

8. All uses shall comply with applicable Municipal, State and Federal regulations.

#### SECTION 401 ADAPTIVE REUSE OF EXISTING AGRICULTURAL BUILDINGS

1. Within the A, AH, LDR, MDR, HD, LB, HB, MU, RR, and CN Zones, the adaptive reuse of existing agricultural buildings is permitted by special exception, subject to the following criteria:
  - a. The purpose of this section is to provide for an expanded list of uses permitted within agricultural buildings that existed on the effective date of this Ordinance. The applicant must demonstrate that such agricultural building existed on such date.
  - b. ~~Any use proposed under this section must be permitted within the underlying zone.~~
  - c. Any number of uses may be permitted under this section, provided that the Zoning Hearing Board finds that such multiple uses are designed and developed to function in a coordinated fashion, and that the uses are not inherently incompatible by reason of impact.
  - d. Any use proposed under this section that has specific criteria applied to it and/or listed in Article 3 of this Ordinance, shall comply with such other specific criteria, unless the Zoning Hearing Board finds that such other specific criteria are not necessary because:
    - (1) The specific criteria provide a level of protection that exceeds that necessary to protect the rural nature of the site and its surroundings, and/or
    - (2) The specific criteria provide a level of protection that exceeds that necessary to protect adjoining properties because of man-made and/or natural conditions upon the site.
  - e. The applicant shall furnish evidence of an approved means of water supply and sewage disposal to serve all proposed area.
  - f. The applicant shall obtain any necessary land development approvals.
  - g. The applicant must provide for sufficient off-street parking spaces and off-street loading spaces for all of those uses proposed accordingly.
  - h. The Zoning Hearing Board will approve the proposed use(s) only upon finding that the site and buildings provide for a logical location for such use(s) that:
    - (1) Can be effectively accommodated without adverse impact to adjoining uses, and;
    - (2) Will not introduce uses that would be adversely impacted by other uses, activities or operations contained either on, or adjoining, the site.

## SECTION 402 ADULT USES

1. Within the Heavy Business (HB) Zone adult uses are permitted by conditional use subject to the following criteria:
  - a. No adult use shall be permitted to be located within one thousand (1000) feet of any other adult use.
  - b. No adult use shall be located within six hundred (600) feet of any residentially zoned land.
  - c. No establishment shall be located within six hundred (600) feet of land, which contains any one or more of the following specified land uses:
    - (1) Amusement Park
    - (2) Camp (For Minor's Activity)
    - (3) Child Care Facility
    - (4) Church or Other Similar Religious Facility
    - (5) Community Center
    - (6) Park
    - (7) Playground
    - (8) School
    - (9) Other Lands Where Minors Congregate.
  - d. The distance between any two adult uses shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior parcel line of each establishment.
  - e. The distance between any adult use establishment and any land use specified above shall be measured in a straight line, without regard to intervening structures, from the closest point on the exterior property line of the adult use to the closest point of the property line of said land use.
  - f. No materials, merchandise, or film offered for sale, rent, lease, loan or for view upon the premises shall be exhibited or displayed outside of a building or structure.
  - g. Any building or structure used and occupied as an adult use shall be windowless, or have an opaque covering over all windows or doors of any area in which materials, merchandise, or film are exhibited or displayed and no sale materials, merchandise or film shall be visible from outside of the building or structure.
  - h. No sign shall be erected upon the premises depicting or giving a visual representation of the type of materials, merchandise or film offered therein.
  - i. Each entrance to the premises shall be posted with a notice specifying that persons under the age of eighteen (18) years are not permitted to enter therein and warning all other persons that they may be offended upon entry.
  - j. No adult use facility may change to another adult use facility, except upon approval of an additional conditional use.
  - k. The use shall not create an enticement for minors because of its proximity to nearby uses where minors may congregate.

- l. No unlawful sexual activity or conduct shall be permitted.
- m. No more than one adult use facility may be located within one building.

#### SECTION 403 BED AND BREAKFAST INNS

- 1. Within the A, AH, MU, RR and CN Zones, Bed and Breakfast Inns are permitted uses subject to the following criteria:
  - a. No Bed & Breakfast shall contain more than five (5) units (exclusive of the residence).
  - b. There shall be not external alteration of the building except as may be necessary for reasons of safety. Fire escapes and outside stairways shall, where practical, be located to the rear of the building in so far as permitted by applicable building codes.
  - c. A bed and breakfast may erect one sign no larger than twelve (12) square feet in size. Such sign must be set back ten (10) feet from all lot lines.
  - d. Breakfast only shall be served and no meals shall be served to anyone other than registered overnight guests.
  - e. An approved means of sewage disposal and water supply shall be provided.
  - f. The bedrooms rented to guests shall be located within the single-family detached dwelling or an existing associated accessory structure.
  - g. There shall be no cooking facilities in any unit.
  - h. The applicant shall furnish proof of approval from the PA Department of Labor and Industry.

#### SECTION 404 BILLBOARDS

- 1. Within the Heavy Business (HB) Zone, billboards are permitted by special exception subject to the following criteria:
  - a. No billboard shall be located within one thousand (1000) feet of another billboard.
  - b. All billboards shall be a minimum of fifty (50) feet from all side and rear property lines.
  - c. All billboards shall be set back at least thirty-five (35) feet from any street right-of-way lines.
  - d. All billboards shall be set back at least one hundred (100) feet from any land within a Residential Zone.
  - e. No billboard shall obstruct the view of motorists on adjoining roads, or the view of adjoining commercial or industrial uses, which depend upon visibility for identification.
  - f. No billboard shall exceed an overall size of three hundred (300) square feet, nor exceed twenty-five (25) feet in height. No billboard shall exceed twelve (12) feet in vertical measurement nor twenty-five (25) feet in length.

- g. Lighting shall be arranged so as to prevent glare on adjoining residentially zoned properties and roads.
- h. No more than one (1) billboard structure shall be permitted at any location and no more than two (2) advertising surfaces shall be permitted at that location. The surfaces shall be back-to-back or at an angle less than or equal to forty-five (45) degrees.

#### SECTION 405 CEMETERIES

- 1. Within the Agricultural Zone, cemeteries are permitted by special exception subject to the following criteria:
  - a. No burial plots or facilities are permitted within any floodplain areas.
  - b. No burial plots and no other facility shall be within five (5) feet of the property line or street right-of-way line.
  - c. Applicant must prove that all burial plots are at least one hundred (100) feet away from existing adjacent on lot water supplies.
  - d. Landscaping and ground cover shall be required and properly maintained at all times.
  - e. Trash receptacles shall be provided and routinely emptied to prevent the scattering of litter.
  - f. Cemeteries shall be operated to be in compliance with all applicable State regulations.
  - g. The minimum lot area to be set-aside as a cemetery shall be one (1) acre.

#### SECTION 406 CHURCH/HOUSE OF WORSHIP and RELATED/ACCESSORY USES

- 1. Within the A, AH, and HDR Zones, Church/House of Worship and related/accessory uses are permitted by special exception and within the LB and MU Zone are a permitted use subject to the following criteria:
  - a. House of Worship
    - (1) Minimum lot area – Two (2) acres
    - (2) Maximum lot area – ~~Eight (8)~~ Twenty-five (25) acres
  - b. Church Related Residences (Rectories/Convents)
    - (1) All residential uses shall be accessory, and located upon the same lot or directly adjacent to a lot containing a House of Worship.
    - (2) All residential uses shall be governed by the location, height, bulk standards, density and dwelling type imposed upon other residences within the site's zone.
  - c. Church Related Educational or Day Care Facilities
    - (1) All educational or day-care uses shall be accessory, and located upon the same lot as the House of Worship.
    - (2) If an outdoor play area is provided, off-street parking lots shall not be used as outdoor play areas. Outdoor play areas shall not be located within the front yard and must be set back twenty-five

- (25) feet from all property lines. Outdoor play areas shall be completely enclosed by a four (4) foot high fence, and screened from adjoining residentially zoned properties. Any vegetative materials located within the outdoor play area shall be of nonharmful types.
- (3) Passenger "drop off" areas shall be provided off-street and arranged so that passengers do not have to cross traffic lanes on or adjacent to the site.
- (4) All educational or day-care uses shall be governed by the location, height, and bulk standards imposed upon principal uses within the underlying zone.
- (5) Unless the applicant can demonstrate that the off-street parking associated with the House of Worship is sufficient for the proposed use, one off-street parking space shall be furnished for each six (6) students, grades ten and above.
- (6) All day care facilities with enrollment of more than three (3) minors shall furnish a valid Registration Certificate for the proposed use, issued by the PA Department of Public Welfare.
- d. The primary organization utilizing the facility shall be a non-profit organization registered in the Commonwealth of Pennsylvania.
- 2. Accessory Uses include the following:
  - a. Institutional classrooms
  - b. Kitchens
  - c. Gymnasiums
  - d. Ball fields
  - e. Daycare centers
  - f. Rectories or other lodging for clergy
  - g. Cemeteries in accordance with Section 405.

## SECTION 407 CLUSTER DEVELOPMENT

- 1. Within Low Density Residential (LDR) and Medium Density Residential (MDR) Cluster Developments are permitted by conditional use subject to the following criteria:
  - a. The minimum area devoted to a Cluster Development shall be five (5) acres.
  - b. All units contained within a Cluster Development shall be served by public sewer and public water.
  - c. No more than 60% of any one (1) dwelling type shall be permitted. Percentages of dwelling types must be maintained in each phase of construction.
  - d. Lot design requirements:
    - (1) Single Family Dwelling:
      - 6,000 sq. ft. min. lot area.
      - 60 ft. min. lot width.
      - 45% max. impervious

- 5 ft. min., 25 ft. max. front yard.
- 10 ft. min. side yard.
- (2) Duplex:
  - 5,000 sq. ft. min. lot area.
  - 45 ft. min. lot width per unit.
  - 50% max. impervious.
  - 5 ft. min., 25 ft. max. front yard.
  - 10 ft. min. side yard.
- (3) Townhouse (Not Permitted in LDR):
  - No grouping shall contain more than 8 units.
  - No more than 4 units shall have identical roof lines (front facades).
  - 1,800 sq. ft. min. lot area.
  - 22 ft. min. lot width.
  - 65% max. impervious.
  - 5 ft. min., 25 ft. max. front yard. No more than 4 units shall have the same front yard setback; the min. variation of setback shall be at least two (2) feet.
  - 10 ft. min. side yard for end units.

A minimum yard space of twenty (20) feet is required between end walls and front or rear faces of buildings. If a mixture of housing types occurs on the same lot, the greater separation distance will be provided between each building type.

- e. At least thirty-five (35) percent of the Cluster Development shall be devoted to common open space. Required open space shall be designed and arranged to achieve the following objectives and the applicant shall demonstrate those specific measures employed to achieve these objectives:
  - (1) Protection of important natural resources.
  - (2) Protection of important historical and/or archaeological sites.
  - (3) Only up to 15% of the common open space can be used for storm water management.
  - (4) Provision of usable play and recreation areas that are conveniently accessible to residents within the development and the Township.
- f. An essential element of the Cluster Development application is a written description and a plan for the disposition of ownership of common open space land designating those areas to be offered for dedication or to be owned by the specific form of organization proposed. The common open space shall be accomplished through one of the following:
  - (1) An offer of dedication to the Township. The Township shall not be obligated to accept dedication of the common open space.
  - (2) With permission of the Township, and with appropriate deed restrictions in favor of the Township and in language acceptable to the Township Solicitor, the developer may transfer ownership of the common open space or a portion thereof to a private,

- nonprofit organization, among whose purposes is the preservation of open space land and/or natural resources. The organization shall be a bona fide conservation organization with a perpetual existence. The deed of conveyance must contain appropriate provisions for reversion or transfer of title if the organization is unable to maintain the land. The organization must enter into a maintenance agreement with the Township.
- (3) The developer shall provide for, and establish, an organization for the ownership and maintenance of the common open space which shall be generally consistent with the requirements for unit owners associations found in the Pennsylvania Uniform Condominium Act 69 Pa. C.S.A. Sect. 310135 seq. If such an organization is created, the agreements of sale and deeds for all lots shall contain the following covenants and restrictions in language acceptable to the Township Solicitor:
- i. The organization shall not dispose of the common open space by sale or otherwise except to the Township unless the Township has given prior written approval. Any such transfer shall be made only to another organization which shall maintain the common open space in accordance with this Ordinance.
  - ii. The organization and all lot owners shall enter into a maintenance agreement with the Township and shall agree to be bound by the provisions of Article VII of the Pennsylvania Municipalities Planning Code relating to the maintenance of deteriorating common open space by municipalities.
  - iii. The Township shall require the establishment of a reserve fund to provide for maintenance of capital improvements to the common open space.

#### SECTION 408 COMMUNICATION ANTENNAS, TOWERS, EQUIPMENT & BUILDINGS

1. Within the Agricultural (A) and Heavy Business (HB) Zones, communication antennas, towers and equipment shall be permitted uses subject to the following criteria:
  - a. The applicant must demonstrate that the proposed location is necessary for the efficient operation of the system.
  - b. Any structure shall be set back from each property line a distance equal to its height.
  - c. All towers shall be completely enclosed by an eight (8) foot high fence and self-locking gate.
  - d. All ground mounted satellite dish antennas that are used to transmit video format data shall be completely enclosed by an eight (8) foot high

nonclimable fence that includes signage warning of dangerous radiation levels. Any gates within the fence shall be locked when unattended.

#### SECTION 409 COTTAGE INDUSTRY

1. Within the Agricultural, Agricultural Holding and Conservation Zones, Cottage Industries are permitted by special exception subject to the following criteria:
  - a. Only two Cottage Industries shall be permitted on each property.
  - b. The Cottage Industry shall be conducted in a completely enclosed building(s). If a property has two Cottage Industries, they shall occupy no more than a combined total of ~~four thousand (4000)~~ five thousand (5000) square feet of gross floor area; provided, however, that if any outdoor area is used in connection with the Cottage Industry, the amount of gross floor area which may be used in a building(s) shall be reduced by an amount equal to the square footage area used for outdoor storage.
  - c. There shall be no more than two (2) non-resident employees employed on the property.
  - d. All parking, loading/unloading, and outdoor storage areas shall be visually screened from adjoining roads and properties. Outdoor storage areas must be located behind the building containing the Cottage Industry. All parking spaces and loading/unloading areas shall be off-street
  - e. There shall be no less than two (2) off-street parking spaces per Cottage Industry in addition to the principal use parking requirements.
  - f. Any sign used for the Cottage Industry(s) shall not exceed a total of eight (8) square feet in size.
  - g. No part of the Cottage Industry building or storage area shall be located within seventy-five (75) feet of any side or rear lot line or within two hundred (200) feet of any land located within a residential LDR, MDR, and HDR Zoning District regardless of whether that land is improved or unimproved. The distances shall be measured as a straight line between the closest points of the building or storage area associated with the Cottage Industry(s) and the property/zoning line.

#### SECTION 410 DRIVE-THRU ESTABLISHMENT

1. Within the Light Business Zone, Drive-Thru Establishment uses when permitted by special exception, subject to the following criteria:
  - a. The subject property shall front on an arterial or collector road, as defined in Section 315.
  - b. Exterior trash receptacles shall be provided and routinely emptied as to prevent the scattering of litter. All exterior trash containers shall be covered. All applications shall include a description of a working plan for the cleanup of litter.



- c. All drive-thru window lanes shall have at least sufficient space to stack vehicles waiting to order and shall be separated from the Right-of-Way and parking lot's interior driveways by use of curbs and/or planting islands.
- d. All exterior seating/play areas shall be completely enclosed.
- e. Any exterior speaker/microphone system shall be arranged and/or screened to prevent objectionable noise impact on adjoining properties.

## SECTION 411 ECHO HOUSING

1. Within the A, AH, CN, RR, LDR and MDR Zones by permitted use and within the HDR and MU Zones by special exception, subject to the following criteria:
  - a. The ECHO unit may not have a gross floor area in excess of one thousand, two hundred (1,200) square feet.
  - b. The ECHO unit shall be occupied by a maximum of three (3) people.
  - c. Utilities
    - (1) Sewage disposal, water supply, and all other utilities serving the ECHO unit shall be physically connected to those systems serving the principal dwelling. No separate utility systems or connections shall be constructed or used. All connections shall meet the applicable utility standards.
    - (2) If on-site sewer or water systems are to be used, the applicant shall submit evidence to the Zoning Hearing Board showing that the total number of occupants in both the principal dwelling and the ECHO unit will not exceed the maximum capacities for which the said system(s) was/were designed, unless those systems are to be expanded, in which case the expansion approvals are to be submitted. Any connection to or addition to an existing on-site sewer system shall be subject to the review and approval of the sewage enforcement officer.
  - d. A minimum of one (1) paved or stone off-street parking space shall be provided for the ECHO unit in addition to the off-street parking required for the principal dwelling.
  - e. The ECHO unit shall be installed and located only in the side or rear yards, and shall conform to all side and rear yard set back requirements for principal uses.
  - f. The ECHO unit shall be removed from the property within twelve (12) months after it is no longer occupied by a person who qualifies for the use.
  - g. Upon the proper installation of an ECHO unit, the Zoning Officer shall issue a temporary building permit. Such permit shall be reviewed every twelve (12) months until such time as the ECHO unit is required to be removed. A fee, in an amount to be set by the Board of Supervisors, shall be paid by the landowner upon each renewal of the temporary

building permit. Such fee shall be based upon the cost of the annual review of the permit.

## SECTION 412 FARM OCCUPATION

1. Within the Agricultural Zone, Farm Occupations are permitted uses and within the Agricultural Holding and Conservation Zones, Farm Occupations are permitted by special exception, subject to the following criteria:
  - a. The minimum size of property shall be ten (10) acres.
  - b. Only one Farm Occupation shall be permitted on each farm, regardless of the number of parcels of land which comprise the farm.
  - c. The use must be conducted within one completely enclosed building. Where practicable, the Farm Occupation shall be conducted within an existing farm building. Any new building constructed for the use in Farm Occupation shall be of a design such that the building character is typical of normal farming practice and style.
  - d. No more than five (5) employees, excluding the resident(s) of the farm may be employed in the farm occupation.
  - e. The Farm Occupation shall occupy no more than 4,000 five thousand (5000) square feet of gross floor area, provided however, that if any outdoor storage area is used in connection with the farm occupation, the amount of gross floor area which may be used in a building shall be reduced by the amount equal to the square footage area used for outdoor storage.
  - f. All parking, loading/unloading, and outdoor storage areas shall be visually screened from adjoining roads and properties. Outdoor storage must be located behind the building containing the Farm Occupation. All parking spaces and loading/unloading areas shall be off-street.
  - g. Any sign used for a Farm Occupation shall not exceed ten (10) square feet in size.
  - h. No part of a Farm Occupation building or storage shall be located within one hundred (100) feet of any side or rear lot line or within three hundred (300) feet of any land located within a residential LDR, HDR, and HDR zoning district regardless of whether that land is improved or unimproved. The distances shall be measured as a straight line between the closest points of the building or storage are associated with the Farm Occupation and the property/zoning line.

## SECTION 413 FARMERS MARKET and/or PRODUCE AUCTION

1. Within the Light Business Zone by special exception and Mixed Use Zone by conditional use Farmers Markets and/or Produce Auctions are permitted, subject to the following criteria:

- a. The sales area shall encompass all display stands, booths, tables or stalls, plus any adjoining aisles and/or walkways from which consumers can inspect items for sale. The sales area shall include all indoor and/or outdoor areas as listed above.
- b. Off-street parking shall be provided at the rate of one (1) space per each two hundred (200) square feet of sales area. See Section 311 of this Ordinance.
- c. Adequate off-street loading shall be provided for interior sales area described above. See Section 312 of this Ordinance.
- d. All outdoor display and sales of merchandise shall be completely enclosed within a minimum four-foot (4') high fence and in the Mixed Use Zone sales shall begin no earlier than 6 a.m. and be completed no later than official sunset
- e. Any exterior amplified public address system and lighting shall be arranged and designed so as to comply with Section 400 of this Ordinance.
- f. Exterior trash and recycling receptacles shall be provided within any outdoor sales area. Such trash receptacles shall be routinely emptied so as to prevent the scattering of litter and debris. All applications shall include a description of a working plan for the cleanup of the latter. See Section 400 of this Ordinance.
- g. Vendors are permitted to park and remain with their vehicles overnight no earlier than one day prior, nor later than the next day after the conduct of a sale except within the Mixed Use Zone.

#### SECTION 414 FORESTRY

- 1. Within all zones Forestry is a permitted use.
- 2. Forestry shall address and comply with the requirements of all applicable state regulations, including but not limited to the following:
  - a. Erosion and sedimentation Control regulations contained in Title 25
    - (1) Pennsylvania Code, Chapter 102, as amended, promulgated pursuant to the Clean Stream Law (35 P.S. 693.1 et seq.).
    - (2) An erosion and sedimentation plan shall be on site and shall be approved by the Lancaster County Conservation District when required.
    - (3) Stream crossing and wetland protection regulations contained in Title 25 Pennsylvania Code, Chapter 105, as amended, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. 693.1 et seq.).

- (4) Skid trails, skid roads, haul roads, and landing area designs shall be consistent with PA Department of Environmental Protection guidelines as amended.
- (5) Access to all township and state roads must meet all current regulations.

#### SECTION 415 GREENHOUSES (COMMERCIAL)

1. Within the Agricultural and Agricultural Holding Zones, Greenhouses are permitted by special exception subject to the following criteria:
  - a. At least fifty percent (50%) of what is sold shall be grown or made on the premises.
  - b. If possible, Greenhouses should avoid being located on prime agricultural soils.
  - c. The display, sale, or repair of motorized nursery or garden equipment is prohibited.
  - d. The Township may require screening. Adjoining residential zoned properties, all improvements (including parking, loading/unloading facilities, and outside storage, but not including freestanding signs) shall be screened.
  - e. All outdoor display areas shall be set back at least twenty-five (25) feet from all street right-of-way lines.
  - f. No storage of inventory, materials, waste, dumpsters or loading/unloading spaces shall be located within twenty-five (25) feet of any residentially zoned property.
  - g. A plan shall be provided to control the tracking of mud, stone, soil, storm water runoff, irrigation runoff, or other material onto public roadways.
  - h. Minimum Lot Area is five (5) acres.
  - i. Maximum Permitted Lot Coverage is fifty percent (50%) including all impervious surfaces.
  - j. All lighting on the site whether internal or external shall be designed and arranged so as not to cast glare on adjoining streets or properties.
  - k. Any driveway or access drive providing for vehicular access to the proposed use shall be paved.
  - l. A ground water feasibility study is required for Greenhouses using over 5,000 gallons per day of water or in areas of low water yields. Ground water feasibility studies shall include the following information:
    - (1) Calculations of the projected water needs;
    - (2) A geologic map of the area with a radius of at least one mile from the site;
    - (3) The location of all existing and proposed wells within one quarter (1/4) mile of the site, with a notation of the capacity of all high-yield wells;

- (4) The location of all existing on-lot sewage disposal systems within one quarter (1/4) mile of the site;
  - (5) The location of all streams within one quarter (1/4) mile of the site and all known point sources of pollution;
  - (6) Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined;
  - (7) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table; and,
  - (8) A statement of qualifications and the signatures(s) of the person(s) preparing the study.
- m. Should the proposed use not make use of public water and require more than 100,000 gallons of water per day, the applicant shall furnish written evidence of approval from the Susquehanna River Basin Commission.
  - n. The applicant shall be required to submit a written site restoration plan for the removal of all buildings and the reclamation of all topsoil in the event of discontinuance of the Greenhouse use. If the site is graded during construction and operation of the Greenhouse use, all topsoil shall remain on the site in a manner, which makes it conveniently accessible for reclamation. Should the applicant not adequately guarantee the removal of such buildings and reclamation of topsoil upon discontinuance of the Greenhouse use at his/her expense, the special exception shall be denied.
  - o. Off-street parking requirements in accordance with Section 312.
  - p. Signs shall be in accordance with Section 314.

#### SECTION 416 GROUP HOME

- 1. Within the Agricultural, Light Density Residential and Medium Density Residential Zones, Group Homes are permitted by special exception, subject to the following criteria:
  - a. No Group Home shall be located within one quarter (1/4) mile of another Group Home. Such distance shall be measured between the closest property lines of the two Group Homes.
  - b. The Group Home shall furnish evidence that it has an approved means of sewage disposal and water supply to serve the maximum number of individuals to be located on the site at one time.
  - c. Group Homes must be licensed where required by any appropriate government agencies and a copy of any such license must be delivered to the Township prior to the establishment of the use. Notices of license revocation must be immediately submitted to the Township Zoning Officer, upon receipt.
  - d. Group Homes must meet off-street parking requirements in accordance with Section 312.

- e. The applicant shall submit a written statement which describes the Group Home's programs, policies, goals, and the means to accomplish such goals, and any other pertinent information that will help to ensure that the proposed use remains compatible with the surrounding neighborhood.
- f. The applicant shall submit qualified evidence that the design of the building is residential in character.
- g. All activities on the site shall be customarily incidental with the residential use of the property, except that the applicant shall be permitted to maintain an administrative office on the site within which personnel may conduct meetings, classes and other similar activities.

## SECTION 417 HOME OCCUPATION

1. Within the A, AH, LDR, MDR, HDR, MU, RR and CN Zones, Home Occupations are permitted by special exception, subject to the following criteria:
  - a. For the purpose of this Ordinance, "Home Occupations" are distinct from "No-Impact Home Occupations," as noted in the definitions of these terms provided in Article 1 Section 112 of this Ordinance. In the event that the distinction is unclear, the Township Zoning Officer shall determine if any given activity meets the definition of "Home Occupation," "No-Impact Home Occupation," or some other kind of use.
  - b. If the resident conducting the Home Occupation is a tenant and not the owner of the property, the owner shall be party to the permit application for the Home Occupation.
  - c. Only single-family detached dwellings and duplexes may contain a Home Occupation.
  - d. Nonresident employees shall not be permitted.
  - e. Such Home Occupations shall be incidental or secondary to the use of the property as a residence and are limited to those occupations customarily conducted within a dwelling unit as follows:
    - (1) Artists and artisans.
    - (2) Beauticians and barbers.
    - (3) Office facilities, excluding medical and dental offices and vision care facilities.
    - (4) Individual tutoring.
    - (5) Preparation of food or food products to be sold or served off-site.
    - (6) Individual musical instrument instruction, provided that no instrument shall be amplified to be audible at the property line.
    - (7) Telephone solicitation.
    - (8) Day-care.
    - (9) Dressmaking, sewing, and tailoring.
    - (10) Uses not listed that, in the determination of the Zoning Officer, are of the same general character as the activities listed above.

- f. Home Occupations must meet off-street parking requirements in accordance with Section 312.
- g. No goods shall be visible from the outside of the building.
- h. The area used for the practice of a Home Occupation shall occupy no more than twenty five percent (25%) of the total floor area of the dwelling unit or five hundred (500) square feet, whichever is less. If the Home Occupation is conducted in an accessory building, the area in the accessory building devoted to the home occupation shall not be more than twenty-five percent (25%) of the floor area of the dwelling unit on the premises or five hundred (500) square feet, whichever is less.
- i. No manufacturing, repairing or other mechanical work shall be performed in any open area. Such activity shall be conducted in such a way that no noise, odor, vibration, electromagnetic interference, or smoke shall be noticeable at or beyond the property line.
- j. No external storage of materials or products shall be permitted. No storage in accessory structures or attached garages shall be permitted unless the Home Occupation is located in that area.
- k. The exterior appearance of the structure or premises shall be constructed and maintained as a residential dwelling.
- l. Signs shall be in accordance with Section 314.

#### SECTION 418 HORSE BOARDING STABLE and/or RIDING SCHOOL

- 1. Within the Agricultural, Agricultural Holding and Conservation Zones, Riding Schools and/or Horse Boarding are permitted uses, subject to the following criteria:
  - a. Minimum lot area: Ten (10) acres in the A – Agricultural Zone  
Twenty-five (25) acres in the AH – Agricultural Holding and CN – Conservation Zones.
  - b. Any structure used for the boarding of horses shall be set back at least two hundred (200) feet from any property line.
  - c. All Boarding Stables and Riding Stables shall be maintained so as to minimize odors perceptible at the property line.
  - d. All outdoor training, show, or riding areas shall be enclosed by a minimum four (4) foot high fence, which is located at least twenty-five (25) feet from all property lines.
  - e. All parking compounds and unimproved overflow parking areas shall be set back at least ten (10) feet from adjoining lot lines. Unimproved overflow parking areas shall also provide a fence delineating such occasional parking facilities and preventing the parking and/or movement of vehicles across neighboring properties.

## SECTION 419 INTENSIVE AGRICULTURAL PRODUCTION FACILITY

1. Within the Agricultural Zone, Intensive Agricultural Production Facilities are permitted by special exception, subject to the following criteria:
  - a. No slaughter area or manure storage area shall (unless a greater set back is required by other applicable provisions of this Ordinance) be established closer than one hundred (100) feet to any property line.
  - b. Mushroom, poultry, swine and veal houses shall be located no closer than five hundred (500) feet to any existing residential structure (except a residential structure located on the premises of the applicant), nor closer than three (300) hundred feet to any property line or street Right-of-Way line.
  - c. All buildings used for Intensive Livestock Operations except poultry shall be solid concrete slab or slotted floor.
  - d. Structures for housing beef, dairy, horse, sheep and goats shall be located no closer than three hundred (300) feet to an existing residential structure (except a residential structure located on the premises of applicant) nor closer than one hundred and fifty (150) feet to any property line or street right-of-way.
  - e. The minimum lot area shall be twenty-five (25) acres (swine/poultry/mushroom).
  - f. The maximum lot coverage shall not exceed forty (40%) percent.
  - g. The applicant shall furnish evidence from the Lancaster County Conservation District that the proposed use has an approved nutrient management plan that complies with PA of DEP publications.
  - h. The applicant shall submit, demonstrate, and abide by a working knowledge of written qualified evidence describing those methods that will be employed to:
    - (1) Dispose of dead livestock according to the regulations of the PDA (Pennsylvania Department of Agriculture). If a large number of livestock die in the proposed operation, PDA livestock disposal methods must be employed.
    - (2) Comply with nutrient management plan requirements. The applicant shall demonstrate that the proposed operation has an approved nutrient plan, according to the Pennsylvania Title 23, Environmental Protection, Chapter 83, Subchapter D, Nutrient Management Rules and Regulations. The proposed operation shall strictly adhere to the approved nutrient management plan.
    - (3) Comply with conservation plan requirements. The applicant shall demonstrate that the proposed operation has an approved conservation plan from the Lancaster County Conservation District or the Pennsylvania Department of Environmental Protection. The conservation plan shall include a vegetative buffer along each watercourse on the subject property. The



proposed operation shall strictly adhere to the proposed conservation plan

- i. Each exhaust and ventilation fan shall direct flows away from the closest dwelling that is not located on the subject property. If said fans are within five hundred (500) feet of the closest dwelling not located on the subject property, a dispersion buffer shall be installed between the exhaust of the fan and the residence. This dispersion buffer shall include a vegetative berm that will effectively disperse or redirect fan exhaust so that no exhaust velocity is perceptible at the property line.
- j. Each driveway providing vehicular access to the proposed operation shall be designed with "decision sight distances" in accordance with the latest edition of the Pennsylvania Department of Transportation Design Manual, as updated. The driveway's edge at the street intersection shall be rounded by a tangential arc with a minimum fifty (50) foot radius. The driveway shall be paved at least 75 feet from the closest edge of the intersecting street cartway.
- k. In addition, a water feasibility study will be provided to enable the municipality to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development and to estimate the impact of the new development on existing wells in the vicinity. The water feasibility study shall be reviewed by the municipal engineer and shall include the following information:
  - (1) Calculations of the projected water needs;
  - (2) A geologic map of the area with a radius of at least one mile from the site;
  - (3) The location of all existing and proposed wells within one quarter (1/4) mile of the site, with a notation of the capacity of all high-yield wells;
  - (4) The location of all existing on-lot sewage disposal systems within one quarter (1/4) mile of the site;
  - (5) The location of all streams within one quarter (1/4) mile of the site and all known point sources of pollution;
  - (6) Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined;
  - (7) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table; and,
  - (8) A statement of qualifications and the signature(s) of the person(s) preparing the study.

1. Mushroom productions operations, including composting, shall be conducted in accordance with the Best Practices for Environmental Protection in the Mushroom Farm Community, Pennsylvania Department of Protection, published December 1997 and reissued in April 2003. The applicant shall provide documentation to the Township that the operation has a mushroom farm environmental management plan prepared in accordance with best management practices and approved by the Lancaster County Conservation District. Approval of the operation shall be contingent on implementation of the management plan.
- m. Mushroom Composting Operations. The following provisions shall apply to mushroom composting operations:
  - (1) Composting operations shall be consistent with the mushroom farm environmental management plan provided in accordance with the best practices described by the Pennsylvania Department of Environmental Protection in the aforementioned publication. The applicant shall demonstrate compliance with the requirements of the Lancaster County Conservation District and/or the Pennsylvania Department of Environmental Protection regarding leachate and compost pad runoff.
  - (2) The applicant shall submit documentation setting forth the measures proposed to minimize odor resulting from the operation.
  - (3) Stockpiling of compost material shall be designed so as to prevent runoff of compost material or residues into streams or onto adjacent properties or roads. The maximum height of stockpiled material shall be 10 feet or as otherwise determined in the mushroom farm environmental management plan.
  - (4) Disposal of spent compost shall be permitted, provided the compost is used as fill material, applied to fields, or transported to a facility for processing into another form. Compost shall not be applied to lands with a slope in excess of 15% or within 100 feet of a Flood Hazard District boundary, watercourse, pond, wetland, or drinking source.

#### SECTION 420 INDUSTRY/MANUFACTURING/RESEARCH & DEVELOPMENT LABORATORY

1. Within the Heavy Business Zone, Industry/Manufacturing/Research & Development Laboratories are permitted uses. Within the Light Business Zone, Industry/Manufacturing are permitted uses and Research & Development Laboratories are permitted by special exception. ~~Within the Agricultural & Agricultural Holding Zones, Manufacturing is permitted by special exception.~~ All are subject to the following criteria:

- a. The applicant shall provide a detailed description of the proposed use with regard to the nature of the on-site processing operations, the materials used in the process, the products produced, and the generation and methods for disposal of any by-products. In addition, the applicant shall furnish evidence that the disposal of materials will be accomplished in a manner that complies with State and Federal regulations.
- b. The applicant shall provide a detailed description of the proposed use with regard to the general scale of the operation in terms of specific floor space requirements for each step of the industrial process, the total number of employees on each shift, and an overall needed site size.
- c. The applicant shall provide a detailed description of the proposed use with regard to any environmental impacts that are likely to be generated (e.g., fly ash, odor, noise, smoke, dust, litter, glare, vibration, electrical disturbance, wastewater, storm water, solid waste, etc.) and specific measures employed to mitigate or eliminate any negative impacts. The applicant shall further furnish evidence that the impacts generated by the proposed use fall within acceptable levels as regulated by applicable laws and ordinances.
- d. If more than 20 vehicular trips per peak hour are proposed the applicant shall provide a detailed description of the proposed use with regard to a traffic study prepared by an engineer as detailed in this ordinance.
- e. All activities and all storage of flammable, explosive, and radioactive material shall be provided with adequate safety devices against the hazard of fire and explosion as detailed and specified by the laws of the Commonwealth of Pennsylvania. All buildings and structures and activities within such buildings and structures shall conform to the State Code and other applicable township ordinances. Any explosive materials shall conform to the requirements of Chapter 211, Title 25, Rules and Regulations, Pennsylvania Department of Environmental Protection, for Storage, Handling, and Use of Explosives as amended. A list of such solids, liquids, or gases stored on site shall be supplied to Township Emergency Management Coordinator and the appropriate fire companies serving the township.
- f. No direct heat or sky-related glare, whether from floodlights or high temperature process such as combustion or welding or otherwise, so as to be visible at the lot line, shall be permitted. These regulations shall not apply to signs or floodlights of parking areas otherwise permitted by this ordinance. There shall be no emission or transmission of heat or heated air so as to be discernible at the lot line.
- g. There shall be no discharge at any point into any public sewage system or watercourse or into the ground, except in accordance with the standards approved by the Pennsylvania Department of Environmental Protection or other regulating department or agency of any materials of such nature or temperature as can contaminate any water supply or otherwise cause the emission of dangerous or offensive elements. There shall be no

- accumulation of solid wastes conducive to the breeding of rodents or insects and odors.
- h. There shall be no activity which emits dangerous radioactivity at any point. There shall be no electrical disturbance adversely affecting the operation at any point of any equipment other than that of the creator of the disturbance.
  - i. Exterior storage areas for trash and rubbish shall be properly screened with secured fencing and landscaping materials. All containers shall be vermin-proof, and shall be adequate capacity to accommodate the projected volumes of solid waste. No such storage area will be permitted within one hundred (100) feet of any property in residential use or fifty (50) feet of any lot line of any other property.

## SECTION 421 KENNELS

- 1. Within the Agricultural Zone, Kennels are permitted by special exception subject to the following criteria:
  - a. Breeding Kennels shall not be permitted on tracts of less than ten (10) acres.
  - b. Setbacks
    - (1) No Kennel facility may be located within two hundred fifty (250) feet of a property line.
    - (2) No waste shall be stored within two hundred fifty (250) feet of a property line.
  - c. All floor surfaces of outdoor pens and exercise areas shall be constructed of an impervious material and shall be located within the rear and side yard areas of the property.
  - d. All dogs shall be located indoors at night (sunset to sunrise).
  - e. Off-street parking shall be provided pursuant to Section 311.
  - f. The Applicant shall furnish copies of applicable State and/or Federal licenses, including renewals, to the Township.
  - g. All facilities, including buildings, floors, cages, exercise runs, and all operations of the Kennel shall be in accordance with applicable State and Federal regulations.
  - h. The Applicant shall furnish plans of the facilities to the Township, which demonstrate compliance with the above regulations.
  - i. The Applicant shall allow the Township Zoning Officer and/or other authorized Township representative to inspect the Kennel(s) during normal business hours on at least an annual basis. Inspections of the interior of the Kennel(s) shall not occur without the authorization of the Kennel owner/operator.
  - j. The Applicant shall allow the Township Zoning Officer and/or other authorized Township representative access to examine any and all records pertaining to the Kennel operation.

- k. The Applicant shall furnish evidence of an effective means of disposal of animal wastes, which shall be continuously implemented, and a plan to mitigate odors and noise.
- l. The area around which the animals are kept shall be enclosed by a fence designed for containment.
- m. All breeding facilities shall be maintained in a safe and sanitary condition.
- n. The maximum number of animals shall be determined by the Zoning Hearing Board in accordance with the area of the Kennel, the type of animal to be housed or bred by the Kennel, the nature and character of the surrounding neighborhood and guidelines of recognized organization concerned with the breeding of animals and the prevention of cruelty to animals. The Applicant shall present such guidelines to the Zoning Hearing Board.
- o. The Zoning Hearing Board may attach other conditions it feels are necessary to protect the inhabitants of the surrounding neighborhood.

#### SECTION 422 RESERVED FOR FUTURE USE

#### SECTION 423 MANUFACTURED HOME PARK

- 1. Within the High Density Residential Zone, Manufactured Home Parks are permitted by special exception subject to the following criteria:
  - a. A Manufactured Home Park shall contain a minimum of five (5) acres.
  - b. All Manufactured Home Parks shall be served by public water and public sanitary sewer facilities.
  - c. Where there is a conflict between the provisions of this section and some other Township regulation, the more stringent regulation shall apply.
  - d. The maximum number of manufactured home units shall be eight (8) units per acre of gross lot area.
  - e. No Manufactured Home lot/site shall be within fifty (50) feet of the boundary of the Manufactured Home Park, nor within fifty (50) feet of an outside street Right-of-Way. This area shall constitute the Manufactured Home Park boundary area.
  - f. Manufactured Home units, offices, and service buildings shall be sited in compliance with the following setback requirements:
    - (1) Minimum setback of fifty (50) feet from the boundary of the Manufactured Home Park.
    - (2) Minimum setback of ten (10) feet from the Right-of-Way of an interior park street
    - (3) Minimum setback of ten (10) feet from the paved edge of a common parking area or common walkway.

- (4) Minimum setback of twenty-five (25) feet from any structure, including another Manufactured Home unit.
- g. Each Manufactured Home unit shall have a minimum front yard of thirty (30) feet, a minimum rear yard of twenty-five (25) feet, and two (2) side yards with a minimum width of ten (10) feet each.
- h. All roads in the Park shall be private access drives, shall be lighted, and shall be paved with a bituminous or concrete surface not less than twenty-four (24) feet wide.
- i. Each Manufactured Home lot/site shall abut on and have access to a Park access drive; no lot/site shall have direct access to a public street.
- j. Each Manufactured Home lot/site shall accommodate not more than one (1) Manufactured Home unit.
- k. There shall be a minimum of ten (10) percent of gross acreage of the Manufactured Home Park devoted to active and/or passive common recreational facilities. Responsibility for maintenance of the recreational areas shall be with the landowner and/or the operator. Should the landowner and/or operator neglect to maintain the designated recreational area as depicted on the plan, the Township may then maintain said areas and assess the landowner for any costs incurred.
- l. Each Manufactured Home shall be placed on the recommended manufacturers foundation specifications and shall be tied down to meet the building code in place at the time. Each site shall include properly designed utility connections such as waste disposal, water supply and electrical service. Protective skirting shall be placed around the area between the pad and the floor level of each home so as to prevent that area from forming a harborage for rodents, to allow the creation of a fire hazard, or to expose unsightly conditions.
- m. No travel trailer or other temporary living unit shall be placed upon any Manufactured Home lot or used as a dwelling within a Manufactured Home Park.
- n. Owners of individual Manufactured Home units may install accessory or storage sheds, extensions, additions to the units and exterior deck/patio areas. Any such facilities so installed shall not intrude into any required minimum front, side, or rear yard.
- o. Each Manufactured Home unit shall be provide with a minimum of two (2) paved parking spaces, which shall both be located on the lot. If on-street parking is not provided, one (1) additional off-street parking space per unit shall be provided in a common visitor-parking compound.
- p. All Manufactured Home Parks shall be screened from adjoining properties and roads. Such screen can consist of sight-tight fencing, vegetative materials, or earthen berms that are so arranged to effectively block the views from ground level on adjoining properties. Screening shall be provided between ground level on adjoining properties. Screening shall be provided between ground level and at least a height of six (6) feet.

## SECTION 424 MANURE STORAGE FACILITIES

1. Within the Agricultural and Heavy Business Zones, Manure Storage Facilities are permitted by special exception, subject to the following criteria:
  - a. Any processing shall be conducted within a wholly enclosed building.
  - b. No manure shall be deposited or stored, and no building or structure shall be located within two hundred (200) feet of any property line, and five hundred (500) feet of any land within a residential zone.
  - c. Any area used for unloading, transfer, storage, processing, incineration or deposition of manure must be completely screened from view at the property line. (The use of an earthen berm is encouraged where applicable.) In addition, such area must also be completely enclosed by an eight (8) foot high fence, with no openings greater than two (2) inches in any direction.
  - d. The applicant must demonstrate compliance (through a written statement) and continue to comply with all applicable State and Federal standards and regulation.
  - e. The use shall be screened from all roads and adjoining properties.
  - f. All uses shall provide sufficiently long stacking lanes into the facility, so that vehicles waiting to be weighed will not back up onto public roads.
  - g. All driveways onto the site shall be paved for a distance of at least two hundred (200) feet from the street Right-of-Way line. In addition, a fifty (50) foot long gravel section of driveway should be placed just beyond the preceding two hundred foot paved section to help collect any mud that may have attached to a vehicle's wheels.
  - h. Access to the site shall be limited to those posted times when an attendant is on duty. In order to protect against the indiscriminate and unauthorized dumping, all areas of the site shall be protected by locked barricades, fences, gates or other positive means designed to deny access to the area at unauthorized times or locations.
  - i. Hazardous waste as described by the Department of Environmental Protection shall not be disposed of within the proposed area.
  - j. Litter control shall be exercised to prevent the scattering of wind-borne debris, and a working plan for the clean up of litter shall be submitted to the Township.
  - k. The unloading, processing, transfer and deposition of manure shall be continuously supervised by a qualified facility operator.
  - l. Any waste that cannot be used in any disposal process/or material that is to be recycled shall be stored in leak and vector proof containers. Such containers shall be designed to prevent their being carried by wind or water. These containers shall be stored within a completely enclosed building.
  - m. All storage of manure shall be indoors and in a manner that is leak and vector proof. During normal operation, no more manure shall be stored

on the property than is needed to keep the facility in constant operation; but in no event for more than seventy-two (72) hours.

- n. A contingency plan for the disposal of manure during a facility shut down shall be submitted to the Township.
- o. All structures shall be set back at least a distance equal to their height from property lines.
- p. The applicant shall submit an analysis of raw water needs (groundwater or surface water) from either private or public sources, including quantity of water required. If the source is from municipal system, the applicant shall submit documentation that the public authority will supply the water needed.

In addition, a water feasibility study will be provided to enable the municipality to evaluate the impact of the proposed development on the groundwater supply and on existing wells. The purpose of the study will be to determine if there is an adequate supply of water for the proposed development and to estimate the impact of the new development on existing wells in the vicinity. The water feasibility study shall be review by the municipal engineer.

A water system which does not provide an adequate supply of water for the proposed development, considering both quantity and quality, or does not provide for adequate groundwater recharge considering the water withdrawn by the proposed development shall not be approved by the Township.

A water feasibility study shall include the following information:

- (1) Calculations of the projected water needs.
- (2) A geologic map of the area with a radius of at least one (1) mile from the site.
- (3) The location of all existing and proposed wells within 1000 feet of the site, with a notation of the capacity of all high yield wells.
- (4) The location of all existing on-lot sewage disposal systems within 1000 feet of the site.
- (5) The location of all streams within 1000 feet of the site and all known point sources of pollution.
- (6) Based on the geologic formation(s) underlying the site, the long-term safe yield shall be determined.
- (7) A determination of the effects of the proposed water supply system on the quantity and quality of water in nearby wells, streams, and the groundwater table.
- (8) A statement of the qualifications and the signature(s) of the person(s) preparing the study.

- q. The applicant shall provide an analysis of the physical conditions of the primary road system serving the proposed use. The analysis shall include information on the current traffic flows on this road system, and



projections of traffic generated by the proposed use. Improvements to the road shall be provided by the applicant to insure safe turning movements to and from the site and safe through movement on the existing road.

- r. A minimum one hundred (100) foot wide landscape strip shall be located along all property lines. No structures, storage, parking or any other related activity or operation shall be permitted within this landscape strip. Any fences or other screening erected on the site must be located within this landscape strip.

#### SECTION 425 PUBLIC UTILITIES

- 1. Within the Heavy Business Zone, Public Utilities are permitted by special exception subject to the following criteria:
  - a. Outdoor storage shall be completely enclosed within a six (6) foot high fence, and screened from adjoining streets and properties.
  - b. The storage of maintenance vehicles and related apparatuses shall be within wholly enclosed building.

#### SECTION 426 ROADSIDE STANDS

- 1. Within the Conservation Zone, Roadside Stands are permitted by special exception and within the Agricultural & Agricultural Holding Zones they are permitted uses, subject to the following criteria:
  - a. Any structure used to display such goods shall not exceed three hundred (300) square feet of floor area.
  - b. The structure shall be set back at least thirty (30) feet from the street right-of-way.
  - c. An off-street area shall be provided to accommodate parking and shall be sited to enable customer vehicles to pull off the cartway and park safely. This area, may, but need not, be an improved parking lot. There shall be one (1) parking space for each one hundred (100) square feet of floor area.
  - d. During the non-growing season and seasons when the structure is not open for business on a daily basis, structures not exceeding 32 square feet shall be removed from the roadside.
  - e. At least half of all produce and/or plants sold measured by both value and quantities must be produced on the premises.
  - f. Signs shall not exceed 16 square feet in total area per side.

#### SECTION 427 SCHOOL

- 1. Within the Agricultural Holding Zone, Schools are permitted by conditional use, subject to the following criteria:

- a. New or expanded uses shall be located to minimize the impact on productive soils and normal farming operations.
- b. All buildings shall be set back at least one hundred (100) feet from any residential dwelling.
- c. No part of a School property shall be located within one thousand (1000) feet of a property containing an adult-related facility (as described herein) or within three hundred (300) feet of a property containing an Automobile Filling Station.
- d. For Schools providing education to minors, an outdoor play area shall be provided at a rate of one hundred (100) square feet per individual enrolled. Off-street parking and vehicular areas shall not be used as outdoor play area. Outdoor play areas shall be completely enclosed by a fence not less than four (4) feet high. Any vegetative materials located within the outdoor area shall be of non-harmful type. All outdoor play areas must include a means of shade such as a tree(s) or pavilion.
- e. "Enrollment" shall be defined as the largest number of students on the site at any one (1) time during a seven (7) day period.
- f. Passenger drop-off and pick-up areas shall be provided and arranged so that students need not cross traffic lanes on or adjacent to the site.
- g. All outdoor storage, parking, loading areas shall be screened from adjoining residential properties.

#### SECTION 428 CONTRACTOR'S OFFICE or SHOP

- 1. Within the Agricultural Zone, Contractor's Offices or Shops are permitted by special exception, subject to the following criteria:
  - a. No more than two (2) nonresidents shall be employed at the site.
  - b. The total floor area shall not exceed four thousand (4,000) square feet.
  - c. Such space shall be physically partitioned from the principal use or other accessory uses.
  - d. The Contractor's Office or Shop shall be conducted within the designated farmstead area of the farm parcel and within the dwelling and/or accessory building on the same lot as the dwelling.
  - e. Minimum lot size of two (2) acres or more.
  - f. Off street parking shall be provided in accordance with Article 311 in this Ordinance.
  - g. The building facade, whether new or existing, shall give no outward appearance of being utilized for purposes other than a dwelling or accessory farm building.
  - h. All storage and warehousing of goods shall be within enclosed buildings.
  - i. The reuse of vacant buildings on the farmstead or non-farm lot shall be given first priority. The applicant shall provide evidence that the use of existing vacant buildings is not feasible for storage or warehousing before storage or warehousing is permitted in new buildings.

- j. No new construction or site improvements shall be located within areas of slope greater than fifteen percent (15%).
- k. On existing lots of two (2) acres or more the maximum building coverage shall be four thousand (4000) square feet with the following exceptions:
  - (1) Existing buildings may be converted for business use without limitation on size, provided the area for the business is distinctly separate from the farming operations.
  - (2) Indoor storage in existing buildings shall also be unlimited.
- l. New structures shall observe all lot, bulk, and setback requirements of the Agricultural Zone.
- m. The applicant shall provide information on the type and number of truck trips to be generated by the business.

#### SECTION 429 TAVERNS & OUTDOOR CAFES

- 1. Within the Light Business Zone, Taverns & Outdoor Cafes are permitted uses and within the Mixed Use Zone, Taverns & Outdoor Cafes are permitted by special exception, subject to the following criteria:
  - a. No part of the subject property shall be located within two hundred (200) feet of any residential dwelling unit.
  - b. Applicant shall furnish evidence as to how to control loitering outside the building.
  - c. Outdoor Café uses, abutting or adjacent to residential uses, shall stop serving customers on or before 9 p.m. prevailing time on weekdays and clear all tables of food, beverages, and customers on or before 10 p.m., and on or before 10 p.m. prevailing time on weekends and clear all tables of food, beverages, and customers on or before 11 p.m.
  - d. No beverages served in Outdoor Cafes shall be served in glass containers.
  - e. This use shall not be located on or extend onto a public sidewalk or Right-of-Way.
  - f. Outdoor Cafés shall be separated from parking areas or traffic flow areas by fencing, whenever possible. When it is not possible to fence off the use, Outdoor Cafes shall have no tables located within five (5) feet of the curb, any parking or traffic flow areas.
  - g. Outdoor Cafés must provide table service.
  - h. The landowner shall maintain the Outdoor Café in accordance with all Township ordinances and State and Federal laws, as well as rules and regulations promulgated and adopted by the Township which pertain to this use.
  - i. The landowner shall remove an Outdoor Café within 10 days after receipt of a written determination by the Township or Zoning Officer that this use is detrimental to the health, safety, and general welfare of the Township or its residents because:
    - (1) The Outdoor Café is no longer in use.

- (2) The Outdoor Café is being operated in violation of the zoning criteria.
  - (3) This use has been temporarily or permanently closed for violation of any Township, State or Federal law and/or regulation.
- j. The Township may, from time to time, add regulations or rules that it deems necessary to facilitate the purposes, as defined, and functioning of this use and these rules and regulations shall be approved by the Township Board of Supervisors.

#### SECTION 430 WIND ENERGY CONVERSION SYSTEMS (WECS)

1. Within the Agricultural Zone, Wind Energy Conversion Systems are permitted by special exception subject to the following criteria:
  - a. Wind Energy Conversion Systems (WECS) shall not be permitted in the front yard area of any property. Height regulations do not apply to WECS units provided that the height of the WECS unit shall not be greater than the shortest distance measured along a horizontal plane from the unit to any lot line. WECS units may be placed on the roof of any structure provided that the perimeter of the unit does not cover twenty-five (25) percent of the roof area of the structure on which the WECS unit is placed. The additional height extension shall be so positioned that the height of the WECS unit above the roof is less than the distance measured along a horizontal plane from such unit to any lot line. All transmission lines to and from any freestanding WECS unit or any supporting building or structure shall be buried underground.

## ARTICLE 5 NONCONFORMITIES

### SECTION 500 CONTINUATION

Except as otherwise provided in this section, any use, building, or structure existing at the time of enactment of this Ordinance may be continued, although it is not in conformity with the regulations specified by this Ordinance. However, signs are subject to the amortization as described in Section 509 of this Ordinance.

### SECTION 501 ABANDONMENT

If a nonconforming use of land or of a building or structure ceases or is discontinued for a continuous period of one (1) year or more, the use shall be deemed to have been abandoned and any subsequent use of such building, structure, or land shall be in conformity with the provisions of this Ordinance. Vacating of premises or building or non-operative status of such premises or building shall be conclusive evidence of discontinued use.

### SECTION 502 EXTENSION OF A NONCONFORMING USE OF LAND

Any lawful nonconforming use of land exclusive of buildings and structures and the use contained therein, may be extended upon the lot upon which it exists at the time of the effective date of this Ordinance, but such extension shall conform to area and lot regulations and to the design standards of this Ordinance. The extension of a nonconforming use on a lot shall be limited to the lot which was in existence on the effective date of this Ordinance.

### SECTION 503 EXPANSION OR ALTERATION

1. Any nonconforming use may be expanded or altered through the obtainment of a special exception and subject to the following criteria, and those contained in Section 604.3:
  - a) Expansion of the nonconformity shall be confined to the lot on which it was located on the effective date of this Ordinance, or any amendment thereto creating the nonconformity.
  - b) The total of all such expansions or alterations of use shall not exceed an additional fifty (50) percent of the area of those buildings or structures devoted to the nonconforming use as they existed on the date on which such buildings or structures first became nonconforming uses. The applicant shall furnish conclusive evidence as to the extent to the nonconforming use when it was created.

- c) Provision for vehicular access, off-street parking and off-street loading shall be consistent with standards required by this Ordinance.
  - d) Provisions for yards, building height and building area shall be consistent with the standards required for permitted uses in the zone in which the nonconforming use in question is located.
  - e) Appearance should be similar to and compatible with surrounding properties. This requirement includes but is not limited to: landscaping, enclosure of principal and accessory uses, height control, sign control, architectural control and maintenance of all improvements and open spaces.
  - f) Buffers and screens shall be provided as necessary to adequately protect neighboring properties. This includes but is not limited to fences, walls, plantings and open spaces.
  - g) The expansion shall not create new dimensional nonconformities or further increase existing dimensional nonconformities.
  - h) No expansion of a nonconforming structure or a nonconforming use located outside of a structure existing on the effective date of this Ordinance shall be permitted in the Floodplain Zone.
  - i) Excluding expansion, any modification, alteration, repair, reconstruction or improvement of any kind to a nonconforming use or structure located in the Floodplain Zone shall be permitted when either elevated above the base flood elevation or flood proofed. In no case, shall any modification, alteration, repair, reconstruction or improvement cause unacceptable increases in flood height, velocities or frequencies.
2. No extension or enlargement of a dimensional nonconformity shall be permitted.

## SECTION 504 SUBSTITUTION OR REPLACEMENT

Any nonconforming use may be replaced or substituted by another nonconforming use by special exception, if the Zoning Hearing Board determines that the proposed use is at least equally compatible with the surrounding area, than the original nonconforming use. In addition, the proposed nonconforming use shall not increase any dimensional nonconformities. The Zoning Hearing Board may attach reasonable conditions to the special exception to keep the use compatible within its surroundings.

## SECTION 505 RESTORATION

Any lawful nonconforming building or other structure which has been involuntarily damaged or destroyed by fire, explosion, windstorm, or other similar active cause may be reconstructed in the same location, provided that:

- a) The reconstructed building or structure shall not exceed the height, area, or volume of the damaged or destroyed building or structure and such reconstructed building or structure shall not increase any dimensional nonconformities.
- b) Reconstruction shall begin within one (1) year from the date of damage or destruction and shall be carried on without interruption.

## SECTION 506 PREVIOUSLY EXPANDED NONCONFORMING USES AND STRUCTURES

It is the express intent and purpose of this Ordinance that if a building, structure, sign or use of land was expanded or extended to the limits of expansion for a nonconforming building, structure, sign or use of land as authorized by a prior zoning regulation or Ordinance, no further expansion of said building, structure, sign or land shall be authorized. In the event a nonconforming building, structure, sign or use of land was expanded to a portion of the limits of expansion authorized by a prior zoning regulation or Ordinance, additional expansion if permitted by this Ordinance, shall only be authorized to the amount of expansion not previously utilized pursuant to said prior zoning regulation or ordinance.

## SECTION 507 AMORTIZATION OF NONCONFORMING SIGNS

Any sign that was legally existing as of the effective date of this Ordinance that does not comply with the provisions listed in Section 314 of this Ordinance, shall be considered a nonconforming sign. All nonconforming signs may continue for a period up to five (5) years from the effective date of this Ordinance. After the five (5) year continuance period, all nonconforming signs shall be removed, reconstructed and/or altered so that they comply with all of the provisions contained within Section 314 of this Ordinance. This Section shall not apply to any legally existing nonconforming billboards.

## ARTICLE 6 ZONING HEARING BOARD

### SECTION 600 ESTABLISHMENT AND MEMBERSHIP

When used hereafter in this Article, the word "Board" shall mean the Zoning Hearing Board.

There shall be a Zoning Hearing Board which shall consist of three (3) members who shall be appointed by resolution by the Board of Supervisors. The membership of the Board shall consist of residents of the Township. Their terms of office shall be three (3) years and shall be so fixed that the term of one member shall expire each year. 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 the term. Members of the Board shall hold no other office in the Township. Any member of the Board may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Board of Supervisors taken after the member received fifteen (15) days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

The Board of Supervisors may appoint by resolution at least one but no more than three residents of the municipality to serve as alternate members of the Board. The term of office of an alternate member shall be three (3) years. When seated pursuant to the provisions of Section 601, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this Ordinance and as otherwise provided by law. Alternates shall hold no other office in the municipality, including membership on the planning commission and/or zoning officer. Any alternate may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated pursuant to Section 602 unless designated as a voting alternate member pursuant to Section 601 of this Ordinance.

### SECTION 601 ORGANIZATION OF BOARD

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all members of the Board, but 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 provided in Section 603. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the



Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to the declining seniority among all alternates. The Board may make, alter, and rescind rules and forms for its procedure, consistent with Ordinances of the Township and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the Township, and shall submit a report of its activities to the Board of Supervisors upon request.

## SECTION 602 EXPENDITURES FOR SERVICES

Within the limits of funds appropriated by the Board of Supervisors, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the Board of Supervisors. Alternate members of the Board may receive compensation, as may be fixed by the Board of Supervisors, for the performance of their duties when designated as alternate members pursuant to Section 601, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members by the Board of Supervisors.

## SECTION 603 HEARINGS

1. The Board shall conduct hearings and make decisions in accordance with the following requirements:
  - a) Public notice shall be given to the applicant, the zoning officer, such other persons as the Township Board of Supervisors shall designate by Ordinance and to any person who has made timely request for the same. Written notices shall be given at such time and in such manner as shall be prescribed by the Ordinance or, in the absence of Ordinance provision, by rules of the Board. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.
  - b) The Board of Supervisors may prescribe reasonable fees with respect to hearings before the Zoning Hearing Board. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs.
  - c) The hearing shall be held within 60 days from the date of the applicant's request, unless the applicant has agreed in writing to an extension of time.

2. The hearings shall be conducted by the Board or the Board may appoint any member 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 municipality, 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.
3. The parties to the hearing shall be the Township, any person affected by application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose.
4. The chairman or acting chairman of the Board or the hearing officer presiding shall have 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 requested by the parties.
5. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
6. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.
7. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer; or shall be paid by the person appealing from the decision of the Board 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.
8. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearing with any party or his representative unless all parties are given an opportunity to be present.
9. The Board or hearing officer, as the case may be, shall render a written or, when no decision is called for, make written findings on the application within 45

days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons therefore. Conclusions based on any provisions of the Act or of this Ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provide in Section 603.1 of this Ordinance. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

17. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.
11. Effect of Board's Decision: If the variance or special exception is granted or the issuance of a permit is approved, or other action by the applicant is authorized, the necessary permit shall be secured and the authorized action begun within six (6) months after the date when the variance or special exception is finally granted or the issuance of a permit is finally approved or the other action by the applicant is authorized, and the building or alteration, as the case may be, shall be completed within twelve (12) months of said date. For good cause the Board may, upon application in writing state the reasons therefore, extend either the six (6) months or twelve (12) month period.

Should the appellant or applicant fail to obtain the necessary permits within said six (6) month period, or having obtained the permit should he fail to commence work there under within such six (6) month period, it shall be conclusively presumed that the appellant or applicant has waived, withdrawn, or abandoned

his appeal or his application, and all provisions, variances and permits granted to him shall be deemed automatically rescinded by the Board.

Should the appellant or applicant commence construction or alteration within said six (6) months, but should he fail to complete such construction or alteration within said twelve (12) months, the Board may upon ten (10) days notice in writing, rescind or revoke the granted variance or special exception, or the issuance of the permit, or permits, or the other action authorized to the appellant or applicant, if the Board finds that a good cause appears for the failure to complete within such twelve (12) months period, and if the Board further finds that conditions have so altered or changed in the interval since the granting of the variance, permit or action, that revocation or rescission of the action is justified.

## SECTION 604 BOARD FUNCTIONS

The Zoning Hearing Board shall have the exclusive jurisdiction to hear and render decision in the following matters:

1. Substantive Challenges to the Validity of the Zoning Ordinance, except those brought before the Board of Supervisors pursuant to Section 703.5 of this Ordinance.
  - a) If a challenge heard by a Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include recommended amendments to the challenged Ordinance which will cure the defects found. In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans and explanatory material submitted by the landowner and shall also consider:
    - 1) The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities.
    - 2) If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or map.
    - 3) The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources and other natural features.
    - 4) The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the

tolerance of the resources to development and any adverse environmental impacts.

- 5) The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
  - b) The Zoning Hearing Board shall render its decision within 45 days after the conclusion of the last hearing. If the Board fails to act on the landowner's request within this time limit a denial of the request is deemed to have occurred on the 46<sup>th</sup> day after the close of the last hearing.
  - c) The Zoning Hearing Board shall commence its hearings within 60 days after the request is filed unless the landowner requests or consents to an extension of time.
  - d) Public notice of the hearing shall be provided as specified in Section 703.2.b of this Ordinance.
2. Challenges to the Validity of the Zoning Ordinance, raising procedural questions or alleged defects in the process of enactment or adoption, which challenges shall be raised by an appeal taken within 30 days after the effective date of the Ordinance.
3. Application for Special Exceptions pursuant to the following express requirements:
- a) Filing Requirements – In addition to the required building permit information (See Section 701) each special exception application shall include the following:
    - 1) Ground floor plans and elevations of proposed structures.
    - 2) Names and address of adjoining property owners including properties directly across a public right-of-way.
    - 3) A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance.
    - 4) A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance.
  - b) General Criteria – Each applicant must demonstrate compliance with the following:

- 1) The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance;
  - 2) The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties;
  - 3) The proposed use will not substantially change the character of the subject property's neighborhood;
  - 4) Adequate public facilities are available to serve the proposed use (e.g. schools, fire, police and ambulance protection, sewer, water and other utilities, vehicular access and etc.);
  - 5) For development within the Floodplain Zone, that the application complies with those requirements listed in Section 211.6 of this Ordinance;
  - 6) The proposed use shall comply with those criteria specifically listed in Article 4 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations contained in this Ordinance; and,
  - 7) The proposed use will not substantially impair the integrity of the Township's Comprehensive Plan.
- c) Conditions – The Zoning Hearing Board in approving special exception applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same Zone. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in Article 7.
- e) Site Plan Approval – Any site plan presented in support of the special exception pursuant to Section 604.3.a shall become an official part of the record for said special exception. Approval of any special exception will also bind the use in accordance with submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a building permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan, shall require the obtainment of another special exception approval.

4. Variances

The Board shall hear requests for variances where it is alleged that the provisions of this Ordinance inflict unnecessary hardship upon the applicant. The Board may, by rule, prescribe the form of application to the Zoning Officer. The Board may grant a variance, provided the following findings are made where relevant in a given case:

- a) That 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 Zone in which the property is located;
- b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this Ordinance and that the authorization of a variance is therefore necessary to enable reasonable use of the property;
- c) That such unnecessary hardship has not been created by the appellant;
- d) That the variance, if authorized, will not alter the essential character of the Zone or neighborhood 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;
- e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulations in issue;
- f) That variances within the Floodplain Zone shall require compliance with those regulations contained in Section 211.7 of this Ordinance; and,
- g) In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and subject to the penalties described in Article 7.

5. 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 therefore, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

6. Appeals from a determination by a municipal engineer or the Zoning Officer with reference to the administration of any provisions contained within the Floodplain Zone.
7. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the Zoning Ordinance.
8. Appeals from the Zoning Officer's determination under Section 916.2 of the Act, as amended.
9. Appeals from the determination of the Zoning Officer or municipal engineer in the administration of any land use Ordinance with reference to sedimentation and erosion control, and/or stormwater management for applications not involving a subdivision/land development, nor a planned residential development as regulated in Articles V and VI of the Act, respectively.

#### SECTION 605 PARTIES APPELLANT BEFORE THE BOARD

Appeals under Section 604.5, 604.6, 604.7, 604.8 and 604.9 and proceedings to challenge this Ordinance under Sections 604.1 and 604.2 may be filed with the Board in writing by the landowner affected, any officer or agency of the Township, or any person aggrieved. Requests for a variance under Section 604.4 and for a special exception under Section 604.3 may be filed with the Board by any landowner or any tenant with the permission of such landowner. All appeals shall state:

1. The name and address of the appellant and applicant.
2. The name and address of the landowner of the real estate to be affected.
3. A brief description and location of the real estate to be affected by such proposed change together with a plot plan drawn to scale with sufficient clarity to show the nature and character of the request.
4. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.
5. A statement of the section of this Ordinance under which the request may be allowed, and reasons why it should, or should not be granted.

#### SECTION 606 TIME LIMITATIONS

No person shall be allowed to file any proceeding with the Board later than thirty (30) days after an application for development, preliminary or final, has been approved by the Zoning Officer or the agency responsible for granting such approval if such



proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice or knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest.

The failure of anyone other than the landowner to appeal from an adverse decision by the Zoning Officer on a challenge to the validity of this Ordinance or the Official Zoning Map pursuant to Section 916.2 of the Act, as amended, shall preclude an appeal from a final approval except in the case where final submission substantially deviates from the approved tentative preliminary approval.

## SECTION 607 STAY OF PROCEEDING

Upon filing of any proceeding referred to in Section 605 and during its pendency before the Board, all land development pursuant to any challenged Ordinance, order or approval of the Zoning Officer or any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case, the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals on petition after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee but such waiver may be revoked by him if an appeal is taken from a final decision of the court. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses, and attorney fees incurred by the petitioner.

## SECTION 608 APPEAL

Any person, taxpayer, or the Township aggrieved by any decision of the Board may within thirty (30) days after such decision of the Board seek review by the Court of Common Pleas of such decision in the manner provided by the laws of the Commonwealth of Pennsylvania and Article X-A of the Act, as amended.

## ARTICLE 7 ADMINISTRATION

### SECTION 700 ADMINISTRATION AND ENFORCEMENT

#### 1. Administration

- a) Zoning Officer. The provisions of this Ordinance shall be enforced by an agent, to be appointed by the Board of Supervisors, who shall be known as the Zoning Officer. The Zoning Officer shall be appointed at the first meeting of the Board of Supervisors in January to serve until the first day of January next following, and shall thereafter be appointed annually to serve for a term of one (1) year and/or until his successor is appointed. The Zoning Officer may succeed himself. He/she shall receive such fees or compensation as the Board of Supervisors may, by resolution, provide. The Zoning Officer shall not hold any elective office within the Township. The Zoning Officer may designate an employee of the Township as his Deputy, subject to the approval of the Board of Supervisors, who shall exercise all the powers of the Zoning Officer during the temporary absence or disability of the Zoning Officer.
- b) Duties. The duties of the Zoning Officer shall be:
  - 1) To receive, examine and process all applications as provided by the terms of this Ordinance. The Zoning Officer shall also issue building permits for special exceptions and conditional uses, or for variances after the same have been approved.
  - 2) To record and file all applications for building permits or certificates of use and occupancy, and accompanying plans and documents, and keep them for public record.
  - 3) To inspect properties to determine compliance with all provisions of this Ordinance as well as conditions attached to the approval of variances, special exceptions, conditional uses and curative amendments.
  - 4) To inspect nonconforming uses, structures, and lots and to keep a filed record of such nonconforming uses and structures, together with the reasons why the Zoning Officer identified them as nonconformities, as a public record and to examine them periodically, with the view of eliminating the nonconforming uses under the existing laws and regulations.
  - 5) Upon the request of the Board of Supervisors or the Zoning Hearing Board, present to such bodies facts, records, and any

similar information on specific requests, to assist such bodies in reaching their decisions.

- 6) To be responsible for keeping this Ordinance and the Official Zoning Map up to date, including any amendments thereto.
- 7) Upon the granting by the Zoning Hearing Board, of a variance pertaining to the Floodplain Zone, the Zoning Officer shall notify the applicant in writing within fifteen (15) days that:
  - a) The granting of the variance may result in increased premium rates for flood insurance; and
  - b) Such variances may increase the risk to life and property, pursuant to Section 209.7 of this Ordinance.
- 8) Upon the approval by the Zoning Hearing Board of a special exception, or upon the approval of a conditional use by the Board of Supervisors for development located within the Floodplain Zone, written notice of the approval shall be sent by registered mail from the Zoning Officer to the Pennsylvania Department of Community Affairs.
- 9) To remain eligible for the National Flood Insurance Program, the Zoning Officer shall submit a bi-annual report to the Federal Insurance Administration concerning the status of the Program in the Township (the report shall be provided by the Federal Insurance Administration).
- 10) To render a preliminary opinion regarding a proposed land use in accordance with Section 916.2. of the Act.

## 2. Enforcement

This Ordinance shall be enforced by the Zoning Officer of the Township. No building permit or certificate of use and occupancy shall be granted by him/her for any purpose except in compliance with the literal provisions of this Ordinance. The Zoning Officer may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within his/her scope of employment.

## 3. Violations

Failure to secure a building permit prior to a change in use of land or structure, or the erection, construction or alteration of any structure or portion thereof, shall be a violation of this Ordinance. It shall also be a violation of this Ordinance to undertake other deliberate actions which are contrary to the terms

of the Ordinance and any conditions placed upon the approval of special exceptions, variances, and conditional uses. Each day that a violation is continued shall constitute a separate offense.

If it appears to the Township that a violation of this Zoning Ordinance enacted under the Act or prior enabling laws has occurred, the Township shall initiate enforcement proceeding by sending an enforcement notice as provided in the following:

- a) 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.
- b) An enforcement notice shall state at least the following:
  - 1) The name of the owner of record and any other person against whom the Township 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 the 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.

#### 4. Enforcement Remedies

Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this Zoning Ordinance enacted under the Act or prior enabling laws shall, upon being found liable therefore in a civil enforcement proceeding commenced by the Township, pay a judgment of not more than \$500 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 the Zoning Ordinance shall be paid over to the Township.

5. Causes of Action

In case any building, structure, landscaping or land is, or is proposed to be, erected, constructed, reconstructed, altered, repaired, converted, or maintained, or used in violation of this Ordinance enacted under the Act or prior enabling laws, the governing body or, with the approval of the governing body, 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, landscaping 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 municipality at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the governing body of the municipality. No such action may be maintained until such notice has been given.

## SECTION 701 PERMITS

1. General Requirements for Building Permits

- a) A building permit shall be required prior to a change in use of land or structure or the erection, construction, or alteration that affects the structural integrity of any structure or portion thereof, that has a value in excess of \$1,000.00, or in excess of one hundred twenty (120) square feet, or the alteration or development of any improved or unimproved real estate, including but not limited to mining, dredging, filling, grading, paving, excavation or drilling operations or the erection or alteration of any signs specified in Section 314.3.b) of this Ordinance. Building permits shall also be required for the construction or installation of animal waste impoundments, lakes, ponds, dams, or other water retention basins. No building permit shall be required for repairs or maintenance of any structure or land provided such repairs do not

change the use or the exterior dimensions of the structure, or otherwise violate the provisions of this Ordinance.

- b) Application for building permits shall be made in writing to the Zoning Officer.
- c) Such building permits shall be granted or refused within ninety (90) days from date of application.
- d) No building permit shall be issued except in conformity with the regulations of this Ordinance, and any other applicable Township or County ordinance or applicable statutes or regulations, except after written order from the Zoning Hearing Board or the Courts.
- e) In all instances in which the Zoning Officer expresses a reasonable doubt as to the ability of the proposed use to meet all the requirements of this Ordinance, it will be incumbent upon the applicant to furnish adequate evidence in support of his application. If such evidence is not presented, the building permit will be denied.
- f) Application for a permit shall be made by the Owner or Lessee of any building or structure, or the agent of either; provided, however, that if the application is made by a person other than the Owner or Lessee, it shall be accompanied by a written authorization of the Owner or the qualified person making an application, that the proposed work is authorized by this Owner. The full names and addresses of the Owner, Lessee, Applicant, and of the responsible officers, if the Owner or Lessee is a corporate body, shall be stated in the application.
- g) The Zoning Officer may call upon other Township Staff and/or Township appointed consultants in the review of submitted materials for application.
- h) The Zoning Officer may revoke a permit or approval issued under the provisions of this Ordinance in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based or for any other cause set forth in the Zoning Ordinance.
- i) No permit shall be issued until the fees prescribed by the Board of Township Supervisors pursuant to the Resolution shall be paid to the Zoning Officer. The payment of fees under this Section shall not relieve the applicant or holder of said permit from payment of other fees that may be required by this Ordinance or by any other Ordinances or law.
- j) Issuance of Permits: Upon receiving the application, the Zoning Officer shall examine the same within a reasonable time after filing. If the

application or plans do not conform to the provisions of all pertinent local laws, he shall reject such application in writing, stating the reasons therefore. He shall inform the applicant of his right to appeal to the Zoning Hearing Board in the event such application is rejected. If satisfied that the proposed work and/or use conforms to the provisions of the Zoning Ordinance and all laws and ordinances applicable thereto, and that the certificate of use and occupancy as required herein has been applied for, he shall issue a permit therefore as soon as practical but not later than ninety (90) days from receipt of the application.

- k) **Reconsideration of Application:** An applicant whose request for a permit has been denied by the Zoning Officer may make a later application for a permit provided all deficiencies which were the basis for the prior denial of the permit have been eliminated. The Zoning Officer shall not be required to make a new inspection of the application if this condition is not met.
- l) **Expiration of Permit:** The permit shall expire after one (1) year from the date of issuance; provided, however, that the same may be extended every six (6) months for a period not to exceed an additional one (1) year.
- m) **Compliance with Ordinance:** The permit shall be a license to proceed with the work and should not be construed as authority to violate, cancel, or set aside any provisions of the Zoning Ordinance, except as stipulated by the Zoning Hearing Board.
- n) **Compliance with Permit and Plot Plan:** All work or uses shall conform to the approved application and plans for which the permit has been issued as well as the approved plot plan.
- o) **Display of Building Permit:** All approved building permits shall be prominently displayed on the subject property during construction, renovation, reconstruction, repair, remodeling or the conduct of other site improvements. Such permit displays shall occur within five (5) days of permit issuance, or prior to the commencement of actual work on the site, whichever occurs first. Such permit display shall be continuous until the site receives its certificate of use and occupancy.
- p) **Temporary Use Permits:** It is recognized that it may be in accordance with the purpose of this Ordinance to permit temporary activities for a limited period of time, which activities may be prohibited by other provisions of this Ordinance. If such uses are of such a nature and are so located that, at the time of petition of special exception, they will:
  - 1) In no way exert a detrimental effect upon the uses of land and activities normally permitted in the Zone, or



- 2) Contribute materially to the welfare of the Township, particularly in a state of emergency, under conditions peculiar to the time and place involved, then, the Zoning Hearing Board may, subject to all regulations for the issuance of special exception elsewhere specified, direct the Zoning Officer to issue a permit for a period not to exceed six (6) months. Such permits may be extended not more than once for an additional six (6) months.

2. Application for All Building Permits

- a) Applications shall contain a general description of the proposed work, development, use or occupancy of all parts of the structure or land and shall be accompanied by plans in duplicate drawn to scale and showing the following:
  - 1) Actual dimensions and shape of lot to be developed;
  - 2) Exact location and dimensions of any proposed and/or existing structures to be erected, constructed and altered;
  - 3) Existing and proposed uses, including number of occupied units, businesses and etc., all structures are designed to accommodate;
  - 4) Off-street parking and loading spaces;
  - 5) Utility systems affected and proposed;
  - 6) Alteration or development of any improved or unimproved real estate;
  - 7) The size of structures and the number of employees anticipated; and,
  - 8) Any other lawful information that may be required by the Zoning Officer to determine compliance with this Ordinance.
- b) If the proposed development, excavation or construction is located within the Floodplain Zone, the following information is specifically required to accompany all applications:
  - 1) The accurate location of the floodplain and floodway;
  - 2) The elevation, in relation to the North American Vertical Datum of 1988 (NAVD), of the lowest floor, including basements; and

- 3) The elevation, in relation to the NAVD, to which all structures and utilities will be floodproof or elevated.

3. Application for Building Permits for Uses in Light Business and Heavy Business Zones.

- a) A location plan showing the tract to be developed, zone boundaries, adjoining tracts, significant natural features, and streets for a distance of two hundred (200) feet from all tract boundaries.
- b) A plot plan of the lot showing the location of all existing and proposed buildings, driveways, parking lots with access drives, circulation patterns, curb cut access, parking stalls access from streets, screening fences and walls, waste disposal fields or other methods of sewage disposal, other construction features on the lot, and the location of all topographical features.
- c) A description of the operations proposed in sufficient detail to indicate the effects of those operations in producing traffic congestion, noise, glare, air pollution, waste pollution, vibration, fire hazards, safety hazards, or the emission of any potentially harmful or obnoxious matter or radiation.
- d) Engineering plans for treatment and disposal of sewage and industrial waste, tailings or unusable by-products.
- e) Engineering plans for the handling of traffic, noise, glare, air pollution, water pollution, vibration, fire hazards, or safety hazards, smoke, or emission of any potentially harmful or obnoxious matter or radiation.
- f) Designation of the manner by which sanitary sewage and storm water shall be disposed and water supply obtained.
- g) The proposed number of shifts to be worked and the maximum number of employees on each site.
- h) Where use by more than one firm is anticipated, a list of firms which are likely to be located in the center, their floor area, and estimated number of employees.

4. Certificate of Use and Occupancy

- a) It shall be unlawful to use and/or occupy any structure, building, sign, and /or land or portion thereof for which a permit is required herein until a certificate of use and occupancy for such structure, building, sign, and/or land or portion thereof has been issued by the Zoning Officer.

The application for issuance of a certificate of use and occupancy shall be made at the same time an application for a building permit is filed with the Zoning Officer as required herein.

- b) The application for a certificate of use and occupancy shall be in such form as the Zoning Officer may prescribe and may be made on the same application as is required for a building permit.
- c) The application shall contain the intended use and/or occupancy of any structure, building, sign, and/or land or portion thereof for which a building permit is required herein.
- d) The Zoning Officer shall inspect any structure, building, or sign within ten (10) days upon notification that the proposed work that was listed under the permit has been completed and if satisfied that the work is in conformity and compliance with the work listed in the issued permit and all other pertinent laws, he/she shall issue a certificate of use and occupancy for the intended use listed in the original application.
- e) The certificate of use and occupancy or a true copy thereof shall be kept available for official inspection at all times.
- f) Upon request of a holder of a building permit, the Zoning Officer may issue a temporary certificate of use and occupancy for a structure, building, sign, and/or land, or portion thereof, before the entire work covered by the permit shall have been completed, provided such portion or portions may be used and/or occupied safely prior to full completion of the work without endangering life or public welfare. The Zoning Officer shall also issue a use of land for religious or other public or semi-public purposes and similar temporary use and/or occupancy. Such temporary certificates shall be for the period of time to be determined by the Zoning Officer, however, in no case for a period exceeding six (6) months.
- g) A Certificate of Use and Occupancy shall not be issued for structures and buildings located in subdivisions requiring Improvement Guarantees until the structure or building abuts either a roadway which has been accepted by the Township for dedication or abuts upon a street which has been paved with a base wearing course.
- h) In commercial and industrial zones in which operation standards are imposed, no certificate of use and occupancy shall become permanent until thirty (30) days after the facilities are fully operational, when upon a re-inspection by the Zoning Officer, it is determined that the facilities are in compliance with all operation standards.

## SECTION 702 FEES

### 1. Determination

The Board of Supervisors may, by resolution, establish fees for the administration of this Ordinance. All fees shall be determined by a schedule that is made available to the general public. The Board of Supervisors may reevaluate the fee schedule and make necessary alterations to it. Such alterations shall not be considered an amendment to this Ordinance and may be adopted at any public meeting of the Board of Supervisors.

## SECTION 703 AMENDMENTS

### 1. Power of Amendment

The Board of Supervisors may from time to time, amend, supplement, change or repeal this Ordinance including the Official Zoning Map. Any amendment, supplement, change or repeal may be initiated by the Township Planning Commission, the Board of Supervisors or by a petition to the Board of Supervisors by an interested party.

### 2. Hearing and Enactment Procedures for Zoning Amendments

a) Public hearing – Before hearing and enacting Zoning Ordinance and/or Zoning Map amendments, the Board of Supervisors shall conduct a public hearing to inform the general public of the nature of the amendment, and to obtain public comment. Such public hearing shall be conducted after public notice (as defined herein and listed below) has been given.

b) Public Notice – Before conducting a public hearing, the Board of Supervisors shall provide public notice as follows:

1. Notice shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. 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 30 days, and the second publication shall not be less than seven days from the date of the hearing. Publication of the proposed amendment shall include either the full text thereof or the title and brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

- i) A copy of the full text shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published; and,
  - ii) An attested copy of the proposed Ordinance shall be filed in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said Ordinance.
- 2. For Zoning Map amendments, public notice shall also include the posting of a sign at conspicuous locations along the perimeter of the subject property; these sign(s) shall be posted at least one week prior to the hearing and will exhibit the nature, date, time and location of the hearing.
- 3. For curative amendments, public notice shall also indicate that the validity of the Ordinance and/or map is in question, and shall give the place where and the times when a copy of the request including any plans, explanatory material or proposed amendments may be examined by the public.
- 4. If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affect by it, the Board of Supervisors shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.
- c) **Enactment Notice** – In addition to the public notice requirements defined herein, the Board of Supervisors must publish a reference to the time and place of the meeting at which passage of the Ordinance or amendment will be considered, and a reference to a place within the municipality where copies of the proposed Ordinance or amendment may be examined without charge or obtained for a charge not greater than the cost thereof. Enactment notice shall be published at least once in one newspaper of general circulation in the municipality not more than 60 days nor less than 7 days prior to passage. The published content of the enactment notice shall be the same as that required for public notice described in the preceding subsection b).
- d) **Township Planning Commission Referrals** – For amendments proposed by parties other than the Township Planning Commission, the Board of Supervisors shall submit each amendment to the Township Planning Commission at least 30 days prior to the public hearing on such amendments.

A report of the review by the Township Planning Commission, together with any recommendations, may be given to the Board of Supervisors within thirty (30) days from the date of said referral. The recommendations of the Township Planning Commission may include a specific statement as to whether or not the proposed action is in accordance with the intent of this Ordinance and any officially adopted Comprehensive Plan of the Township.

- e) Lancaster County Planning Commission Referrals – All proposed amendments shall be submitted to the Lancaster County Planning Commission at least forty-five (45) days prior to the public hearing on such amendments. The Commission may submit recommendations to the Board of Supervisors; however, if the Lancaster County Planning Commission fails to act within forty-five (45) days, the Board of Supervisors may proceed without its recommendations.
- f) Adjournment of Public Hearing – If during the public hearing process, the Board of Supervisors needs additional time to understand the proposal, inform the public, receive public comment, and/or render a decision, it may adjourn the public hearing to a certain time and place.
- g) Within 30 days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the Lancaster County Planning Commission.

3. Amendments Initiated by the Township Planning Commission

When an amendment, supplement, change or repeal is initiated by the Township Planning Commission, the proposal shall be presented to the Board of Supervisors which shall then proceed in the same manner as with a petition to the Board of Supervisors which has already been reviewed by the Township Planning Commission.

4. Amendment Initiated by the Board of Supervisors

When an amendment, supplement, change or repeal is initiated by the Board of Supervisors, such amendment, supplement, change or repeal shall follow the procedure prescribed for a petition under Section 703.2.

5. Amendment Initiated by a Petition from an Interested Party

A petition for amendment, supplement, change or repeal for a portion of this Ordinance shall include an accurate legal description and surveyed plan of any land to be rezoned, and all of the reasons supporting the petition to be considered. The petition shall also be signed by at least one record owner of the property in question whose signature shall be notarized attesting to the truth and

correctness of all the facts and information presented in the petition. A fee to be established by the Board of Supervisors shall be paid upon the filing of such petition for change and for the purpose of defraying the costs of the proceedings prescribed herein. The Board of Supervisors may require duplicate sets of petition materials.

6. Curative Amendment by a Landowner

A landowner, who desires to challenge on substantive grounds the validity of the Ordinance or the Official Zoning 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 Board of Supervisors (including all of the reasons supporting the request to be considered) with a written request that his challenge and proposed amendment be heard and decided as provided in Section 609.1 and 916.1 of the Act; as amended. The Board of Supervisors shall commence a hearing thereon within sixty (60) days of the request. The curative amendment shall be referred to the Township and Lancaster County Planning Commissions as provided for in Section 703.2 and public notice of the hearing shall be provided as defined herein.

- a) In reviewing the curative amendment, the Board of Supervisors may deny the request, accept the request as submitted, or may adopt an alternative amendment which will cure the challenged defects. The Board of Supervisors shall consider the curative amendments, plans and explanatory material submitted by the landowner and shall also consider;
  - i. The impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
  - ii. If the proposal is for a residential use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or map;
  - iii. The suitability of the site for the intensity of use proposed by the site's soils, slopes, woodland, wetlands, floodplains, aquifers, natural resources and other natural features;
  - iv. The impact of the proposed use on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
  - v. The impact of the proposal on the preservation of agriculture and other land uses which are essential to public health and welfare.
- b) The Board of Supervisors shall render its decision within 45 days after the conclusion of the last hearing.

- c) If the Board of Supervisors fails to act on the landowner's request within the time limits referred to in paragraph (b), a denial of the request is deemed to have occurred on the 46<sup>th</sup> day after the closing of the last hearing.
- d) Public notice of the hearing shall include notice that the validity of the Ordinance or map is in question and shall give the place where and the times when a copy of the request including any plans, explanatory material proposed amendments may be examined by the public.
- e) The challenge shall be deemed denied when:
  - i. The Board of Supervisors fails to commence the hearing within 60 days;
  - ii. The Board of Supervisors notifies the landowner that it will not adopt the curative amendment;
  - iii. The Board of Supervisors adopts another curative amendment which is unacceptable to the landowner; or
  - iv. The Board of Supervisors fails to act on the request 45 days after the close of the last hearing on the request, unless the time is extended by mutual consent by the landowner and municipality.
- f) Where, after the effective date of the Act, a curative amendment proposal is approved by the grant of a curative amendment application by the Board of Supervisors pursuant to this section or a validity challenge is sustained by the Zoning Hearing Board pursuant to Section 604.1, or the court acts finally on appeal from denial of a curative amendment proposal or a validity challenge, and the proposal or challenge so approved requires a further application of subdivision or land development, the developer shall have two years from the date of such approval to file an application for preliminary or tentative approval for a subdivision, land development or planned residential development. Within the two-year period, no subsequent change or amendment in the zoning, subdivision or other governing Ordinance or plan shall be applied in any manner which adversely affects the rights of the applicant as granted in the curative amendment or sustained validity challenge. Upon the filing of the preliminary or tentative plan, the provisions of Section 508(4) of the Act shall apply.
- g) Where the proposal appended to the curative amendment application or the validity challenge is approved but does not require further application under any subdivision or land development Ordinance, the developer shall have one year within which to file for a building permit. Within the one-year period, no subsequent change or amendment in the zoning, subdivision or other governing Ordinance or plan shall be applied in any



manner which adversely affects the rights of the applicant as granted in the curative amendment or the sustained validity challenge. During these protected periods, the court shall retain or assume jurisdiction for the purpose of awarding such supplemental relief as may be necessary.

7. Curative Amendment by the Board of Supervisors

- a) The Board of Supervisors, by formal action, may declare this Ordinance or portions thereof substantively invalid and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal, the Board of Supervisors shall:
  - 1) By resolution, make specific findings setting forth the declared invalidity of the Ordinance or portion thereof which may include:
    - i. References to specific uses which are either not permitted or not permitted in sufficient quantity.
    - ii. References to a class of use or uses which require revision; or
    - iii. References to the entire Ordinance which requires revision.
  - 2) Begin to prepare and consider a curative amendment to the Ordinance to correct the declared invalidity.
- b) Within one hundred eighty (180) days from the date of the declaration and proposal, the Board of Supervisor shall enact a curative amendment to validate or reaffirm the validity of, this Ordinance pursuant to the provisions required by Section 609 of the Act in order to cure the declared invalidity of the Ordinance.
- c) Upon the date of the declaration and proposal, the Board of Supervisors shall not be required to entertain or consider any curative amendment filed by a landowner. Nor shall the Zoning Hearing Board be required to give a report upon request, for a challenge to the validity of the Ordinance under Section 604.1. subsequent to the declaration and proposal, based upon the grounds identical to or substantially similar to those specified in the resolution required by this Section. Upon the enactment of a curative amendment to, or reaffirmation of the validity of this Ordinance, no rights to a cure by amendment or challenge shall, from the date of the declaration and proposal, accrue to any landowner on the basis of the substantive invalidity of the unamended Zoning Ordinance for which the Board of Supervisors propose to prepare a curative amendment.
- d) The Board of Supervisors, having utilized the procedures as set forth in this Section, may not again utilize said procedures for a thirty-six (36) month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of the Ordinance; provided

however, that if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the Township by virtue of a Pennsylvania Appellate Court decision, the Board of Supervisors may utilize the provisions of this Section to prepare a curative amendment to the Ordinance to fulfill this duty or obligation.

8. Authentication of Official Zoning Map

Whenever there has been a change in the boundary of a Zone or a reclassification of the Zone adopted in accordance with the above, the change on the Official Zoning Map shall be made, and shall be duly certified by the Township Secretary and shall thereafter be refiled as part of the permanent records of the Township.

SECTION 704 CONDITIONAL USES

1. Filing of Conditional Uses

For any use permitted by conditional use, a conditional use must be obtained from the Board of Supervisors. In addition to the information required on the building permit application, the conditional use application must show:

- a) Ground floor plans and elevations of proposed structures.
- b) Names and addresses of adjoining property owners including properties directly across a public right-of-way.
- c) A scaled drawing (site plan) of the site with sufficient detail and accuracy to demonstrate compliance with all applicable provisions of this Ordinance.
- d) A written description of the proposed use in sufficient detail to demonstrate compliance with all applicable provisions of this Ordinance.

2. General Criteria – Each applicant must demonstrate compliance with the following:

- a) The proposed use shall be consistent with the purpose and intent of the Zoning Ordinance.
- b) The proposed use shall not detract from the use and enjoyment of adjoining or nearby properties.
- c) The proposed use will not effect a change in the character of the subject property's neighborhood.

- d) Adequate public facilities are available to serve the proposed use (e.g. schools, fire, police and ambulance protection, sewer, water, and other utilities, vehicular access and etc.).
  - e) For development within the Floodplain Zone, that the application complies with those requirements listed in Section 211.10 of this Ordinance.
  - f) The proposed use shall comply with those criteria specifically listed in Article 4 of this Ordinance. In addition, the proposed use must comply with all other applicable regulations of this Ordinance.
  - g) The proposed use will not substantially impair the integrity of the Township's Comprehensive Plan.
3. Conditions - The Board of Supervisors in approving conditional use applications, may attach conditions considered necessary to protect the public welfare and the purposes listed above, including conditions which are more restrictive than those established for other uses in the same Zone. These conditions shall be enforceable by the Zoning Officer and failure to comply with such conditions shall constitute a violation of this Ordinance and be subject to the penalties described in this Article.
4. Site Plan Approval – Any site plan presented in support of the conditional use pursuant to Section 704.1 shall become an official part of the record for said conditional use. Approval of any conditional use will also bind the use in accordance with the submitted site plan; therefore, should a change in the site plan be required as part of the approval of the use, the applicant shall revise the site plan prior to the issuance of a building permit. Any subsequent change to the use on the subject property not reflected on the originally approved site plan, shall require the obtainment of another conditional use approval.
5. Hearing Procedures – Before voting on the enactment of a conditional use, the Township Supervisors shall hold a public hearing thereon, pursuant to public notice. The Township Supervisors shall submit each application to the Planning Commission at least thirty (30) days prior to the hearing on such application to provide the Planning Commission an opportunity to submit recommendations. If, after any public hearing held upon an application, the proposed use is revised, the Township Supervisors shall hold another public hearing, pursuant to public notice before proceeding to vote on the conditional use.

All public hearings shall be conducted in accordance with the requirements outlined in Section 603 of this Ordinance except that any reference to the "Zoning Hearing Board" shall be replaced with the "Township Supervisors," and any reference to "special exception" shall be replaced with "conditional use."

## SECTION 705 REPEALER

Any resolution, ordinance or part of any resolution or ordinance inconsistent herewith and any amendments thereof are hereby expressly repealed, except as provided for in this Ordinance. It is expressly provided that the provisions of this Ordinance shall not affect any act done, contract executed or liability incurred prior to its effective date, or affect any suit or prosecution pending or to be instituted to enforce any rights, rule, regulation or ordinance, or part thereof, or to punish any violation which occurred under any prior zoning regulation or ordinance of Sadsbury Township.

## SECTION 706 SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

## SECTION 707 EFFECTIVE DATE

This Zoning Ordinance shall become effective five (5) days after its enactment by the Board of Supervisors of Sadsbury Township, County of Lancaster, Commonwealth of Pennsylvania.

This Ordinance, ordained and enacted this 6th day of December, 2011.

### BOARD OF SUPERVISORS OF SADBURY TOWNSHIP

By [Signature] Chairman  
[Signature] Vice-Chairman  
Linda M. Swift Member

ATTEST:

Linda M. Swift  
Secretary

(Seal)