. Drainage and storm water management facilities.
 8. Plans for any required buffer plantings
 9. Any and all other significant features.
 7. Location of permanent and seasonal high water table areas and 100 year flood zones.
 8. Tract boundaries accurately labeled.
 9. The total acreage of the tract and extent of the areas of the site to be disturbed and percentage lot coverage when the project is completed.
 10. Location and type of rights-of-way or other existing restrictive covenants which might affect the subdivision and/or development.
 11. A statement of the type of water supply and sewage disposal proposed.
 12. The present zoning district and major applicable lot requirements.
- D. Other Laws - The Zoning Officer may withhold issuance of a permit under this Ordinance if there is clear knowledge by the Zoning officer that such a use would violate another Township, State or Federal law or regulation.
- E. Ownership - No person other than a landowner or their specifically authorized agent or a tenant or lessee with written permission of the landowner shall submit a zoning application. (See definition of "landowner" in Article III.)
- F. Advisory Reviews - The Zoning Officer may submit a copy of any plan and application to any appropriate

agencies and/or individuals (such as the Planning Commission, the Lackawanna County Regional Planning Commission, the County Conservation District or Township Engineer) for review and comment.

- G. Subdivision Approval - Applications for uses which also necessitate approvals under the Township Subdivision Ordinance shall be processed in the manner provided for plat approval under that Ordinance. Such applications shall also contain all information or data normally required for a submission under the Subdivision Ordinance. A zoning permit shall not be issued until the proposed use has been granted a Preliminary Approval under the Subdivision Ordinance. However, no building or property shall be occupied or used until final subdivision approval has been granted and a Certificate of Use has been properly issued pursuant to §1102.7 of this Ordinance.

1102.4 Issuance of Permit

- A. At least two (2) copies of any permit required under this Ordinance shall be made.
- B. One (1) copy of any such permit shall be retained in Township files and one (1) copy shall be retained by the applicant. A copy of any such permit shall be shown by the applicant to the Zoning Officer upon the Zoning Officer's request.
- C. The Zoning Officer shall issue or deny a permit for a principal permitted use within a maximum of ninety (90) days after a complete, duly filed application and fees are submitted.
- D. No owner, contractor, worker or other person shall perform building or construction activity of any kind regulated by this Ordinance unless a valid zoning permit has been issued for such work, nor shall such persons conduct such work after notice that a zoning permit has been revoked.

1102.5 Revocation of Permits

The Zoning Officer shall revoke a permit or approval issued under the provisions of the Zoning Ordinance in case of:

- A. Any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based: (The Pennsylvania Criminal Code provides for penalties for providing false information to a municipal employee in the carrying out of his/her duties); or,
- B. Upon violation of any condition lawfully imposed upon a special exception, variance or conditional use; or,
- C. Any work being accomplished or land or structures being used in such a way that does not comply with this Ordinance or an approved site plan or approved permit application; or,
- D. For any other just cause set forth in this Ordinance.

If a zoning permit is revoked, the person holding the permit shall immediately surrender such permit and all copies to the Zoning Officer.

1102.6 Changes to Approved Plans

- A. After the issuance of a permit and/or approval under this Ordinance by the Township, such approved application shall not be changed without the written consent of the Township, as stated in subsection "B" below.
- B. Changes to an approval by the Zoning Hearing Board as a special exception use or by the Board of Supervisors as a conditional use shall require re-approval of the changes by such bodies if the Zoning Officer determines that such changes affect matters that were within the scope of approval of such body. Such approval by the Hearing

Board or the Board of Supervisors is not required for clearly minor technical adjustments or matters that are solely corrections of information that do not affect any of the significant features of the site plan or the intensity of the use, as determined by the Zoning Officer.

- C. A copy of such adjustment or correction shall be provided in writing to the Chairperson of the Planning Commission, the President of the Board of Supervisors or the Chairperson of the Zoning Hearing Board if the change concerns a plan approved by such bodies.

1102.7 Certificate of Use

- A. A Certificate of Use shall be required by the Township upon a change of use or completion of work authorized by a permit or approval under this Ordinance. It shall be unlawful to use and/or occupy a structure, building and/or land or portions thereof until such Certificate has been issued. A new Certificate of Use shall be required if a change in use of the property is proposed, and then such Certificate shall be issued only after all required approvals are obtained.
- B. An application for such Certificate shall be made on an official Township form. If such use is in conformance with Township ordinances and approvals, such Certificate should be issued in duplicate within ten (10) days of a properly submitted and duly filed application. A minimum of one (1) copy shall be retained in Township records.
- C. The Zoning Officer shall inspect such structure or land related to an application for such Certificate. If the Zoning Officer determines, to the best of his/her current knowledge, that such work conforms with this Ordinance and applicable Township codes, approvals and permits, then the Certificate of Use shall be issued.
- D. The applicant shall show a valid Certificate of Use to the Zoning Officer upon request.

1103 Fees

1103.1 Application Fees

As authorized by §617.2(e) and §908(1.1) of the Pennsylvania Municipalities Planning Code, the Board of Supervisors shall establish a uniform schedule of fees, charges and expenses, as well as a collection procedure, for zoning permits, conditional use permits, Zoning Hearing Board proceedings and other matters pertaining to this Ordinance. Permits, certificates, conditional use permits, special exception permits and variances shall be issued only after fees have been paid in full, and the Zoning Hearing Board shall take no action on appeals until all fees have been paid in full.

1103.2 Stenographer Fees

The appearance fee for a stenographer shall be shared equally by the applicant and the Township. The cost of the original transcript shall be paid by the Township if the transcript is ordered by the Township or shall be paid by the person appealing the decision of the Township if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

1104 Zoning Officer

1104.1 Appointment

The Zoning Officer(s) shall be appointed by the Board of Supervisors. The Zoning Officer(s) shall not hold any elective office within the Township, but may hold other appointed offices not in conflict with the State Planning Code.

1104.2 Duties and Powers

The Zoning Officer shall:

- A. Administer the Zoning Ordinance.
- B. Provide information to applicants regarding required procedures.
- C. Receive and examine all applications required under the terms of this Ordinance, and issue or refuse permits within this Ordinance.
- D. Receive written complaints of violation of this Ordinance, and issue a written notice of violation to any person violating any provision of this Ordinance.
- E. Keep records of applications, permits, certificates, written decisions and interpretations issued, of variances and special exception granted by the Zoning Hearing Board, of conditional uses approved by the Board of Supervisors, of complaints received, of inspections made, of reports rendered, and of notice or orders issued.
- F. Make all required inspections and perform all other duties as called for in this Ordinance.
- G. Not have the power to permit any activity which does not conform to this Ordinance, or all other Ordinances of the Township known to the Zoning Officer.

1104.3 Qualifications

Pursuant to §614 of the PA Municipalities Planning Code, the following minimum qualifications shall apply to any Zoning Officer(s) appointed to serve the Township after the adoption of this Ordinance, unless such mandatory qualifications are waived by motion of the Board of Supervisors.

- A. The person shall demonstrate a working knowledge of zoning.
- B. The person shall have one of the following combinations of education and experience:
 - 1. An high school diploma or equivalent and a minimum of four (4) years responsible experience in administering and enforcing municipal zoning and/or subdivision and land development ordinances; or,
 - 2. An high school diploma or equivalent and two (2) additional years of continuing education, such as an Associate Degree (such continuing education preferably should be in a field such as law enforcement, community planning and/or public administration) and a minimum of two (2) years responsible experience in administering and enforcing municipal zoning and/or subdivision and land development ordinances; or,
 - 3. A college or university Bachelor's degree in a field related to zoning (such as law enforcement, community planning and/or government administration) and a minimum of 8 months responsible experience in administering and enforcing municipal zoning and/or subdivision and land development ordinances.
- C. The person shall be familiar with Constitutional issues concerning search and seizure and with the process of filing actions with the District Justice.
- D. The person shall exhibit an ability to thoroughly evaluate site plans and building plans.
- E. The person shall demonstrate excellent oral and written communication skills.
- F. The person shall be familiar with the PA Municipalities Planning Code.

1104.4 Other Township Officials

Police officers, firefighters, construction inspectors, other Township staff and Township officials and the general public may report possible zoning violations to the Zoning Officer for his/her determination.

1105 Zoning Hearing Board**1105.1 Appointment and Qualifications**

- A. Appointment - The Board of Supervisors shall appoint a Zoning Hearing Board, which shall have the number of members and alternate members with such powers and authority, and which shall conduct all proceedings as set forth in Article IX of the Pennsylvania Municipalities Planning Code as enacted or hereafter amended.
- B. Recommended Qualifications - Each Zoning Hearing Board member should:
1. Demonstrate a working knowledge of zoning prior to appointment.
 2. Become familiar with the PA Municipalities Planning Code.
 3. Attend at least one (1) seminar and/or workshop pertaining to municipal planning and/or zoning within each calendar year.
- C. Vacancies. The Board shall promptly notify the Board of Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of a term.
- D. Removal of Members. See §905 of the PA Municipalities Planning Code.
- E. Organization.
1. Officers - The Board shall elect officers from its own membership. Officers shall serve annual terms and may succeed themselves.
 2. Quorum - For the conduct of any hearing and taking of any action a quorum shall be not less than a majority of all members of the Board, except that the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board, as provided by the PA. Municipalities Planning Code. The quorum may be met by alternate members, serving as permitted by the PA Municipalities Planning Code.
 3. Rules - The Board may make, alter, and rescind rules and forms for its procedure, consistent with all applicable Township ordinances and State law.

1105.2 Jurisdiction

The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

- A. Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to §609.1 (Curative Amendments) and §916.1(a) (2) (Ordinance Validity) of the Pennsylvania Municipalities Planning Code.
- B. Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within thirty (30) days after the effective date of said ordinance. Where the ordinance appealed from is the initial zoning ordinance of the municipality and a zoning hearing board has not been previously established, the appeal raising procedural questions shall be taken directly to court.
- C. Appeals from the determination of the Zoning Officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

- D. Applications for variances from the terms of the Zoning Ordinance pursuant to §910.2 of the Pennsylvania Municipalities Planning Code.
- E. Applications for special exceptions under the Zoning Ordinance pursuant to §912.1 of the Pennsylvania Municipalities Planning Code and the requirements of this Ordinance.
- F. Appeals from the Zoning Officer's determination under §916.2 (Preliminary Opinion) of the Pennsylvania Municipalities Planning Code.
- G. Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision and Land Development applications.
- H. The Zoning Hearing Board shall not, under any circumstances, have the authority to order any specific change in or amendment to the Zoning Map or to allow any use of property substantially different from those permitted under the Schedule of Use Regulations for the particular district.

1106 Zoning Hearing Board -- Hearings and Decisions

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with §908 of the Pennsylvania Municipalities Planning Code, as amended, and the provisions of this §1106. The hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the Township, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final. (For the purposes of this section *Board* shall mean *Board or Hearing Officer*, if a hearing officer is appointed.)

1106.1 Notice of Hearings

Notice of all hearings of the Board shall be given as follows:

- A. Advertisement - Public notice shall be published, as defined by §107 of the PA. Municipalities Planning Code. The notice shall state the time and place of the hearing and the particular nature and property address of the matter to be considered.
- B. Posting - Notice of such hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing. Such notice shall state the time and place of the hearing and a general description of the request.
- C. Persons Given Notices - All notice under this sub-section should be intended to be received or posted at least five (5) days prior to the hearing date.
 - 1. Written notice shall be mailed or personally delivered to the Applicant or his/her representative listed on an official application form.
 - 2. Notice may be delivered or mailed to the Chairperson of the Planning Commission or Township Secretary, and the last known address of owners of record of property abutting or directly across the street from the boundaries of the subject property. The applicant shall provide the Township with a list of such property-owners. Failure of the Township to notify all such persons shall not invalidate any action by the Board.
 - 3. Also, such notice shall be mailed or delivered to the address of any other person or group (including civic or community organizations) who has made a written timely request (including an address) for such notice.

- D. Adjacent Municipalities - In any matter which relates to a lot which lies within two hundred and fifty (250) feet of the boundary of another municipality, and where the Zoning Officer determines the proposed activity may have significant impact on that municipality, the Township staff may transmit to the offices of the adjacent municipality a copy of the official notice of the public hearing on such matter prior to the hearing date. Representatives of such adjacent municipality shall have the right to appear and be heard at the public hearing. Failure of the Township to notify such municipality shall not invalidate any action by the Board.
- E. Fees - The Board of Supervisors may, by resolution, establish a reasonable fee schedule, based on cost, to be paid by: a) the Applicant for any notice required by this Ordinance and b) those persons requesting any notice not required by the Ordinance.

1106.2 Parties in Hearings

The Zoning Hearing Board shall have the authority, if it chooses to exercise it, to determine who has standing on each case before the Board. (Note-Standing generally means a party being sufficiently affected or threatened by affects by a controversy to obtain judicial resolution of that controversy.)

- A. The parties to a hearing shall be the Board of Supervisors, the Planning Commission, any person affected by the application who has made timely appearance of record before the Board, representatives of any legitimate civic or community organization, and any other person permitted to appear before the Board.
- B. The Board shall have power to require that all person who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
- C. The Board shall determine that a person or business does not have standing if the Board finds that such person or business is apparently motivated primarily by an attempt to inhibit competition in an area of business, and that such person or business would not otherwise be threatened with substantive harm from the application.

1106.3 Oaths and Subpoenas

The Chairperson of the Board or Hearing Officer shall have the power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents reasonably needed by and requested by the parties.

1106.4 Representation by Counsel

The parties shall have the right to be represented by legal counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on relevant issues.

1106.5 Evidence and Record

Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded. The Board or the Hearing Officer, as applicable, shall keep a record of the proceedings as required by State law.

1106.6 Communications Outside of Hearings

- A. The Board shall not meet with, visit the site with or directly communicate specifically on the matter with the applicant or any officially protesting party or their representatives in connection with any issue involved, except if opportunity is provided for the applicant and any officially protesting party to participate.
- B. The Board shall not take notice of any communications, reports, staff memoranda, or other materials directly affecting a proposed application unless the parties are afforded an opportunity to examine and contest the material so noticed or unless such materials are already a matter of public record. This restriction shall not apply to advice from the Board's solicitor.

1106.7 Advisory Review

The Zoning Hearing Board may request that the Planning Commission, County Conservation District or Township Engineer provide an advisory review on any matter before the Board.

1106.8 Hearings and Decision

The Zoning Hearing Board shall conduct hearings and make decisions in accord with §908 of the Pennsylvania Municipalities Planning Code, as amended.

1106.9 Solicitor Conflict

- A. The Zoning Hearing Board Solicitor shall not represent private clients in cases before the Zoning Hearing Board.
- B. If a conflict of interest exists for the Zoning Hearing Board Solicitor on a particular application, the Zoning Hearing Board Solicitor shall notify the Chairperson of the Board at least seven (7) days before the scheduled hearing date.
- C. The Board of Supervisors may appoint an Alternate Solicitor to the Zoning Hearing Board to serve as needed for a specific application or for a term of office.

1107 Variances

The Board shall hear requests for variances filed with the Board in writing by any landowner (or any tenant with the permission of such landowner).

1107.1 Standards

The Board may grant a variance only within the limitations of the Municipalities Planning Code. **The applicant shall have the burden of proof to show compliance with such standards.** As of 1993, the Municipalities Planning Code provided that **all** of the following findings must be made, where relevant in a particular case:

- A. There are unique physical circumstances or conditions (including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property) and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of this Ordinance in the neighborhood or district in which the property is located; and,
- B. Because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and a variance is therefore necessary to enable the reasonable use of the property; and,
- C. Such unnecessary hardship has not been created by the appellant; and,
- D. The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, not be detrimental to the public welfare; and,
- E. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

1107.2 Re-Application

The Zoning Officer shall refuse to accept a proposed application that is not materially or significantly different from an appeal on the same property that was denied by the Board within the previous year.

1107.3 Variance Conditions

In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary

to implement the purposes of the Municipalities Planning Code and this Ordinance, and to protect the public health, safety and welfare.

1107.4 Planning Commission Review of Variance Applications

- A. The Planning Commission shall be provided with an opportunity to review any proposed variance at a regular meeting prior to a decision by the Zoning Hearing Board. The Commission, at its option, may provide a written advisory review.
- B. If such review is not received within the time limit within which the Board must issue a decision, or within thirty (30) days of such application being sent to the Planning Commission, then the Board may make a decision without having received comments from the Planning Commission.

1108 Conditional Uses and Special Exceptions

1108.1 Applications

Applications for conditional uses and special exceptions shall, at a minimum, include the information required in §1108.6. The Township Planning Commission, Board of Supervisors, or the Zoning Hearing Board shall require any other information deemed necessary for the review of the proposal.

1108.2 Conditional Uses

Uses specified as conditional uses shall be permitted only after review and approval pursuant to the express standards as provided for specific conditional uses in this Ordinance and in §1108.4 and any other applicable standards in this Ordinance.

- A. Expansions - Expansions or additions to uses classified as conditional uses shall also be considered conditional uses. The addition of an accessory structure shall not be considered a conditional use.
- B. Procedure
 - 1. Submission - The applicant shall submit the application as follows:
 - a. Five (5) complete copies of any required plan shall be submitted to the Zoning Officer.
 - b. The Zoning Officer shall refuse to accept an incomplete application which does not provide sufficient information to determine compliance with this Ordinance.
 - 2. Distribution - The Zoning Officer shall distribute copies of the site plan to the Planning Commission and the Board of Supervisors. A minimum of one (1) copy shall be retained in the Township files. The Township Fire Company should be given an opportunity for a review, if deemed appropriate by the Zoning Officer.
 - 3. Zoning Officer Review - The Zoning Officer shall report in writing or in person to the Planning Commission or the Board of Supervisors stating whether the proposal complies with this Ordinance. The Zoning Officer may request a review by the Township Engineer.
 - 4. Planning Commission Review
 - a. The Planning Commission shall be provided with an opportunity to review any proposed conditional use at a regular meeting prior to a decision by the Board of Supervisors. The Commission, at its option, may provide a written advisory review.

- b. If such review is not received within the time limit within which the Board must issue a decision, or within thirty (30) days of such application being sent to the Planning Commission, then the Board may make a decision without having received comments from the Planning Commission.
5. Board of Supervisors Action - The Board of Supervisors shall conduct hearings and make decisions in accordance with §908 and §913.2 of the Pennsylvania Municipalities Planning Code, as amended. In granting a conditional use, the Board may attach such reasonable conditions and safeguards (in addition to those expressed in this Ordinance) as it determines are necessary to implement the purposes of the PA Municipalities Planning Code and this Ordinance, and to protect the public health, safety and welfare.

1108.3 Special Exceptions

Uses specified as special exceptions shall be permitted only after review and approval by the Township Zoning Hearing Board pursuant to the express standards as provided for specific special exceptions in this Ordinance and in §1108.4.

- A. Expansions - Expansions or additions to uses classified as special exceptions shall also be considered special exceptions. The addition of an accessory structure shall not be considered a conditional use.

B. Procedure

1. All applicants for a special exception use shall submit five (5) sets of plans for the proposed use to the Zoning Officer together with a written application. Photographs of the existing site or buildings may also be requested to be presented by the applicant.
2. All plans shall contain the information required in §1108.6.
3. Township Procedures.
 - a. The Zoning Officer shall forward the application to the Zoning Hearing Board, the Planning Commission and the Zoning Hearing Board solicitor. A minimum of one (1) copy shall be retained in the Township files.
 - b. The Zoning Officer shall, prior to the next Zoning Hearing Board meeting where the application will be discussed, review the Plan to determine compliance with this Ordinance and report these findings to the Zoning Hearing Board.
4. Planning Commission Review of Special Exception Uses.
 - a. The Planning Commission shall be provided with an opportunity to review any proposed special exception use at a regular meeting prior to a decision by the Zoning Hearing Board. The Commission, at its option, may provide a written advisory review.
 - b. If such review is not received within the time limit within which the Board must issue a decision, or within thirty (30) days of such application being sent to the Planning Commission, then the Board may make a decision without having received comments from the Planning Commission.
5. Zoning Hearing Board Action on Special Exception Uses
 - a. The Board shall hear and decide such request for a special exception use under the procedures in §1106.
 - b. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions and

safeguards (in addition to those expressed in this Ordinance) as it determines are necessary to implement the purposes of the PA Municipalities Planning Code and this Ordinance, and to protect the public health, safety and welfare.

1108.4 Standards and Criteria

The standards and criteria applied to conditional uses and special exceptions are intended to ensure that the proposed use will be in harmony with the purposes, goals, objectives and standards of this Ordinance and other ordinances of the Township. In addition to the applicable general provisions of this Ordinance and to the standards provided in this Ordinance for specific conditional uses and special exceptions, the following standards and criteria shall be applied in the review of applications for conditional uses and special exceptions.

- A. The proposed use shall be in harmony with purposes, goals, objectives and standards of the Township Comprehensive Plan, this Ordinance and all other ordinances of the Township.
- B. The proposal shall also be evaluated as to the degree to which the proposed location may be particularly suitable or unsuitable for the proposed use in terms of the physical characteristics of the site.
- C. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, adjacent property values, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of this Ordinance, or any other plan, program, map or ordinance of the Township or other government agency having jurisdiction to guide growth and development.
- D. The proposed use shall not impose an undue burden on any of the improvements, facilities, utilities, and services of the Township, whether such services are provided by the Township or some other entity. The applicant shall be wholly responsible for providing such improvements, facilities, utilities, or services as may be required to adequately serve the proposed use when the same are not available or are inadequate to serve the proposed use in the proposed location. As part of the application and as a condition of approval of the proposed use the applicant shall be responsible for establishing ability, willingness and binding commitment to provide such improvements, facilities, utilities and services in sufficient time and in a manner consistent with this and other ordinances of the Township. The permit approval shall be so conditioned.
- E. In reviewing an application, the following additional factors shall be considered:
 - 1. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
 - 2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
 - 3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
 - 4. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
 - 5. Adequacy of storm water and drainage facilities storm water leaving any site shall not exceed pre-development levels and facilities shall be designed to accommodate a 10 year storm.
 - 6. Adequacy of water supply and sewage disposal facilities.
 - 7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
 - 8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
 - 9. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- F. No application shall be approved unless it is found that, in addition to complying with each of the standards

enumerated above, any of the applicable standards contained in this Ordinance shall be met. In instances where the supplemental standards contained herein do not adequately protect the general health, safety and welfare of parties effected, all conditions and safeguards deemed necessary by the Board to protect the general health, safety and welfare and implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code shall be imposed as conditions of approval in accord with §912.1 or §913.2 of the Pennsylvania Municipalities Planning Code, as the case may be.

Conditions which might be imposed shall include (but not be limited to) provisions for additional parking, traffic control, submission of landscaping plans for screening, setbacks, special measures addressing sales period activities, environmental controls and other measures which mitigate any potential adverse impact the use may have on adjoining uses.

The applicant shall supply evidence regarding compliance with the express standards and criteria contained herein; and data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the health, safety and welfare of the Township; and the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

1108.5 Limitation of Approval

Any conditional use approval granted by the Township Supervisors and any special exception approval granted by the Zoning Hearing Board shall expire one (1) year from the date such approval was granted if no building construction as approved has taken place or the use is not otherwise established as a functional and constructive activity prior to the expiration date. Upon such expiration, the said approval, and any permit issued subsequent thereto, shall be deemed null and void and the developer shall be required to submit another application for the same. The Board of Supervisors or Zoning Hearing Board as the case may be, however, may grant an extension of the time limitations, for good cause.

1108.6 Information Required

The applicant shall supply the information required by §1102.3 of this Ordinance and evidence regarding compliance with the express standards and criteria contained herein; and data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the health, safety and welfare of the Township; and the proposed use shall be approved with appropriate conditions or denied based on said evaluation.

1109 Time Limits on Permits and Variances

1109.1 Zoning Permit

After a variance is approved or a conditional or special exception approval is officially authorized under this Ordinance, then a Zoning Permit shall be secured by the applicant within twelve (12) months of such approval, otherwise, such approval shall be deemed null and void and the developer shall be required to submit another application for the same.

1109.2 Review Completion

If the applicant submits complete plans for a subdivision or land development approval or special exception or conditional use approval that is related to the variance or issuance of a permit under this Ordinance within the above time limits, then such time limits shall begin after such plan review is completed or such plan approval is granted.

1109.3 Extension

For good cause the Zoning Officer may, upon application in writing stating the reasons therefore, extend in writing the 12-month application period to up to eighteen (18) months.

1109.4 Expiration

If an applicant fails to obtain the necessary permits within the above time period, or after having obtained the permit fails to diligently commence substantial construction within twelve (12) months or allows interruptions in substantial

construction of longer than six (6) months, it shall be conclusively presumed that the applicant has waived, withdrawn or abandoned the approval, and all such approvals, variances and permits shall be deemed automatically rescinded.

1109.5 Completion

Any building construction shall be completed within twelve (12) months of issuance of an applicable permit, unless a written extension is granted by the Zoning Officer for good cause. Otherwise, a permit shall be considered to have automatically expired at the end of such 12-month period.

1110 Mediation

Parties to proceedings authorized by this Ordinance and the Pennsylvania Municipalities Planning Code may use the Mediation Option as authorized by and in accord with §908.1 of said Code.

1111 Time Limits for Appeals

The time limitations for appeals shall be as follows:

1111.1 Zoning Hearing Board -- County Court

No person shall be allowed to file any appeal with the Zoning Hearing Board later than thirty (30) days after the officially issued decision by the Zoning Officer, or appeal with the County Court of Common Pleas later than thirty (30) days after the officially issued decision of the Board of Supervisors or the Zoning Hearing Board, except as may be provided under §914.1 of the PA Municipalities Planning Code.

1111.2 Temporary Permits

This 30 day time limit for appeal shall not apply to the revocation of a permit under §1102.5.

1111.3 Subdivision or Land Development Approval

The failure of an aggrieved person other than the landowner to appeal an adverse decision directly related to a preliminary subdivision or land development plan shall preclude an appeal from a final plan approval except in the case where the final submission substantially deviates from the approved preliminary plan.

1112 Appeals to Court and Other Administrative Proceedings

Appeals to court and other administrative proceedings shall be governed by Article X-A and Article IX of the Pennsylvania Municipalities Planning Code, respectively.

1113 Public Utility Exemptions

See §619 of the PA Municipalities Planning Code.

1114 Limited Township Exemption

The minimum lot area requirements of this Ordinance shall not apply to uses or structures owned by the Township for uses and structures that are intended for a legitimate governmental, recycling, public recreation, storm water control or public health and safety purpose.

1115 Amendments

The Board of Supervisors may amend the Zoning Ordinance by complying with the requirements set forth in Article VI of the Pennsylvania Municipalities Planning Code. A landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided on as provided in §609.1 and §916.1 of the Pennsylvania Municipalities Planning Code.

1116 Violations**1116.1 Compliance**

Failure to comply with any provision of this Ordinance, failure to secure or comply with a decision of the Board of Supervisors or Zoning Hearing Board or the failure to secure a permit, when required, prior to or (when ordered) after the erection, construction, extension, or addition to a building or prior to or after the use or change of use of land; or failure to secure a Certificate of Use Permit, shall be violations of this Ordinance.

1116.2 Complaints

Whenever a violation of this Ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Officer, who shall record receipt of the said complaint and investigate and report thereon.

1116.3 Enforcement Notice

When written notice of a violation of any of the provisions of this Ordinance shall be served by the Zoning Officer, personally or by certified mail, in the manner prescribed by §616.1 of the Pennsylvania Municipalities Planning Code and set forth in this §1116.3, such violation shall be discontinued or corrected as set forth in said notice.

- A. If it appears to the Township that a violation of this Zoning Ordinance has occurred, the Township shall initiate enforcement proceedings by sending an enforcement notice as provided in this §1116.3
- B. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.
- C. An enforcement notice shall state at least the following:
 - 1. The name of the owner of record and any other person against whom the municipality intends to take action.
 - 2. The location of the property in violation.
 - 3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the ordinance.
 - 4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
 - 5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with procedures set forth in this Ordinance.
 - 6. That failure to comply with the notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation, with possible sanctions clearly described.
- D. In any appeal of an enforcement notice to the Zoning Hearing Board, the Township shall have the responsibility of presenting its evidence first.
- F. Any filing fee paid by a party to appeal an enforcement notice to the Zoning Hearing Board shall be returned to the appealing party by the Township if the Zoning Hearing Board, or any court in subsequent appeal, rules in the appealing party's favor.

1117 Penalties and Remedies**1117.1 Causes of Action**

In case any building, structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any provisions of this Ordinance, the Board of Supervisors or, with the approval of the Board of Supervisors, an officer of the municipality, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies,

may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the Township at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the Board of Supervisors. No such action may be maintained until such notice has been given.

1117.2 Enforcement Remedies

- A. Any person, partnership or corporation who or which has violated or permitted the violation of any of the provisions of this Zoning Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500 (state law) plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Zoning Ordinance shall be paid over to the Township.
- B. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.
- C. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the Township, the right to commence any action for enforcement pursuant to this section.

1118 Liability

Neither the approval nor the granting of any review, issuance of permit or approval related to construction, activity within the flood plain, site plan review, subdivision or land development approval erosion control, storm water runoff, activity on steep slopes or any other review or permit of this Ordinance, by an officer, employee, consultant or agency of the Township, shall constitute a representation, guarantee or warranty of any kind by the Township, or its employees, officials, consultants or agencies, of the practicality or safety of any structure, use or subdivision, and shall create no liability upon, nor a cause of action against such public body, official, consultant nor employee for any damage that may result pursuant thereto.

If the Zoning Officer mistakenly issues a permit under this Ordinance, the Township shall not be liable for any later lawful withdrawal of such permit for valid cause shown.

ARTICLE XII
AIRPORT OVERLAY DISTRICT;
STANDARDS APPLICABLE TO NEW AIRPORTS AND CHANGES TO EXISTING AIRPORTS

1200 Introduction and Intent

1200.1 Introduction

This Article XII applies to the *Airport Overlay District* created by §401.1 of this Ordinance which includes all of the land lying beneath the approach surfaces, primary surfaces, transitional surfaces, horizontal surfaces and conical surfaces as applied to airports as defined and regulated by this Article XII. In addition to all other applicable standards of this Zoning Ordinance the requirements of this Article XII shall apply in the Airport Overlay District.

This Article XII regulates and restricts the height to which structures may be erected or objects of natural growth are permitted to extend, and otherwise regulates the use of property in the vicinity of an airport regulated by this Article XII by creating the appropriate zones and establishing the boundaries thereof; provides for changes in the restrictions and boundaries of such zones; and defines certain terms used herein.

The standards in this Article XII shall also apply to any other existing or proposed airports in the Township.

1200.2 Intent

The intent of the *Airport Overlay District* is to regulate airport hazard zones in the Township. Activities at airports may limit the uses of the lands owned by others, and the uses of land in airport hazard zones may limit the operation of an airport. Therefore, the purpose of the overlay district is to provide procedures and criteria for balancing the rights of airport owners and landowners in the vicinity of airports, in light of the need for aircraft safety.

1201 Authority

In addition to the authority for zoning in general as authorized by the Pennsylvania Municipalities Code, the provisions of this Article XII are adopted pursuant to the authority conferred by the Act of October 10, 1984, P.L. 8313, No. 164, of the General Assembly of the Commonwealth of Pennsylvania, as amended, known and cited as the *Aviation Code of Pennsylvania* and specifically that subchapter of the *Aviation Code* known as the *Airport Zoning Act*

1202 Findings and Declaration of Policy

1202.1 Findings

It is hereby found that:

- A. An obstruction has the potential for endangering the lives and property of users of an airport regulated by this Article XII and property or occupants of land in the vicinity;
- B. An obstruction may reduce the size of areas available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of an airport regulated by this Article XII ;
- C. That obstructions to aircraft concern the Federal Aviation Administration (FAA), and the Pennsylvania Department of Transportation, Bureau of Aviation (Bureau);
- D. That FAA and the Bureau have issued model regulations and guidelines for Townships to facilitate the control of obstructions to aircraft;
- E. That the regulation of these obstructions, upon lands not owned by the airport owner or operator, shall not adversely affect the right of neighboring landowners to reasonably use their lands within the reasonable height limitations of the Zoning Ordinance;

- F. That the prevention of the creation or establishment of hazards to air navigation are public purposes necessary for the protection of the safety, health, and welfare of the residents of the Township and the traveling public.
- G. That expansion or changes at public airports in the Township may result in changes to airport hazard zones;
- H. That changes in airport hazard zones affect the rights of property owners to reasonably use or develop their land;
- I. That the character of the flying operations conducted at airports, the nature of the terrain within airport hazard zones, the character of the neighborhood, and the public interest, are all considerations needing protection by airport hazard zoning regulations;
- J. That any changes to airport hazard zones resulting in changes at airports shall be carefully reviewed for its affects upon neighboring landowners as well as for the safety of the aircraft; and
- K. That the regulation, restriction, or prohibition of uses, and structures at, along, or near public airports is an important function for which zoning and land use ordinances are enacted, and that a Township may require permits prior to changes in uses or structures at or near airports, and may enact reasonable regulations to protect the public health, welfare, safety, morals, and general welfare.

1202.2 Declaration of Policy

Accordingly, it is declared that:

- A. The creation or establishment of an obstruction has the potential of being a public nuisance and may injure the public health, safety and welfare;
- B. It is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and,
- C. The prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the powers of the Benton Township Supervisors.

1203 **General Definitions**

The definitions in this §1203 shall supplement the definitions in Article III of this Ordinance and shall apply to the requirements and standards of this Article XII.

AIRCRAFT -- Any contrivance used for manned ascent into or flight through the air.

AIRPORT -- In general, any area of land or water which is used, or intended to be used, for the landing and takeoff of aircraft and any appurtenant areas which are used, or intended to be used, for airport buildings or air navigation facilities or rights-of-way, together with all airport buildings and facilities thereon.

AIRPORT ELEVATION -- In general, the highest point of an airport's usable landing area measured in feet above sea level. In the case of Seamans Field, the *airport elevation* is 1,196 feet above mean sea level.

AIRPORT HAZARD -- Any structure or object, natural or manmade, or use of land which obstructs the airspace required for flight or aircraft in landing or taking off at an airport or is otherwise hazardous as defined by "Airport Hazard" in 74 Pa. Cons. Stat. §5102.

AIRPORT HAZARD AREA -- Any area of land or water upon which an airport hazard might be established if not prevented as provided for in this Article and PA Act 164 of 1984 (Pennsylvania Laws Relating to Aviation).

AIRPORT ZONE MAP --See *Height Limitation and Zoning District Map*.

APPROACH SURFACE -- A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach surface zone height limitation slope set forth in §1204 of this Ordinance. In plan, the perimeter of the approach surface coincides with the perimeter of the approach surface zone.

APPROACH, TRANSITIONAL, HORIZONTAL, AND CONICAL SURFACE ZONES-- These zones are set forth in §1204 of this Ordinance.

BUREAU OF AVIATION -- Pennsylvania Department of Transportation, Bureau of Aviation.

CONICAL SURFACE -- A surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of four thousand (4,000) feet.

DEPARTMENT -- Pennsylvania Department of Transportation, Bureau of Aviation.

FAA -- Federal Aviation Administration of the United States Department of Transportation.

HEIGHT -- For the purpose of determining the height limits in all zones set forth in this Article and shown on the airport zone map, the datum shall be mean sea level elevation unless otherwise specified.

HEIGHT LIMITATION AND ZONING DISTRICT MAP (also referred to as *airport zone map*) -- For any airport regulated by this Article XII, the most current *Height Limitation and Zoning District Map* as published by the Pennsylvania Department of Transportation, Bureau of Aviation.

HORIZONTAL SURFACE -- A horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal surface zone.

NONCONFORMING USE -- Any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this Article or an amendment thereto.

NON-PRECISION INSTRUMENT RUNWAY -- A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in, non-precision instrument approach procedure has been approved or planned.

OBSTRUCTION -- Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in §1204 of this Ordinance.

PERSON -- An individual, firm partnership, corporation, company, association, joint stock association, or governmental entity; includes a trustee, a receiver, an assignee, or a similar representative of any of them.

PRIMARY SURFACE -- A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in §1204 of this Ordinance. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

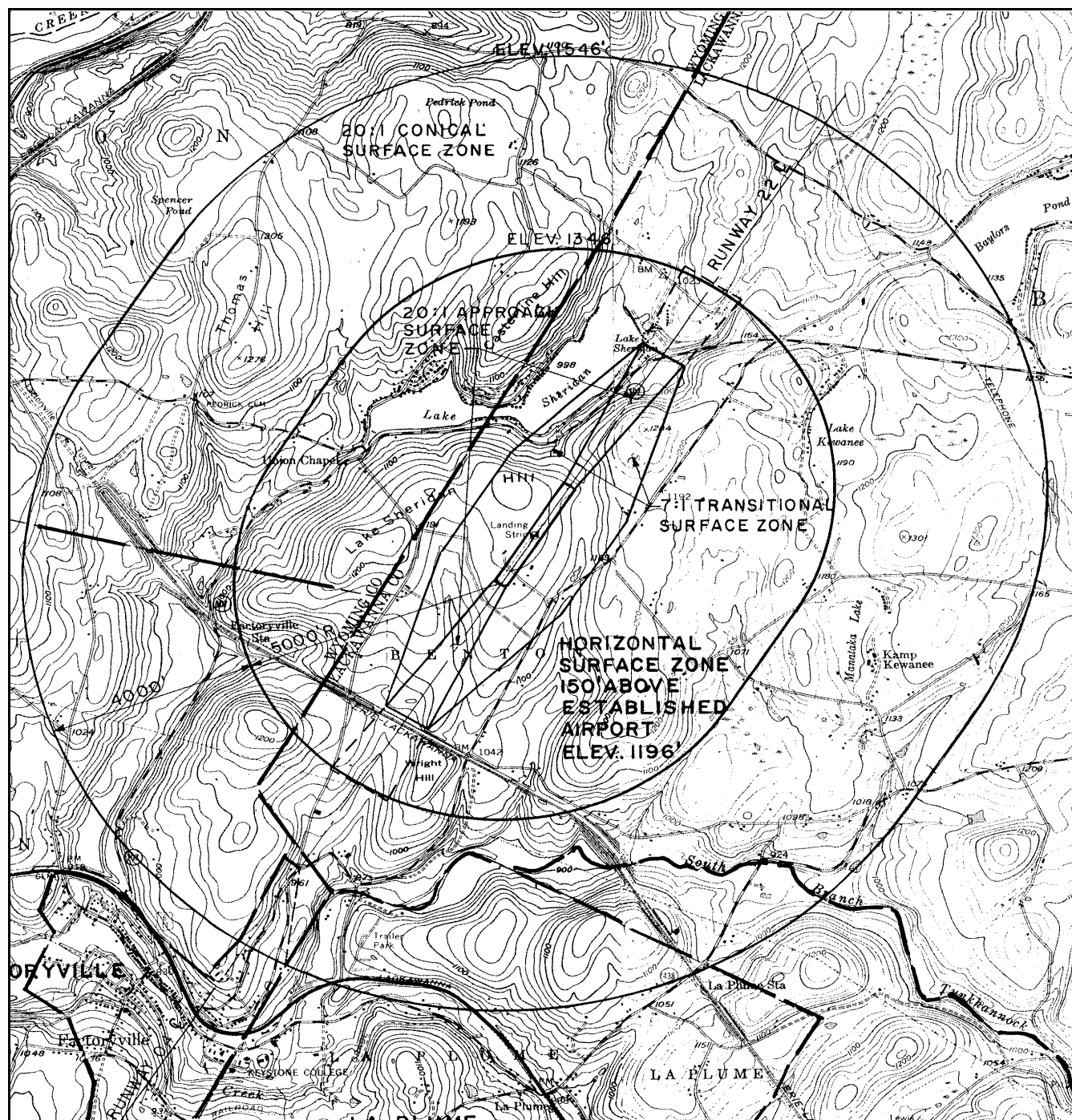


FIGURE 1 - SEAMANS FIELD AIRPORT SURFACE ZONES

RUNWAY -- A defined area on an airport prepared for landing and takeoff of aircraft along its length.

STRUCTURE -- An object, including a mobile object, constructed or installed by man, including but without limitation, buildings, towers, cranes, smokestacks, earth formation and overhead transmission lines.

TRANSITIONAL SURFACES -- These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces.

UTILITY RUNWAY -- A runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight or less.

VEGETATION -- Any object of natural vegetative growth.

VISUAL RUNWAY -- A runway intended solely for the operation of aircraft using visual approach procedures.

1204 Airport Surface Zones

In order to carry out the provisions of this Article XII, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, primary surfaces, transitional surfaces, horizontal surfaces and conical surfaces as applied to airports as defined and regulated by this Article XII. An area located in more than one (1) of the following zones is considered to be only in the zone with the more restrictive height limitation. Should any airport be developed or any existing airport be upgraded beyond the zones included in this section, FAA criteria for the applicable classification shall apply.

The various zones are hereby established and defined as follows:

1204.1 Utility Runway Approach Surface Zones

- A. **Visual Approach Surface Zone** - Established beneath the visual approach surface. The inner edge of this zone coincides with the width of the primary surface and is two hundred fifty (250) feet wide (125 feet on each side of the runway centerline). The zone expands outward uniformly to a width of one thousand two hundred fifty (1,250) feet at a horizontal distance of five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
- B. **Non-precision Instrument Approach Surface Zone** - Established beneath the non-precision instrument approach surface. The inner edge of this zone coincides with the width of the primary surface and is five hundred (500) feet wide (250 feet on each side of the runway centerline). The zone expands outward uniformly to a width of two thousand (2,000) feet at a horizontal distance five thousand (5,000) feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

1204.2 Utility Runway Primary Surface Zone

The primary surface zone is longitudinally centered on the runway. When the runway has a specially prepared hard surface, the primary surface zone extends two hundred (200) feet beyond each end of that runway. When the runway has no specially prepared hard surface, or planned hard surface, the primary surface zone ends at each end of that runway.

- A. **Primary Surface Zone for Visual Approaches** - The boundary of this zone coincides with the primary surface and is two hundred and fifty (250) feet wide (125 feet on each side of the runway centerline).

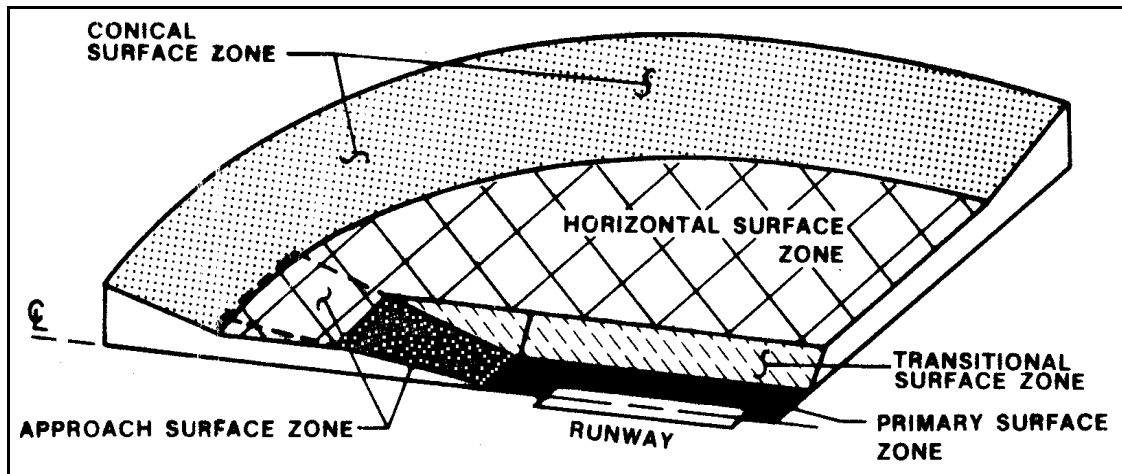


FIGURE 2 - ISOMETRIC VIEW OF AIRPORT SURFACE ZONES

- B. Primary Surface Zone for Non-precision Instrument Circling Approaches - The boundary of this zone coincides with the primary surface and is two hundred and fifty (250) feet wide (125 feet on each side of the runway centerline).
- C. Primary Surface Zone for Non-precision Instrument Straight-In Approaches - The boundary of this zone coincides with the primary surface and is five hundred (500) feet wide (250 feet on each side of the runway centerline).

1204.3 Transitional Surface Zone

Established beneath the transitional surfaces adjacent to each runway and approach surface as indicated on the Height Limitation and Zoning District Map.

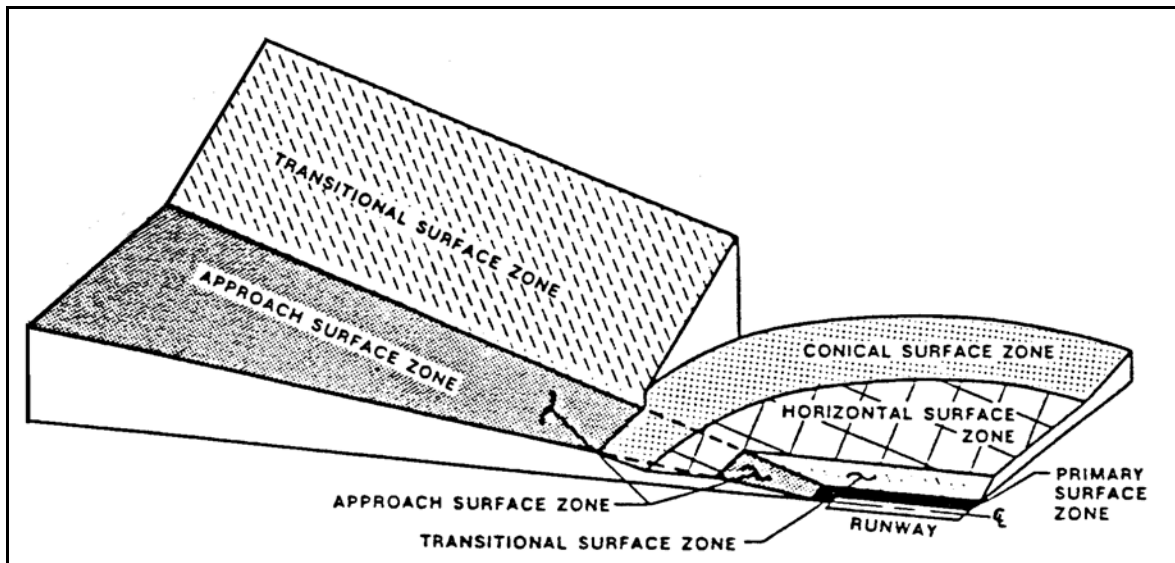


FIGURE 3 - EXTENDED ISOMETRIC VIEW OF AIRPORT SURFACE ZONES

1204.4 Horizontal Surface Zone

Established beneath the horizontal surface, one hundred fifty (150) feet above the established airport elevation, the perimeter of which is constructed by swinging arcs of five thousand (5,000) feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal surface zone does not include the approach surface and transitional surface zones.

1204.5 Conical Surface Zone

Established beneath the conical surface. This zone commences at the periphery of the horizontal surface and extends outward therefrom a horizontal distance of four thousand (4,000) feet.

1205 Airport Surface Zone Height Limitations

Except as otherwise provided in this Article XII, no structure shall be erected, altered, or maintained, and no vegetation shall be allowed to grow in any zone created by this Article XII to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1205.1 Utility Runway Surface Zones

- A. Visual Approach Surface Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000) feet along the extended runway centerline.
- B. Non-precision Instrument Approach Surface Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of five thousand (5,000) along the extended runway centerline.

1205.2 Primary Surface Zone

Established at the same height as the primary surface. The exception provided in §1205.6 shall not apply in the Primary Surface Zone.

1205.3 Transitional Surface Zones

Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of one hundred fifty (150) feet above the airport elevation.

1205.4 Horizontal Surface Zone

Established at one hundred fifty (150) feet above the established airport elevation.

1205.5 Conical Surface Zone

Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal surface and at one hundred fifty (150) feet above the established airport elevation and extending to a height of three hundred fifty (350) feet above the established airport elevation.

1205.6 Excepted Height Limitations

However, nothing in this Article XII shall be construed as prohibiting the construction or maintenance of any structure, or growth of any vegetation to a height up to fifty (50) feet above the surface of the land, which is not otherwise prohibited by this Zoning Ordinance. This exception shall not apply in the Primary Surface Zone.

1206 Airport Zoning Requirements**1206.1 Use Restrictions -- Electrical Interference, Lighting, Glare, Bird Hazards**

Notwithstanding any other provisions of this Article XII, no use may be made of land or water within any zone established by this Article XII in such a manner as to:

- A. Create electrical interference with navigational signals or radio communication between the airport and aircraft. This is not intended to preclude the normal use of household appliances such as for example, microwave ovens, televisions, portable telephones and computers.
- B. Make it difficult for pilots to distinguish between airport lights and others.
- C. Result in glare in the eyes of pilots using the airport, or impair visibility in the vicinity of the airport.
- D. Create bird strike hazards.
- E. Otherwise in any way endanger or interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

1206.2 Nonconforming Uses

- A. Regulations Not Retroactive - The regulations prescribed by this Article XII shall not be construed to require the removal, lowering, or other change or alteration of any structure or vegetation not conforming to the regulations as of the effective date of this Article XII or governing predecessor ordinance, or otherwise interfere with the continuance of any nonconforming use, except as provided in §1207 (relating to permits and variances). Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Article XII or governing predecessor ordinance, and is diligently executed.
- B. Marking and Lighting - Notwithstanding the preceding provision of this Section, the owner of any existing nonconforming structure or vegetation is hereby required to permit the installation, operation, and maintenance thereon or nearby of such markers and lights as shall be deemed necessary by the Benton Township Board of Supervisors in accord with FAA or Bureau of Aviation guidelines or regulations to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the Airport.

1207 **Permits**

The permits and variances required by this Article XII shall be in addition to those required by Article VI of this Zoning Ordinance with respect to principal permitted uses, conditional uses, special exceptions and accessory uses. Applications for permits and variances required by this Article XII may be submitted and considered concurrently with the application for any other such approval required and no permit shall be granted under the terms of this Article XII unless any other permit required by other Articles of this Ordinance has been granted.

1207.1 Future Uses; Permits Required

Except as specifically provided in subsections A, B, and C hereunder, no material change shall be made in the use of land, no structure shall be erected or otherwise established, and no vegetation shall be permitted to exceed the established height limitation in any zone hereby created unless a permit therefor shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient information for the Township to determine whether the resulting use, structure, or vegetation would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Article XII shall be granted unless a variance has been approved in accordance with this Article XII.

Nothing contained in any of the exceptions shall be construed as permitting or intending to permit any construction, or alteration of any structure, or growth of any vegetation in excess of any of the height limits established by this Article XII, except that no permit is required to make maintenance repairs to or to replace parts of existing structures which do not enlarge or increase the height of an existing structure. However, a general zoning permit may be required pursuant to the other requirements of this Zoning Ordinance.

- A. Horizontal Zone and Conical Zone - In the area lying within the limits of the horizontal zone and conical zone, no permit under this Article XII shall be required for any vegetation or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour, or topographic features, such vegetation or structure would extend above the height limits prescribed for such zones.
- B. Approach Zones - In areas lying within the limits of the approach zones, but at a horizontal distance of not less than four thousand two hundred (4,200) feet from each end of the runway, no permit under this Article XII shall be required for any vegetation or structure less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such vegetation or structure would extend above the height limit prescribed for such approach zones.
- C. Transition Zones - In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zones, no permit under this Article XII shall be required for any vegetation or structure less than seventy-five (75) feet of vertical height above the ground, except when such vegetation or structure, because of terrain, land contour, or topographic feature, would extend above the height limit prescribed for such transition zones.
- D. Primary Surface Zones - No permit exemptions.

1207.2 Existing Uses

Before any nonconforming structure may be replaced, substantially altered or rebuilt or vegetation allowed to grow higher, a permit must be secured from the Township authorizing the replacement or change. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure, or vegetation to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made.

1207.3 Nonconforming Uses Abandoned or Destroyed

Whenever the Zoning Officer determines that any nonconforming vegetation or structure has been abandoned or discontinued as governed by Article IX of this Zoning Ordinance, no permit shall be granted that would allow such structure or vegetation to exceed the applicable height limit or otherwise deviate from this Article XII.

1207.4 Procedures

- A. Application - The applicant for a permit shall, in addition to the other information required for zoning permits by this Zoning Ordinance, provide information detailing the height of the proposed structure, object or vegetation, the elevation of the proposed site, and a statement as to the compliance with the height limitations established by this Article XII.
- B. FAA, Bureau of Aviation Filing - A person who plans to erect a new structure, to add to an existing structure, or to erect any object (natural or manmade) in the approach surface zone, the primary surface zone, or the transitional surface zone, or where the proposed object exceeds a height of fifty feet in the horizontal surface zone and conical surface zone, shall first obtain approval from both the FAA and the Pennsylvania Department of Transportation, Bureau of Aviation. If, in consultation with the Board of Supervisors and the Township Engineer, the Zoning Officer determines that any uncertainty exists as to the compliance with the height limitations of this Article XII, the applicant shall be required to file Form AV-57 with the Bureau of Aviation; and File FAA Form 7460-1 with the FAA. Copies of the forms and responses shall be provided to the Zoning Officer. In cases where FAA or Bureau of Aviation regulations so require, the submission of a *Notice of Proposed Construction or Alteration* shall be mandatory. No application shall be considered as complete for consideration until required responses are received from the FAA and Bureau of Aviation. Any requirements of the FAA or Bureau of Aviation shall be a condition of approval of any variance or permit approval.
- C. Zoning Officer Action - In cases where FAA and Pennsylvania Department of Transportation, Bureau of

Aviation action is required in accord with §1207.4,B, the Zoning Officer shall not issue a Zoning Permit unless and until written responses are received from both FAA and the Bureau of Aviation.

1. If the Bureau of Aviation and the FAA report the landowner's proposed construction or alteration does not constitute an obstruction, the Zoning Officer may issue a Zoning Permit.
2. If either the Bureau of Aviation or the FAA reports the proposed construction or alteration is an obstruction, the permit shall not be issued and the applicant may apply for a variance.

1208 Variances

- A. Application - Any person desiring to erect any structure or increase the height of any structure or permit the growth of any vegetation or otherwise use his property not in accordance with these airport zoning regulations, may apply to the Zoning Hearing Board (ZHB) in accord with this Article XII and §608 of this Ordinance for a variance from the zoning regulation in question.
- B. Requirements - A variance shall only be granted after the requirements of §1208 and §608.3 are satisfied. No variance shall be granted which is contrary to the public interest, which will create a hazard to air navigation, or which would not be in accordance with the spirit of the regulations in this Article XII. Any variance may be granted subject to any reasonable conditions that the ZHB may deem necessary to effectuate the purpose of this Article XII.
- C. FAA / Bureau of Aviation Determination - The application for variance shall be accompanied by a determination from the Federal Aviation Administration and the Bureau of Aviation as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Any requirements of the FAA and Bureau of Aviation shall be a condition of approval of any variance or permit approval.
- D. Airport Notification - See §1210.2.
- E. Notice of Intent to Grant Variance To Bureau of Aviation - See §1210.3.

1209 Obstruction Marking and Lighting

Any permit or variance granted under this Article XII may, if such action is deemed advisable to effectuate the purpose of this Article XII and is reasonable under the circumstances, be so conditioned as to require the owner of the structure or vegetation in question to permit the Airport, at its own expense, or require the person or persons requesting the permit or variance, to install, operate and maintain thereon such markers and lights as may be required by guidelines or regulations adopted by the FAA or Bureau of Aviation.

1210 Enforcement and Notice

1210.1 Local Enforcement

It shall be the duty of the Zoning Officer to administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made to the Zoning Officer upon a form published for that purpose. Application for action by the ZHB shall be forthwith transmitted by the Zoning Officer. All such applications may be made and may be considered concurrently with any required general zoning application.

1210.2 Airport Notification

- A. Permits - Upon receipt of any application for a permit pursuant to this Article XII which is subject to FAA and Bureau of Aviation determination in accord with §1207.4,B, the Zoning Officer shall notify the Airport Manager (or person of equivalent description) who shall be given the opportunity to review and comment on said application as to the aeronautical effects. If the Airport Manager (or person of equivalent description) does not

review the application within fifteen (15) days after such notice, the Zoning Officer may act without such input to grant or deny said application.

- B. Variances - No application for variance to the requirements of this Article XII may be considered by the ZHB unless a copy of the application has been furnished to the Airport Manager (or person of equivalent description) for comments as to the aeronautical effects of the variance. If the Airport Manager (or person of equivalent description) does not respond to the application within fifteen (15) days after receipt, the ZHB may act without such input to grant or deny said application.

1210.3 Notice of Intent to Grant Variance To Bureau of Aviation

Notwithstanding any other provision of law, should the ZHB decide to grant a permit or variance, respectively, under this Article XII, the Department of Transportation, Bureau of Aviation, shall be notified of the intent to issue the permit or variance. This notice shall be in writing and shall be sent so as to reach the Department at least ten (10) days before the date upon which the decision is to be issued.

1210.4 Subdivisions and Land Developments

- A. Notice of Development - In the case of major subdivisions or land developments as defined by the Benton Township Subdivision and Land Development Ordinance, notice of receipt of any such application shall be provided to the Airport Manager (or person of equivalent description) for comments as to the aeronautical effects of the proposed subdivision or land development. If the Airport Manager (or person of equivalent description) does not respond to the application within fifteen (15) days after receipt, the Township may act without such input to grant or deny said application. Notice to the Bureau of Aviation shall be provided in accord with §1210.3.
- B. Plan Information - The Township shall require that the plans include information to notify potential owners of the property or lots subdivided therefrom that the property is subject to Township airport zone requirements pertaining to height of structures and vegetation, electrical interference, lighting and glare. The details of the then current standards shall also be included on the plan along with the fact that more stringent standards may have been adopted by the Township and that the property owner and/or lot purchaser has the responsibility to comply with all applicable standards.

1210.5 Airport Owner to File Correspondence with Township

The airport owner shall send to the Township copies of all forms, applications, and requests affecting airport hazard zone movement or hazard zone changes sent to FAA and/or the Bureau of Aviation by the airport owner. Said copies shall be sent to the Township within three (3) days of sending said forms, applications and requests to the FAA or the Bureau of Aviation. The airport owner shall also include copies of all maps, documents, correspondence and plans attached to, required by, or accompanying said requests, applications, or forms.

1211 Relation to Other Zoning Regulations

In the event of conflict between any airport zoning regulations adopted under this Article XII and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or vegetation, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

1212 Standards Applicable to New Airports and Changes to Existing Airports

The standards in this §1210, in addition to other applicable standards in this Zoning Ordinance, shall apply to all existing and proposed airports as defined and regulated by this Article XII. For the purposes of this §1212 airports shall include heliports.

1212.1 Conditional Use

The existence of airport hazard zones limits the uses of surrounding landowners. No airport shall be permitted to make any change which would effect the location of airport surface zones, approach zones, or hazard zones, and no

new airport shall be developed unless Conditional Use approval has been granted. In addition to the requirements of §509 of this Zoning Ordinance, the following procedures and criteria shall apply to any airport conditional use application. The following shall constitute changes at an airport requiring conditional use approval prior to the change:

- A. Any extension of a runway's length;
- B. Any change in the height of a runway;
- C. The paving of any previously unpaved portions of a runway, if such paving results in any change in airport rating category under 67 Pa. Code §471.5 as amended, effecting or altering the location or extent of any airport hazard zone;
- D. Any change of runway direction or alignment;
- E. Any change in the status of taxiways or holding areas effecting the location areas of airport hazard zones;
- F. Any change in airport rating category under 67 Pa. Code §471.5 as amended, effecting or altering the location or extent of any airport hazard zone.
- G. Any other physical, legal or rating change, or change in methods of operation, flight paths or change in instrumentation or technology resulting in a change in the location or extent of any airport hazard zone.

NOTE: The sale, repair or modifications of aircraft which are incidental to the operation of an airport are considered accessory uses. However, the business of aircraft sale, repair and modification which is not incidental to the operation of the airport shall be considered a separate and distinct use as defined by this Zoning Ordinance. See definition of *aircraft sales, repair or modification* in Article III.

1212.2 Application Contents

The application for conditional use shall contain the following documents and information:

- A. A full narrative description of the airport and any changes proposed.
- B. Plans and maps prepared by a registered professional engineer showing the airport and any changes proposed to the airport.
- C. Plans and maps prepared by a registered professional engineer showing existing and proposed locations of the airport hazard zones.
- D. Copies of all applications, correspondence, documents, maps or plans submitted to FAA and the Bureau of Aviation relating to the proposed change or construction, rating change, or other rating, legal or physical change.
- E. A plan showing of how the lands or air rights negatively affected shall be acquired.
- F. A list of the names and addresses of all landowners negatively affected by the proposed airport or change within a height of seventy-five (75) feet from the surface of said lands by the change in airport hazard zones.
- G. A list of the names and addresses of all landowners adjoining lands owned or leased by the airport owner.

1212.3 Engineering Review

The Township Engineer shall review the application and report whether the application to the Planning Commission complies with all applicable ordinances, laws and regulations relating to airport hazard zones. The Township

Engineer shall also report how the proposed airport or change will affect neighboring landowners and landowners in airport hazard zones. The Township Engineer shall also review and report on expected obstructions to aircraft resulting from the airport or change, and upon the adequacy, feasibility and practicality of the applicant's plan to acquire the necessary air rights.

1212.4 Costs

Any airport or change to an airport resulting in a change of airport hazard zones shall be considered a land development, and in accord with §503(1) of the Pennsylvania Municipalities Planning Code the applicant shall be responsible for paying all reasonable and necessary charges of the Township's professional consultants or engineer relating to application review and report under the terms of the Township Subdivision and Land Development Ordinance.

1212.5 Notice to FAA, the Bureau of Aviation, and the County

The Zoning Officer shall send a copy of the completed application to the Bureau of Aviation, FAA and the County Planning Department by certified mail, at least fourteen (14) days before the date of the hearing.

1212.6 Criteria to Review

In granting or denying a conditional use, the Supervisors shall consider:

- A. The effect upon reasonable use of properties affected by the proposal.
- B. How the applicant plans to acquire any necessary air rights.
- C. The character of the flying operations expected to be conducted at the airport;
- D. The nature of the terrain within the airport hazard zone area;
- E. The character of the community which is affected by the proposal.
- F. The effect upon roads, development, transportation routes, and other aspects of the Township's Comprehensive Plan;
- G. The provision of hazard lighting and marking;
- H. The importance of aircraft safety.

1212.7 Standards

- A. The applicant shall document compliance with all applicable state and federal regulations.
- B. The runway and/or landing pad shall be a minimum of two hundred and fifty (250) feet from any property line.

**ARTICLE XIII
ADOPTION**

This Ordinance ordained and enacted this ____ Day of _____, 2002, by the Board of Supervisors of Benton Township, Lackawanna County, Pennsylvania, to be effective immediately.

Chairman

Supervisor

Supervisor

ATTEST:

Township Secretary