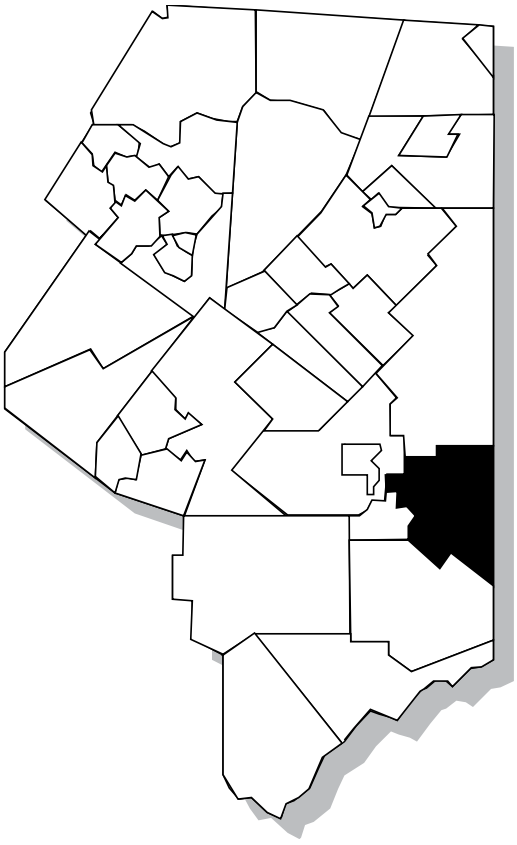
MADISON TOWNSHIP

LACKAWANNA COUNTY, PENNSYLVANIA

ZONING ORDINANCE

Ordinance 2009-1
April 6, 2009



Madison Township
Municipal Offices
3200 Madisonville Road
Madison Twp, PA 18444
(570) 842-3088

ZONING ORDINANCE

OF THE

TOWNSHIP OF MADISON

LACKAWANNA COUNTY, PENNSYLVANIA

ORDINANCE # 2009-1

An Ordinance to permit, prohibit, regulate, restrict, and determine: Uses of land, watercourses, and other bodies of water; size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures; areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures; density of population and intensity of use; protection and preservation of natural resources; and providing for: Special exceptions and variances administered by the Zoning Hearing Board, and Conditional Uses administered by the Board of Supervisors; the administration and enforcement of this Ordinance and penalties for the violation thereof.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE TOWNSHIP BOARD OF SUPERVISORS OF THE TOWNSHIP OF MADISON, AS FOLLOWS:

ZONING ORDINANCE

TOWNSHIP OF MADISON
LACKAWANNA COUNTY, PENNSYLVANIA

APRIL 6, 2009

The preparation of this document was financed "in part" through a Land Use Planning and Technical Assistance Grant from the Department of Community and Economic Development as administered by the Strategic Planning and Program Operations Office, Pennsylvania Department of Community and Economic Development.

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MADISON TOWNSHIP ZONING ORDINANCE

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ARTICLE 1

TITLE AND PURPOSE

1.100 TITLE

An ordinance establishing regulations and restrictions for the location and use of lots, land, buildings, and other structures; the height, number of stories, and size or bulk of buildings and structures; the density of population; off-street parking and signs in Madison Township, Lackawanna County, Pennsylvania. This Ordinance shall be known as, and may be cited as the Madison Township Zoning Ordinance.

1.200 PURPOSES

These regulations are deemed necessary to achieve the following purposes:

1.210 To promote, protect and facilitate any or all of the following: the public health, safety, morals, and the general welfare: coordinated and practical community development and proper density of population: emergency management preparedness and operations, airports, and national defense facilities, the provisions of adequate light and air, access to incident solar energy, vehicle parking and loading space, transportation, water, sewerage, schools, recreation facilities, public grounds, the provision of a safe reliable and adequate water supply for domestic, commercial, or industrial use, and other public requirements: as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.

1.220 To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

1.230 To provide for the use of land within the Municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single-family and two-family dwellings, and a reasonable range of multifamily dwellings in various arrangements, mobile homes and mobile home parks.

1.240 To accommodate reasonable overall community growth, and opportunities for the development of a variety of residential dwelling types and nonresidential uses

1.300 INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals, and/or general welfare of the residents and inhabitants of the Township.

1.400 COMMUNITY DEVELOPMENT OBJECTIVES

Quality of Life Goals

- Improve the quality of life for all of our residents, present and future. This includes providing sufficient opportunities for community prosperity, reasonable taxes, adequacy of community facilities, a safe and peaceful environment in which to live and work, adequate infrastructure such as streets, storm sewers, solid waste disposal, police/fire protection, and special services as needed by certain population groups, such as senior citizens.

General Land Use Goals

- Encourage growth that will diversify the tax base and maintain the bedroom community quality of Madison Township.
- Preserve the Township's rural character and agricultural land
- Protect the Township's water supply.
- Regulate development that can be sustained with on-site sewage disposal
- Expand recreation opportunities.
- Develop a land use plan that will provide for varying forms of residential development.
- Develop methods of controlling development, while minimizing the loss of property rights.

Other Development Goals

- Protect the Township from adverse environmental uses such as landfills and junkyards.
- Protect the Township's environmental resources, such as the Potter Creek Kettle Bog.

1.500 SCOPE OF REGULATIONS

1.510 Administration and Enforcement. This Ordinance includes provisions for the administration and the enforcement of the Ordinance and such other provisions as are deemed necessary to implement the purposes of this Ordinance and the purposes of Act 247 as amended.

1.520 Flexibility and Innovation. This Ordinance includes provisions to encourage innovation and to promote flexibility, economy and ingenuity in development, including subdivisions and land developments as defined in Act 247 as amended. Such regulations provide authorization to increase the permissible density of population and intensity of uses based upon expressed standards and criteria to preserve open space as set forth herein.

1.530 Development Features Regulated. This Ordinance includes provisions regulating:

(1) Uses of land, watercourses and other bodies of water
(2) Size, height, bulk, location, erection, construction, repair, maintenance, alteration, razing, removal and use of structures
(3) Areas and dimensions of land and bodies of water to be occupied by uses and structures, as well as areas, courts, yards, and other open spaces and distances to be left unoccupied by uses and structures
(4) Density of population and intensity of use
(5) Protection and preservation of natural resources
(6) Special Exceptions
(7) Variances
(8) Conditional Uses

ARTICLE 2

DESIGNATION OF ZONE DISTRICT

2.100 DESIGNATION OF ZONE DISTRICT

A Multiple Use Zone (MUZ) is hereby created for the Township of Madison.

In addition, the Township also has a Flood Plain Conservation District (FPCD). Where applicable on the Zoning Map, this zone appears as an overlay to the above-described district. Permitted uses and building regulations in this zone are subject to the same requirements as the zone over which this overlay was placed, and the supplemental regulations governing the Flood Plain as described in Section 2.500 and Article 7 hereof.

2.200 ZONING MAP

The location and boundaries of said zones are hereby established as shown on the Official Zoning Map of the Township of Madison dated April 6, 2009, on file in the office of the Secretary of the Township. Said official Zoning Map, together with any map inserts, is hereby made a part of this Ordinance as if the same were all fully described and set forth herein.

2.300 RESERVED

2.400 LIMITATION OF LAND USE

Except as provided in this Ordinance, no building or part thereof or other structure shall be erected, altered, added to or enlarged, nor shall any land, building, structures or premises be used, designed or intended to be used for any purpose other than the uses hereinafter listed as permitted in the zone in which such building or premises are located.

2.500 FLOOD PLAINS

The provisions of this Section shall apply to all lands within the municipality which are located within the boundaries of Zone A, Special Flood Hazard Areas. The Floodplain Overlay District is hereby created for the regulation of development in floodplain areas as are identified by the Federal Emergency Management Agency and the USDA Soil Conservation Service on the most current maps published by each agency. This District shall be an overlay zone in which the normal provisions of the District indicated on the Official Zoning Map shall apply except that no development shall be permitted which is not completely in accord with the provisions of Article 7 hereof.

2.510 The purpose of these provisions is to prevent the loss of property and life, the creation of health and safety hazards, the disruption of commerce and governmental services, the extraordinary and unnecessary expenditure of public funds for flood protection and relief, and the impairment of the tax base by:

a. Regulating uses, activities, and development which, acting alone or in combination with other existing or future uses, activities, and development, will cause unacceptable increases in flood heights, velocities and frequencies,

b. Restricting or prohibiting certain uses, activities, and development from locating within areas subject to flooding,

c. Requiring all those uses, activities, and developments that occur in flood-prone areas to be protected and/or floodproofed against flooding and flood damage,

d. Protecting individuals from buying lands and structures which are unsuited for intended purposes because of flood hazards.

2.520 Interpretation of District Boundaries. Where interpretation is needed concerning the exact location of any boundary of the Floodplain Overlay District, the Zoning Hearing Board shall make the necessary determination. The person questioning or contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence if he so desires.

2.530 Compliance. No structure of land shall hereafter be used and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered except in full compliance with the terms and provision of this ordinance and any other applicable ordinances and regulations which apply to uses within the jurisdiction of this ordinance.

2.540 Warning and Disclaimer of Liability. The degree of flood protection sought by the provisions of this ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This ordinance does not imply that areas outside the floodplain districts, or that land uses permitted within such districts will be free from flooding or flood damages.

This ordinance shall not create liability on the part of the municipality or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made thereunder.

2.550 Delineation of Districts. The floodplain shall include all areas subject to inundation by waters of the one-hundred (100) year flood (Regulatory Flood). The basis for this delineation shall be the Floodplain Map as amended from time to time by the U.S. Department of Housing and Urban Development, which is declared to be an official part of this Ordinance. The delineation of the floodplain districts may be revised by the municipality where natural or man-made changes have occurred and/or more detailed studies have been conducted or undertaken by the U.S. Army Corps of Engineers or other qualified agency or individual.

2.560 District Provisions. All uses, activities, and development occurring within any flood plain district shall be undertaken, only, in strict compliance with the provisions of this Ordinance and with all other applicable codes and ordinances such as the Uniform Construction Code, and Municipal Subdivision and Land Development Ordinance, and the Municipal Storm Water Management Ordinance.

Under no circumstances shall any use, activity and/or development adversely affect the capacity of the channels or floodways of any watercourse, drainage ditch, or any other drainage facility or system.

ARTICLE 3

DISTRICT REGULATIONS

3.100 GENERAL APPLICATION

Four (4) use categories are hereby established, as follows:

a. Uses By Right (Schedule I). Those uses that are permitted to be approved by the zoning officer in accordance with the procedures set forth herein.

b. Special Exception Uses (Schedule II). Those uses that are permitted to be approved only by the Zoning Hearing Board in accordance with Section 8.220 hereof.

c. Conditional Uses (Schedule III). Those uses that are permitted to be approved only by the Board of Township Supervisors in accordance with Section 5.300 hereof.

d. Accessory Uses. Uses that are accessory to a principal use, whether a Principal Use By Right, a Principal Special Exception, or a Principal Conditional Use.

SCHEDULE I

USES BY RIGHT

Residential and Agricultural Principal Uses

1-Family Dwelling	Group Housing for the Handicapped	Residential Conservation
2-Family Dwelling	Recreation (public & private)	Residential Conversions
Agricultural Operations		Town Houses
Garden Apartments		

Residential Accessory Uses

Accessory Signs	No Impact Home Business	Private Telecommunications Equipment
Bed & Breakfast Places	Off-street Parking	Private Greenhouses
Car Port	Other Similar Uses	Storage Shed
Garage	Private Stables	Swimming Pool

Nonresidential, Principal Uses (If not prohibited or listed as a special exception or a conditional use)

Adult Day Care	Manufacturing	Commercial Stables
Child Day Care	Personal Services	Self-Storage Buildings
Essential Services	Public	Semi-public
Forestry	Retail Uses	Wholesale Use

SCHEDULE II

SPECIAL EXCEPTION USES

Accessory Wind Mill
Adult Entertainment
Amusement Park
Animal Hospital/Kennel
Assisted Living Facilities
Bottle Club/BYOB Club
Camps/Campgrounds
Cemeteries/Mausoleums
Civic/Organizations
Conversions (mixed uses)
Country Club
Crematorium
Drive-In/Drive Through
Drug Rehabilitation Facilities
Halfway Houses
Health Care Facilities
Home Occupations
Junk Yard
Laboratory, Testing
Methadone/Other Drug Treatment
Millwork/Other Wood
Mobile Home Park
Motorized Race Track
Nursery Schools
Outdoor Advertising Signs - Off-Site
Outdoor Storage (Principal)
Outdoor Wood Burner
Places of Worship
Recreation Facilities-Comml
Recreation Vehicle Parks
Rooming & Boarding Homes
Schools-Colleges
Schools-Private/Public
Shooting Range (Commercial)
Shopping Centers
Storage-Hazardous Material
Telecommunications, Comml.
Temp Nonresidential Uses
Transient Business
Transportation Terminal

SCHEDULE III

CONDITIONAL USES

Airport
Chemical Plant
Earth-moving industry
Field House/Arena
Gambling Casino
Hazardous Material
Helicopter Landing Pad
Incinerator
Oil Refinery
Paper Manufacturing
Sanitary Landfill
Sewage Treatment Plant
Slaughterhouse
Tannery
Waste Transfer Stations
WECS

SCHEDULE IV

AGRICULTURAL USES

AGRICULTURAL

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

Principal Permitted Uses

- Agricultural uses as defined herein
- Farm residences and accessory structures
- Roadside stands for the sale of farm products grown or produced on premises
- Tree farms and harvesting
- Truck gardening

Accessory Uses

- Agricultural use accessory to a principal dwelling use
- Other accessory uses and structures customarily appurtenant to a principal permitted use
- Personal shooting ranges, pursuant to the rules and regulations of the Pennsylvania Game Commission
- Single-family dwelling accessory to a principal agricultural use

Special Exceptions

- Farm labor residences
- Processing agricultural products produced on the premises, excluding meat products
- Processing milk products, produced on premises, including bottling
- Fish hatcheries

Conditional Uses

- None

3.200 Dimensional Requirements

Dimensional requirements for related Use-Categories classifications are set forth below. The dimensional requirements set forth in the following Schedules V A, V B, and VI are subject to the additional requirements of Article 4 and 5 hereof.

3.210 Use Categories. Different use categories have different requirements for area, bulk and setback standards. In addition to the uses and special regulations set forth in Article 5 hereof, there are five (5) use categories encompassed by these regulations, as follows:

I Agricultural Uses

II 1-family and 2-family residential structures

III Multi-family residential structures

IV Commercial and all other nonresidential uses not otherwise specified herein

V Industrial, manufacturing, warehousing and transportation terminals

3.220 Minimum Dimension Requirements

SCHEDULE V A

MINIMUM DIMENSIONAL REQUIREMENTS

Residential and Agricultural Use Categories (1)

Development Standards	**MUZ Zone I, II & III**
Minimum Net Lot Area	1 acre
Minimum Lot Area per dwelling unit	
1 family	1 acre
2 family	1 acre (2)
Town Houses (3)	1 acre
Other Multi-family	1 acre
Minimum Lot Width	200 ft.
Minimum Lot Depth	200 ft.
Maximum Impervious Coverage (% of parcel area)	15%
Maximum Building Height	
Stories	2.5
Feet	35
Min. building setback from r.o.w. (4)	50 ft.
Min. principal building setback from rear	20 ft.
Min. accessory building setback from rear	10 ft.
Minimum Side Yard, each	
Principal building	20 ft.
Accessory building (5)	10 ft.

(1) For residential conservation standards, refer to Schedule V hereof.
(2) Not less than 2 acres
(3) Not less than 10 acre parcel
(4) In the case of flag lots, the 50-foot setback shall be measured from the rear lot line of the front parcel having frontage along a public right-of-way
(5) Same side yard as principal structure on a corner lot

SCHEDULE V B

MINIMUM DIMENSIONAL REQUIREMENTS

Commercial & Manufacturing Use Categories

Development Standards	IV Commercial (1)	V Manufacturing
Minimum Net Lot Area	2 Acres	3 Acres
Minimum Lot Width	300 ft.	400 ft.
Minimum Lot Depth	200 ft.	400 ft.
Maximum Building Height		
Stories	3.0	3.0
Feet	35	35
Maximum Impervious Coverage (% of parcel area)	50%	50%
Min. building setback from r.o.w.	50 ft.	50 ft.
Min. principal bldg setback from rear (2)	20 ft.	50 ft.
Min. accessory bldg setback from rear (2)	10 ft.	20 ft.
Minimum Side Yard, each (2)		
Principal building	20 ft.	30 ft.
Accessory building (3)	10 ft.	30 ft.

(1) Including other nonresidential uses
(2) When abutting a vacant parcel, a residential use parcel, or a public/semi-public use, refer to Section 4.350
(3) Except that on a corner lot, the setback shall be as required for a principal building

ARTICLE 4

SUPPLEMENTARY LOT, HEIGHT AND YARD REGULATIONS

4.100 ZONE LOT REGULATIONS

4.110 Existing Zone Lots of Record

Nonconforming lots may be developed for any use that is allowed as a principal use by right, a special exception, or a conditional use, subject to the requirements for such uses as specified herein; provided, however, that on any lot of less than 2 acres, permitted development shall be limited to a single family dwelling and appurtenant accessory uses.

4.120 Minimum Lot Sizes

Unless State or other local regulations require greater lot areas or lot widths, the minimum lot area and lot width for each dwelling unit shall be as specified in Article 3 hereof.

4.130 Lot Frontage

The minimum lot frontage of any lot shall be measured along the minimum building setback line.

4.140 Corner Lots

At all intersecting public right-of-way lines, no obstructions to vision (other than an existing building, post, column or tree) exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the intersecting public right-of-way and a line drawn between points along such street lot lines 30 feet distant from their points of intersection.

4.150 Reserved

4.160 Required Area or Space Cannot be Reduced

The area or dimension of any zone lot, yard, parking area or other space shall not be reduced to less than the minimum required by this Ordinance; and if already less than the minimum required by this Ordinance, said area or dimension may be continued and shall not be further reduced.

4.200 HEIGHT REGULATIONS

4.210 General Application

No building or structure shall have a greater number of stories than are permitted in Article 3 hereof, provided further that the aggregate height of such buildings or structures shall not exceed the number of feet permitted in Article 3, except as follows:

4.220 Permitted Exceptions

Height limitations stipulated elsewhere in this Ordinance shall not apply to open amusement areas, barns, silos, church spires, belfries, cupolas and domes, monuments, water towers, utility poles, chimneys, smokestacks, flagpoles, radio and television towers, accessory windmills, commercial windmills, masts and aerials; or to parapet walls extending not more than four (4) feet above the limiting height of the building.

4.230 Communications Devices and Personal Windmills

No personal windmills or communications device support structures accessory to a residential structure shall exceed a height of one-hundred (100) feet, and any such structure shall maintain a setback from property lines not less than the height of the structure. Any such structure which exceeds a height of one-hundred (100) feet shall be considered a commercial communications device subject to the Township's Wireless Communications Facilities Ordinance and its Wind Farm Ordinance.

4.300 YARD REGULATIONS

4.310 Side Yards

4.311 Side Yard Width May Be Varied. When the side wall of a building is not parallel with the side lot line or is broken or irregular, the side yard may be varied. In such cases the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such side yard shall not be narrower at any point than one-half (½) the otherwise required minimum width; and, provided further that no building wall shall be nearer to any point on a side property line than fifteen (15) feet, except as otherwise provided herein.

4.312 Side Yard of Corner Lot. Any corner lot delineated by subdivision after the adoption of this Ordinance shall provide a side street setback line which shall not be less than the minimum front yard required on any adjoining lot fronting on a side street.

4.320 Front Yard Exception

When an unimproved lot is situated between two (2) improved lots, each having a principal building within twenty-five (25) feet of any side lot line of such unimproved lot, the front yard may be reduced to the greatest depth of the front yard of the two (2) adjoining improved lots, but shall be not less than 35 feet.

Where any unimproved lot shall front on a right-of-way which is proposed, on the Municipality's Official Map to be widened, the front yard of such lot shall be as

required by Article 3 hereof, and shall be measured from such proposed future right-of-way.

4.330 Reserved

4.340 Projections into Required Yards

Certain architectural features may project into required yards as follows:

a. Cornices, canopies, eaves, and other similar architectural features may project into a side yard a distance of two (2) feet; provided, however, that where a side yard exceeds a width of twenty (20) feet, such extension may be increased by 2 inches for each 1-foot by which the yard exceeds a width of 20 feet.

b. Fire Escapes may project into side and rear yards a distance not exceeding four (4) feet, six (6) inches.

c. Bay windows, balconies, fireplaces, uncovered stairways and necessary landings, and chimneys may project a distance not exceeding four (4) feet, provided that such features do not occupy, in the aggregate, more than one-third (1/3) of the length of the building wall on which they are located.

d. When open patios are located in side yards or rear yards, and they are at ground level, not more than six (6) inches above the ground, the minimum setback is reduced to three (3) feet to any adjacent property line.

4.350 Additional Yards Required Where Nonresidential Uses Abut Residential Uses.

Except when adjoining an existing commercial or manufacturing use, all commercial and manufacturing uses shall provide yards, where they abut a vacant parcel, a residential use parcel, or a public/semi-public use of not less than fifty (50) feet in width. Except where greater requirements are specified, such yards shall be maintained as open spaces, and shall be landscaped in accordance with Section 4.730 hereof. Such buffer yards shall not be occupied by parking, loading or outdoor storage uses. For certain uses, additional requirements, as specified in Article 5 hereof, shall apply.

4.400 REPLACEMENT OR RESTORATION OF NON-CONFORMING STRUCTURES

Any existing structure that does not meet minimum required setbacks at the time of passage of this Ordinance and is destroyed or damaged by fire or other natural causes, such as flood or wind, or is demolished by man, shall be allowed to be replaced or rebuilt subject to the following:

4.410 A non-conforming principal structure may be replaced or rebuilt in the same location prior to being destroyed or damaged provided that it is replaced or rebuilt on the existing foundation or building footprint within five (5) years from the date of destruction or demolition. Any enlargements or changes in the building foundation or footprint, or

replacement of the structure after the five (5)-year time limit, shall require the new structure to comply with applicable minimum setbacks as established by this Ordinance.

4.420 An unattached, non-conforming accessory structure that is destroyed or demolished, whether by nature or man, shall only be replaced or rebuilt in conformance with applicable minimum setbacks for unattached accessory structures as established by this Ordinance.

4.500 RESERVED

4.600 ACCESSORY STRUCTURES

4.610 Maximum Permitted Height

One and one-half (1.5) stories or seventeen feet (17').

4.620 Minimum Yard Regulations

4.621 Unattached Accessory Residential Structures Accessory structures, which are not attached to a principal structure, may be erected within one (1) of the side yards or within the rear yard, but not in the front yard, in accordance with the following setback requirements.

a. Side Yard (interior lot) - 10 feet
b. Side Yard (corner lot) - same as for principal structure
c. Rear Yard - 10 feet
d. Not closer to a principal structure than 10 feet

4.622 Attached Accessory Residential Structures. When an accessory structure is attached to the principal building, it shall comply in all respects with the requirements of this Ordinance applicable to the principal building.

4.623 Non-Dwelling Accessory Structures. Non-dwelling accessory structures shall comply with front and side yard requirements for the principal structure to which they are accessory and the distance between the accessory structure and the rear property line shall be not less than ten (10) feet for commercial structures, nor less that twenty (20) feet for manufacturing structures.

4.700 GENERAL LANDSCAPING REGULATIONS

4.710 Permanent Open Space. Permanent Open Space shall be landscaped and maintained in accordance with Section 4.940 hereof.

4.720 Off-street Parking and Loading Areas

Landscaping shall be in accordance with section 4.722 hereof, and as required under the Municipality's SALDO, and as follows:

4.721 Location of Off-street Parking and Loading Areas

a. No parking space shall be nearer to any front property line or right-of-way line than 25 feet.

b. Parking lots with fifty (50) or more spaces shall be provided at the side or to the rear of nonresidential buildings that are visible from public roads. When off-street parking is not located between the building and the front property line, then the front yard of the building may be reduced to one-half of the otherwise required minimum front yard. The requirements of this section 4.721b. shall not be applicable to any site where the public road frontage is less than 125 feet unless adjacent property has not been developed and would therefore be available for the continuation of this pattern of development which, on a combined basis, would amount to 125 feet or more.

4.722 Landscaping Off-street Parking Lots

a. Parking lots should be effectively landscaped with trees and shrubs to reduce the visual impact of glare, headlights, and parking lot lights; to delineate driving lanes; and define rows of parking. Furthermore, parking lots should be adequately landscaped to provide shade in order to reduce the amount of reflected heat and to improve the aesthetics of parking lots. At least one (1) shade tree shall be provided for each 300 square feet (or fraction thereof) of interior landscaping.

b. The use of small, ornamental trees in parking lots should be avoided, since these trees will never grow tall enough to provide shade and will block store signs and clear sight triangles. Canopy trees will grow tall enough so that signs can be seen under their branches.

c. All parking lots with fifty (50) or more stalls shall be landscaped according to the following regulations:

1. One planting island shall be provided for every ten parking stalls. There shall be no more than ten contiguous parking stalls in a row without a planting island.

2. The ends of all parking rows shall be divided from drives by planting islands.

3. In residential developments, large parking lots shall be divided by planting strips into smaller parking areas of no more than 40 stalls.

4. In nonresidential developments, large parking lots shall be divided by planting strips into smaller parking areas of no more than 100 stalls.

5. Planting islands shall be a minimum of nine feet by eighteen feet (9' x 18') in area, underlain by soil (not base course material); shall be

protected by curbing or bollards; shall be designed as infiltration beds. Each planting island shall contain one shade tree plus shrubs and/or ground cover to cover the entire area.

6. All planting strips shall be a minimum of nine (9) feet wide. Strips shall run the length of the parking row, underlain by soil, shall be protected by curbs, wheel stops, or bollards; and shall be designed as infiltration beds. Planting strips shall contain plantings of street-type shade trees at intervals of 30 to 40 feet, plus shrubs and/or ground cover to cover the entire area at maturity. Where planting strips shall exceed a width of twelve (12) feet, the herein-described shrubbery and ground cover requirements may be reduced to lawn grass ground cover.

7. Plant materials shall be in accordance with the provisions of Section 4.734 hereof.

d. All parking lots shall be screened from public roads and from adjacent properties as required in Section 4.732 and 4.733 hereof.

4.723 Lighting Off-street Parking Lots

a. For all parking areas, driveways and walkways, all pole mounted luminaries shall be low maintenance poles and fixtures; and, all branch circuiting for lighting shall be installed below grade.

b. The placement of light standards shall be coordinated with the landscape plan to avoid a conflict with the effectiveness of light fixtures.

c. Lighting shall be directed away from adjacent residential uses and shall be shielded from fugitive skyward emissions.

4.730 Buffer and Screening Requirements

4.731 All subdivisions and land developments shall provide the following types of buffer/screening treatment that is applicable to the use and the environment of the subject development, as follows:

a. Property line buffers that act to integrate new development with its surroundings and to separate incompatible land uses, and buffers adjoining streams, ponds, and other bodies of water.

b. Site element screens that act to minimize or eliminate views to certain site elements located within 100 feet of property lines or road right-of-ways (either public or private).

4.732 Buffer Requirements

a. Property line and right-of-way line buffers shall be required for the following types of development and as otherwise specified herein.

1. All commercial, public, and semi-public, manufacturing, and other nonresidential development adjoining a residential or a vacant parcel

2. All mobile home parks.

3. Bodies of water and wetlands. No structure or impervious surface shall be nearer to any body of water, including, but not limited to wetlands, than fifty (50) feet.

b. Buffer Area Location and Dimensions

1. Building setback lines shall remain in effect, regardless of the dimensions and requirements for buffer areas; and, there shall be no outdoor storage of equipment or other materials within a buffer area.

2. A buffer area of not less than 50 feet in width shall be established along all property lines adjoining a residential or a vacant parcel, and along all streams, ponds, and other bodies of water, exclusive of storm water basins.

3. The buffer area may be included within the front, side, or rear yard setback.

4. The buffer area shall be a continuous pervious planting bed consisting of trees and shrubs, grass or groundcover.

5. Parking is not permitted in the buffer area.

6. Site element screens are permitted in the buffer area.

7. Storm water basins are permitted in the buffer area.

4.733 Site Element Screens

a. Site element screens shall be required in all proposed land developments around the following site elements:

1. Dumpsters, trash disposal, or recycling areas.

2. Service or loading docks.

3. Outdoor storage, including junk yards. Junk yards shall be in screened in accordance with the provisions of the Township's Junk and Nuisance Ordinance.

4. Vehicle storage.

5. Sewage treatment plants and pump stations.

6. Other unenclosed uses of a similar nature, and enclosed uses such as rear facades facing public right-of-way.

b. Screen Location. The site element screen shall be placed between the site element and the property line or right-of-way, and shall be designed to block views to the maximum extent possible. The screen shall be located as close as possible to the site element and shall surround the element without impeding function or encroaching on clear sight triangles.

c. Screen Types. Any of the following types of screens may be utilized in those cases where they will achieve the objective of blocking certain uses from public view.

1) *Evergreen or Deciduous Shrubs*

2) *Double Row of Evergreen Trees*

3) *Opaque Fence* - A six-foot opaque fence surrounding the site element on at least 3 sides

4) *Architectural Extension of the Building* - An eight-foot minimum height architectural extension of the building (such as a wing wall) shall enclose service or loading docks. The building materials and style of the extension shall be consistent with the main building.

5) *Berm with Ornamental Trees or grass* - A two- to three-foot-high continuous curvilinear berm with ornamental trees. The maximum slope of the berm shall be 3:1.

6) *Evergreen Hedge*

7) *Low Wall* - A wall of brick or stone (not concrete block), at least 50 percent opaque, not less than three nor more than four feet in height.

d. Existing healthy trees, shrubs, or woodlands may be substituted for part or all of the required plant material at the discretion of the Township Planning Commission. The minimum quantities and/or visual effect of the existing vegetation shall be equal to or exceed that of the required buffer.

e. Existing topographic conditions, such as embankments or berms, may be substituted for part or all of the required property line buffers at the discretion of the Township Planning Commission. The minimum visual effect shall be equal to or exceed that of the required screen.

f. The applicant may propose the use of alternative screen types or changes in plant materials or designs which fulfill the intent of this Ordinance, with the approval of the Township Planning Commission.

g. Plant materials shall meet the specifications of Section 4.734 hereof.

4.734 Plant Materials

a. General Location Requirements

1. The location, dimensions, and spacing of required plantings should be adequate for their proper growth and maintenance, taking into account the sizes of such plantings at maturity and their present and future environmental requirements, such as wind, soil, moisture, and sunlight.

2. Plantings should be selected and located where they will not contribute to conditions hazardous to public safety. Such locations include, but are not limited to, public street rights-of-way, underground and aboveground utilities, and sight triangle areas required for unobstructed views at street intersections.

b. Design Criteria

1. The required plant material shall be distributed over the entire length and width of the buffer area.

2. Buffer plant material may be arranged symmetrically (formal) or asymmetrically (informal) and may be grouped to form plant clusters. However, informal groupings that reflect the natural character of the region are encouraged.

3. Plants shall be spaced to provide optimum growing conditions.

4. A variety of tree species is required.

c. Substitutions In accordance with the following guidelines, wherever possible, existing vegetation shall be retained and utilized as a buffer or a screen in accordance with the following guidelines:

1. Existing healthy trees, shrubs, or woodlands may be substituted for part or all of the required plant material at the discretion of the governing body. The minimum

quantities and/or visual effect of the existing vegetation shall be equal to or exceed that of the required buffer.

2. Existing topographic conditions, such as embankments or berms, in conjunction with existing vegetation, may be substituted for part or all of the required property line buffers at the discretion of the governing body. The minimum visual effect shall be equal to or exceed that of the required buffer or screen.

d. Plant Material

Specifications. The following requirements are minimum standards which shall apply to all plant materials or transplanted trees as required under this Ordinance; additional plant materials, berms, or architectural elements may be included in the plan at the applicant's discretion.

1. All plants shall meet the minimum standards for health, form, and root condition as outlined in the American Association of Nurserymen (AAN) Standards.

2. All plant material shall be hardy and within the USDA Hardiness Zone applicable to Madison Township, Pennsylvania.

3. Canopy trees, sometimes called shade trees, shall reach a minimum height and spread of 30 feet at maturity as determined by the AAN Standards and shall be deciduous. New trees shall have a minimum caliper of two and a half inches at planting.

4. Ornamental trees or large shrubs shall reach a typical minimum height of 15 feet at maturity, based on AAN Standards. Trees and shrubs may be deciduous or evergreen and shall have a distinctive ornamental character such as showy flowers, fruit, habit, foliage, or bark. New ornamental trees shall have a minimum height of 6 feet or one and a half inch caliper. New large shrubs shall have a minimum height of two and a half to three feet at time of planting.

5. Small shrubs may be evergreen or deciduous and shall have a minimum height at maturity of 4 feet based on AAN Standards. New shrubs shall have a minimum height of 18 inches at time of planting.

6. Evergreen trees shall reach a typical minimum height of 20 feet at maturity based on AAN Standards for that species and shall remain evergreen throughout the year.

7. All trees shall have a minimum height at planting of six feet.

e. Additional Plant Material Guidelines. Plant material features should be:

1. Able to thrive in the existing soil or soil that can be amended to reasonable specifications.

2. Strong wood, not prone to breakage in wind or ice storms.

3. Fruitless or otherwise free of parts that fall and could damage vehicles, clog drains, or make pavement slippery.

4. Tolerant to excessive heat, de-icing salt and air pollution.

5. Free of unacceptable levels of disease or insect pests, including aphids that coat objects below with sticky "honeydew."

6. Fits the site aesthetically and serves an intended function (shade, screen, focal point, etc.)

4.800 MISCELLANEOUS BUILDING REGULATIONS

4.810 Uses to be Enclosed

a. All commercial and manufacturing uses, except for such uses as off-street parking and loading facilities, automobile service stations, transportation terminals, storage yards, flea markets, road-side sale of agricultural and horticultural products, junk yards and new and used car lots shall be conducted wholly within a completely enclosed building.

b. All facilities and operations of any principal use including the storage of raw material, finished products, fuel, machinery and equipment and any other materials or supplies shall be enclosed and carried out within a building; or shall, as required by the Township, be provided with larger setbacks and/or buffers to afford protection to adjoining uses and any public road rights-of-ways. Storage of materials, supplies or products in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted. Trailers may be used as accessory structures provided all wheels and axles are removed, the trailers are erected and maintained as structures, and are screened from view from adjoining properties in accord with Section 4.733 of this Ordinance. Trailers, maintained in good condition, shall be permitted for storage of a temporary period on the site of

an on-going construction project. The placement of said trailers shall be for a specified time as stated in the required permit from the Township, shall meet the setback requirements of this Ordinance and shall not be used for the storage of any flammable or hazardous material except in accord with applicable state and federal regulations.

4.820 Unenclosed Commercial and Manufacturing Uses

Unenclosed Commercial and Manufacturing uses identified in Section 4.810 hereof, shall not be located less than 100 feet distant from any vacant or residential parcel.

4.830 Special Regulations for Housing for the Elderly

4.831 Maximum Density. Where multi-family housing shall be designed exclusively for occupancy by elderly persons[1], the minimum lot area required per dwelling unit shall be 2000 square feet of net land area per dwelling unit.

4.832 Off-Street Parking. Accessory off-street parking required to serve housing for the elderly shall be provided in an amount of not less than one (1) space per 3 "elderly" dwelling units.

4.840 Fences

4.841 Privacy Fences. No solid fence exceeding six (6) feet in height shall be permitted between buildings or lots used for dwelling purposes except as otherwise required herein. In such cases, open or ornamental fences may be erected to a height not exceeding eight (8) feet, provided the ratio of the solid portion to the open portion shall not exceed one (1) to four (4). No fence or other structure or appurtenance, however, may be erected within the clear-sight triangle on all corner lots for a distance of thirty (30) feet measured along street right-of-way lot lines from their point of junction. .

4.842 Screening Fences. Unenclosed nonresidential uses not excepted in Section 4.810 hereof shall be screened from public view and from adjacent properties in accordance with Section 4.730 hereof.

4.843 All fence posts or gateposts and other structural supports shall be located on the interior side of the fence or gate, facing the property to be fenced. The finished side of the fence or gate shall face the adjoining property and/or right-of-way.

4.844 Fences and gates shall be constructed only of traditional materials that are normally used for the construction of fences and gates. Temporary materials and make shift materials are prohibited, as well as other materials prohibited in this

[1]Persons shall be considered to be elderly who meet the definitions of "elderly" as set forth by the U.S. Department of Housing and Urban Development; in the absence of such standards, however, elderly persons shall be all persons 60 years of age or older.

section. The Zoning Officer shall have the power to determine if the materials proposed to be used are unsuitable or unsafe.

4.845 All fences and gates must be maintained in good condition. No advertising shall be permitted on any fence or gate facing a residential area.

4.846 Fences and gates, and the area between their exterior side and the nearest property line or roadway curb line or shoulder edge shall be properly maintained at all times. Broken, cracked, rotted, or rusted structural components shall be removed or repaired promptly. Grounds shall be kept clear or planted with vegetation appropriate to the site. A property owner who fails to provide proper maintenance may, after notice by the Zoning Officer and an opportunity to correct the situation, be required to remove the fence or gate.

4.847 The following fences or gates are strictly prohibited:

a. Barbed wire fences and gates or fence and gates using razor wire or any other material likely to cause physical injury to persons or animals. Fences and gates used for an agricultural operation or public facilities/utilities are exempt from this prohibition.

b. Fences or gates erected in such a manner as to inhibit or divert the natural drainage flow or cause the blockage or damming of surface waters.

c. Fences or gates that may create or enhance a fire hazard or other dangerous condition, or that may result in an obstruction to effectively fight a fire.

d. Temporary fences, such as snow fences or expandable or collapsible fences, unless necessary for use on sites under construction or for snow control; canvas or cloth fences, except when necessary for the protection of shrubs and vegetation.

4.850 Enclosure of Porches

In any new construction, no porch shall extend into any required setback except open patios as provided under Section 4.340 d.

Any open patio or porch which has been constructed within any required yard prior to the date of this Ordinance shall not be enclosed, except as follows:

a. On an interior lot where such porch shall be located in a front yard and the enclosure of such porch would be on a property where such enclosure would not extend beyond the front wall of the building or porch of any adjoining property.

b. On a corner lot, the same provisions described in Section 4.850 (a) shall apply. In adding the enclosure of a front porch, it must also be in accordance with Section 4.140, concerning the clear sight triangle.

c. The enclosure of a front porch in a required front yard of either a corner lot or an interior lot shall not be allowed if such property adjoins an undeveloped lot in separate ownership.

4.860 Outdoor Furnaces (OF)

4.861 No person shall cause, allow or maintain the use of an OF within the township without first having obtained a permit from the Township Permit/Zoning Officer.

4.862 If an OF existing at the time of passage of this Ordinance is replaced, a permit shall be required and shall comply with all sections of this Ordinance.

4.863 An OF shall not be located in the front yard of any property, and shall meet side- and rear-yard setbacks as set forth in this Ordinance for unattached accessory structures.

4.864 All new OFs shall be EPA Phase 1 Program Qualified Models.

4.865 All new OFs shall be installed and operated in accordance with the manufacturer's specifications. The burden of proof of compliance with the manufacturer's specifications shall be on the owner/operator of the OF, and the owner of any new OF shall produce the manufacturer's owner's manual or installation instructions to the township prior to installation.

4.866 The burning of garbage, rubbish, trade wastes, recyclable items or any other items not specifically allowed by the manufacturer or this provision is strictly prohibited.

4.870 Accessory Windmills

4.871 A windmill accessory to a principal structure which is sized and intended to be used to generate electricity primarily for the principal structure to which it is accessory shall be permitted only as a Special Exception and shall be set back from all property lines a distance equal to the height of the windmill, but not less than fifty (50) feet.

4.872 A zoning permit as well as a building permit shall be required for each individual windmill installed at any location in the Township.

4.873 Accessory windmills shall be reviewed and approved by the Zoning Hearing Board in accordance with the procedures for Special Exceptions.

4.874 A windmill shall be constructed to a height no greater than the minimum required to function to industry standards, and shall comply with any applicable Airport Hazard Zoning Ordinance.

4.875 The minimum height between any windmill blade and the ground shall not be less than fifteen (15) feet.

4.876 One (1) accessory windmill shall be allowed on lots two (2) acres or less. Additional accessory windmills shall be permitted at a rate of one for every additional two (2) full acres of land. For example, a parcel of land that is eleven (11) acres may have a maximum of five (5) accessory windmills.

4.900 AESTHETIC CONSIDERATIONS

4.910 Orientation of Buildings When a development is designed to be served by an interior pedestrian or vehicular circulation system, buildings may face the interior roadways; provided, however, where such an orientation results in the rear or the side(s) of such buildings being within 100 feet of a public right-of-way, then such rear and/or side walls shall be screened from the public right-of-way in accordance with Section 4.733.

4.920 Aesthetic Design Standards for Commercial and Manufacturing Uses

4.921 Aesthetic Goals. All development and construction, in the form of buildings, structures or additions and exterior alterations thereto, and other site improvements and alterations, including paving, lighting and landscaping, at or for each site shall be designed and constructed to achieve the following goals:

a. To increase and secure the spectrum of attractive business establishments, improvements and facilities on appropriate locations within building sites.

b. To foster a high quality of development to enhance the value of existing development as well as to enhance the attractiveness of vacant land for future development.

4.922 Aesthetic Design Standards

a. Waste Disposal

1) No lot shall be used as a dumping ground for trash.

2) All trash of any nature shall be securely stored in covered sanitary containers. All containers and other equipment, and the areas and enclosures, for the storage and disposal of trash, shall be kept in a clean and sanitary condition.

3) All trash shall be properly and securely contained within each site and properly and regularly removed therefrom, and disposed as may be required by state and federal law, regulation and other requirements and standards governing same.

4) "Trash" shall mean to include all papers, discards, waste, rubbish, refuse and garbage, of any kind or nature whatsoever, and any malodorous and objectionable materials lying around or stored at

each site but not customarily used in its then present condition in the business or activities of the site occupants.

b. Mechanical/Electrical Equipment. All mechanical/electrical equipment not enclosed in a structure or building (e.g. on-grade, roof-top, etc.) shall complement, enhance and be compatible with the design and construction of the buildings and structures on each site. The color scheme of such equipment shall complement and be compatible with the color scheme of the building's exterior.

c. Landscaping

1) All terrain, grounds, area left in natural state, or areas not covered by building or paving, shall be landscaped, seeded, and otherwise maintained in a good, clean condition having aesthetic appeal.

2) Each Site and the landscaped areas shall be kept clean and free of any and all litter, refuse, and papers of any type. No litter, refuse or paper accumulations whatsoever shall occur, be placed on or remain at each Site.

3) Each site shall be developed, improved, used and maintained to preserve and foster as much of the existing mature natural growth as is practically possible.

d. Utilities. All lateral electric, telephone, and cable television service lines shall be placed underground; provided, however, that transformers and similar equipment may be located aboveground. Main feeder lines may be located above ground.

4.930 Use and Design of Permanent Open Space

Permanent Open Space to be provided in accordance with certain Sections of this Ordinance shall be designed as set forth in Section 530 of the Madison Township Subdivision and Land Development Ordinance, and in accordance with the following standards:

4.931 Permanent Open Space shall be so designated on the submitted plans, and the plans shall contain a notation stating, "Permanent Open Space shall not be separately sold and shall not be further developed or subdivided."

4.932 Permanent Open Space shall be contiguous to the development, not separated by existing streets, and shall not be a part of any lot within the development;

4.934 Each area of Permanent Open Space shall contain not less than ten thousand (10,000) square feet;

4.935 Permanent Open Space areas shall be designed as a continuous system of open space and shall be interconnected with open space areas on abutting parcels whenever possible;

4.936 Permanent Open Space shall be provided with safe and convenient access to the residentially-developed area of the tract by adjoining frontage on streets or easements capable of accommodating pedestrian, bicycle, and maintenance vehicle traffic. The Permanent Open Space shall contain appropriate access improvements and shall be provided with perimeter parking areas where appropriate;

4.937 All portions of a tract not occupied by buildings and required improvements shall be maintained as landscaped areas consisting of natural environmental features and/or planted vegetation. Permanent Open Space shall predominantly consist of natural environmental features or planted and maintained vegetation that may contain walking, biking, or equestrian trails. Permanent Open Space may also contain impervious surface areas such as tennis courts, clubhouses, or other active recreation facilities, but such active recreation facilities shall consist of less than twenty-five percent (25%) of the Permanent Open Space;

4.938 Permanent Open Space shall be configured so as to create areas of adequate size and shape to permit a variety of uses, active or passive, throughout the system.

4.940 Ownership and Maintenance of Permanent Open Space

Permanent open space to be provided in accordance with certain Sections of this Article may be offered for dedication to the Township, although the Township need not accept any such offers. Provision for ownership and maintenance of the Permanent Open Space shall be made in a manner so as to ensure its preservation. This shall be accomplished in one of the following manners:

4.941 The Township may accept dedication of the Permanent Open Space or any interest therein for public use and maintenance, but the Township need not accept a dedication of the Permanent Open Space if offered;

4.942 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 the fee simple title in the Permanent Open Space or a portion thereof to a private, not-for-profit organization among whose purposes is the conservation of open space land and/or natural resources, provided that:

a. The organization is acceptable to the Township and is a bona fide conservation organization with a perpetual existence;

b. The conveyance contains appropriate provision for proper retransfer or reverter in the event that the organization becomes unable or unwilling to continue to carry out its functions, and;

c. A maintenance agreement acceptable to the Township is entered into by the developer, the organization and the Township;

4.943 The developer shall provide for and establish an organization for the ownership and maintenance of the Permanent Open Space consistent with the requirements for unit owners' associations found in the Pennsylvania Uniform Condominium Act, 68 Pa. C.S.S. 33101 et seq. If such an organization is created, the deeds for the Permanent Open Space and for all individual lots within the development shall contain the following requirements in language acceptable to the Township Solicitor.

a. Such organization shall not dispose of the Permanent Open Space by sale or otherwise except to the Township or other government body unless the Township has given prior approval. Such transfer shall be made only to another organization that shall maintain the Permanent Open Space in accordance with the provisions of this Ordinance;

b. The organization and all lot owners within the development shall agree to maintain the Permanent Open Space. If private ownership fails to do so, the Township may proceed to maintain deteriorating open space and may assess and lien the properties within the development accordingly;

c. All lot owners shall be required to become members of the organization and pay assessments for the maintenance of the Permanent Open Space, which may be increased for inflation and which may provide for professional management.

ARTICLE 5

SUPPLEMENTARY REGULATIONS GOVERNING SPECIAL EXCEPTIONS AND CERTAIN OTHER USES

5.100 AMUSEMENT USES

5.110 Indoor Recreational Facilities

a. Such uses shall be conducted entirely within an enclosed structure.

b. The lot size shall be not less than two (2) acres.

c. Applications for indoor theaters, bowling alleys, indoor ice and roller skating rinks, gymnasiums, and indoor handball and tennis courts, and indoor shooting ranges and archery ranges shall be accompanied by a site development plan.

d. The site development plan shall show building placement and dimensions, parking, landscaping, internal circulation, and the size and location of signage.

e. Parking areas shall be screened from adjoining residential properties in accordance with Subsection 4.730 hereof.

f. There shall be no offensive noise or vibration; such elements may be emitted only in accordance with the performance standards set forth in Article 6.

5.120 Outdoor Recreation Facilities

a. Such uses shall include golf courses, swimming pools, tennis courts and other similar uses.

b. Except where greater distances are otherwise required herein, unenclosed nonresidential recreational facilities shall be located not less than twenty-five (25) feet from any property line and shall be effectively screened from adjoining dwelling uses in accordance with the provisions of Section 4.730 hereof.

c. Illuminated signs and other lights shall be directed away, or shielded from adjoining residential properties in such a way as not to disturb the occupants thereof.

d. No public address system is permitted except where such system will not be audible at any residential property line.

e. Private swimming pools, permanent and portable, which shall be accessory to a principal non-commercial dwelling use, shall be regulated as follows; except that these regulations shall not apply to portable swimming pools which shall be not more than 3 feet in height nor more than 15 feet in length.

1) May be erected only on the same zone lot as the principal structure.

2) May be erected only in the rear yard of such structure and shall be distant not less than twenty (20) feet from the rear lot line nor less than ten (10) feet from any side property line, principal structure or accessory structure attached thereto.

3) The pool is intended and is to be used solely for the enjoyment of the occupants of the principal use of the property on which it is located, and their guests, and no fee shall be charged.

4) Fencing for in-ground swimming pools shall consist of fencing of the swimming pool or the property on which the pool is situated. Said fence shall be not less than four (4) feet in height above ground level, and shall be designed and constructed to prevent uncontrolled access by children from the street or from adjacent properties; and, said wall or fence shall be maintained in good condition at all times. Said fence shall be installed not later than the time that water is placed in the pool.

5) Above-ground pools shall be exempt from the fencing requirements of the preceding Section 5.120e.4) if it includes an attached fence or fence/deck combination, and if;

a) The fence is equipped with a gate that can be closed when the pool is not in use; and

b) The height of the fence along the deck of the pool is not less than thirty (30) inches above the deck level of the pool

6) All pumping, cleaning, filtering, and screening devices and water supply and discharge shall be of a type and source approved by local and/or State health department authorities.

5.200 COMMUNITY FACILITIES AND SERVICES

5.210 Essential Services, Enclosed or Permanent Structures

Such uses are intended to include facilities for sewage treatment, electric substations, transformers, switches, and auxiliary apparatus, as well as local

governmental services such as police stations, fire houses and similar uses. Where such uses are proposed to be located in a Residential Area, they shall be subject to the following regulations:

5.211 Such facility shall not be located on a residential street (unless no other site is available), and shall be so located as to draw a minimum of vehicular traffic to and through such streets.

5.212 The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.

5.213 Adequate fences, barriers and other safety devices shall be provided, and shall be landscaped in accordance with the provisions of Section 4.730 hereof.

5.214 Noise emitted from electric substations shall not be greater than permitted in accordance with the performance standards set forth herein.

5.220 Essential Services, Open

Such uses shall be limited to the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare. Such uses shall not include sanitary landfills and related uses such as staging areas or other means of solid waste disposal. Where applicable, the landscaping regulations of Section 4.730 hereof shall apply.

5.230 Hospitals, Churches, or other Religious or Philanthropic Institutions

Such uses shall not be located on a local street; they shall be located only on State roads; and, they shall maintain a landscaped buffered area in accordance with the provisions of Section 4.730 hereof on all property lines. Such uses shall not be located or designed in such a manner as would be detrimental to the privacy, convenience and property values of nearby residential development.

5.240 Nursery School, Child Day Care Center and Group Day Care Home

5.241 Such uses shall be situated on a zone lot of not less than two (2) acres, except where a greater area is otherwise required herein, and shall be screened in accordance with the provisions of Section 4.730. Such uses shall provide evidence of all required State approvals, and evidence of adequate sewage disposal capacity.

5.242 Child Day Care Centers and Group Day Care Homes shall also comply with the following minimum space and site requirements:

a. Each facility shall have a minimum of 40 square feet (372 square decimeters) of indoor space for each child, measured wall to wall inclusive of space occupied by cupboards, shelves, furniture, and equipment, but exclusive of halls, bathrooms, offices, kitchens, locker rooms, and related areas.

b. Each facility shall have a minimum of 65 square feet (604 square decimeters) of accessible outdoor play space for each child. Outdoor play space is considered accessible if it is no more than ½ mile (.8 kilometer) from the building. The following exceptions to the space requirements shall be permitted:

1) a minimum of 32.5 square feet (302 square decimeters) 50% less space of accessible outdoor play space shall be required for each infant; a minimum of 48.89 square feet (453 square decimeters) 25% less space of accessible outdoor play space shall be required for each child from age 18-24 months;

2) less outdoor space if it is offset by a large indoor activity room, as long as the 65 square feet (604 square decimeters) per child requirement is met and the indoor activity room provides for equivalent activity as outdoor play space; and

3) less outdoor space if it is scheduled for alternate use, provided that the 65 square feet (604 square decimeters) per child requirements is met for each child based on the number of children using the space at any one time.

4) if there are unsafe areas, such as open drainage ditches, wells, holes, or heavy street traffic, in or near the outdoor play space, there shall be fencing or natural barriers to restrict children from these areas.

c. Such uses shall maintain screening on any property line abutting a residential lot.

5.250 <u>Public and Parochial Schools and Colleges and Private Schools and Colleges for Academic Instruction</u>

Such uses, including play areas shall be located not less than 100 feet from any lot line, except where greater distances are otherwise required herein. Schools will be located only on State roads, and access and egress shall only be from a State road.

5.260 Reserved

5.270 Drug Rehabilitation Facilities and Drug Treatment Centers

5.271 No methadone treatment facility shall be permitted unless it is licensed by the PA Department of Health.

5.272 No methadone treatment facility shall be permitted if it is determined by the PA Department of Health that such use would be detrimental to the health, welfare, peace and morale of the inhabitants of the neighborhood within a radius of one-half (½) mile of the facility.

5.273 No methadone treatment facility or any other permitted drug rehabilitation facilities and drug treatment centers shall be nearer to any of the following uses than one-half (½) mile. For the purposes of this section, spacing distances shall be measured as follows: (1) from all property lines of the uses regulated in this Section 5.270 hereof; (2) from all property lines of any of the following uses:

a. Church, charitable institution, school or public playground.

b. Child day-care center or family day-care home.

c. Pennsylvania liquor store established, operated and maintained pursuant to the terms of Article 3 of the PA Liquor Code.

d. Hotel, restaurant or club possessing a retail liquor license issued pursuant to Article 4 of the PA Liquor Code.

e. Older adult daily living center licensed by the PA Department of Aging.

f. Any "senior center" as defined in Section 3 of the PA Senior Center Grant Program Act.

g. Residential dwellings

5.274 Such use shall have frontage on a State road, and it shall be accessible from such a road.

5.275 Such use shall not be located on a lot of less than two (2) acres and shall be set back not less than one hundred (100) feet from all property lines.

5.280 Recycling Facilities

The intent of this Section is to encourage recycling and thereby reduce litter, increase the volume of material which is recycled and conserve landfill capacity by the convenient location of community recycling facilities including collection

and processing facilities. Recycling facilities shall be developed in a manner consistent with the community's rural character and which will minimize any negative effects on adjoining residential and commercial uses.

Recycling facilities shall be limited to accepting and processing those materials considered recyclable as defined by this Zoning Ordinance. The inclusion of additional materials for recycling may be considered by the Township as a conditional use provided the applicant provides evidence that the intent and level of control of this Section are not compromised.

5.300 CONDITIONAL USES

5.310 Procedure. Conditional uses shall be allowed only upon a determination by the Board of Supervisors that they comply with the standards and criteria set forth herein. The governing body shall hold hearings on and decide requests for conditional uses in accordance with the standards and criteria set forth herein. The hearing shall be conducted by the governing body or the governing body may appoint any member or an independent attorney as a hearing officer. The decision shall be made by the governing body. However, the applicant, in addition to the municipality, may, prior to the decision of the hearing, waive decision by the governing body and accept the decision of the hearing officer as final. In granting a conditional use, the governing body may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this ordinance.

5.320 Timing and Administrative Procedures

5.321 The governing body shall render a written decision on the conditional use application within 45 days after the last hearing before the governing body. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefore. Conclusions based on any provisions of any 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.

5.322 Where the governing body fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in Section 908 (1.2) of the MPC, 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 governing body to meet or render a decision as hereinabove provided, the governing body shall give public notice of the decision within ten days from the last day it could have met to render a decision. If the governing body shall fail to provide such notice, the applicant may do so.

5.323 Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. A copy of the final decision shall be delivered to the applicant personally or mailed to him no later than the day following its date. Delivery of the decision shall be in a manner that

provides the Board of Supervisors with evidence of receipt of the decision by the applicant.

5.324 Additional Requirements. The Board of Supervisors may, upon a review of the application including the environmental assessment, establish such additional requirements for the development and the operation of the conditional use as may be required to protect the public health, safety and general welfare of the community; provided, however, that such additional requirements shall not be related to off site transportation or road improvements.

5.325 Application. Application for a Conditional Use shall be made directly to the governing body. Applications shall be in accordance with Section 9.220 hereof and as otherwise specified herein. All such applications shall be referred to the Planning Commission for review; and, no such application shall be finally authorized until the Planning Commission has submitted its review findings, or until 30 days after referral to the Planning Commission, whichever occurs first.

5.326 Hearing. No Conditional Use shall be authorized without a hearing thereon. Hearings shall be conducted pursuant to Section 8.140 hereof; provided, however, that such hearings shall be conducted by the Board of Supervisors.

5.330 Standards and Criteria for Conditional Uses

5.331 General Criteria

a. That the use is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected.

b. That the use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

c. That the use shall be compatible with adjoining development

d. That adequate landscaping and screening is provided as required in Section 4.700 and as otherwise provided herein.

e. That adequate off-street parking and loading is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.

g. That the use is compatible with the Township's Comprehensive Plan.

h. An environmental assessment shall be submitted with all applications for conditional uses in accordance with Section 5.340 hereof.

5.332 Standards

a. Traffic. The proposed development shall not be located on a site where primary access to the site is from a minor street designed primarily to provide vehicular access to abutting properties. The development shall be designed in a manner which will not be injurious to the safe and convenient flow of vehicular traffic. A traffic plan, with estimates of the number of vehicles shall be submitted to the Township.

b. Performance Standards. The proposed development will comply with the performance standards specified in Article 6 hereof and such additional performance standards that shall be specified by the Board of Supervisors to protect the health, safety and welfare of the Township.

c. Permits. There shall be provided evidence of all required local, State and Federal permits.

d. Distance from Existing Development. No Conditional Use shall be nearer to existing development than 1,000 feet or such greater distance as may be required to assure the health, safety and welfare of the community, or any lesser distance specified in this ordinance.

e. Transfer of Products and Waste. Vehicles used in the transfer of waste shall be designed to preclude the accidental dumping of any part of such wastes while in transit; and, transportation routes shall be designed to minimize traversing densely populated areas except for waste pick-ups.

5.340 Environmental Assessment

5.341 General. All applications for a Conditional Use must be accompanied by an Environmental Assessment as specified herein; provided, however, that upon the request of the developer, components of the Environmental Assessment may be waived by the Board of Supervisors when such components are deemed unnecessary for certain Conditional Uses.

5.342 Purpose. The purpose of the Environmental Assessment is to provide the Board of Supervisors with sufficient information to determine if the proposed use will be harmful or beneficial to the Township; and to determine corrective actions if needed to mitigate potential adverse environmental impacts.

5.343 Assurances. Due to the importance of securing professional, objective data in the Environmental Assessment, the selection of the professionals to be engaged in its preparation shall be subject to the approval of the Board of Supervisors. The developer will further provide the Board of Supervisors with assurances, adequate to protect the Township from violations of non-compliance with measures required to mitigate identified adverse environmental impacts.

5.344 Content of the Environmental Assessment

a. Description of the Proposal

Describe the proposed or recommended actions, its purpose, where it is to be located, when it is proposed to take place, and its interrelationship with other projects or proposals, including information and technical data sufficient to permit assessment of environmental impact by the Township.

b. Description of the Environment

Include a comprehensive description of the existing environment without the proposal and the probable future environment with the proposal. This description should focus both on the environmental details most likely to be affected by the proposal and on the broader regional aspects of the environment, including ecological interrelationships. Particular attention should be given to the potential effects of past or present use of the site as a repository for toxic or hazardous wastes.

c. The Environmental Impact of the Proposed Activities

Describe the environmental impacts of the proposed action. These impacts are defined as direct or indirect changes in the existing environment, both beneficial and detrimental. Whenever possible these impacts should be quantified. This discussion should include the impact not only upon the natural environment but upon land use as well. Provide separate discussion for such potential impacts as man-caused accidents and natural catastrophes and their probabilities and risks. Specific mention should also be made of unknown or partially understood impacts.

d. Mitigating Measures Included in the Proposed Action

Include a description of measures which are proposed to be taken or which are required to be taken to enhance, protect, or mitigate impacts upon the environment, including any associated research or monitoring.

e. Any Adverse Effects which Cannot be Avoided Should the Proposal be Implemented

Include a discussion of the unavoidable adverse impacts described in 5.344c and 5.344d, above, and an analysis of who or what will be affected and the degree of impact.

f. The Relationship Between Local Short-Term Use of Man's Environment and the Maintenance and Enhancement of Long-Term Productivity

Describe the local short-term use of the environment involved in the proposed action in relation to its cumulative and long-term impacts and give special attention to its relationship to trends of similar actions which would

significantly affect ecological interrelationships or pose long-term risk to health or safety. Short-term and long-term do not refer to any fixed time period, but should be viewed in terms of the various significant ecological and geophysical consequences of the proposed action.

g. Any Irreversible and Irretrievable Commitments of Resources Which Would be Involved in the Proposed Action Should it be Implemented

Describe, and quantify where possible, any irrevocable uses of resources, including such things as resource extraction, erosion, destruction of archaeological or historical sites, elimination of endangered species' habitat, and significant changes in land use.

h. Alternatives to the Proposed Action

Identify alternatives to the proposed action, and describe the environmental impacts, both beneficial and adverse, of the various alternatives considered.

5.345 Outline Considerations for Developing Environmental Assessment

a. Description of the Proposal

1. Who is proposing the action?

2. What is the nature of the action to be taken?

3. What is it designed to accomplish? What identified needs will be met and to what degree?

4. Where will it take place?

5. When will it take place? Indicate phasing of acquisition and development activities, if applicable, and timetables for completion.

6. How does it fit in with local Planning efforts, comprehensive plans, etc.

b. Description of the Environment

1. Present and past land uses of the site and of the surrounding area.

2. Special topographic features which may be present.

3. Describe the site's surface and subsurface geologic characteristics.

4. Describe the nature of the soils in the area, particularly their fertility and susceptibility to erosion.

5. Describe the area's water resources, with specific reference to ground water, water quality, aquifers and aquifer recharge areas, and areas subject to flooding.

6. Describe the area's vegetation, including species composition, distribution, commercial utility and aesthetics. Special reference should be made to unusual or unique species.

7. Describe the nature of existing transportation routes in the immediate area and the accessibility to the project site.

c. Environmental Impact of the Proposed Action

1. What will be the effect on land uses in the area?

2. Will the project affect a site listed on the National Register of Historic Places?

3. In what way will soils and topography be affected? Consider such things as soil compaction, erosion, exposure of slopes, excavation which may create unstable slope/soil configurations, cutting and filling, removal of topsoil, paving, loss of existing natural landscape qualities, blockage of view lines to landmarks, blockage of view corridors, etc.

4. Will solid wastes be generated? How and where will they be disposed of? Indicate what types and volumes will be generated and how and where it will be stored prior to disposal and method of disposal. Discuss removal of clearance, demolition, and construction wastes.

5. How will water resources be affected? Consider the water table, runoff, sewer systems, rivers and streams, water supply, etc. Indicate content of any effluent which will be discharged. Address loss of floodwater absorption capacity in natural absorption areas, effects on stream volume, velocity, and seasonal flows, diversion or blockage of surface water, alterations of natural watercourses, introduction or increase of effluents or toxic, hazardous, or radioactive substances to runoff or water bodies, effects on aquatic life, any blockage or impairment of access to watercourses, effects on groundwater recharge, release of groundwater supply, withdrawal of groundwater supplies, blockage of groundwater flow, contamination of groundwater supply, effect on water temperatures, sedimentation, changes in levels of water bodies.

6. How will vegetation be affected? Discuss the removal of ground cover, loss of valuable local species, loss of wildlife habitat, introduction of vegetation which will spread to adjacent lands,

introduction of exotic vegetation, creation of areas of highly visible, drying, or decaying vegetation.

7. How will fauna be affected? Consider habitat destruction, reduction of population, impact caused by human intrusion, mobility restrictions, food chains, etc.

8. How will transportation routes be affected? Consider congestion, hazards, capacities of affected roads and intersections and traffic to be generated, generation of truck traffic.

9. Effect on air quality and ambient noise level? Include what odors will originate; types and concentrations of gases, vapors, particulates, and smoke; noise and vibration levels at property lines and the level of heat and/or glare. Indicate levels of electromagnetic radiation at property lines. Indicate effects on local temperatures and wind circulation and whether there are any plants, animals, or materials in the area that are particularly susceptible to expected emissions. Indicate the nature, concentration and quantity of radioactive material to be discharged to the environment, pathways for entering the environment, dose to populations and biota, and possible concentrations through food chains.

10. Describe management practices proposed for the area.

d. Mitigating Measures Included in the Proposed Action

Describe actions or measures which will be taken to avoid or alleviate adverse environmental effects. Include reference to erosion control methods and adherence to air, noise or water pollution control techniques and standards.

e. Unavoidable Adverse Effects

If adverse effects have been identified under other sections of the Environmental Impact Study and cannot be mitigated, they should be again identified here. Describe who or what will be affected, and to what degree. Quantify wherever possible.

f. Relationship Between the Local Short-Term Use of Man's Environment and the Maintenance and Enhancement of Long-Term Productivity

What are the impacts of the proposal in the context of other similar projects? In what way will future generations be affected by the currently proposed actions?

How do the immediate and long-range impacts on the area with the project compare with the immediate and long-range impacts without the project?

g. Any Irreversible and Irretrievable Commitments of Resources

Describe any irrevocable commitments of resources resulting from implementation of the proposal. An evaluation must be made of the extent to which the proposed action curtails or restricts the range of possible resources uses. Such commitments may occur because of resources extraction, erosion, destruction of archaeological, geological or historic features, destruction of fragile habitat or endangered species habitat, unalterable changes in land use, and resources used in project development.

h. Alternatives to the Proposed Action

Identify alternatives which may be considered, including modification of the present proposal and different approaches to gaining the same result.

The beneficial and adverse effects of the alternatives should be discussed, along with the reasons for rejection. Where appropriate, consideration should be given to alternate construction methods which may avoid environmental degradation.

5.400 RESIDENTIAL AND RESIDENTIAL-RELATED COMMERCIAL USES

5.410 Two-Family and Multi-Family Dwellings

5.411 All two-family, townhouse and other multi-family development sites shall be provided with an existing or approved public and/or community type water supply and sanitary sewer system, approved by appropriate local and State health authorities having jurisdiction. Excepted from this regulation is the development of a two-family dwelling on an individual zone lot.

5.412 Minimum Lot Area, Coverage and Yard Requirements

a. Two Family Dwellings. The minimum lot area per dwelling unit and the minimum frontage, depth, and yards, and the maximum coverage shall be as specified in Article 3 hereof

b. Multi-Family Dwellings

(1) Minimum Lot Size. Garden apartment, townhouse, or other multi-family developments shall not be erected on a zone lot of less than three (3) acres. The minimum width of such a lot shall not be less than 300 feet at the front property line.

(2) Yards. The following yard requirements shall not apply to townhouses, or to 2-family dwellings on individual lots; provided, however, that there shall be a side yard of not less than five (5) feet for any common side lot line for any building wall which extends beyond a common

wall; and, the minimum distance between walls of townhouses shall be forty (40) feet.

(a) Front Yard: no structure shall be located nearer to a front street right-of-way line than fifty (50) feet.

(b) Rear Yard: no structure shall be located nearer to a rear property line than fifty (50) feet.

(c) Side Yard: no structure shall be located nearer to a side property line than thirty (30) feet.

(d) A building wall exposing both windows and an entrance way shall be located not closer to another building than a distance equal to the height of the taller building of the two, but in no case less than fifty (50) feet.

(e) A building wall exposing only windows or only an entrance way shall be located no closer to another building than a distance equal to the height of the taller building of the two, but in no case less than twenty-five (25) feet.

5.413 Maximum Number of Dwelling Units. Garden apartments and townhouses shall not exceed eight (8) dwelling units per structure.

5.414 Permanent Open Space. In addition to the yard, setback, and off-street parking requirements of this Ordinance, there shall be provided a minimum of 10 percent of the gross area of the site to be permanently set aside for a usable open recreation area, which shall be for the common use of the residents thereof.

5.415 Off-Street Parking. Provision for off-street parking shall be as required in Section 5.700.

5.416 Fire Escape. Fire escapes shall generally be located in the rear of a building. Where needed for safety; and, if incapable of serving dwellings by being placed in the rear of the building, they may be located on the side(s) of a building; but, in no event shall they be located in the front of a building.

5.420 Motels, Motor Courts, Motor Hotels and Similar Uses

5.421 Each unit of occupancy shall have a minimum floor area of 150 square feet and shall include a minimum of one (1) bedroom and an enclosed bathroom containing a bathtub or shower, commode and lavatory and be supplied with hot and cold running water.

5.422 Illuminated signs and other lights shall be directed away from or shielded from adjoining residential properties in such a way as not to disturb the occupants thereof.

5.423 Such uses shall not be closer than two hundred (200) feet to a dwelling unit, shall be located on a State road, and shall provide ingress and egress so as to minimize traffic congestion.

5.424 Site Development Standards

Motels shall be subject to the following safeguards and regulations:

a. A site development plan shall accompany each application and shall show: building placement, parking, vehicular safety control features, including entrances, exits, driveways, roads and walks, specific landscaping components, plan for water supply, sewage disposal, and supply of electricity, and the size and location of signage.

b. Lot size shall be not less than two (2) acres.

c. Lot width shall be not less than two hundred and fifty (250) feet.

d. Surface drainage shall be such that will not subject adjoining properties or streets to damage. A storm water management plan and a soil erosion and sedimentation control plan shall be designed to control runoff for a ten (10) year storm, and shall be in accordance with Act 167 of 1978. Such plans shall be in conformance with the Township's Storm Water Management Ordinance and be accompanied by evidence of approval by appropriate agencies and authorities.

e. An architectural rendering showing the appearance of the facade(s) of the structure(s) visible from the highway which it faces must be submitted along with the site development plan.

f. No part of any motel unit shall be placed closer to any lot line than fifty (50) feet.

g. At least one (1) parking space shall be provided on the premises for each accommodation. Off-street parking and loading spaces for other facilities developed on the motel premises shall be provided as required by Tables I and II respectively.

5.425 Bed and Breakfast Places

Bed and breakfast places shall be subject to the following safeguards and regulations

a. The minimum lot size shall be two (2) acres

b. The facility shall be located in a single family dwelling and shall be operated by the occupant of said dwelling.

c. There shall be one (1) off-street parking space for each bed and breakfast rental unit

d. They shall not include restaurant facilities open to persons who are not overnight guests.

5.430 Manufactured Housing

5.431 Manufactured (Mobile) Homes Manufactured housing, other than recreation vehicles, which are not placed on a permanent foundation, which meet the requirements of this section shall be permitted only in manufactured home parks pursuant to 5.432 hereof and in granny flats.

a. Bulk Requirements. Mobile Homes shall comply with lot area, yard, height, and other requirements established by this Ordinance.

b. Foundation. All wheels and the tongue shall be removed and the mobile home shall be placed upon and permanently attached to a complete, permanent, frost-free foundation consisting of a full basement, a crawl space, piers, or floating slab meeting the requirements of the Township, and as required under the UCC.

c. Piers. If piers are utilized, skirting consisting of permanent building material attached to the mobile home and extending to ground level shall be provided in order to prevent exposure of the underside of the mobile home.

5.432 Manufactured (Mobile) Home Parks. Manufactured (Mobile) home parks shall be permitted only Special Exceptions, and only in accordance with Article 8 of the Madison Township Subdivision and Land Development Ordinance:

5.440 Conversions

5.441 Conversions, Year-Round Dwellings. Conversion of a single-family residence to a two-family residence shall be permitted, provided that:

a. The property meets the required minimum lot area per dwelling unit, has adequate sewage disposal capacity, and meets all applicable DEP requirements.

b. Where such conversion is undertaken there shall be provided on the same zone lot not less than two (2) additional off-street parking space in accordance with the provisions of Section 5.700 hereof.

c. Such structure shall contain not less than 1,500 square feet of living space and no dwelling unit therein shall contain less than 600 square feet of living space.

d. There shall be no structural alteration to the exterior so it would appear as other than a single-family structure.

5.442 Conversion of Non-Dwelling Structures. Non-dwelling structures may be converted to dwelling structures or other non-dwelling structures provided that the new use shall be of equal or greater restrictiveness than the use being converted. No non-dwelling structure having plate glass windows shall, however, be converted to a residential use unless such windows are removed from the structure; and, no such building which has already been converted shall be further converted to provide for additional dwelling units unless the plate glass windows are removed.

5.450 Group Housing for Handicapped. Group housing for handicapped persons shall comply with the following standards:

5.451 It must include supervision by not less than one (1) person.

5.452 It shall not be hazardous to the health, safety and welfare of the residential neighborhood where it is to be located.

5.453 Such uses shall not be a residence for transients. There shall be no fixed length of time for occupancy by the residents.

5.454 It must show evidence of such licensing as may be required by the Pennsylvania Department of Public Welfare, and evidence of adequate sewage disposal capacity.

5.455 No group housing facility shall be occupied by more than eight (8) unrelated individuals

5.456 There shall be not more than two (2) unrelated individuals in each bedroom.

5.457 There shall be not less than two (2) off-street parking spaces for each dwelling unit

5.460 Home Occupations

A home occupation may be permitted only as a Special Exception, and may be operated in any dwelling unit only if it complies with all of the following conditions:

5.461 Where Permitted. Within a single dwelling unit, and only by the residential occupant thereof, and not more than two (2) additional persons shall be employed in the home occupation; provided, however, that the total number of persons employed in the home occupation shall not exceed four (4) regardless of their place of residence; and, provided further, that such uses shall not exceed the capacity of their sewage disposal facilities. Such restrictions on the number of employees shall apply to all home occupations, except as otherwise provided herein.

5.462 Evidence of Use. Does not display or create outside the building any evidence of the home occupation, except that one (1) unanimated, non-illuminated sign having an area of not more than four (4) square feet shall be permitted on each street front of the lot on which the building is situated.

5.463 Extent of Use. Does not include more than one (1) home occupation; and does not utilize more than twenty five (25%) percent of the gross floor area of the dwelling unit (except foster family care), and except that professional offices may utilize not more than fifty (50%) percent of the gross floor area of the dwelling unit. The gross floor area includes the basement and accessory buildings as existed at the time of the effective date of this ordinance.

5.464 Permitted Uses. Includes not more than one (1) of the following uses:

a. Professional offices in accordance with provisions of Section 5.700 for off-street parking.

b. Rooming and/or boarding of not more than two (2) unrelated persons. Adequate off-street parking shall be provided pursuant to Section 5.710 hereof.

c. Adult day care for not more than two (2) persons to be in the care of the operator of the day care facility.

d. Custom dressmaking, tailoring, millinery, and quilting.

e. Foster family care (for not more than four (4) children simultaneously).

f. Commercial photography and other similar uses.

g. Barber shop and beauty parlor with not more than 1 non-resident employee. Adequate off-street parking shall be provided pursuant to Section 5.710 hereof.

h. Tutoring for not more than four (4) students simultaneously. Provided that the sound produced is not audible at any property line. It is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

i. Licensed family day care homes for not more than 6 non-resident children.

j. Licensed massage therapy services.

k. Woodworking shop, small engine repair shop (e.g. snow blower, lawn mower, motor cycle, etc.) provided that they are not operated between the hours of 10 P.M. and 6 A.M.

5.465 No Impact Home Businesses No impact home businesses shall be permitted as an accessory use by right in accordance with the provisions of Article 11 hereof.

5.470 Animals

5.471 Stables, Private

Private stables are permitted as an accessory use to a single-family residence.

a. Parcel Size. Not less than five (5) acres shall be required for the residence and stable.

b. Number of Horses. No more than two (2) horses shall be kept except that one (1) additional horse may be kept for each additional full one (1) acre of land in excess of the minimum lot size required in Table 5.471, below.

c. Building Size. The building used to house the horses shall not be less than two hundred (200) square feet in size for one (1) horse, with an additional two hundred (200) square feet for each additional horse.

d. Fences. All horses shall be restricted from grazing or intruding on an adjoining property by adequate fences or other means.

e. Reserved

Table 5.471
LOT SIZE AND SETBACKS FOR STABLES

Type of Use	Minimum Lot Size (acres)	Property Line Setback (ft) ****	Road * Setback (ft)	Existing Building** Setback (ft)
Private Stable	5	100	75	200
Commercial Stable	10***	100	75	200
Kennel	3	100	75	200

* Applies to any public or private road right-of-way
** Applies to any existing principal residential or commercial building not located on the project premises.
*** Five (5) horses permitted on initial ten (10) acres.
**** Run-in buildings not less than 25 feet from all property lines.

f. Setbacks. Any stable building or corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animal or manure storage shall meet the setbacks on Table 5.471, Lot Size and Setbacks for Stables and Kennels. These setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback.

g. Trails. Riding trails shall be separated from adjoining properties and any public road by a vegetative buffer of not less than fifteen (15) feet in width.

h. Nuisances. The operation of the horse farm shall not create any nuisance due to noise, dust or other factor on any neighboring property.

i. Uses Permitted. The following types of uses shall be permitted as part of the horse farm operation:

1. Breeding, raising, keeping and sale of horses, necessary buildings and structures.

2. Training of horses, and necessary buildings and structures, including race track facilities for training only, which are set back a minimum of one hundred and fifty (150) feet from all neighboring and adjoining property lines and any public or private road right-of-way.

3. Boarding of horses, and necessary buildings and structures.

5.472 Stables, Commercial. Commercial stables shall be subject to the following conditions, Article 6 hereof and other applicable provisions hereof.

A. Parcel Size. A minimum parcel of ten (10) acres shall be required and a single-family residence for the owner or manager shall be permitted on the premises provided all other sections of this Ordinance and other applicable standards are met.

B. Number of Horses. No more than six (6) horses are kept with the exception that one (1) additional horse may be kept for each additional one (1) full acre of land in excess of ten (10) acres.

C. Building Size. The building shall not be less than two hundred (200) square feet in size for 1 horse, with an additional two hundred (200) square feet for each additional horse.

D. Fences. All horses shall be restricted from grazing or intruding on an adjoining property by adequate fences and other means.

E. Parking. Adequate off-street parking shall be provided pursuant to Section of this Ordinance with one space provided for each non-resident employee and one (1) space per two (2) horses kept on the premises.

F. Setbacks. Any stable building or corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or manure storage shall meet the setbacks on Table 5.472, Lot Size and Setbacks for Stables and Kennels. These setbacks shall not apply where the affected adjoining or neighboring property owner provides a written, notarized letter stating the acceptance of a lesser, specified setback.

G. Trails. Riding trails shall be separated from adjoining properties and any public road by a vegetative buffer of not less than fifteen (15) feet in width.

H. Nuisances. The commercial stable shall not create any nuisances due to odor, noise, dust or other factor on any neighboring property.

5.474 Animal Hospitals, Kennels, Pounds and Similar Uses No such use shall be located closer than one hundred (100) feet to any dwelling unit, restaurant, or hotel, and shall show that adequate measures and controls shall be taken to prevent offensive noise and odor. No incineration shall be permitted on the premises.

Kennels shall be subject to the following conditions:

A. Parcel Size. A minimum parcel of three (3) acres shall be required.

B. Setbacks. Any structure used for the keeping of dogs shall meet the setbacks on Table 5.471, Lot Size and Setbacks for Stables and Kennels.

C. Parking. Adequate off-street parking shall be provided pursuant to Section 5.710 of this Ordinance with one space for each non-resident employee and one (1) space per four (4) dogs kept on the premises.

D. Noise Barrier. A noise barrier consisting of a solid fence not less than six (6) feet in height or a dense vegetative planting of not less than six (6) feet in height shall be provided at a distance not to exceed fifteen (15) feet and fully encircling all kennel areas not enclosed in a building.

E. Hours Outdoors. All animals shall be restricted from using kennel areas not fully enclosed in a building from 8:00 P.M. to 8:00 A.M.

F. Nuisances. All animal waste shall be stored in an area meeting the setbacks in Subsection "B" of this Section and shall be disposed of properly. The kennel shall not create any nuisance due to odor, noise, dust or other factor on any neighboring property.

5.480 Nursing Homes and Other Assisted Living Facilities

Such uses shall comply with the following site standards:

a. Minimum of three (3) acres.

b. Setbacks of 50 feet from all property lines.

5.490 Assisted Care Dwelling Unit.

The Township recognizes that in certain cases the only economically feasible means of caring for a relative who is infirm, aged, or ill is to provide temporary housing with immediate access to the care provider. In terms of sewage disposal, the development of an additional dwelling unit will not necessarily create sewage flows which would exceed the flows created if the relative needing care resided in the same dwelling unit as the care provider. PA DEP provides, via TAB 51, for the development of *temporary elder houses* or

granny flats to address sickness or other hardship without the requirement of processing a sewage Planning module. Given the nature of the use, the most appropriate means of providing for such assisted care units is to treat assisted care dwelling units as accessory uses.

5.491 Accessory Use Permit.

A temporary dwelling unit for the care of a relative, defined as an "Assisted Care Dwelling Unit for Relative" by this Ordinance, shall be considered an accessory use and all applicable zoning permits shall be required. In addition, a renewable accessory use permit shall be required which shall be renewed annually provided all requirements of the Zoning Ordinance are met. Prior to issuance and renewal of the permit by the Zoning Officer the applicant shall document to the satisfaction of the Zoning Officer that the "relative" status of the occupant(s) of the accessory unit and their physical condition has not changed. In any case, the occupants of the principal dwelling unit shall immediately report to the Zoning Officer any change in the occupancy status of the accessory unit and the arrangements made for the elimination of the unit within ninety (90) days of the time when the occupancy status changed.

5.492 Application Requirements.

The applicant shall provide a completed building permit application including a plan showing, at a minimum, the information required by Section 5.424a. of this Ordinance, and any other information deemed necessary by the Zoning Officer to determine compliance. The application shall also include a legally binding agreement for execution between the property owner and the Township to provide for the elimination of the accessory unit in accord with the requirements of this Section 5.490 when the accessory unit is no longer occupied by the relative requiring care.

5.493 Subdivision and Land Development Requirements.

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

5.494 Occupancy Care Requirement.

The accessory unit shall be limited to occupancy by a "relative" (as defined by Article 11 of this Zoning Ordinance) of a permanent resident of the principal dwelling unit on the property. Such relative shall need care and supervision because of old age or illness as documented by a letter from a licensed medical doctor, and the Township shall have the right to obtain a second opinion. Such accessory unit shall be permitted only where the relative requiring the care occupies the accessory unit located on the parcel of the care provider, and only for as long as the ill or elderly relative requires care as evidenced by written documentation by a licensed medical doctor as requested by the Zoning Officer at his discretion from time to time to verify compliance.

5.495 Sewage Disposal.

The accessory unit may be connected to the existing sewage disposal system provided the Township Sewage Enforcement Officer (SEO) confirms that the system is in good operating condition and any prior malfunction or installation of any sewage facilities necessary to accommodate the accessory unit shall be required. Sewage flows from the accessory unit shall not exceed four hundred (400) gallons per day. The confirmation by the SEO shall not place any liability on the Township or the SEO for any future sewage malfunction nor relieve the property owner from the responsibility of correcting any such malfunction. In all other respects, the accessory unit shall be subject to and comply with all other applicable local, State and Federal ordinances, regulations, laws and statutes.

5.496 Bulk and Density Requirements.

All standards for setbacks, lot coverage, building height and other bulk requirements shall apply and any accessory mobile home shall be not less than twenty (20) feet from the principal dwelling; except as provided in Section 5.497 hereof. The accessory unit may be installed on any lot provided all bulk requirements can be met.

5.497 Unit Design.

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

5.498 Removal of Unit.

Once the accessory unit is no longer occupied by the relative requiring care or if the illness no longer exists, the dwelling shall be reconverted into part of the principal dwelling unit or be completely removed within ninety (90) days of written notice provided by the Township, and such unit shall not be occupied in the interim. The time for removal may be extended by the Board of Supervisors upon petition by the property owner for good cause. When any unit permitted under this Section 5.490 is required to be removed, there shall be no physical evidence visible from exterior to the lot lines that such unit existed, other than possibly the expanded size of the dwelling.

5.499 Enforcement.

The issuance of an accessory use permit shall not prohibit the Township from proceeding with enforcement of the Zoning Ordinance should the Township determine that any of the provisions of this Section 5.490 and Zoning Ordinance have been violated. In such case, the accessory use permit shall be revoked and the assisted care dwelling unit shall be removed by the property owner, and the Township may proceed with any enforcement action authorized by law.

5.500 COMMERCIAL AND MANUFACTURING USES

5.510 Adult Businesses/Regulated Uses. Adult Businesses are permitted only as a Special Exception Use.

A. Legislative Findings. In adopting these standards which apply to adult businesses, the Board of Supervisors has made the following findings in regard to the secondary effects on the health, safety and welfare of the citizens of Madison Township. The findings are based on evidence concerning the adverse secondary effects of adult uses on the community presented in hearings and in reports made available to the Board of Supervisors, and on findings incorporated in the cases of City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Young. v. American Mini Theaters, 426 U.S. 50 (I 976), and Northend Cinema. Inc., v. Seattle, 585 P. 2d 1153 (Wash. 1978), and in re: appeal of Bucks, Bass and Balls Inc., d/b/a LaDolce Vita from the Deemed Denial by the Zoning Hearing Board of Springbrook Township in the Court of Common Pleas of Lackawanna County, Civil Action - Law No. 97-CV-5379 and 100 Lackawanna Jurist 223 (1999), and City of Erie, et al v. Pap's A.M. TDBA "Kandyland" (Slip Opinion - Supreme Court of the United States) No. 98-1161 decided March 29, 2000, and on studies in other communities including, but not limited to, Phoenix, Arizona; Minneapolis, Minnesota; Saint Paul, Minnesota; Manatee County, Florida; Houston, Texas; Indianapolis, Indiana; Amarillo, Texas; Los Angeles, California; Austin Texas; Seattle, Washington; Oklahoma City, Oklahoma; Beaumont, Texas; and New York City, New York; and also on findings found in the *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses,* June 6, 1989, State of Minnesota.

The June 6, 1989 *Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses* from the State of Minnesota, and the November 1994, City of New York *Adult Entertainment Study*, each summarize a number of studies from around the country as follows:

Minneapolis

- The effects of sexually oriented businesses on the crime rate index are positive.
- There is a close association between adult businesses, crime rates, and low housing values.

St. Paul

- A significant correlation exists between the location of adult businesses and neighborhood deterioration.

Indianapolis

- Real estate appraisers overwhelmingly (80%) felt that an adult bookstore would have a negative effect on residential property values within one block of the site.
- 71% believed there would be a detrimental effect on commercial property values in the one- block radius.

- Major crimes such as criminal homicide, rape, robbery, assault, burglary, and larceny, occurred at a rate 23% higher in areas with adult businesses.
- The sex related crime rate, including rape, indecent exposure, and child molestation, was 77% higher is such areas.

Phoenix

- Property crimes were 43% higher in areas with adult businesses.
- The sex crime rate was 500% higher in those areas.

Whittier, California

- Higher occupancy turnover rates were documented in commercial and residential areas adjacent to adult businesses.
- Numerous reports of excessive noise, drunkenness and pornographic litter associated with adult businesses were identified.

The Minnesota Working Group concluded that *a comprehensive approach is required to reduce or eliminate the impacts of sexually oriented businesses. Zoning and licensing regulations are needed to protect residents from the intrusion of "combat zone" sexual crime and harassment into their neighborhoods.*[2]

The New York City study concluded that *numerous studies in other locations found that adult entertainment uses have negative secondary impacts such as increased crime rates, depreciation of property values, deterioration of community character and the quality of urban life.*[3]

Municipalities typically allow adult uses in heavy commercial and industrial districts. The New York City study reported that:

A study in the Town of Islip, NY formed the basis of zoning regulations that allow adult uses only in Industrial I Districts by special exception.

The Indianapolis, Indiana study recommended that *adult uses should be allowed only by special exception in commercial districts oriented beyond a neighborhood, and not within* 500 *feet of a residential, school, church, or park property line, or historic area.*[4]

A study conducted by the Manatee County, Florida, Planning and Development Department recommended that *adult uses be limited to commercial locations at least*

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[2]*Report of the Attorney General's Working Group on the Regulation of Sexually Oriented Businesses,* State of Minnesota, June 6. 1 989, p. 2.

[3]*Adult Entertainment Study.* Department of City Planning. City of New York, November 1994. p. 67.

[4]Ibid., p. 5.

500 *feet from a residential district and* 2, 000 *feet from churches, schools, child care facilities and public recreation areas.*[5]

The ordinance adopted in 1992 by Jackson, Mississippi, limits topless bars and other adult businesses to areas zoned for light industrial uses and requires distances ranging from 250 *to* 1,000 feet from residential uses and commercial facilities.

Regulations in many Long Island, New York, communities *attempt to protect residential and commercial areas by allowing adult uses only in low-visibility Industrial districts.*[6]

Recent events and alleged criminal activity at an adult business in a nearby community document that secondary effects of adult businesses can affect rural areas as well as urban areas. (Hip Hop Club, Hamlin, Pa.)

The concern over sexually transmitted diseases is a legitimate health concern of Madison Township which demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of the citizens.

Certain employees of sexually oriented business regulated by this Ordinance as adult theaters and cabarets engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.

Sexual acts, including masturbation, and oral and anal sex, occur at sexually oriented businesses, including adult book stores, adult novelty shops, adult video stores, adult motion picture theaters, or adult arcades, and especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows. Offering and providing such space, encourages such activities, which create unhealthy conditions. Numerous studies and reports have determined that semen is found in the areas of sexually oriented businesses where persons view "adult" oriented films.

Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses. At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, non B amebiasis, salmonella infections and shigella infections; and, the incidence of many of these diseases is on the increase.

Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the

[5]Ibid., p. 8

[6] lbid., p. 9

unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

Classifying adult businesses as Special Exception Uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.

It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.

The Board of Supervisors desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime, preserve the quality of life, preserve property values and the character of the surrounding community.

Based on the zoning principal established by the courts that all legitimate uses must be permitted somewhere in the community, adult uses should be permitted. Nevertheless, such uses must be regulated in terms of time, place and manner. In other words, the location and outward operation should be regulated, while remaining "content neutral" in terms of free speech protected by the First Amendment.

Specific standards for setbacks, visibility and signs must be included to protect adjoining residential, educational and other uses from the negative secondary impacts of any adult use.

B. Intent

It is the intent of this Section 5.510 to:

1. Regulate adult business in order to promote the public health, safety and welfare by minimizing the secondary effects on the community which are associated with such businesses, and which include difficulties for law enforcement, trash disposal, deleterious effects on business and residential property values, increased crime (particularly the corruption of morals of minors and prostitution).

2. Prevent the concentration of regulated uses in order to minimize the secondary effects of such uses.

3. Establish reasonable, content-neutral standards applicable to such uses.

4. Have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials including sexually oriented or adult materials.

5. Not totally restrict or deny access by adults to sexually oriented materials or adult materials protected by the First Amendment of the Bill of Rights of the U.S. Constitution

6. Not deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market.

7. Not condone or legitimize the distribution of obscene material, or to encourage any violation of the PA Crime Code or PA Obscenity Code.

C. Definitions

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

2. Adult Bookstore. Adult Novelty Store or Adult Video Store: An establishment having a substantial part of its business, offering for sale or rental for any form of consideration, any one or more of the following: books, magazines, and other periodicals or other printed matter or photographs, films, motion pictures, video cassettes, or video reproductions, slides or other visual representations which are distinguished or characterized by their emphasis on matter depicting, describing or related to "specified sexual activities", or "specified anatomical areas," or instruments, devices or paraphernalia which are designed for use in connection with "specified sexual activities," or an establishment with a segment or section devoted to the sale or display of such material, where that segment or section exceeds an area of 10% of the sales space in such an establishment or 50 square feet, whichever is greater.

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

3. Adult Business/Regulated Use. All of the following shall be considered "Adult Businesses/Regulated Uses":

   a. The use of a building or land for a business which has obscene materials as a substantial or significant portion of its stock-in-trade.

   b. The use of a building or land for a business which involves the sale, lease, trade, gift or display of drug paraphernalia as a substantial or significant portion of its stock-in-trade.

   c. Any nightclub, bar, restaurant, arcade, theater, or any other establishment that conducts live performances as part of its business that are characterized by the exposure of "specified anatomical areas" or by specified sexual activities", or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of "specified sexual activities" or "specified anatomical areas", or where any "specified sexual activities" are conducted for economic gain or any other form of consideration.

   d. Any of the following as defined herein:

      1. adult arcade
      2. adult bookstore or adult video store
      3. adult live entertainment use or facility
      4. adult motel
      5. adult motion picture theater
      6. adult theater
      7. cabaret
      8. Drug paraphernalia stores
      9. escort agency
      10. massage parlor
      11. nude model studio
      12. sexual encounter center

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

   a. Persons (which may include, but is not limited to, waiters, waitresses, contractors, dancers, clerks, bartenders or others) appearing in a state of nudity; or,

b. Live performances which are characterized by the exposure of "specified anatomical areas" or simulated or actual "specified sexual activities";" or,

c. Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"

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

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

a. Offers accommodations to the public for any form of consideration and as part of the consideration provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

b. Offers sleeping rooms for rent three (3) or more times in one calendar day.

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

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

An "Adult Motion Picture Theater" shall be considered an "Adult Business" for the purpose of this Ordinance.

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

8. Cabaret. An adult club, restaurant, theater, hall or similar place which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators or similar entertainers exhibiting specified anatomical areas or performing specified sexual activities.

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

10. Drug paraphernalia stores. Any retail store selling paraphernalia commonly related to the use of any drug or narcotic of which the sale, use or possession of is subject to the provisions of "The Controlled Substance Drug, Device and Cosmetic Act", 1972, April 14, P.L. 233, No. 64, 51 et seq., 35 P.S. Section 780-101 et seq., including but not limited to, water pipes, pipe "screens", hashish pipes, "roach clips", "coke" spoons, "bongs" and cigarette rolling paper, except that this shall not be deemed to include the sale of cigarette rolling papers by a store that also sells loose tobacco or the sale by prescription of implements needed for the use of prescribed drugs or narcotics.

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

12. Escort Agency: A person or business association or establishment which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

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

14. Massage Parlor: A person or business association or establishment which furnishes, offers to furnish, or advertises to furnish as one of its primary business purposes for a fee, tip, or other consideration a massage which involves the exposure of any "specified anatomical areas" or the conduct of any "specified sexual activities", except where such service is provided by a certified masseur/masseuse.

15. Nude Model Studio: Any place where a person who appears in a state of nudity exhibiting “specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

16. Nudity or a State of Nudity The showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering or any portion thereof below the top of the areolae.

17. Obscene Materials: Any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, video

tape, sound recording, article, instrument or any other written or recorded matter which depicts or describes any "specified anatomical areas" and/or "specified sexual activities".

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

    a. Physical contact in the form of wrestling or tumbling between persons of the opposite sex;

    b. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

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

19. Specified Anatomical Areas: Any of the following:

    a. Less than completely and opaquely covered human genitals, pubic region, buttocks, anus, or female breasts below a point immediately above the top of the areolae.

    b. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

20. Specified Sexual Activities: Any of the following:

    a. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.

    b. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.

    c. Masturbation, actual or simulated.

    d. Excretory functions as part of or in connection with any of the activities set forth in Subsections "a", "b" and "c" of this definition.

E. Standards In addition to the other applicable provisions hereof, the following standards shall apply to adult businesses:

1. No regulated use shall be permitted within three thousand (3,000) feet of any other existing regulated use; and/or,

2. No regulated use shall be permitted within five hundred (500) feet of any establishment that sells alcoholic beverages; and/or,

3. No regulated use shall be permitted within five hundred (500) feet of an existing dwelling unit, or any of the following uses:

   a. Group care facility

   b. Commercial enterprises catering primarily to persons under 18 years of age

   c. Churches, chapels, convents, rectories, religious article or religious apparel stores;

   d. Schools, up to and including the twelfth (12th) grade, and their adjunct play areas;

   e. Public recreational facilities, and public libraries;

   f. All other public buildings and offices.

4. For the purposes of this section, spacing distances shall be measured as follows:

   a. From all property lines of any "regulated use" in Section B.3.d. above;

   b. From all property lines of any uses identified in E.3.a through E.3.f. above.

5. Enlargement - Any enlargement or expansion of an existing, legally created adult business shall be considered a Special Exception Use subject to the provisions of this Section 5.510 and all other applicable standards of this Zoning Ordinance.

6. Limit of One (1) Use - It shall be a violation of this Ordinance for any person to cause or permit: the operation, establishment, or maintenance of more than one (1) adult business in the same building, structure or portion thereof, or an increase of floor area of any adult business in any building, structure, or portion thereof that contains another adult business.

7. Reserved.

8. Change of Use – Whenever an existing regulated use is proposed to be changed to another permitted regulated use, the applicant shall request consideration as another regulated use in accordance with the procedures set forth herein for such special exceptions

9. Location of New Neighboring Uses - An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if, subsequent to the grant of a Special Exception permit, a use from which an adult business is required to provide a setback under this Section 5.510 is developed within the

required setback distance. Any additions or expansions of the adult business use shall comply with all setbacks required by this Section 5.510.

10. Alcohol - No adult business shall be operated in combination with the sale and/or consumption of alcoholic beverages on the premises.

11. No regulated use shall permit the admission of minors to their regulated business establishment, and the sale of regulated services or materials to minors is also prohibited.

12. No regulated use shall operate between the hours of 2 A.M. and 8 A.M. from Monday to Friday, nor between the hours of 3 A.M. and 8 A.M. on Saturdays, nor between the hours of 3 A.M. and noon on Sundays.

13. Exemption for Modeling Class: It is a defense to prosecution under this Section 5.510 that a person appearing in a state of nudity did so in a modeling class operated:

    a. By a proprietary school, licensed by the State, or an academically accredited college or university;

    b. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation;

    c. In a structure -
        1) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and

        2) where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and

        3) where no more than one (1) nude model is on the premises at any one time; or

    d. By an organization which qualifies under Section 501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

F. Signs and Other Visible Messages. All regulated uses shall be permitted signs and visible messages based on the allowable sign area, provided:

    1. Signs.

        a. Sign messages shall be limited to verbal description of the name of the business and the hours of operation.

b. Sign messages shall not include any graphic or pictorial depiction of material or services available on the premises.

2. Other Visible Messages.

Messages which are visible or intended to be visible from outside the property (such as on or within doors or windows) shall not display material, items, publications, pictures, films, or printed material available on the premises; or pictures, films, or live presentation of persons performing, or services offered on the premises.

5.520 Reserved

5.530 Bakeries

Bakeries shall be located no closer to a dwelling unit than fifty (50) feet.

5.540 Reserved

5.550 Manufacturing Uses

Manufacturing uses, when abutting a dwelling unit, shall be screened from such dwelling unit in accordance with the provisions of Section 4.700; and, such uses shall be set back not less than 250 feet from any dwelling unit.

5.560 Reserved

5.570 Junk Yards and Similar Storage Areas-Including Automobile Wrecking

Junk yards shall be subject to all applicable standards of this Ordinance, and the Madison Township Junk and Nuisance Ordinance, as amended, the provisions of which are incorporated herein by reference.

5.580 Earth-Extraction Industrial Activities

5.581 Procedure

a. All types of earth-extraction industrial activities shall be considered a temporary use of land and may be permitted by the Board of Supervisors as a Conditional Use in accordance with the procedures established herein for Conditional Uses; said application shall not include any such earth extraction activities which will be completed within 60 days of the passage of this Ordinance. Such use shall only be authorized as a temporary use for a period of not more than ten (10) years or such lesser period as may be established on a case-by-case basis by the Board of Supervisors. Such temporary use may be extended for periods of time equal to or less than the original temporary use permit; provided, however, that each such request for an extension shall be in accordance with the procedures for any new application for a Conditional Use.

Any such request for an extension of authorization shall be initiated not less than 120 days prior to the scheduled termination of the temporary use.

b. All applications for earth extraction permits shall be filed with the Zoning Officer and shall include the following:

1. An operational plan which shall include, but need not be limited to the following:

a) Ownership and acreage of land proposed for use.

b) Type of resources to be extracted or quarried.

c) Estimated depth of the proposed operation.

d) Location map at a scale of one (1) inch = one-hundred (100) feet which shall show:

1) The land area to be excavated or quarried with dimensions and the total property.

2) Private access roads and abutting streets and highways.

3) Abutting and/or adjacent land uses.

4) Existing watercourses, and proposed alterations to assure stream quality and quantity.

5) Fencing and buffer planting - If fencing is to be vegetation, details of the size and type shall be provided.

6) Title, scale, north arrow and date.

7) Ownership.

e) A report setting forth the number and gross weight of trucks associated with the operation, the Township roads to be utilized by said trucks, and the probable effect of the truck traffic on the condition of the roads. Said information along with the advice of the Township Engineer shall be used by the Board of Supervisors to establish conditions of approval to mitigate road impacts for the proposed use if such approval is granted.

2. A bond payable to the Township of Madison conditioned on saving the Township and its officials of and from any and all claims, suits or demands caused by any blasting and further, to guarantee backfilling as required herein. The amount of said bond shall be set by an engineer designated by the Township and based on his estimate of the

reasonable cost of such replacement, but in no case shall the amount be less than $1500 per acre of land to be excavated. Such bond shall be signed by the applicant and a corporate surety licensed to do business in the State of Pennsylvania, or the applicant may elect to deposit cash or United States Securities in lieu of surety bond. Upon covering the exposed surface and approval thereof by the Engineer, the Township will release the applicant and his surety from their bond.

3. A certificate of insurance with limits of not less than $100,000 for personal injuries and not less than $300,000 for property damage for the benefit of all persons who might be injured or suffer property damage as a result of said earth extraction operations.

4. All earth extraction operations shall be backfilled and all overburden material shall be replaced in a manner which will restore the premises to an equal or same grade as existed on the original site before the commencement of the proposed earth extraction operation.

5. Setbacks/Buffers - The setbacks and buffers in this Section shall be considered the minimum requirements. The Township shall require larger setbacks, buffers or fencing in cases where the size of the operation, the topography, vegetation, or other physical features of the site, uses on adjoining properties or other public concerns dictate same.

   a) Residential - When adjacent to an existing residence, no stockpiles, waste piles, processing or manufacturing equipment, subsurface mine entry location or facilities, and no part of the open excavation or quarrying pit shall be located closer than five hundred (500) feet to such property.

   b) Street - From the right-of-way line of a public street or highway no part of a quarrying or excavating operation shall be closer than two hundred (200) feet. Where both sides of the right-of-way are in a quarry or excavation operation in single ownership the required street setback may be reduced to fifty (50) feet on each side of the right-of-way.

   c) General Property Line Setbacks - No part of the quarrying or excavating operation shall be located closer than three hundred (300) feet to property line in a residential area or to any of the uses permitted therein.

6. Surface mining is prohibited within 500 feet, horizontally or vertically, of any developed parcel.

7. If required by the Board of Supervisors to ensure the public safety and welfare of persons and property in the immediate vicinity, open

excavations and pits shall be enclosed with a fence of not less than six (6) feet in height. The applicant shall submit to the Township for approval by the Board of Supervisors a fencing plan which shall provide for the protection of the public health, safety and general welfare by restricting public access from areas of steep slopes, ponds, and/or other hazards. The Township shall determine the type and extent of fencing required as part of the conditional use process. However, in no case shall any fence be less than six (6) feet in height and all required fencing shall be of such design to restrict access. In all cases, fencing shall be required wherever the natural resource use abuts a public road right-of-way. All fence openings to provide access to the site shall be controlled by a gate and locks.

8. Water Resources - In no case shall any use impede the flow of natural watercourses, and all uses or processes which pollute watercourses shall be prohibited. Collection of water in any excavation or quarry shall be avoided except as necessary for soil sedimentation control and shall not be permitted to become stagnant.

9. Subsidence - All mining operations shall be conducted in such manner to prevent any subsidence of the surface of the site.

10. A statement signed by the applicant agreeing to comply with the requirement that no earth-extraction activities will be operated earlier than 7:00 A.M. nor later than 7:00 P.M. during each day and such activities shall not be operated on Sundays.

11. All such applications shall include evidence of all required licenses and permits. In addition to all other applicable requirements set forth herein, all such uses shall also be required to comply with the requirements of Sections 5.340 and 5.593 regarding the submission of an environmental assessment.

c. Rehabilitation and Reclamation Plan for Natural Resources. At the time the operations plan is submitted, a rehabilitation and reclamation plan shall also be submitted setting forth the following information:

1. An engineering drawing showing ownership, existing and future topography, streams, existing roads, buildings, boundaries, and legal description of the tract.

2. A description of the location, type, extent, methods, and time schedule for the operations proposed.

3. A drawing showing the location and/or proposed relocations of land, trees, buildings, structures, public roads, streams, drainage facilities and utility lines on the tract or adjacent tracts as may require

protection, repairs, clearance, demolition, restoration either during or following completion of the operations proposed.

4. A statement describing methods for handling operations with respect to the "Operational Requirements," plus any drainage, air pollution, soil erosion or other environmental problems created during the operations including production, transportation, processing, stockpiling, storage and disposal of by-products and wastes.

5. A plan for re-use of the land after completion of the operations which shall permit the carrying out of the purpose of this Ordinance and appropriately provide for any restoration, reclamation, reforestation or other correction work deemed necessary.

6. A soil erosion and sedimentation control plan and storm water control plan meeting the requirements of the County Conservation District and the Madison Township Subdivision and Land Development Ordinance; and a storm water management plan meeting the requirements of the Township Subdivision Ordinance. For proposals located in the Lackawanna River Watershed, the storm water plan shall comply with the Township Storm water Control Ordinance adopted to implement the Lackawanna River Watershed Storm Water Management Plan or the Wallenpaupack Creek Storm Water Management Plan, adopted by the Township.

d. General Rehabilitation - Reclamation Requirements and Standards for Natural Resource Uses.

1. Time - Within the time frame approved by the Board of Supervisors, but in no case to exceed three (3) years after the termination of operations, the area shall be rehabilitated to conform with the rehabilitation plan as approved.

2. Standards - In the rehabilitation of an area the following standards must be met:

a) No area of rehabilitation shall exceed a slope of 2:1.

b) The entire area disturbed by resource excavating, quarrying, mining, or other natural use shall be planted in such a manner so as to control soil erosion.

c) The entire area shall be graded wherever necessary to provide for the conveyance of storm water. Finished grade shall not have a slope of less than two (2) percent so as to provide for a natural drainage.

d) Stockpiles, overburden, refuse, plant facilities or equipment shall be removed immediately upon the termination of operations and in no case shall such removal be permitted to exceed one (1) year.

3. Maintenance - Any required buffers shall be continuously maintained in good repair.

e. Existing Natural Resource Uses. Operations existing prior to the effective date of this Ordinance which are nonconforming as to setback requirements shall not be required to correct such existing nonconformity. A rehabilitation plan and performance guarantee and any required fencing and/or buffers shall be provided within six (6) months after the effective date of this Ordinance, as amended. A plan meeting the requirements of this Section 5.580, for existing natural resource uses shall be submitted to the Township within forty-five (45) days of the effective date of this Ordinance, as amended.

5.582 Excavation of Topsoil, Gravel, Sand or Rock

a. All excavations must be enclosed by a fence not less than six (6) feet in height located at least ten (10) feet from the sides or perimeter of the excavation. All such excavation must be adequately drained to prevent the formation of pools of water. The side walls of all such excavations shall slope at an angle no steeper than one (1) foot of vertical distance for each two (2) feet of horizontal distance.

b. A rock crusher or processing plant shall not be located nearer than five hundred (500) feet to any adjoining residence.

c. Topsoil or sod may be removed only under the following conditions:

1) As part of the construction or alteration of a building, or the grading incidental to such building.

2) In connection with normal lawn preparation and maintenance on the lot from which such topsoil or sod is removed.

3) In connection with the construction or alteration of a street.

d. In no event shall any excavated materials be permitted to form waste piles or mounds, it being the intent of this provision that any excavated material be used as fill or refill or otherwise distributed so as to avoid any unsightly or unnecessary accumulation.

5.583 Removal of Earth and Stone as Part of Site Preparation for Development. This Ordinance regulates the sale of top soil, stone, rock, sand and similar material as a commercial use. More specifically, such activity is defined as a “natural resource use”, and is considered a conditional use. The Township recognizes that for certain

properties, significant site preparation is required prior to development. This may include the removal of topsoil or stone for the construction of a driveway, bringing a site to grade level, providing access, or a similar activity. It is not unreasonable for the owners of such properties to sell the excavated material. Such sale is not the primary use of the property under development; but instead, is only undertaken in preparation for the development of another use. Requiring the transport of the material from the site prior to its sale would be onerous to the property owner; and would not be necessary to protect the public health, safety and welfare. The protection of the public health, safety and welfare will not be compromised by the limited sale of material excavated in association with the preparation of a site for development. However, without limiting the scale of the material removal to that which is specifically necessary for site preparation, the intent of the Zoning Ordinance to regulate "natural resource uses" would be compromised. Given the nature of the use, the most appropriate means of providing for the limited sale of excavated earth and stone is to treat it as an accessory use.

a. Accessory Use. The removal of earth or stone as part of the preparation of a site for development shall not be considered a commercial operation defined as a "natural resource use" by the Zoning Ordinance. Instead, it shall be treated as an accessory use.

b. Incidental Sale. Such sale must be clearly incidental to the site preparation and shall not go beyond what would be associated with the proposed development, neither in area nor depth of excavation.

c. Plan. The property owner shall submit to the Township, by letter and site plan, a description of the property, proposed development, extent of material excavation, and completion date; and, a copy of the soil erosion and sedimentation control plan for the site prepared in accord with County Conservation District and PA Department of Environment Protection standards.

d. Duration. The accessory use permit shall be valid for six (6) months from its issuance, and an extension may be granted by the Township for good cause shown by the applicant.

e. Other Requirements. This issuance of the accessory use permit shall not invalidate the requirement for all other necessary approvals and compliance with all other applicable regulations (e.g., soil erosion and sedimentation control, sewage disposal, and storm water).

f. Enforcement. The issuance of an accessory use permit shall not prohibit the Township from proceeding with enforcement of the Zoning Ordinance should the Township determine that the sale of material goes beyond what is associated with site preparation and is reasonably considered a "natural resource use".

5.590 Solid Waste Disposal Areas (Sanitary Landfills), Transfer Stations and Staging Areas

5.591 General.

a. All Solid Waste Disposal Facilities, Transfer Stations and Staging Areas are herein referred to as "the facility." Such uses shall be permitted only as conditional use. Sanitary landfills shall only be permitted as a conditional use in accordance with all applicable regulations contained in this ordinance governing conditional uses as well as all regulations contained herein governing earth-moving activities and all applicable State and Federal regulations. Staging areas required in conjunction with sanitary landfills shall only be operated within the confines of a licensed sanitary landfill site, but in no event shall such staging area be distant less than 1000 feet from an existing residential area. Staging areas shall be screened from public view in accordance with Section 4.700 hereof. All solid waste disposal facilities, including related facilities such as staging areas shall be required to provide evidence of a state-issued license and permit. No such facilities shall be less than 750 feet from an existing public right-of-way or property line, residential structure, public, semi-public or institutional use, or a commercial facility, or a recreational facility. Such uses shall comply with all applicable regulations specified elsewhere in this ordinance and with the following requirements:

b. Fencing. All solid waste disposal facilities shall be completely enclosed by a chainlink fence not less than six (6) feet in height. The erection of said fence shall be completed within six (6) months after the effective date of this Ordinance for existing solid waste disposal facilities and within six (6) months after the issuance of a license for a new solid waste disposal facility. All gates shall be closed and locked when closed for business. The fence and gate shall be maintained in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence.

5.592 Source and Content

a. Solid Waste Material Permitted at Facilities. No facility in Madison Township shall accept any solid waste other than Municipal Solid Waste as defined herein in Article 11 hereof or Residual Waste as defined by D.E.P.

b. Source of Solid Waste. No facility in Madison Township shall accept solid waste generated elsewhere than in Lackawanna County; provided, however, that on a case-by-case basis, the operator of a solid waste disposal facility may dispose of solid wastes generated outside of Lackawanna County if approved as a Conditional Use. In approving such a Conditional Use, the Board of Supervisors shall determine that the disposal of such solid wastes in a solid waste disposal facility operated in Madison Township shall not be, or shall not potentially be, hazardous to the health and safety of any resident of Madison Township or its environs.

5.593 Environmental Assessment. All proposed solid waste disposal facilities shall prepare and submit to the Township an Environmental Assessment pursuant to Section 5.340

hereof and shall fully comply with the regulations of the Pennsylvania Department of Environmental Protection.

Such Environmental Assessments shall also include a traffic study and plan which shall comply with the following requirements:

a. Any facility located adjacent to a Federal Aid Highway shall comply with all regulations of the Federal Highway Administration.

b. Any facility located adjacent to a State Highway shall comply with all regulations of the Pennsylvania Department of Transportation.

c. The traffic study and plan shall establish the most direct proposed route or routes for vehicles carrying solid waste to the facility. This route shall minimize impacts on any hospital, residential home, commercial, retail establishment, public school or religious institution.

d. The traffic impact study and plan shall include proposed remedial actions to be taken in the event of a solid waste spill or accident involving a vehicle transporting solid waste.

5.594 Traffic Control Requirements

No trucks or other vehicles shall be allowed to be parked along any public right-of-way prior to entering the facility. It shall be the responsibility of the facility's operator to schedule vehicles in a manner which will preclude this occurrence and/or to provide adequate on-site vehicle storage facilities in order to comply with this standard.

5.595 Storage of Waste

a. All solid waste facilities, including transfer stations and staging areas, which store the solid waste at any stage prior to disposal at an approved facility shall maintain the aforesaid solid waste within a completely enclosed building. Storage of materials, supplies or solid waste in motor vehicles, truck trailers or other containers normally used to transport materials shall not be permitted unless the aforesaid motor vehicles, truck trailers or other containers shall be stored within a building in accordance with Section 5.595b. hereof.

b. All municipal solid waste which is brought to the site shall be removed from the site by the end of the business on the date that it is brought to that site, notwithstanding any DEP regulations which would allow said municipal waste to remain thereon for a longer period of time; provided, however, that not more than one (1) loaded or partially loaded vehicle may be stored overnight in an enclosed building for a period of not more than eighteen (18) hours.

c. Facility operators shall be responsible for the cleanup of the facility's road entrance and surrounding area, throughout the work period, with a final cleanup at the conclusion of the work period.

5.596 Screening, Fencing and Other Security Requirements

a. All solid waste disposal facilities shall be completely enclosed by a litter fence. The fence shall be fully enclosed with slats to a height of not less than ten (10) feet for the purposes of retaining all litter waste within the confines of the site. The erection of said fence shall be completed within six (6) months after the issuance of a license for a facility. A locked gate system shall be installed on the property so as to prevent any and all illegal dumping which may take place on this site and its surroundings. The fence and gate shall be maintained in such a manner as not to become unsightly. There shall be no advertising of any kind placed on the fence. Such fence shall not be located closer than two hundred (200) feet to any property line. In cases where natural vegetation is not adequate to screen the facility from view from adjoining properties or roads, a dense evergreen planting to effect such screening shall be provided and maintained by the applicant in accordance with a planting plan submitted by the applicant and approved by the Township. Such fence and any structures associated with the solid waste disposal facilities shall not be located closer than two hundred (200) feet to any property line or seven hundred and fifty (750) feet from any public right-of-way or within seven hundred and fifty (750) feet from principal residential structures existing at the time of adoption of this Ordinance.

b. An evergreen buffered area shall be provided outside of the litter fence, but on the same property. Such natural vegetation shall be designed to act as a visual screen against the site from all adjoining land owners.

c. Security guards shall be placed at the site for the purposes of control against illegal dumping.

5.597 Location Restrictions. After the effective date of this ordinance no facility shall be located closer than seven hundred and fifty (750) feet to an existing public right-of-way or property line; residential structure existing at the time of adoption of this ordinance; public, semi-public or institutional use; or commercial or recreational facility.

5.598 Vector Control. All facilities shall establish a vector control program designed to eradicate all rodent problems at the subject site and on surrounding sites. A description of the planned vector control program shall be submitted with all applications for facilities.

5.599 Water Quality

a. Treatment and Disposal of Effluent. The facility shall provide for treatment and disposal of all liquid effluent and discharges generated by the facility due to the storage, washing or other process used in processing the solid waste. The facility must provide for treatment of all leachate and all other liquid effluent and discharge, unless a sewage treatment facility exists on a site which is approved by the Pennsylvania Department of Environmental Protection, and all leachate and/or liquid discharge will be transported from the site at regular intervals so as not to cause a hazardous situation at the site, and such leachate shall be removed from the site pursuant to any and all applicable ordinances of Madison Township, regulations of the Pennsylvania Department of Environmental Protection and any and all other applicable statutes or ordinances.

b. Monitoring Water Quality. The owner of any solid waste disposal facility shall be required to monitor the ground and surface water in the vicinity of the facility. Water testing shall be conducted in accordance with the Department of Environmental Protection testing requirements as set forth in the Pennsylvania Code for water quality monitoring and ground water assessment. The results of these tests shall be provided to the Township. In the event that the facility as defined in this section shall not comply with the regulations as set forth herein, water testing shall be conducted every three months on any stream located on the premises or any stream within five hundred feet of any area used for the storage or disposal of solid waste if water drainage from the facility is to said stream. For each testing period two samples shall be collected; one sample shall be taken from the stream at a point above the facility drainage area and one sample shall be taken from the stream at a point below the facility drainage area. In addition, any well located on the premises shall also be sampled every three months. The samples shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the Governing Body, and results shall be provided to the Township. If said samples exceed the limits established by the Pennsylvania Department of Environmental Protection, the solid waste disposal facility shall cease operation until such time as the sources of the contamination have been identified and corrected.

c. Treatment of Storm Water. All storm water collected on site which is exposed to and/or contaminated by solid or residual waste shall be treated by the facility's wastewater treatment system. Storm water which does not come in contact with the on-site solid or residual waste shall be handled by the facility storm water management plan which must specifically provide that said water is segregated from exposure to the solid or residual waste located at the facility. Parking of trucks loaded with solid waste which have not been properly cleaned and

washed shall only be permitted in buildings, handling areas or parking areas in which containment of spillage, leakage or other contaminants is provided.

d. Alternative Requirements. If the facility is maintained in accordance with the requirements of the Pennsylvania Department of Environmental Protection, then in lieu of the requirements of Section 5.599 a, b, and c, the operator of the facility shall submit to the Township Zoning Officer duplicate copies of all applicable permits, reports required by the permits, and any action taken by the permittee related to the permit.

5.600 RESERVED

5.700 SERVICES, AUTOMOTIVE

5.710 Off-Street Parking

In connection with every manufacturing, business, institutional, recreational, residential or any other use, there shall be provided, at the time any building or structure is erected or is enlarged or increased in capacity, off-street parking space for automobiles available to the occupants of such buildings and to visitors thereto at no charge. Off-street parking development shall be in accordance with the requirements set forth herein. Parking shall not be permitted on public right-of ways.

5.711 Size and Access. Each off-street parking space in a parking lot shall have an area of not less than one hundred eighty (180) square feet exclusive of access drives or aisles, and shall be of usable shape and condition not less than ten (10) feet in width and 18 feet in depth. Except in the case of dwellings, no parking area shall contain less than 3 spaces.

There shall be adequate provisions for ingress and egress to all parking spaces. Access to off-street parking areas shall be limited to several well-defined locations and in no case shall there be permitted unrestricted access along the length of the street or alley upon which the parking area abuts.

5.712 Number of Parking Spaces Required. The number of off-street parking spaces required shall be as set forth in Table I , below, in accordance with the definition of "floor area" as set forth in Article 11 hereof,

In any case of a building, structure or premises, the use of which is not specifically mentioned herein, the provisions for a use which is so mentioned and to which said use is similar, in the opinion of the Zoning Hearing Board, shall apply.

5.713 Off-Site Facilities. All permitted and required accessory off-street parking spaces, open or enclosed, shall be located on the same zone lot as the use to which such spaces are accessory, except that such spaces may be provided elsewhere but shall be provided with a radius of no greater distance than 400 feet from the zone lot, and

provided further, that required spaces are provided off the site in accordance with the provisions set forth herein and that such spaces shall be in the same ownership as the use to which they are accessory and shall be subject to deed restrictions filed in an office of record, binding the owner and his heirs and/or assigns to maintain the required number of spaces available throughout the life of such use, and such spaces shall conform to all regulations set forth herein.

5.720 Off-Street Loading

In connection with every building, or building group or part thereof hereafter erected and having a gross floor area of five thousand (5,000) square feet or more, which is to be occupied by manufacturing, or commercial uses, or distribution of material or merchandise by vehicles, there shall be provided and maintained, on the same zone lot with such building, off-street loading berths in accordance with the requirement of Table II, below:

5.721 Size and Location. Each loading space shall be of sufficient size to accommodate vehicles that are likely to utilize the berth, but not less than 10 feet in width, 25 feet in length and 14 feet in height, and may occupy all or any part of any required yard, except where located adjacent to a residential property, where they shall be set back a minimum of fifty (50) feet from any such property line.

5.730 Joint Facilities for Parking or Loading

Off-street parking and loading facilities for separate uses may be provided jointly if the total number of spaces so provided is not less than the sum of the separate requirements for each use and provided that all regulations governing the location of accessory spaces in relation to the use served are adhered to. Further, no accessory space or portion thereof shall serve as a required space for more than one use unless otherwise approved by the Zoning Hearing Board in accordance with the purposes and procedures set forth herein.

TABLE I

TABLE I	
USES	MINIMUM REQUIRED PARKING SPACES
1. Churches and Schools	1 for each 3.5 seats in an auditorium or for each 17 classroom seats, whichever is greater.
2. Business and Professional Offices and Banks, except Medical and Dental Offices	3 for each 1,000 square feet of floor area.
3. Community Buildings, and Social Halls	1 for each 100 square feet of floor area.
4. Country Clubs, Golf Courses	1 for each 200 sq. ft. of floor area occupied by all principal and accessory structures, except those used for parking purposes. **
5. Single-family Dwellings	2 for each family or dwelling unit.
6. Motels, Hotels and Rooming Houses	1 for each rental unit.
7. Apartments, Townhouses and Garden Apartments *	2 for each dwelling unit.
8. Funeral Homes, Mortuaries	25 for each parlor.
9. Hospitals, Nursing and Convalescing Homes	1 for each bed plus 1 for each employee in the maximum working shift.
10. Manufacturing Plants, Research or Testing Laboratories	1 for each 1,000 sq. ft. of floor area, plus 1 for each 4 employees in the maximum working shift; the total parking area shall not be less than 25 percent of the building floor area.
11. Medical or Dental Clinics, or Offices	5 spaces for each Doctor and each Dentist plus 1 space for each employee in the maximum working shift.
12. Restaurants, Beer Parlors and Night Clubs	1 for each 2.5 seats.
13. Retail Stores, Store Groups, Shops, and Personal Services	One (1) for each 100 square feet of floor area.
14. Wholesale Establishments or Warehouses	1 for each 1 employee in maximum working shift, but not less than 25% of building floor area.
15. Outdoor Recreational Facilities	An adequate number of spaces should be provided so that all vehicles located at the facility can be accommodated in existing parking lots and not on the Township's roads.
16. Auctions, Galleries	5 for each 500 sq. ft. of floor area.
17. Bowling Alleys	5 for each lane.
18. Movie Theaters, Auditoriums and Sport Stadiums	1 for each 2.5 seats.
19. Assisted Living Facilities	One (1) space for each three (3) units and one (1) space per employee in maximum working shift.

* Except Elderly Housing where 1 parking space for each 3 dwelling units shall be provided.

** There shall be not less than 20 off-street parking spaces for each use.

TABLE II

USES		SQUARE FEET OF FLOOR AREA	REQUIRED OFF-STREET LOADING BERTHS
1.	Schools	15,000 or more	1
2.	Hospitals (in addition to space for ambulance)	From 10,000 - 30,000 For each additional 30,000 or major fraction thereof.	1 1 additional
3.	Undertakers and Funeral Homes	5,000 For each additional 5,000 or major fraction thereof.	1 1 additional
4.	Hotels & Offices	10,000 or more	1
5.	Retail, Commercial, Wholesale, Manufacturing, Storage & Miscellaneous	From 10,000 - 25,000 From 25,000 - 40,000 From 40,000 - 60,000 From 60,000 - 100,000 For each additional 50,000 or major fraction thereof	1 2 3 4 1 additional

5.740 Development and Maintenance of Parking and Loading Areas

Every parcel of land hereafter used as a public or private parking area or loading area including a commercial parking lot shall be developed and maintained in accordance with the following requirements.

5.741 Screening and Landscaping. Off-street parking areas for more than ten (10) vehicles and off-street loading areas shall be effectively screened on each side which adjoins or faces residential premises or institutional premises, by a solid fence or hedge in accordance with Section 4.700 hereof. Any space between such fence or hedge and the side lot line adjoining residential premises, or the front lot line facing residential premises, shall be landscaped with grass, hardy shrubs or evergreen ground cover and maintained in good condition; provided, however, that natural vegetation may be substituted for landscaping, if it achieves the objectives of the landscaping requirement.

5.742 Surfacing. Any off-street parking or loading area shall be surfaced with an asphaltic or cement binder pavement or similar durable and dustless surface which shall be so graded and drained as to dispose of all surface water accumulated within the area, and shall be so arranged and marked as to provide

for the orderly and safe loading, parking and storage of self-propelled vehicles. Pervious concrete may be substituted for the above.

5.743 Lighting. Any lighting used to illuminate any off-street parking or loading areas shall be so arranged as to reflect the light away from the adjoining premises in any residential area.

5.744 Access Drives. Access drives shall not open upon any public right-of-way within eighty (80) feet of the nearest right-of-way line of any intersecting public street or highway, or where the sight distance in either direction would be less than 300 feet.

5.745 Setbacks. All nonresidential parking and loading areas and parallel circulation and service lanes shall be separated from the paved edge of a public thoroughfare or adjoining property lines by a planting strip with a depth of not less than twenty (20) feet.

5.750 Automobile Service Stations and Parking Lots

5.751 Location of Establishments and Access Thereto. Vehicular Service Stations, commercial parking lots for five (5) or more motor vehicles, automobile repair shops, or any vehicular access thereto are regulated as follows:

a. A site development plan shall accompany all applications and shall show building and fuel pump placement and dimensions, parking, landscaping, internal circulation, and the size and location of signage.

b. All vehicular servicing activities except for those normally performed at fuel pumps shall be performed within completely enclosed buildings.

c. Location of Gasoline Pumps. Gasoline pumps and all other service equipment shall be set back not less than twenty-five (25) feet from any lot line and shall be so located that vehicles stopped for service will not extend over the property line.

d. Fuel pumps shall not interfere with parking spaces or internal circulation and shall be located at least thirty (30) feet from all parking areas.

e. Shall not be located within 100 feet of any boundary line of any residential property line; provided, however, that where the rear lot line of the property shall be less than 100 feet distant from a residential property there shall be established along such rear lot line a buffer zone which shall be landscaped in accordance with the provisions of Section 4.730 hereof; and, no part of any parking space shall be less than 20 feet from any residential property line.

f. Shall not be located within two hundred (200) feet of property dedicated to or intended for schools, playgrounds, churches, hospitals, public libraries

and institutions for dependents or for children, when located along the same street or road and in the same block as said properties.

g. Vehicular access to the above automotive uses shall be well-defined driveways and shall not be closer to the intersection of any two (2) street right-of-way lines than eighty (80) feet.

5.760 Reserved

5.770 Drive-In Eating and Drinking Places

Such businesses, where persons are served in automobiles, shall be not closer than two hundred (200) feet to a residential property. Such businesses shall be located on State road and shall provide ingress and egress so as to minimize traffic congestion, and shall comply with the following:

5.771 A minimum of eight (8) on-site vehicular waiting spaces are required for occupied vehicles waiting for window service.

5.772 The above spaces shall not interfere with parking spaces intended for non-drive through customers, internal circulation or pedestrian safety.

5.773 A site development plan shall be submitted showing building placement and dimensions, vehicular and pedestrian access, internal circulation, landscaping, and size and location of signage.

5.780 Drive-Through Business

5.781 For banks, financial institutions, fast food businesses, and any other business uses with "drive-through" service applications shall be accompanied by a site development plan showing building placement and dimensions, the location of all "drive-through" facilities, parking, internal circulation and the location and size of signage.

5.782 Such businesses, where persons are served in automobiles shall be not closer than two hundred (200) feet to a residential property. Such businesses, shall be located on a State road and shall provide ingress and egress so as to minimize traffic congestion, and shall comply with the following:

a. A minimum of eight (8) on-site vehicular waiting spaces are required for occupied vehicles waiting for window service.

b. The above spaces shall not interfere with parking spaces intended for non-drive through customers, internal circulation or pedestrian safety.

c. Trash receptacles shall be provided outside the restaurant for patron use.

5.790 Motor Vehicle Access to Businesses

Whenever motor vehicle access to a business is provided from the street or private road onto the lot, the following regulations shall apply:

a. Driveways and Curbs. Access to the lot shall comply with the following regulations:

1. No driveways shall be closer to each other than twelve (12) feet, and no driveway shall be closer to a side property line than six (6) feet, and no flare shall cross an extended side property line.

2. There shall be not more than one entrance and one exit to any business or parking area on any one road. Each entrance and exit shall be clearly defined with curbing, fencing or vegetative screening so as to prevent access to the area from other than the defined entrance and exits.

3. Each driveway shall be not more than thirty-five (35) feet in width measured at right angles to the center line of the driveway, except as increased by permissible curb return radii. The entire flare of any return radius shall fall within the right-of-way.

4. No access to a public right-of-way shall be permitted within three hundred (300) feet of the intersection of said public right-of-way with interchange ramps.

5.800 SERVICES, GENERAL

5.810 Cemetery, Mausoleum

These uses shall provide entrances on a street or road with ingress and egress so designed as to minimize traffic congestion, and shall provide, in accordance with Section 4.730 a permanently maintained planting strip on all property lines adjoining a residential property.

5.820 Mortuaries

Undertaking and funeral parlor establishments may be permitted as a special exception provided that all required parking is made available; and, it is to be located on a street where the collection and movement of vehicles participating in a funeral procession will not adversely affect the major vehicular circulation pattern of the community.

Applications for such uses shall be accompanied by maps showing the proposed routing of funeral processions.

5.830 Crematoriums

This Section 5.830 sets standards for crematoriums in order to assure compliance with State and Federal standards for air emissions and disposal of remains, require all operations to be conducted entirely within a building under the supervision of a qualified

operator, and otherwise protect the public health, safety and welfare. In addition to the requirement of Section 5.810 and all other applicable requirements of this Zoning Ordinance, the following standards shall apply to crematoriums.

a. Operations. All operations, including but not limited to the transfer of bodies and remains from and to vehicles and the cremation process, shall be conducted entirely within a fully enclosed building, and only when a qualified employee of the crematorium is present on the site.

b. State and Federal Regulations. The incineration of bodies and the disposal of remains shall comply with all local, State and Federal regulations and the applicant shall provide documentation of such compliance.

c. Equipment and Air Emissions. All incinerators, cremators or other such devices shall meet accepted industry standards and the applicant shall provide details on the proposed equipment including the levels of air emissions and how such emissions relate to State and Federal standards.

d. Bodies and Remains. Bodies shall not remain on the premises for more than forty-eight (48) hours and all remains shall be removed from the premisses within forty-eight (48) hours of cremation.

e. Water Supply and Sewage Disposal. All crematoriums shall be served by an adequate potable water supply and a sewage disposal system meeting the requirements of the Township and the Pennsylvania Department of Environmental Protection.

5.900 MISCELLANEOUS USES

5.910 Heliports

Heliports may be permitted, including the construction of runways and landing pads, provided that plans for such construction shall be approved by the Federal Aviation Administration and that such construction will not interfere with the comprehensive plan for the area which may be affected by it, nor create any hazards or inconvenience in presently developed areas. Except in the event of an emergency helicopter landings shall be permitted only at approved heliports.

5.920 Storage Areas

5.921 Outdoor Storage Areas and Storage Facilities. Such uses shall not abut existing residential development or a residential street and the operation thereof shall be governed by the following provisions and any other conditions as may be required by the Zoning Hearing Board to protect the public health, safety, comfort, convenience, and general welfare and especially with regard to abutting properties and the occupants thereof.

a. Inflammables and Explosives. No highly inflammable or explosive liquids, solids or gases shall be stored in bulk above ground, except as permitted by state and federal regulations including, but not limited to the Commonwealth of Pennsylvania Flammable and Combustible Liquids Handbook. Tanks or drums of fuel directly connecting with heating devices or appliances located on the same premises as the tanks or drums of fuel are excluded from this provision.

b. Fencing and Setbacks. All outdoor storage facilities shall be enclosed by a fence or wall adequate to conceal such facilities and the contents thereof from adjacent property. Such walls and fences shall be distant not less than 10 feet from any property line and shall be distant not less than 25 feet from any public street.

c. Deposit of Wastes. No materials or wastes shall be deposited on any premises in such form or manner that they may be transferred off such premises by natural causes or forces.

d. Other Hazardous Materials. All materials or wastes which might cause fumes or dust or which constitute a fire hazard or which may be edible by or otherwise be attractive to rodents or insects shall be stored outdoors only in closed containers.

e. Used Tires. No more than 50 used tires shall be stored on any parcel at any time.

5.922 Storage of Hazardous Materials

The storage of nonresidential hazardous materials shall be those specified in Section 5.921 and 5.923 hereof.. In order to be authorized to store such materials, approval must be secured from D.E.P., and all containers must be labeled for spill, hazard, trash permit, and danger-if-in-contact.

5.923 Self Storage Buildings

a. Occupancy Permit. An occupancy permit shall be required for each self-storage unit.

b. It shall be the responsibility of the owner to ascertain the tenant's occupancy permit.

c. In order to secure an occupancy permit, the tenant shall provide a list of the contents to be stored. The storage of the following hazardous materials is prohibited:

1) Inflammable solids
2) Oxidizing materials
3) Highly toxic materials
4) Radio-active materials

5) Potentially explosive materials
6) Pesticides or insecticides
7) Corrosive liquid

d. The property shall be enclosed by a gated fence which shall be not less than eight (8) feet in height.

5.930 Reserved

5.940 Radio and Television Towers, Masts and Aerials. Such uses shall be subject to all applicable regulations of the F.C.C. and other applicable Federal and State Regulating Bodies as evidenced by their approval of all plans thereof.

5.950 Telecommunications Facilities

Telecommunications Facilities shall comply with the provisions of the Madison Township Wireless Communications Facilities Ordinance.

5.960 Signs

Signs may be erected, reconstructed and maintained only when in compliance with the following provisions and the Building Permit Ordinance of the Township of Madison.

5.961 Location of Signs. The following types of non-illuminated, non-advertising signs are permitted as follows:

a. Nameplates and Identification Signs

1. Signs indicating the name or address of the occupant provided that they shall not be larger than two (2) square feet in area. Only one such sign per dwelling unit shall be permitted except in the case of corner lots where two such signs (one facing each street) shall be permitted for each dwelling unit.

2. For buildings other than dwellings a single identification sign not exceeding six (6) square feet in area and indicating only the name and address of the building and the name of the management may be displayed, provided that on a corner lot two such signs (one facing each street) shall be permitted.

b. Sale or Rental Signs. Signs advertising the sale or rental of the premises upon which they are erected by the owner or broker or any other person interested in the sale or rental of such premises, and signs bearing the word "sold" or "rented" with the name of persons effecting the sale or rental may be erected or maintained, provided:

1. The size of any such sign is not in excess of six (6) square feet; and

2. Not more than two (2) sign is placed upon any property unless such property fronts upon more than one street, in which event two (2) more sign may be erected on each additional frontage.

3. Signs bearing the words "sold" or "rented" or similar phrases, together with the name of the person effecting sale or rental. Such signs shall be removed within fourteen (14) days after the sale, rental or lease.

c. Institutional Signs. Signs of schools, colleges, churches, hospitals, sanatoria, or other institutions of a similar public or semi-public nature may be erected and maintained, provided:

1. The size of any such sign is not in excess of 20 square feet; and

2. Not more than one (1) such sign is placed on a property, unless such property fronts upon more than one street, in which event two such signs may be erected, one on each frontage.

d. Signs Accessory to Parking Areas. Signs designating entrances or exits to or from a parking area and limited to one sign for each such exit or entrance and to a maximum size of two (2) square feet each shall be permitted for each direction of traffic flow. One sign per parking area designating the conditions of use and identity of such parking area and limited to a maximum size of nine (9) square feet shall be permitted, provided that on a corner lot two such signs shall be permitted, one facing each street.

e. Development Signs. Signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer, or other persons interested in such sale or development, may be erected and maintained, provided:

1. The size of any sign is not in excess of 12 sq. ft.

2. Not more than two (2) signs are placed upon any property, unless such property fronts upon more than one street, in which event two (2) such signs may be erected on each frontage; and

3. Any such signs except signs identifying the development shall be removed by the developer within fourteen (14) days of the final sale of property.

f. Directional Signs. Signs indicating the location and direction of premises available for or in process of development, but not erected upon such premises, and having inscribed thereon the name of the owner, developer, builder, or agent, may be erected and maintained, provided:

1. The size of any such sign is not in excess of six (6) square feet, and not in excess of four (4) feet in length; and

2. Not more than one such sign is erected on each five hundred (500) feet of street frontage.

g. Artisans' Signs. Signs of mechanics, painters, and other artisans may be erected and maintained during the period such persons are performing work on the premises on which such signs are erected, provided:

1. The size thereof is not in excess of twelve (12) square feet; and

2. Such signs are removed promptly upon completion of the work.

h. Private Driveways. Signs indicating the private nature of a driveway, or trespassing sign, provided that the size of any such sign shall not exceed two (2) square feet.

i. Height and Projection of Signs. No sign on a residential property shall project into the public way or project higher than one story or twenty (20) feet, whichever is lower.

5.962 Business Signs on Commercial and Manufacturing Properties. Business signs shall be permitted as follows:

a. Size of Signs. (Detached) No detached sign shall have a gross surface of more than 100 sq. ft.

b. Size of Signs. (Attached) No attached sign shall have a gross surface area in excess of 20 percent of the building side on which it is attached.

c. Location of Signs. All signs shall be securely attached to a building, except as otherwise provided herein. Free-standing signs shall be permitted only if no such sign shall be nearer to any property line than the height of such sign, but in no case less than twenty (20) feet.

d. Stationary Illuminated Signs. Stationary illuminated signs are permitted only on Route 690

e. Flashing Signs. Illuminated, flashing signs are permitted only as a Special Exception on Route 690 and shall be subject to the following conditions:

1) Such signs shall not create a traffic hazard.

2) Such signs shall not be portable signs; they may be attached to a building wall or permanently installed as a free-standing sign;

3) Such signs shall not abut or face any residential property, nor shall they be located nearer than 250 feet to the nearest point of a residential property or a school (public or private).

4) If located less than 500 feet from a residential property, they shall not operate between the hours of 10:00 P.M. and 6:00 A.M.

5) Such signs shall be shielded, as needed, to prevent the glare of the illumination from interfering with occupants' enjoyment of their nearby residences.

6) Such signs shall not be located nearer than 250 feet from the nearest point of a signalized intersection.

7) The message shall not change at intervals of less than 5 seconds.

8) The time interval used to change from one complete message/display to the next complete message/display shall be a maximum of one (1) second.

9) There shall be no appearance of a visual dissolve or fading, in which any part of one electronic message/display appears simultaneously with any part of a second electronic message/display.

10) Any illumination intensity or contrast of light level shall remain constant.

11) Such signs shall be registered with the Amber Alert System.

f. Portable Signs. Portable signs other than temporary artisans' signs are prohibited; provided, however, that portable signs shall be permitted only on a temporary basis, for a period of not more than one (1) month; provided, further, that, upon written application such temporary permit for a portable sign may be extended by the Zoning Officer, for cause, for a period of not more than one (1) additional month.

g. Central Directory Signs. The installation and maintenance of a central directory sign board not more than six (6) feet high and not more than ten (10) feet wide at the intersection of two (2) or more roads advertising one (1) or more businesses and directional arrows thereto. An individual sign on this board advertising a single business shall not exceed a surface area of ten (10) square feet and shall be uniform with other signs on the sign board. Evidence of the ownership and proposed maintenance of such directory shall be submitted with permit application.

h. Banners Banners are allowed only on pylons and on the face of the buildings to which they are accessory; provided, however, that public

service banners may be extended into/over a public right-of-way. No permit for a banner shall be for a period of more than thirty (30) days; provided, however, that, upon application therefore such permit may be extended for not more than one (1) additional 30-day period

i. The owner, occupant, or lessee of a business or profession located in Madison Township without direct access to Route 690 may erect two (2) signs in the Township directing the public to such business or profession. One (1) sign shall not have a surface area of more than ten (10) square feet, and the second sign shall not have a surface area of more than four (4) square feet. Such signs shall include only the name of the business or profession and directions thereto. This section shall not apply to home occupations which shall be limited to the sign permitted in Section 5.462. (See also Section 5.963.).

5.963 Outdoor Advertising. Outdoor advertisements (billboards) are only permitted as Special Exceptions and only on Route 690 and Interstate 84.

a. No outdoor advertisement shall be permitted within three hundred (300) feet of any residential property, nor facing any public or parochial school, library, church, hospital or similar institutional use, if closer than two hundred (200) feet.

b. No two outdoor advertisements shall be located closer to one another than two-thousand (2000) feet. Double outdoor advertising signs shall be treated as a single sign regarding this restriction governing the minimum distance between signs.

c. Outdoor advertisements shall conform to all required yard spaces.

d. No billboard shall exceed three hundred (300) square feet in surface area; and no advertising face shall exceed fifteen (15) feet in vertical measurement or thirty (30) feet in horizontal measurement.

e. No outdoor advertising sign shall be nearer to any property line than the height of such sign, but in no case less than 25 feet.

f. Such signs shall not be illuminated in a manner which will create a traffic hazard nor shall it abut or face a residential property or a residential zone lot.

g. No billboard shall exceed a height of thirty (30) feet as measured from the elevation of the public road immediately adjacent to the billboard to the highest part of the billboard.

h. All billboards shall maintain a side yard setback of not less than twenty-five (25) feet; and shall be located not less than twenty-five (25) feet, nor

more than seventy-five (75) feet, from the adjoining public road right-of-way line.

i. No billboard shall be attached to or erected on any other structure.

5.964 General Regulations. The following regulations shall apply to all permitted signs:

a. Maintenance. Signs shall be constructed of durable materials, maintained in good condition and not allowed to become dilapidated.

b. Wall Signs. Display signs placed against the exterior walls of buildings or structures shall not extend more than 15 inches out from the wall surface. Wall signs exceeding forty (40) square feet in area shall be of non-combustible material.

c. Projecting Signs. Attached signs shall not project from any building more than three (3) feet in the direction of a public street or public walk-way area nor shall any such sign extend over a public street or walk-way area. A clear space of not less than ten (10) feet shall be provided below all parts of projecting signs. Projecting signs exceeding forty (40) square feet in area shall be made of non-combustible material.

d. Height of Signs. No sign except a free-standing sign shall be higher than the building on which such sign is located nor shall any sign be located upon the roof of any building; provided, however, that a business sign may be affixed to a parapet. No free-standing sign shall extend more than thirty (30) feet above the mean ground level where it is located.

e. Permits (Building) for Signs. Building permits shall be required for all signs except temporary political signs, signs provided for in Subsection 5.971 and other accessory residential signs. For signs in the interest of the public information and convenience, the Zoning Officer, upon approval by the Zoning Hearing Board, may issue a temporary permit for a period to be designated by the said Board. Such temporary signs shall be removed by the property owner at the termination of any permit for the erection thereof.

f. Fees. Fees for all signs requiring permits shall be in accordance with Section 9.600 hereof; provided, however, that no fee shall be charged for the erection of a sign necessary to the public welfare. Fees for all other signs shall be in accordance with Section 9.600 hereof.

g. Traffic Signs. Signs to provide for the normal and safe flow of traffic into and out of the place of business, such as entrance, exit and parking signs. Such signs shall not be of a size greater than necessary for reading by persons of normal visual acuity.

5.970 Temporary Uses

5.971 Temporary Tract Office, Tract Sign, Model Home. Such temporary use shall be located on the property to which it is appurtenant and it shall be limited to a six (6) month period at the expiration of which time the applicant may request a further extension of time. Otherwise such temporary use shall be removed at the expense of the owner.

5.972 Other Temporary Uses

a. Types of Other Temporary Uses. Temporary uses, other than "sidewalk sales" and those specified in Section 5.971 hereof, shall be permitted only as Special Exceptions and may include such uses as a circus, carnival, bazaar, concert, and other special exhibits, as well as the removal of culm banks and other waste deposits.

b. Time Limitation on Permits. Except for tract offices, tract signs, and model homes, no temporary permits shall be issued for a period of more than thirty (30) consecutive days. For events of one (1) to two (2) day duration the permit shall be limited accordingly. Such limitation shall not, however, preclude the applicant from securing temporary permit renewals not to exceed a period of thirty (30) days covered by any such temporary permit. Application shall be filed with the Board of Supervisors not less than one (1) month prior to the regular meeting of the Board of Supervisors at which approval shall be considered.

c. Condition of Site of Temporary Event. Upon the termination of the temporary event, the applicant shall restore the site to its original condition with 24 hours of termination.

d. Other Conditions

(1) The applicant shall provide the Board of Supervisors with evidence of adequate liability insurance in an amount to be determined by the Township on a case-by-case basis, as well as evidence of adequate resources to assure the safety of the participants and the surrounding area.

(2) Provide bathroom facilities

(3) Provide a site plan showing location of structure(s), parking layout, and ingress and egress.

(4) Provide one (1) or more container(s) adequate for trash removal

e. Any use which involves a structure such as a temporary tent shall conform to all other Township codes and ordinances such as applicable BOCA codes.

f. Temporary uses which involve a structure on a fixed site shall provide evidence of a Highway Occupancy Permit for any site located on a State Highway.

g. Additional Requirements. The Board of Supervisors may establish additional requirements related to the terms and conditions, and the duration of each such temporary use on a case-by-case basis as needed to protect the public health, safety and welfare.

5.980 Miscellaneous Uses

5.981 Helicopter Landing Pads. Except where they are explicitly allowed as principal uses, they shall only be allowed as accessory uses for hospitals, either on the site of the hospital or on an open space recreation area of not less than two (2) acres.

5.982 Forestry By-Products. The owner/operator of a commercial forestry use may be permitted to provide by-products (such as maple syrup, fruits, etc.) for sale on the premises of the forestry use; provided, however, that such sales shall be not less than 1000 feet from any developed residential parcel; and, vehicular access to such a sales area or structure shall be only from a State road.

5.983 Motorized Racing Track. Such a use shall be located only on a State road on a site of not less than ten (10) acres, and shall provide adequate off-street parking. As a special exception use, an applicant for such a use will be required to demonstrate the adequacy of proposed parking. In addition, the actual track to be used for racing shall be not less than 2,000 feet distance from the nearest residence and the nearest residential area. Applications for such uses shall also demonstrate that they shall conform with all required performance standards set forth in Article 6 hereof. The Zoning Hearing Board shall consider the noise factor and require noise deadening devices, or other means, to prevent the noise from becoming objectionable to surrounding areas. No racing shall be allowed between the hours of 10:00 P.M. and 8:00 A.M.

ARTICLE 6

PERFORMANCE STANDARDS

6.100 GENERAL APPLICATION

All existing and proposed permitted uses, special exceptions, and conditional uses and uses accessory thereto, are subject to the following performance standards and procedures.

6.200 PERFORMANCE STANDARDS PROCEDURES

6.210 Prior to Construction and Operation

a. Any application for a building permit for a use, which shall be subject to performance standards, shall be accompanied by a sworn statement by the owner of subject property that said use will be operated in accordance with the performance standards set forth herein. Any applicant for a manufacturing use must present evidence to the Township Engineer that the construction/operation of the manufacturing use will not produce a net increase in environmental pollution as compared with environmental conditions that exist at the time the construction of the facility commences.

b. Such application shall further be accompanied by a report prepared by a licensed professional engineer describing the methods or procedures to be undertaken to assure compliance with the Performance Standards specified herein; provided, however, that the Zoning Officer will consider requests for a waiver of this requirement for uses which are not considered likely to violate any of the standards set forth herein; such waiver may only be granted, however, upon the written concurrence of the Township Engineer.

c. Other Regulations. Documentation shall be provided by the applicant demonstrating that the project complies with all other applicable local, State and Federal regulations, and said proposal has obtained all required permits, certifications and authorizations, including but not limited to the PA Department of Transportation, the PA Department of Environmental Protection, the PA Department of Labor and Industry, the Federal Emergency Management Agency and the U.S. Environmental Protection Agency.

6.220 Continued Compliance

Continued compliance with performance standards is required and enforcement of continued compliance with these performance standards shall be the responsibility of the Zoning Officer.

6.230 Determination of Violation

The Zoning Officer shall investigate any purported violation of performance standards and, if there is reasonable ground for the same, shall initiate the procedures set forth in Section 9.500 hereof.

6.300 REGULATION OF NUISANCE ELEMENTS

6.310 Definition of Elements

No land or building shall be used or operated in such a manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; electrical or other disturbance; glare; or other nuisance, condition or element in such amount as to adversely affect the surrounding area or premises (referred to herein as "Dangerous or objectionable elements"); provided that any use permitted by this Ordinance may be undertaken and maintained if it conforms to the regulations of this Article limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.

6.320 Locations Where Determinations Are to be Made for Enforcement of Performance Standards

The determination of the existence of any dangerous and objectionable elements shall be made at:

a. The point or points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbances, for smoke and other forms of air pollution.

b. The property lines of the use creating such elements for noise, for vibration, for glare and for odors.

6.400 STANDARDS TO BE ENFORCED

6.410 Fire and Explosion Hazards

a. In all activities involving, and all storage of, inflammable and explosive materials, the owner or operator of such use shall provide adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard in this industry. Burning of waste materials in open fires is prohibited. The relevant provisions of State and local laws and regulations shall also apply.

b. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above the ground except in structures according to Commonwealth and Federal Specifications.

c. All outdoor storage facilities for fuel shall be enclosed by an approved safety fence to prevent access thereto by unauthorized individuals.

d. All materials or wastes which might cause fumes, constitute a fire hazard, or attract rodents or insects may only be stored if enclosed in buildings or containers which are adequate to eliminate such hazards.

e. No materials, fuels, wastes, or flammable substances may be deposited or stored on a lot in such a manner as to allow them to be transferred off the lot by natural causes or forces. No substances, including but not limited to gasoline, oil, waste oil, and chemicals which can contaminate a stream or water course or render such stream or water source unusable or undesirable as a source of water supply, or recreation or which will destroy or damage aquatic life shall be stored in such a location so that it could be introduced into the said stream or water course by natural causes or forces, or by rupture of storage containers or accidental discharge.

6.420 Radioactivity or Electrical Disturbance

No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.

6.430 Noise Control

a. No person shall operate or cause to be operated on private or public property any source of continuous sound (any sound which is steady, fluctuating or intermittent with a recurrence greater than one time in any fifteen (15) second interval) in such a manner as to create a sound level which exceeds the limits set forth for the receiving land use category in the following table when measured at or beyond the property boundary of the receiving land use.

Continuous Sound Levels by Receiving Land Use

Receiving Land Use Category		Time	Sound Level Limit
Residential, Public Space, Open Space, Agricultural or Institutional	1	7:00 a.m.-7:00 p.m.	60 dBA
	2	7:00 p.m.-7:00 a.m. Plus Sundays and Legal Holidays	50 dBA

Commercial or Business	1	7:00 a.m.-7:00 p.m.	65 dBA
	2	7:00 p.m.-7:00 a.m. Plus Sundays and Legal Holidays	60 dBA
Industrial	At all times		70 dBA

b. For any source of sound which emits a purer tone, the maximum sound level limits set forth in the above table shall be reduced by 5 dBA. For any source of sound which emits an impulsive sound (a sound of short duration, with an abrupt onset and rapid decay and an occurrence of not more than one time in any fifteen (15) second interval) the excursions of sound pressure level shall not exceed 20 dBA over the ambient sound pressure level, regardless of time of day or night or receiving land use, using the "fast" meter characteristic of a Type II meter, meeting the ANSI specifications S1.4-1971.

c. The maximum permissible sound levels by the receiving land use category as listed in the previous table shall not apply to any of the following noise sources:

1) The emission of sound for the purpose of alerting persons to the existence of an emergency.

2) Emergency work to provide electricity, water, or other public utilities when public health or safety is involved.

3) Domestic power tools, between the hours of 8:00 a.m. and 9:00 p.m.

4) Explosives and construction operations.

5) Agriculture.

6) Motor vehicle operations.

7) Public celebrations, specifically authorized by the Township.

8) Surface carriers engaged in commerce by railroad.

9) The unamplified human voice.

6.440 Vibration Control

Operating or permitting the operations of any device that creates vibration that is above the vibration perception threshold of an individual at or beyond the property boundary of the source if on private property or at fifty feet (50') from the source is on a public space or public right-of-way shall be prohibited. For the purposes of this section, "vibration perception threshold" means the minimum ground-or-structure-borne vibration motion necessary to cause a normal person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects.

6.450 Glare

No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or otherwise, so as to be visible at the points of measurement specified in Subsection 6.320. This restriction shall not apply to signs otherwise permitted by the provisions of this Ordinance. In no event shall a lighting intensity greater than one twenty-five hundredths (.25) footcandle (2.7 lux), measured at grade, be permitted beyond property lines.

6.460 Smoke, Dust, Fumes, Vapor, and Gas Control

The emission of dust, dirt, fly ash, fumes, vapors, or gases which cause any damage to human health, to animals or to vegetation or other forms of property, or which can cause soiling or staining of persons or property at any point beyond the lot line of the use creating such emission is hereby prohibited.

No industrial activity shall be reactivated, established, modified, constructed, or operated without having obtained valid permits and/or certificates from the Pennsylvania Department of Environmental Protection or its successor agency for airborne emissions. Such proof of compliance shall consist of duplicate copies of such permits and/or certificates for the current time period. In addition to the requirements of the Department of Environmental Protection or its successor agency, the following requirements shall apply:

a. Particulate Matter. No use shall exceed the national ambient air quality standards established in the federal Clean Air Act or the requirements of Titles 25 and 35 of the Pennsylvania Code as they are amended and adopted for particulate matter.

b. Smoke or Steam. No use may emit from a vent, stack, chimney, or combustion process any smoke that exceeds a density or equivalent capacity of Ringelmann No. 1, except that an emission that does not exceed a density of equivalent capacity of Ringelmann No. 2 is permissible for a duration of not more than four minutes during any eight-hour period if the source of such emission is not located within 250 feet of

a residential area. All measurements shall be taken at the point of emission of the smoke. [For the purpose of determining the density of equivalent opacity of smoke, the Ringelmann Chart, as adopted and published by the United States Department of Interior, Bureau of Mines Information Circular 8333, May 1967, shall be used. The Ringelmann number referred to in this section refers to the number of the area of the Ringelmann Chart that coincides most nearly with the visual density of equivalent opacity of the emission of smoke observed. For example, a reading of Ringelmann No. 1 indicates a 20 percent density of the smoke observed.]

c. Toxic Matter and Hazardous Material. Emissions of chemicals, gases, components, or elements, listed as being toxic matter or hazardous material by the American Conference of Governmental Industrial Hygienists, the Pennsylvania Department of Environmental Protection or the U.S. Environmental Protection Agency, or their successor agencies, shall not exceed any stated Threshold Limit Value in any nonresidential area. No emission of toxic matter shall exceed fifty percent (50%) of the Threshold Limit Value in any adjacent residential area.

d. Odors. No emission shall be permitted of malodorous gases or other malodorous matter in such quantities as to be readily detectable at the property line of the property from which they are emitted without instruments

6.470 Heat

No activity or use shall produce heat perceptible beyond its property lines and no use shall be permitted that would cause the ambient water temperature, as defined by the Pennsylvania Department of Environmental Protection, or its successor agency, to rise or fall more than five (5) degrees Fahrenheit (2.8 degrees Celsius) during the ten (10) year, seven (7) day low flow in any natural pond, stream, river, or other watercourse.

6.480 Waste Materials

a. Liquid and Solid Wastes No operation shall discharge wastes of any kind into a surface water or a groundwater source. All methods of waste disposal shall be approved by the Pennsylvania Department of Environmental Protection. Such evidence of approval shall be provided to the Township. The owner of any parcel governed by this ordinance may be required at the discretion of the Township to monitor the ground water and surface water in the vicinity of his premises. Water testing shall be conducted at an interval deemed appropriate by the governing body on any stream located on the premises or any stream within five hundred (500) feet of any area used for storage of liquid or solid wastes. In addition, the well located on the premises shall also be sampled at an interval to be deemed appropriate by the governing body. The sample shall be collected and analyzed by a certified water analysis laboratory for hydrocarbons or other parameters deemed appropriate by the governing body and results shall be provided to the Township. If samples exceed the limits established by the Pennsylvania Department of

Environmental Protection, remedial action shall be taken in accordance with this Ordinance.

No liquid, solid, toxic, radioactive or hazardous waste shall be stored or disposed of in any commercial area, either above or below ground level, except for the temporary storage thereof pending removal from the premises. Such temporary storage and handling of waste shall be in a designated area and shall be conducted in compliance with all applicable State and Federal regulations in order to prevent any water, soil or air contamination and shall be screened from view of adjoining properties and any public road right-of-way by fencing or other buffers. In addition, no waste discharge is permitted into any reservoir, storm water disposal system, stream, open body of water or onto the ground. All waste materials shall be disposed of only in accord with all applicable State and Federal regulations, and applications for any use which results in waste materials regulated by the State or Federal government shall include a list of all such wastes and the method of temporary storage, handling and disposal.

b. Sewage Disposal

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

6.490 Stormwater Management and Soil Erosion

A storm water management plan and soil erosion control plan may be required by the Township for review and approval. Said plan shall be prepared and implemented pursuant to the applicable standards contained in the Township Subdivision and Land Development Ordinance; and the County Conservation District standards. For proposals located in the Lackawanna River Watershed, the storm water plan shall comply with the Township Storm Water Management Ordinance adopted to implement the Lackawanna River Watershed Storm Water Management Plan. For proposals located in the Wallenpaupack Creek Watershed, the storm water plan shall comply with the Township Storm Water Control Ordinance adopted to implement the Wallenpaupack Creek Watershed Storm Water Management Plan.

The protection of the quality of ground water and surface water shall be an integral part of all proposed storm water management practices; and all storm water management plans shall include an element specifically addressing water quality. The plan shall provide for the minimization of the discharge of “first flush” sediments off the project site or directly to infiltration structures. Containment of “first flush” sediments shall be

accomplished by accepted and proven engineering design and practice, including but not limited to the use of grass buffer/filter strips, grass swales, detention basins, sediment traps, and special inlet devices.

ARTICLE 7

FLOOD PLAIN MANAGEMENT REGULATIONS

7.100 GENERAL PROVISIONS

7.110 Intent

7.111 Promote the general health, welfare, and safety of the community.

7.112 Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.

7.113 Minimize danger to public health by protecting water supply and natural drainage.

7.114 Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.

7.115 Comply with federal and state floodplain management requirements.

7.120 Applicability

7.121 It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township of Madison unless a Building Permit has been obtained from the Zoning Officer.

7.122 A Building Permit shall not be required for minor repairs to existing buildings or structures.

7.130 Abrogation and Greater Restrictions

This Article 7 supersedes any other conflicting provisions that may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Article 7, the more restrictive shall apply.

7.140 Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of this Article 7 is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Article 7 does not imply that areas outside any

identified floodplain areas or that land uses permitted within such areas will be free from flooding or flood damages.

This Article 7 shall not create liability on the part of the Township of Madison or any officer or employee thereof for any flood damages that result from reliance on this Article 7 or any administrative decision lawfully made there under.

7.200 ADMINISTRATION

7.210 Building Permits Required

Building Permits shall be required before any construction or development is undertaken within any area of the Township of Madison.

7.220 Issuance of Building Permit

7.221 The Zoning Officer shall issue a Building Permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.

7.222 Prior to the issuance of any building permit, the Zoning Officer shall review the application for the permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.

7.223 In the case of existing structures, prior to the issuance of any Building permit, the Zoning Officer shall review the history of repairs to the subject building, so that any repetitive loss issues can be addressed before the permit is issued.

7.224 No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities that may be affected by such action, have been notified by the Township of Madison and until all required permits or approvals have been first obtained from the Department of Environmental Protection Regional Office. In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development shall be notified by the Township of Madison prior to any alteration or relocation of any watercourse.

7.230 Application Procedures and Requirements

7.231 Application for such a building permit shall be made, in writing, to the Zoning Officer on forms supplied by Township of Madison. Such application shall contain the following:

1. Name and address of applicant.

2. Name and address of owner of land on which proposed construction is to occur.
3. Name and address of contractor.

4. Site location including address.

5. Listing of other permits required.

6. Brief description of proposed work and estimated cost, including a breakout of the flood-related cost and the market value of the building before the flood damage occurred.

7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.

7.232 If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Building Permits shall provide all the necessary information in sufficient detail and clarity to enable the Zoning Officer to determine that:

(a) all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;

(b) all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and

(c) adequate drainage is provided so as to reduce exposure to flood hazards.

7.233 Applicants shall file the following minimum information plus any other pertinent information (e.g., any or all of the technical information contained in Section 7.400) as may be required by the Zoning Officer to make the above determination:

1. A completed Building Permit Application Form.

2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:

a. north arrow, scale, and date;
b. topographic contour lines, if available;
c. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
d. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
e. the location of all existing streets, drives, and other accessways; and
f. the location of any existing bodies of water or watercourses, identified floodplain, areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.

3. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:

   a. the proposed lowest floor elevation of any proposed building based upon the North American Geodetic Vertical Datum of 1988;

   b. the elevation of the one hundred (100) year flood;

   c. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood; and

   d. detailed information concerning any proposed flood proofing measures.

   e. supplemental information as may be necessary under 34 PA Code, Chapter 401-405 as amended, and Sec.1612.5.1, Section 104.7 and 109.3 of the 2003 IBC and Section R106.1.3 and R104.7 of the 2003 IRC.

4. The following data and documentation:

   a. a document, certified by a registered professional engineer or architect, that states that the proposed construction or development has been adequately designed to withstand the one hundred (100) year flood elevations, pressures, velocities, impact and uplift forces associated with the one hundred (100) year flood. Such statement shall include a description of the type and extent of flood proofing measures that have been incorporated into the design of the structure and/or the development.

b. detailed information needed to determine compliance with Section 7.426, Storage, and Section 7.430, Development That May Endanger Human Life, including:

I) the amount, location and purpose of any dangerous materials or substances that are intended to be used, produced, stored or otherwise maintained on site.

ii) a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 7.430 during a one hundred (100) year flood.

c. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."

d. where any excavation of grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

7.240 Review by County Conservation District

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval shall be submitted by the Zoning Officer to the County Conservation District for review and comment prior to the issuance of a building permit. The recommendations of the Conservation District shall be considered by the Zoning Officer for possible incorporation into the proposed plan.

7.250 Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Zoning Officer to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

7.260 Changes

After the issuance of a building permit by the Zoning Officer, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Zoning Officer. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Zoning Officer for consideration.

7.270 Placards

In addition to the building permit, the Zoning Officer shall issue a placard that shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance and be signed by the Zoning Officer.

7.280 Start of Construction

Work on the proposed construction and/or development shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Zoning Officer. Construction and/or development shall be considered to have started with the preparation of land, land clearing, grading, filling, excavation of basement, footings, piers, or foundations, erection of temporary forms, the installation of piling under proposed subsurface footings, or the installation of sewer, gas and water pipes, or electrical or other service lines from the street.

Time extensions shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Zoning Officer to approve such a request.

7.290 Inspection and Revocation

7.291 During the construction period, the Zoning Officer or other authorized official shall inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.

7.292 In the discharge of his duties, the Zoning Officer shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this Article 7.

7.293 In the event the Zoning Officer discovers that the work does not comply with the permit application or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Zoning Officer shall revoke the building permit and report such fact to the Board of Supervisors for whatever action it considers necessary.

7.294 A record of all such inspections and violations of this Article 7 shall be maintained.

7.295 The requirements of the 34 PA Code Chapter 401-405 and the IBC (Sections 109.3.3, 1612.5.1, 104.7 and 103.8) and the 2003 IRC (R106.1.3, 109.1.3 and R104.7) or latest revisions thereof pertaining to elevation certificates and record retention shall be considered.

7.2100 Fees

Applications for a building permit shall be accompanied by a fee, as established by resolution of the Board of Supervisors.

7.2110 Enforcement

Enforcement of the provisions of this Article 7 shall be done so in accordance with the provisions of Section 9.500 of this Ordinance.

7.2120 Appeals

All appeals from the decision of the Zoning Officer shall be done so in accordance with the provisions of Section 9.150 of this Ordinance.

7.300 IDENTIFICATION OF FLOODPLAIN AREAS

7.310 Identification

The identified floodplain area shall be any areas of the Township of Madison, subject to the one hundred (100) year flood, that is identified as Zone A (Area of Special Flood Hazard) on the Flood Insurance Rate Map (FIRM) dated June 1, 1986, or the most recent revision thereof as issued by the Federal Emergency Management Agency (FEMA).

7.320 Determination of Floodplain Areas

For the purposes of this Article 7, the one hundred (100) year flood elevation shall be used as the basis for regulation. When available, information from other Federal, State, and other acceptable sources shall be used to determine the one hundred (100) year elevation, as well as a floodway area, if possible. When no other information is available, the one hundred (100) year elevation shall be determined by using a point on the boundary of the identified floodplain area that is nearest the construction site in question.

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical

methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the municipality.

7.330 Changes in Identification of Area

The identified floodplain area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.

7.340 Boundary Disputes

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Madison Township Planning Commission and any party aggrieved by this decision may appeal to the Board of Supervisors. The burden of proof shall be on the appellant.

7.400 GENERAL TECHNICAL REQUIREMENTS

7.410 General

7.411 In the identified floodplain area, the development and/or use of any land shall be permitted provided that the development and/or use complies with the restrictions and requirements of this and all other applicable codes and ordinances in force in the municipality.

7.412 Within any floodway area, no new construction or development shall be permitted that would cause any increase in the one hundred (100) year flood elevation.

7.413 Within any identified floodplain area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.

7.414 Within any identified floodplain area, any new construction or substantial improvement of a residential structure shall have the lowest floor (including basement) elevated up to, or above the regulatory flood elevation. The design and construction standards and specifications contained in the 2003 IBC (Sec. 1612.4,1603.1.6 and 3403.1) and in the 2003 IRC (Sec. R323.1.4, R323.2.1, and R323.2.2) and ASCE 24 (Sec. 2.4 and 2.5, Chap. 5) and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

7.415 Within any identified floodplain area, any new construction or substantial improvement of a non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the

regulatory flood elevation, or be designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that height.

Any non-residential structure, or part thereof, having a lowest floor (including basement) that is not elevated to at least one and one half (1 1/2) feet above the one hundred (100) year flood elevation, shall be flood proofed in a completely or essentially dry manner in accordance with the Wl or W2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972, as amended March 1992) or with some other equivalent standard. All plans and specifications for such flood proofing shall be accompanied by a statement certified by a registered professional engineer or architect that states that the proposed design and methods of construction are in conformance with the above referenced standards.

The design and construction standards and specifications contained in the IBC (Sec. 1603.1.2, 1603.1.6, 1605.2.2, 1606.5, 1612.5.1 and 3403.1. and ASCE 24 (Secs. 2.4 and Chap. 7) and 34 PA Code (Chapters 401-405 as amended) shall be utilized.

7.416 Fully enclosed space below the lowest floor (including basement) is prohibited.

7.417 Partially enclosed space below the lowest floor (including basement) that will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space", also includes crawl spaces.

Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

1. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.

2. the bottom of all openings shall be no higher than one (1) foot above grade.

3. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

7.418 Consideration may be given to the requirements of 34 PA Code (Chapters 401-405 as amended) and the 2003 IRC (Secs.R323.2.2 and

R323.1.4) and the 2003 IBC (Secs. 1612.4, 1612.5, 1202.3.2 and 1203.3.3.

7.419 *Accessory Structures*

Structures accessory to a principal building need not be elevated or flood proofed to remain dry, but shall comply, at a minimum, with the following requirements:

1. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.

2. floor area shall not exceed six hundred (600) square feet.

3. the structure will have a low damage potential.

4. the structure will be located on the site so as to cause the least obstruction to the flow of floodwaters.

5. power lines, wiring, and outlets will be at least one and one-half (1 1/2) feet above the 100 year flood elevation.

6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.

7. sanitary facilities are prohibited.

8. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of floodwaters for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:

    a. minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.

    b. the bottom of all openings shall be no higher than one (1) foot above grade.

    c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

7.420 Design and Construction Standards

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

7.421 *Fill*

If fill is used, it shall:

1. extend laterally at least fifteen (15) feet beyond the building line from all points;

2. consist of soil or small rock materials only - Sanitary Landfills shall not be permitted;

3. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;

4. be no steeper than one (1) vertical to two (2) horizontal, feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Zoning Officer; and,

5. be used to the extent to which it does not adversely affect adjacent properties.

7.422 *Drainage Facilities*

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

7.423 *Water and Sanitary Sewer Facilities and Systems*

1. All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.

2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.

3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

4. The design and construction provisions of the UCC and 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Appendix G. Secs. 401.3 and 401.4), the 2003 IRC (Sec. 323.1.6), the ASCE 24-98 (Sec. 8.3), FEMA #348, Protecting Building Utilities from Flood Damages and the International Private Sewage Disposal Code (Chapter 3) shall be utilized.

7.424 *Other Utilities*

All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

7.425 *Streets*

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

7.426 *Storage*

All materials that are buoyant, flammable, explosive, or in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 7.430, Development That May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or flood proofed to the maximum extent possible.

7.427 *Placement of Buildings and Structures*

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

7.428 *Anchoring*

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.

2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

3. The design and construction requirements of the UCC pertaining to this subsection as referred to in 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Secs. 1605.2.2, 1605.3.1.2, 1612.4 and Appendix G501.3), the IRC (Secs. R301.1 & R323.1.1) and ASCE 24-98 (Sec. 5.6) shall be utilized.

7.429 *Floors, Walls and Ceilings*

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.

2. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.

3. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.

4. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.

5. The provisions of the UCC pertaining to this subsection and referenced in the 34 PA Code (Chapters 401-405 as amended) and contained in the 2003 IBC (Secs. 801.1.3, 1403.2, 1403.4, 1403.6 and 1404.2), the 2003 IRC (Secs. R323.1.7 & R501.3) and ASCE 24-98 (Chapter 6).

7.4210 *Paints and Adhesives*

1. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.

2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.

3. All wooden components (doors, trim, cabinets, etc.) shall be finished with a "marine" or "water-resistant" paint or other finishing material.

4. The standards and specifications contained in 34 PA Code (Chapters 401-405, as amended) the 2003 IBC (Secs. 801.1.3, 1403.7 and Appendix G) and the 2003 IRC (Secs. R323.1.7.

7.4211 *Electrical Components*

1. Electrical distribution panels shall be at least three (3) feet above the one hundred (100) year flood elevation.

2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

3. The provisions pertaining to the above provisions and referenced in the UCC and 34 PA Code (Chapters 401-405) as amended and contained IRC (Sec. R323.1.5), the 2000 IFGC (Secs. R301.5 and R1601.3.8) and ASCE 24 (Chapter 8) shall be utilized.

7.4212 *Equipment*

Water heaters, furnaces, air conditioning and ventilating units, and other mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

The provisions pertaining to the above provision and referenced in the UCC and 34 PA Code (Chapters 401-405), as amended and contained in the 2003 IBC (Sec. 1612.4), the 2003 IRC (Secs. R323.1.5) the 2000 IFGC (Secs. R301.5 and R1601.3.8) and ASCE 24 (Chapter 8) shall be utilized.

7.4213 *Fuel Supply Systems*

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

7.4214 *Uniform Construction Code Coordination*

The Standards and Specifications contained 34 PA Code (Chapters 401-405), as amended and not limited to the following provisions shall apply to the above and other sections and sub-sections of this Article 7, to the extent that they are more restrictive and/or supplement the requirements of this Article 7.

International Building Code (IBC) 2003 or the latest edition thereof:
Secs. 801, 1202, 1403, 1603, 1605, 1612, 3402, and Appendix G.

International Residential Building Code (IRC) 2003 or the latest edition thereof:
Secs. R104, R105, R109, R323, Appendix AE101, Appendix E and Appendix J.

7.430 Development That May Endanger Human Life

In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community and Economic Development as required by the Act, any new or substantially improved structure that:

-will be used for the production or storage of any of the following dangerous materials or substances; or,

-will be used for any activity requiring the maintenance of a supply of more than five hundred fifty (550) gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,

-will involve the production, storage, or use of any amount of radioactive substances;

shall be prohibited within any identified floodplain area. The following list of materials and substances are considered dangerous to human life:

1. Acetone
2. Ammonia
3. Benzene
4. Calcium carbide
5. Carbon disulfide
6. Celluloid
7. Chlorine
8. Hydrochloric acid
9. Hydrocyanic acid
10. Magnesium
11. Nitric acid and oxides of nitrogen
12. Petroleum products (gasoline, fuel oil, etc.)
13. Phosphorus
14. Potassium
15. Sodium
16. Sulphur and sulphur products
17. Pesticides (including insecticides, fungicides, and rodenticides)
18. Radioactive substances, insofar as such substances are not otherwise regulated.

7.440 Special Requirements for Manufactured Homes

Where permitted within any identified floodplain area, all manufactured homes, and any improvements thereto, shall be:

7.441 placed on a permanent foundation.

7.442 elevated so that the lowest floor of the manufactured home is one and one half feet (1½') or more above the elevation of the one hundred (100) year flood.

7.443 anchored to resist flotation, collapse, or lateral movement.

7.444 Installation of manufactured homes shall be done in accordance with the manufacturers' installation instructions as provided by the

manufacturer. Where the applicant cannot provide the above information, the requirements of Appendix E of the 2003 International Residential Building Code or the U.S. Department of Housing and Urban Development's Permanent Foundations for Manufactured Housing, 1984 Edition, draft or latest revision thereto shall apply and 34 PA Code Chapter 401-405.

7.445 Consideration shall be given to the installation requirements of the 2003 IBC (Appendix G, Sec. 501.1-3) and the 2003 IRC (Sec. R323.2, R323.3, R102.7.1, R105.3.1.1 and Appendix AE101, 604 and 605) or the most recent revisions thereto and 34 PA Code Chapter 401-405, as amended where appropriate and/or applicable to units where the manufacturers' standards for anchoring cannot be provided or were not established for the units proposed installation.

7.500 ACTIVITIES PROHIBITED

7.510 General

In accordance with the administrative regulations promulgated by the Department of Community and Economic Development to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area:

7.511 The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:

1. hospitals
2. nursing homes
3. jails or prisons

7.512 The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

7.600 EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

7.610 Existing Structures

The provisions of this Article 7 do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 7.620 shall apply.

7.620 Improvements

The following provisions shall apply whenever any improvement is made to all existing structure located within any identified floodplain area:

7.621 No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one hundred (100) year flood.

7.622 Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty percent (50%) or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Article 7.

The above activity shall also address the requirements of the 34 PA Code Chapters 401-405, as amended and the 2003 IBC (Sec. 3402.1 and 1612.4) and the 2003 IRC (Secs.R105.3.1.1 and 323.1.4).

7.623 Any modification, alteration, reconstruction, or improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or flood proofed to the greatest extent possible.

7.624 Any modification, alteration, reconstruction, or improvement of any kind that meets the definition of "repetitive loss" shall be undertaken only in full compliance with the provisions of this Article 7.

7.625 The requirements of 34 PA Code Chapter 401-405, as amended and the 2003 IRC (Secs. R102.7.1, R105.3.1, R105.3.1.1 and Appendices E and J) or the latest revision thereof and the 2003 IBC (Secs. 101.3, 3403.1 and Appendix G) or the latest revision thereof shall also be utilized in conjunction with the provisions of this section.

7.700 VARIANCES

7.710 General

If compliance with any of the requirements of this Article 7 would result in an exceptional hardship to a prospective builder, developer or landowner, the Township Zoning Hearing Board may, upon request, grant relief from the strict application of the requirements.

7.720 Variance Procedures and Conditions

Requests for variances shall be considered by the Zoning Hearing Board in accordance with the procedures contained in Section 8.210 and the following:

7.721 No variance shall be granted to allow any use specifically prohibited by Section 7.430 Development That May Endanger Human Life or by Article 5 Activities Prohibited.

7.722 No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the one hundred (100) year flood elevation.

7.723 If granted, a variance shall involve only the least modification necessary to provide relief.

7.724 In granting any variance, the Zoning Hearing Board shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety, and welfare, and to achieve the objectives of this Article 7.

7.725 Whenever a variance is granted, the Zoning Hearing Board shall notify the applicant in writing that:

1. The granting of the variance may result in increased premium rates for flood insurance.
2. Such variances may increase the risks to life and property.

7.726 In reviewing any request for a variance, the Zoning Hearing Board shall consider, at a minimum, the following:

1. That there is good and sufficient cause.

2. That failure to grant the variance would result in exceptional hardship to the applicant.

3. That the granting of the variance will (I) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense, (ii) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.

7.727 A complete record of all variance requests and related actions shall be maintained by the Zoning Hearing Board. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one hundred (100) year flood.

7.800 DEFINITIONS

7.810 General

Unless specifically defined below, words and phrases used in this Article 7 shall be interpreted so as to give this Article 7 its most reasonable application.

7.820 Specific Definitions

1. *Accessory use or structure* - Refer to Article 11..

2. *Basement* - means any area of the building having its floor below ground level on all sides.

3. *Building* - Refer to Article 11.

4. *Completely dry space* - a space that will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

5. *Development* - any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

6. *Essentially dry space* - a space that will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

7. *Flood* - a temporary inundation of normally dry land areas.

8. *Floodplain area* - a relatively flat or low land area that is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

9. *Flood Proofing* - means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

10. *Floodway* - the designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Article 7, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

11. *Historic structure* - any structure that is:

(I) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(ii) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(iii) Individually listed on a state inventory of historic places in states with historic preservation programs that have been approved by the Secretary of Interior; or

(iv) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.

12. *Identified floodplain area* - the floodplain area specifically identified in this Article 7 as being inundated by the one hundred (100) year flood.

13. *Land development* - Any of the following activities:

(1) The improvement of one lot or two or more contiguous lots, tracts, or parcels of land for any purpose involving:

(I) a group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure; or

(ii) the division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.

(2) a subdivision of land.

14. *Lowest floor* - the lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an

area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this Article 7.

15. *Manufactured home* - a structure, transportable in one or more sections, that is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles that are placed on a site for more than 180 consecutive days.

16. *Manufactured home park* - a parcel of land under single ownership, that has been planned and improved for the placement of two or more manufactured homes for non-transient use.

17. *Minor repair* - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exit way requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

18. *New construction* - structures for which the start of construction commenced on or after April 12, 1984, and includes any subsequent improvements thereto.

19. *One hundred year flood* - a flood that, on the average, is likely to occur once every one hundred (100) years (i.e. that has one percent (1%) chance of occurring each year, although the flood may occur in any year).

20. *Person* - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, that is recognized by law as the subject of rights and duties.

21. *Recreational vehicle* - a vehicle that is (I) built on a single chassis; (ii) not more than 400 square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light-duty truck; (iv) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

22. *Regulatory flood elevation* - the one hundred (100) year flood elevation plus a freeboard safety factor of one and one-half feet (1½').

23. *Repetitive loss* – flood related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of each such flood event, on average, equals or exceeds twenty-five percent (25%) of the market value of the structure before the damages occurred.

24. *Structure* -Refer to Article 11.

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

26. *Substantial additions to manufactured home parks* – Any repair, reconstruction, or improvement of an existing manufactured home park or manufactured home subdivision, where such repair, reconstruction, or improvement of the streets, utilities, and pads will equal or exceed fifty percent (50%) of the value of the streets, utilities, and pads before the repair, reconstruction, or improvement is started.

27. *Substantial damage* - damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty percent (50%) or more of the market value of the structure before the damage occurred.

28. *Substantial improvement* - Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage" or “repetitive loss” regardless of the actual repair work performed. The term does not, however include either:

    (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and that are the minimum necessary to assure safe living conditions, or;

    (2) Any alteration of a "historic structure." provided that the alteration will not preclude the structure's continued designation as a "historic structure."

29. *Uniform Construction Code* – The statewide building code adopted by The Pennsylvania General Assembly in 1999, applicable to new construction in all municipalities whether administered by the municipality, a third party,

or the Department of Labor & Industry. Applicable to Residential and Commercial buildings, the Code adopted the International Residential Code (IRC) and International Building Code (IBC) of 2003 by reference as the construction standard applicable with the Commonwealth floodplain construction. For coordination purposes, references to the above are made specifically to various sections of the IRC and the IBC.

ARTICLE 8

ZONING HEARING BOARD

8.100 ORGANIZATION AND PROCEDURE

8.110 Establishment

Pursuant to the provisions of the Pennsylvania Municipality Planning Code, Article 9, a Zoning Hearing Board is hereby established.

8.120 Appointment

8.121 Members of the Board shall be residents of the municipality, appointed by resolution of the Governing Body. The Zoning Hearing Board shall consist of three (3)) members, one of whom shall be designated to serve until the first day of January following the adoption of the Zoning Ordinance, one until the first day of the second January thereafter, and one until the first day of the third January thereafter. Their successors shall be appointed on the expiration of their respective terms to serve three (3) years. Members of the Board shall hold no other public office in the municipality.

8.122 Appointment to Fill Vacancies

The Board shall promptly notify the Governing Body of any vacancies which occur. Appointment to fill vacancies shall be for the unexpired term of the member or members whose term or terms become vacant and such appointments to fill vacancies shall be made in the same manner as the original appointment.

8.123 Removal

Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the Governing Body who appointed the member, taken after the member has 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.

8.124 Organization of Board

a. 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 the 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 as provided in Section 8.140. 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 Governing Body as requested by the Governing Body.

b. 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 declining seniority among all alternates.

8.125 Appointment of Alternate Members

The governing body may appoint up to three (3) alternate members of the Zoning Hearing Board in accordance with the provisions of Section 903(b) of Act 247 as amended.

8.130 Expenditures for Services

Within the limits of funds appropriated by the Governing Body, 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 Governing Body, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the Governing Body.

8.140 Hearings

The Board shall conduct hearings and make decisions in accordance with the following requirements:

8.141 a. Public notice shall be given and written notice shall be given to the applicant, the local planning agency, the Zoning Officer, such other persons as the Governing Body 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 ordinance or, in the absence of ordinance provision, by rules of the Board. In addition to the written notice provided herein, notice of said hearing shall be conspicuously posted on the affected tract of land at least one (1) week prior to the hearing.

b. The governing body 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 first hearing before the board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

8.142 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 Township, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

8.143 The parties to the hearing shall be the Township, any person affected by the 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. 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.

8.144 The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and cross-examine adverse witnesses on all relevant issues. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded.

8.145 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.

8.146 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 unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after commencement of hearings, with any party or his representative unless all parties are given an opportunity to be present.

8.147 The Board or the Hearing Officer, as the case may be, shall render a written decision, or when no decision is called for, make written findings on the application within forty-five 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 therefor. Conclusions based on any provisions of this ordinance, rules, or regulations shall contain a reference to the provisions 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 and the parties shall be entitled to make written representations thereon to the Board prior to the final decision or entry of findings, and the Board's decision shall be entered no later than thirty (30) days after the report of the Hearing Officer. Except for challenges filed under Section 916.1 of the Pa. Municipalities Planning Code (MPC) where the Board fails to render the decision within the period required by this subsection, or fails to commence, conduct, or complete the required hearing in accordance with section 908 (1.2) of the MPC, 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 provided in subsection 8.141 of this section. If the Board fails to provide such notice, the appellant 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.

8.148 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. Delivery of the decision shall be in a manner that provides the Board with evidence of receipt of the decision by the applicant.

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.

8.150 Jurisdiction

The zoning hearing board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

8.151 Substantive challenges to the validity of any land use ordinance, except those brought before the governing body pursuant to sections 609.1 and 916.1(a) (2) of Act 247 as amended.

8.152 Challenges to the validity of a land use ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said ordinance.

8.153 Appeals from the determination of the zoning officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any nonconforming use, structure or lot.

8.154 Appeals from a determination by a municipal engineer or the zoning officer with reference to the administration of any flood plain or flood hazard ordinance or such provisions within a land use ordinance.

8.155 Applications for variances from the terms of the zoning ordinance and flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 8.200 hereof.

8.156 Applications for special exceptions under the zoning ordinance or flood plain or flood hazard ordinance or such provisions within a land use ordinance, pursuant to section 912.1 of Act 247 as amended.

8.157 Appeals from the zoning officer's determination under section 916.2 of Act 247 as amended.

8.158 Appeals from the determination of the zoning officer or municipal engineer in the administration of any land use ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving applications under the municipality's Subdivision and Land Development Ordinance.

8.200 ZONING HEARING BOARD FUNCTIONS

8.210 a. Variances

The board shall hear requests for variances where it is alleged that the provisions of the zoning ordinance inflict unnecessary hardship upon the applicant. The board may by rule prescribe the form of application and may require preliminary application to the zoning officer. The board may grant a variance, provided that all of the following findings are made where relevant in a given case:

(1) 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 the zoning ordinance in the neighborhood or district in which the property is located.

(2) 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 the zoning ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of this property.

(3) That such unnecessary hardship has not been created by the appellant.

(4) That the variance, if authorized, will not alter the essential character of the neighborhood in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.

(5) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

b. In granting any variance, the board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this zoning ordinance and Act 247 as amended.

c. Upon approval of a variance, the Board shall direct the Zoning Officer to issue a permit to the applicant, which permit shall authorize the applicant to proceed with development in accordance with the terms of the approved variance.

d. Variance approvals shall be valid a period of one (1) year from the date of approval. If the proposed development is not completed within one (1) year of approval, the applicant shall submit a new application for a variance and shall require approval thereof.

8.220 Special Exceptions

8.221 Board Action. Special Exceptions, as enumerated in Article 3, shall be permitted only upon authorization by the Zoning Hearing Board. The Board may refer such applications to the Planning Commission for their review and recommendations.

The Board shall hear and decide requests for special exceptions in accordance with the standards and criteria set forth herein. In granting a special exception, the board may attach such reasonable conditions and safeguards, in addition to those expressed in this ordinance, as it may deem necessary to implement the purposes of this zoning ordinance and Act 247 as amended.

8.222 Review Criteria. Approval of special exceptions shall be authorized only if they are found to comply with the following requirements and other applicable requirements as set forth in this Ordinance.

a. That the use is a permitted Special Exception as set forth in Article 3 hereof.

b. That the use is so designed, located and proposed to be operated that the public health, safety, welfare and convenience will be protected.

c. That the use will not cause substantial injury to the value of other property in the neighborhood where it is to be located.

d. That the use shall be compatible with adjoining development and the character of the neighborhood where it is proposed to be located.

e. That adequate landscaping and screening is provided as required in Section 4.700 and as otherwise provided herein.

f. That adequate off-street parking and loading is provided and ingress and egress is so designed as to cause minimum interference with traffic on abutting streets.

g. That the use conforms to all applicable regulations governing the use, as specified herein.

h. That such use shall not result in unsafe traffic conditions, traffic congestion or other dangerous traffic conditions.

i. That such use shall be located on a site where the soils are suitable to safely support any structure to be erected; and, where soils are not deemed suitable, a plan shall be submitted, describing proposed methods to compensate for such unsafe soils conditions.

8.223 Special Exceptions: Affect of Filing an Application. When an application for a special exception has been filed with the Zoning Hearing Board, and the subject matter of such application would ultimately constitute either a "land development" as defined in Section 107 or a "subdivision" as defined in Section 107 of the PA Municipalities Planning Code, Act 247, as amended, no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing

ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by the Zoning Hearing Board, the applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six (6) months or longer or as may be approved by the Zoning Hearing Board following the date of such approval in accordance with the provisions of the governing ordinance or plans as they stood at the time the application was duly filed before the Zoning Hearing Board. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of Section 508 (1) through (4) of the PA Municipalities Planning Code, Act 247, as amended, and specifically to the time limitations of Section 508 (4) which shall commence as of the date of filing such land development or subdivision plan.

8.300 PARTIES APPELLANT BEFORE THE BOARD

Parties appellant before the Board shall be as set forth in section 913.3 of Act 247 as amended.

8.400 TIME LIMITATIONS

8.410 Filing Proceedings with the Board

No person shall be allowed to file any proceeding with the board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body 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, 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 on a tentative plan pursuant to section 709 of Act 247 as amended or from an adverse decision by a zoning officer on a challenge to the validity of this ordinance pursuant to section 916.2 of Act 247 as amended shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

8.420 Appeals From Adverse Determinations

All appeals from determinations adverse to the landowner shall be filed by the landowner within 30 days after notice of the determination is issued.

8.500 ZONING CHALLENGES

8.510 Procedure for Landowner Curative Amendments

The procedure to be followed for landowner curative amendments shall be as set forth in Section 609.l of Act 247 as amended.

8.520 Procedure for Curative Amendment by the Township

If the Township determines that this ordinance or portions thereof are substantially invalid, it shall take action in accordance with the procedures set forth in Section 609.2 of Act 247 as amended.

.530 Mediation

The Township may offer a mediation option as an aid in resolving conflicts which may arise under this Ordinance. In exercising such an option, the Municipality and mediating parties shall meet the stipulations and follow the procedures set forth in Section 908.1 of Act 247 as amended.

8.600 STAY OF PROCEEDINGS

8.610 Upon filing of any proceeding referred to in Section 913.3 of Act 247 as amended and during its pendency before the Board, all land development pursuant to any challenged ordinance, order or approval of the zoning officer or of 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 proceeding before the Board.

8.620 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.

8.630 The questions 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.

8.640 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.

8.700 GENERAL GRANT OF POWER

The Zoning Hearing Board shall perform all the duties and have all the powers prescribed by the Pennsylvania Municipalities Planning Code and as herein more particularly provided.

8.800 ZONING APPEALS TO COURTS

The procedure for appeals for any decision made under Act 247 as amended shall be pursuant to Article 10-A of said Act.

ARTICLE 9

ADMINISTRATION AND ENFORCEMENT

9.100 ZONING OFFICER

9.110 Creation of Office

The Office of Zoning Officer is hereby established.

9.120 Appointment

The Zoning Officer shall be appointed by and compensated by the Governing Body.

9.130 Holding Other Public Office

The Zoning Officer shall not hold any elective office in the Municipality.

9.140 Powers and Duties

The Zoning Officer shall administer the Zoning Ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to this Ordinance. He is authorized to institute civil enforcement proceedings as a means of enforcing the regulations of this Ordinance for which he has designated responsibilities. He shall examine all applications for permits, issue permits for the construction, alteration, enlargement and occupancy of all uses which are in accordance with the requirements of this Ordinance and all nonconforming uses, record and file all applications for permits with accompanying plans and documents, and make such reports to the Planning Commission and the Zoning Hearing Board as may be required.

Zoning permits for a variance from the requirements of this Ordinance and for such special exceptions as may be enumerated in Article 3, hereof shall be issued only upon written order of the Zoning Hearing Board.

Zoning permits for a Conditional Uses as may be enumerated in Article 3, hereof shall be issued only upon written order of the Governing Body.

9.150 Appeals

All appeals from decisions of the Zoning Officer shall be taken in the manner set forth in this Ordinance and as otherwise prescribed by the Pennsylvania Municipalities Planning Code.

9.160 Qualifications of the Zoning Officer

The zoning officer shall be able to demonstrate to the satisfaction of the local governing body a working knowledge of municipal zoning.

9.170 Reserved

9.180 Issuance of Preliminary Opinion

In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposes to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under section 914.1 of Act 247 as amended by the following procedure:

9.181 The landowner may submit plans and other materials describing his proposed use or development to the zoning officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.

9.182 If the zoning officer's preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the Municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under section 914.1 of Act 247 as amended and the time therein specified for commencing a proceeding with the board shall run from the time when the second notice thereof has been published.

9.200 ZONING PERMITS

9.210 Purpose

To determine compliance with the provisions of this Ordinance. No person shall erect, alter or convert any structure or building, or part thereof, nor alter the use of any land, subsequent to the adoption of this Ordinance, until a Zoning Permit has been issued by the Zoning Officer.

9.220 Application for Permits

All such applications shall be accompanied by plans, in duplicate, drawn to scale, showing the actual shape and dimensions of the lot or lots to be built upon, its assessment map and parcel number as recorded, the date of official record of any lot or lots on which construction is proposed, the exact size and location of any building, sign, parking or loading area or other physical feature existing or proposed on the lot, the existing and intended use of each building or part of a building, the number of families, dwelling units, employees, offices or other appropriate units of occupancy which the building is designed to accommodate, and such other information as may be necessary to determine compliance with this Ordinance. One copy of such plans shall be returned to the owner when such plans shall be approved; one copy each of all applications with accompanying plans and documents shall become a public record after a permit is issued or denied.

9.230 Issuance of Permits

It shall be the duty of the Zoning Officer to issue a Zoning Permit, provided he is satisfied that the structure, building, sign, parking area of premises, and the proposed use thereof, conform with all requirements of this Ordinance and that all other reviews and actions, if any, called for in this Ordinance have been complied with and all necessary approvals secured thereof.

All Zoning Permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises effected, and protected from the weather, whenever construction work is being performed thereon. No owner, contractor, workman or other person shall perform any building operations regulated by this Ordinance of any kind unless a Zoning Permit covering such operation has been displayed as required by this Ordinance, nor shall they perform such building operations after notification of the revocation of said Zoning Permit

All zoning permits for commercial and manufacturing uses shall stipulate that such permit does not authorize any development activities unless there is evidence of the approval of the proposed construction plans by the PA Department of Labor and Industry.

9.240 Denial of Permits

When the Zoning Officer is not satisfied that the applicant's proposed development will meet the requirements of this Ordinance, he shall refuse to issue a Zoning Permit and the applicant may appeal to the Zoning Hearing Board for a reversal of the Zoning Officer's decision.

9.250 Revocation of Permits

a. If it shall appear at any time, to the Zoning Officer that the application or accompanying plans are in any material respect false or misleading or that work is being done upon the premises differing materially from that called for in the applications filed with him under existing laws or ordinances, he may forthwith revoke the Zoning Permit, whereupon it shall be the duty of

the person holding the same to surrender it and all copies thereof to the said Zoning Officer. After the Zoning Permit has been revoked, the Zoning Officer may, in his discretion, before issuing a new Zoning Permit, require the applicant to file an indemnity bond in favor of the Municipality with sufficient surety conditioned for compliance with this Ordinance and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.

b. Any development authorized by a zoning permit shall be completed within a period of one (1) year of the date of such permit. If such development is not completed within one (1) year, the zoning permit shall be automatically revoked, unless the applicant requests an extension not less than 30 days prior to the expiration of the permit. Each request for an extension shall be required to pay a fee in accordance with the Township's fee schedule. No such extension shall be for a period of more than one (1) year, and an applicant may request a total of two (2) extensions. Any future development of the subject project beyond the final extension period shall require a new application and a new permit.

9.300 OCCUPANCY PERMITS

9.310 For New Uses

After completion of the whole building or structure, and upon the sworn application by the owner or his duly authorized agent, setting forth such facts as the Zoning Officer may require, and after actual inspection of the premises by the Zoning Officer or his duly authorized assistant, he shall upon finding the facts to be as represented, issue in duplicate an Occupancy Permit, certifying that the premises comply with the provisions of the Ordinance and may be used for the purposes set forth in the permit, which purposes shall conform with the requirements of this Ordinance. No change of use shall be made in any building, structure, or premises, or premises now or hereafter erected or altered that is not consistent with the requirements of this Ordinance. Any person desiring to change the use of his premises shall apply to the Zoning Officer for an Occupancy Permit, setting forth under oath such facts as may be required.

A copy of the Occupancy Permit shall be kept at all times upon the premises effected, and shall be displayed upon request made by an authorized official. A record shall be kept of all Occupancy Permits issued and the original applications therefore shall be kept on file in the same manner as applications for Zoning Permits. No owner, tenant, or other person shall use or occupy any building or structure thereafter erected or altered, the use of which shall be changed after the passage of this Ordinance without first procuring an Occupancy Permit; provided that an Occupancy Permit once granted shall continue in effect so long as there is no change of use, regardless of change in the personnel of tenants or occupants.

9.320 For Existing Uses

Upon written request from the owner, tenant or occupant, the Zoning Officer, after inspection, shall issue an Occupancy Permit for an existing use legally existing at the time this Ordinance is made effective, certifying the extent and kind of use and whether any such existing use conforms with the provisions of this Ordinance.

9.400 PLANNING COMMISSION

9.410 Review Application and Appeals

The Zoning Hearing Board may refer to the Planning Commission all applications for Special Exceptions, and any other applications or appeals which in their opinion require review by the Planning Commission.

9.420 Criteria for Review

The Planning Commission shall review such applications in accordance with applicable criteria set forth in Section 8.222 and any special requirements for the intended use.

9.430 Report to the Zoning Hearing Board

The Planning Commission may recommend approval, disapproval, or approval subject to conditions or modifications, and shall report its findings to the Zoning Hearing Board within forty five (45) days of receipt thereof; such report shall state all recommended conditions and modifications and the reasons for such approval or disapproval.

9.440 Report to Governing Body

Following the enactment of this Ordinance the Planning Commission shall, from time to time prepare and file with the Governing Body, but in no case at less than two (2) year intervals a report on the operation of this Ordinance including recommendations on the enactment of amendments, supplements or changes thereto. The Planning Commission shall also review and report on all proposed conditional uses referred to it by the Governing Body.

9.500 VIOLATIONS

9.510 Complaints of Violations

Whenever a violation of this Ordinance occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the Zoning Officer, who shall properly record such complaint and immediately investigate and report thereon.

9.520 Enforcement Procedures

9.521 Enforcement Notice

a. If it appears to the Municipality that a violation of this zoning ordinance has occurred, the Municipality shall initiate enforcement proceedings by sending an enforcement notice as provided in this section.

b. The enforcement notice shall be sent to the owner of record of the parcel on which the violation has occurred, to any person who has filed a written request to receive enforcement notices regarding that parcel, and to any other person requested in writing by the owner of record.

c. An enforcement notice shall be mailed to the alleged violator by certified mail and shall state at least the following:

(1) The name of the owner of record and any other person against whom the Municipality intends to take action.

(2) The location of the property in violation.

(3) The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of the Ordinance.

(4) The date before which the steps for compliance must be commenced and the date before which the steps must be completed.

(5) That the recipient of the notice has the right to appeal to the zoning hearing board within the prescribed period of time and in accordance with procedures set forth in Section 9.523 hereof.

(6) The failure to comply with the notice within thirty (30) days of the date of said notice, unless extended by appeal to the zoning hearing board, constitutes a violation, with possible sanctions clearly described.

9.522 Causes of Action. In case any building, structure, landscaping, or land is or is proposed to be, erected, constructed reconstructed, altered, converted, maintained or used in violation of this ordinance, the Zoning Officer, 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 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.

9.523 Appeals. Any recipient of a notice of enforcement shall have the right to appeal to the zoning hearing board to remove such notice. Such appeals, however, must be filed with the zoning hearing board not more than five (5) days following the receipt of such an enforcement notice.

9.530 Enforcement Remedies

a. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this zoning ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the municipality, pay a judgment of not more than $500.00 plus all court costs, including reasonable attorney fees incurred by the municipality 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 municipality 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 magisterial district justice determines 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 magisterial 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 zoning ordinances shall be paid over to the Municipality.

b. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

c. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

9.600 FEES

Fees shall be in accordance with the Township's Fee Schedule, adopted separately.

ARTICLE 10

AMENDMENTS

10.100 PROCEDURE

The procedures set forth in Section 609 of Act 247 as amended shall be followed in the preparation of zoning ordinance amendments.

10.110 Enactment

Before voting on the enactment of an amendment, the governing body shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality along the perimeter of the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.

10.120 Referral to Township Planning Commission

In the case of an amendment other than that prepared by the planning agency, the governing body shall submit each such amendment to the planning agency at least thirty (30) days prior to the hearing on such proposed amendment to provide the planning agency an opportunity to submit recommendations.

10.130 Re-hearings

If, after any public hearing held upon an amendment, the proposed amendment is changed substantially, or is revised, to include land previously not affected by it, the governing body shall hold another public hearing, pursuant to public notice, before proceeding to vote on the amendment.

10.140 Referral to County Planning Commission

At least thirty (30) days prior to the public hearing on the amendment by the local governing body, the Municipality shall submit the proposed amendment to the Lackawanna County Regional Planning Commission for its recommendations. Within 30 days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the LCRPC.

10.150 Applicability of Ordinance Amendments

When an application for either a special exception or a conditional use has been filed with either the Zoning Hearing Board or Governing Body, as relevant, and the subject matter of such application would ultimately constitute either a land

development as defined in Section 107 of the MPC or a subdivision as defined in Section 107 of the MPC, no change or amendment of the zoning, subdivision or other governing ordinance or plans shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed. Provided, further, should such an application be approved by either the Zoning Hearing Board or Governing Body, as relevant, the applicant shall be entitled to proceed with the submission of either land development or subdivision plans within a period of six months or longer or as may be approved by either the Zoning Hearing Board or the Governing Body following the date of such approval in accordance with the provisions of the governing ordinances or plans as they stood at the time the application was duly filed before either the Zoning Hearing Board or Governing Body, as relevant. If either a land development or subdivision plan is so filed within said period, such plan shall be subject to the provisions of Section 508(1) through (4) of the MPC, and specifically to the time limitations of Section 508(4) of the MPC which shall commence as of the date of filing such land development or subdivision plan.

10.200 PROCEDURE FOR CURATIVE AMENDMENTS

The procedure for landowner curative amendments shall be as set forth in Section 609.1 of Act 247 as amended.

10.300 PROCEDURE FOR MUNICIPAL CURATIVE AMENDMENTS

The procedure for municipal curative amendments shall be as set forth in Section 609.2 of Act 247 as amended.

10.400 PUBLICATION, ADVERTISEMENT AND AVAILABILITY OF ORDINANCES

10.410 Publication. Publication shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed ordinance or amendments may be examined without charge or obtained for a charge not greater than the cost thereof. The governing body shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the municipality not more than 60 days nor less than 7 days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

(1) A copy thereof shall be supplied to a newspaper of general circulation in the municipality at the time the public notice is published.

(2) 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 ordinances.

10.411 Re-hearings

In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the governing body shall at least ten days prior to enactment re-advertise, in one newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

10.412 Recording

Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

ARTICLE 11

DEFINITIONS

11.100 Unless the context otherwise requires, the following definitions shall be used in the interpretation and construction of this Ordinance. Words used in the present tense include the future; the singular number shall include the plural, and the plural the singular; the word 'building' shall include the word 'structure'; the word 'used' shall include arranged, designed, constructed, altered, converted, rented, leased, or intended to be used; the word 'shall' is mandatory and not optional; the word 'abut' shall include the words 'directly across from'.

Abandoned or Junked Vehicle

Any vehicle not stored in a fully enclosed building which is not in good operating or road worthy condition

Accessory Use or Structure

A use, building or other structure subordinate and incidental to and detached from the principal use of the property and located on the same lot or a lot adjacent to the principal structure, and under the same ownership. An accessory structure may include, but shall not be limited to a garage, a storage shed, a swimming pool, or a fence. No accessory use or structure shall be established on a single zone lot without the presence of the principal use to be established on the said lot.

Adult Day Care Center

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

Agent of Owner

Any person who can show written proof that he has authority to act for the property owner.

Agriculture

a. Prime Agricultural Land

Land used for agricultural purposes that contains soils of the first, second or third class as defined by the United States Department of Agriculture Natural Resource and Conservation Services County Soil Survey.

b. Agricultural Operations

An enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development with the agricultural industry.

c. Forestry

The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes, which does not involve any land development.

Alteration (Of Building or Structure)

Any change in the structural members of a building, such as walls, columns, beams or girders.

Assisted Care Dwelling Unit for Relative

A living area attached to the principal dwelling unit or separate mobile home especially erected for and limited to the temporary occupancy by a person who is "related" (see definition) to the permanent residents of the principal dwelling unit on the parcel. Such use shall be restricted to a relative who needs such accommodations because of old age or illness.

Assisted Living Facility

A building, establishment, complex or distinct part thereof which: a) accepts primarily aged persons (62 years of age or older) for domiciliary care; and b) provides on site to its residents, room, board, non-medical living assistance services appropriate to the residents' respective needs and contract medical services as prescribed by each resident's treating physician.

Automobile or Trailer Sales Area

An open area, other than a street, used for the display, sale or rental of new or used motor vehicles or trailers in operable condition.

Automobile Service Station or Filling Station

A building or place of business where gasoline, oil and greases, batteries, tires and automobile accessories are supplied and dispensed directly to the motor vehicles trade at retail, and where repair services may be rendered.

Automobile Wrecking

The dismantling or disassembling of used motor vehicles or trailers; or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked vehicles or their parts.

Basement

Any area of the building having its floor subgrade (below ground level) on all sides.

Bed and Breakfast Facility

Such uses shall be located in a single-family dwelling; they shall provide sleeping, eating, and bathing facilities for overnight guests on a daily or a weekly basis.

Board

The Zoning Hearing Board of the Township of Madison.

Boarding House

a. A residential use in which any or all of the following applies:

   (1) individual room(s) that do not meet the definition of a dwelling unit are rented for habitation by a total of 2 or more persons who are not "related" to the owner of record of the property, or

   (2) a dwelling unit that includes a greater than the permitted maximum number of unrelated persons (see the definition of "family"), or

   (3) if individual units of living space not meeting the definition of a dwelling unit are separately rented to person(s) who are not "related" to the owner of record of the property.

b. A boarding house shall not include the following uses: treatment center, abused person shelter, hotel, dormitory, motel, assisted living center, bed and breakfast use, group home or nursing home. A college fraternity or sorority house used as a residence shall be considered a type of boarding house. A boarding house may either involve or not involve the providing of meals to residents.

c. This use shall only involve renting living accommodations for minimum periods of 5 consecutive days.

Board of Supervisors

The Board of Supervisors of the Township of Madison.

Bottle Club - B.Y.O.B. Clubs.

An establishment operated for profit or pecuniary gain, which admits patrons upon a payment of a fee, has a capacity for the assemblage of twenty or more persons, and in which alcoholic liquors, alcohol or malt or brewed beverages are not legally sold, but where alcoholic liquors, alcohol or malt or brewed beverages are either provided by the operator or agents or employees of the operator for consumption on the premises or are brought into or kept at the establishment by the patrons or persons assembling there for use and consumption.

Building

A structure formed of any combination of materials which is erected on the ground and permanently affixed thereto, and designed, intended or arranged for the housing, shelter, enclosure or structural support of persons, animals, or property of any kind. A multi-family building divided by unpierced masonry walls extending from the ground to the underside of the roof shall not be deemed to be more than one (1) building for the purpose of this Ordinance. Manufactured homes and trailers to be used for human habitation shall also be considered to be buildings.

Building Group

Any building, such as a store group, which is divided into separate parts by one or more unpierced walls extending from the ground up.

Building Height

The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, towers, elevator penthouses, tanks, and similar projections.

Building, Principal

A building in which is conducted the principal use of the building site on which it is situated.

Bulk Fuel Storage

The storage of fuel beyond what is reasonably needed for customary on-site use. This includes the storage of fuel to be sold for off-site use.

Caliper

Diameter of a tree's trunk measured 6 inches above the ground up to and including 4-inch caliper size, and 12 inches above the ground for larger sizes.

Cemetery

Land or buildings used for burial or interment of deceased humans or animals.

Commercial Vehicle

A commercial vehicle shall be any vehicle other than a private passenger vehicle, including but not limited to trucks, trailers, and construction equipment.

Commission

The Township Planning Commission of the Township of Madison.

Conditional Use

A "Conditional Use" is a use which because of its unique characteristics requires individual consideration in each case by the Governing Body. In accordance with the provisions of this ordinance, the Governing Body may require certain conditions and safeguards before such a use is permitted.

Court

A court is any open, unoccupied area which is bounded by three or more attached building walls.

Crematorium

A furnace or establishment for the incineration of human or animal corpses. This definition shall include any such device or operation that is accessory to another use. (e.g. the incineration of animals as part of a veterinary clinic.)

Day Care Facilities

a. Child Day Care Center. A premises in which child day care is provided simultaneously for seven (7) or more children who are not relatives of the provider of the child day care center, where such facility is subject to PA Department of PA Department of Public Welfare supervision or licensing under the PA Public Welfare Code.

b. Family Day Care Home. A premise in which child day care is provided at any one time to between four (4) to six (6) children who are not relatives of the provider of the child day care, where such facility is required to be registered with the PA Department of Public Welfare under the PA Public Welfare Code.

c. Group Day Care Home. A State licensed facility in which care is provided for more than 6 but less than 12 children, at any one time, if care is provided in a facility where the child care areas are being used as a family residence.

Deck

An extension of a principal dwelling structure utilized for accessory outdoor activities relating to the use of the dwelling; provided, however that a deck is more than six (6) inches above the mean ground elevation around the exterior of the dwelling structure where the deck adjoins the structure.

Dormitory

Residential facilities that are only inhabited by teaching faculty and/or full-time students of an accredited college, university or medical training facility or State-licensed teaching hospital, or approved "Care and Treatment Center for Children" (as an accessory use to such use) or to an accredited public or private primary or secondary school, and which are owned and operated by such principal use to which the dormitory serves. Dwelling units shall not be regulated as "dormitories."

Drug Rehabilitation Facilities

Facilities for the rehabilitation of persons addicted to illegal controlled substances, including the overnight stay of patients for periods of two (2) or more days.

Drug Treatment Centers

Facilities for the treatment of persons who are addicted to the use of illegal controlled substances, such as a methadone clinic, where such treatment is designed to cure persons of such addictions.

Dwelling

A building designed and occupied for residential purposes, excluding hotels, rooming houses, tourist homes, group homes, residential clubs, mobile home parks, and the like..

a. Dwelling, Single-Family, Detached

A detached building designated for or occupied exclusively by one family and containing not more than one dwelling unit.

b. Dwelling, Two-Family

A detached or semi-detached building where not more than two individual family or dwelling units are entirely separated by vertical walls or horizontal floors, unpierced except for access to the outside or to a common cellar.

c. Dwelling, Town House

A town house shall include a group of not more than eight (8) single-family attached dwellings separated from each other by common walls, where each unit contains a separate and private entrance to the outside.

d. Dwelling, Garden Apartments

A group of rental units, generally under single ownership (but a condominium is not precluded) where there shall not be more than eight (8) dwelling units contained within each structure; such structures containing garden apartment units are generally less than four (4) stories in height although in the Municipality they shall not exceed a height of 2.5 stories or thirty-five feet.

e. Dwelling Group

A group of two (2) or more residential buildings on a single zone lot.

f. Dwelling, Multi-Family

A building designed for, occupied or used for dwelling purposes by three (3) or more families living independently of one another, including, but not limited to garden apartments and town houses.

Dwelling Structure

Any structure which shall contain one (1) or more dwelling units, not including a hotel, hospital, nursing home, dormitory, fraternity or sorority house, rooming house or boarding house.

Dwelling Unit

A single habitable living unit occupied by only one "family." See definition of "family." Each dwelling unit shall have: a) its own toilet, bath or shower, sink, sleeping and cooking facilities and b) separate access to the outside or to a common hallway or balcony that connects to outside access at ground level. No dwelling unit shall include a separate living area that is completely separated by interior walls so as to prevent interior access from the remainder of the living area. No dwelling unit may include more than 1 kitchen, except:

a. Cooking facilities may be located in two abutting rooms that open into each other,

b. If a kitchen was installed prior to the adoption of this Ordinance under a valid Township permit, or

c. For Care of Relative.

Earth-Extraction Industry

An earth-extraction industry is a business activity which includes the excavation and removal of natural resources from the earth. Earth-extraction industries include, but are not limited to mining and quarrying.

Earth-Moving Industry

An earth-moving industry is a business activity which results in temporarily or permanently changing the contour of the earth. Earth-moving industries include, but are not limited to earth extraction industries and sanitary landfills.

Essential Services

a. Essential Services, Enclosed or Permanent Structures

Such uses are intended to include facilities for sewage treatment, electric substations, transformers, switches, and auxiliary apparatus, as well as local governmental services such as police stations, fire houses and similar uses. Where such uses are proposed to be located in a Residential area, they shall be subject to the following regulations:

1. Such facility shall not be located on a residential street (unless no other site is available), and shall be so located as to draw a minimum of vehicular traffic to and through such streets.

2. The location, design and operation of such facility shall not adversely affect the character of the surrounding residential area.

3. Adequate fences, barriers and other safety devices shall be provided, and shall be landscaped in accordance with the provisions of Section 4.730 hereof.

4. Noise emitted from electric substations shall not be greater than permitted in accordance with the performance standards set forth herein.

b. Essential Services, Open

Such uses shall be limited to the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health or safety or general welfare. Such uses shall not include sanitary landfills and related uses such as staging areas or other means of solid waste disposal. Where applicable, the landscaping regulations of Section 4.730 hereof shall apply.

Family

Any number of individuals living together as a single housekeeping unit and doing their cooking on the premises, as distinguished from a group occupying a boarding or rooming house or hotel.

Notwithstanding the definition in the preceding paragraph, a family shall also be deemed to include not more than 7 unrelated persons occupying a dwelling units and living as a single, nonprofit housekeeping unit, if said occupants are handicapped persons as defined herein. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first paragraph of this definition.

A family does not include a group living in a boarding house or hotel, or fraternities, sororities, and clubs, or other forms of congregate living arrangements, except as otherwise provided herein.

Fire Escape

A set of stairs, constructed of durable, non-flammable metal, which is constructed on the exterior of a multi-story residential or commercial building in order to provide a secondary means of egress in the event of a fire or other emergency.

Flag Lot

A lot that has the buildable or net portion of its area located directly to the rear of another lot that has direct access to a street right-of-way line. Flag lots must directly abut a public street right-of-way by a minimum 20-foot wide strip that is to be considered part of the gross lot area but not part of the net area.

Flea Market

An occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods, new and used, for sale to the public, not to include private garage sales.

Floor Area

For the purposes of applying the requirements for off-street parking and loading, "floor area", in the case of offices, merchandising, or service type of uses, shall mean the gross floor area used or intended to be used by tenants, or for service to the public as customers, patrons, clients, or patients, including areas occupied by fixtures and equipment used for display or sales or merchandise. It shall not include areas used principally for non-public purposes such as storage, incidental repair, processing or packaging of merchandise, for shop windows, for offices incident to the management or maintenance of stores or buildings, for toilet or rest rooms, for utilities or for dressing rooms, fitting or alteration rooms.

Forestry

The management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting and selling trees for commercial purposes which does not involve any land development.

Fraternity or Sorority House

A type of boarding house used and occupied by a formal, legally incorporated cooperative organization (with each full member having a vote in the operations of the organization) of full-time college or university students. Such use may contain residential, social and eating facilities for members and their occasional guests.

Front

The front of a property shall be that part of the property that adjoins a vehicular right-of-way.

Garage, Private Parking

A detached accessory building or a portion of a principal building used only for the storage of automobiles by the families resident upon the premises.

Garage, Public Parking

A structure or portion thereof, other than a private garage, used for the storage, sale, hire, care, repair or refinishing of automobiles not including a structure or part thereof used only for storage or display of automobiles for other than transients.

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

Governing Body

The Board of Supervisors of the Township of Madison.

Group Home for the Handicapped

A dwelling unit shared by not less than four (4) nor more than seven (7) handicapped persons, including resident staff, who live together as a single housekeeping unit and in long-term, family-like environment in which staff persons residing on the premises

provide care, education, and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. The term "group home for the handicapped" shall not include alcoholism or drug treatment center, work release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration.

Halfway House

A licensed house for inmates on release from more restrictive custodial confinement or initially placed in lieu of such more restrictive custodial confinement, wherein supervision, rehabilitation, and counseling are provided to mainstream residents back into society, enabling them to live independently.

Handicapped Person

As used herein, regarding "group home for the handicapped", the term "handicapped" shall mean having: 1) a physical or mental impairment that substantially limits one or more of such person's major life activities so that such person is incapable of living independently; 2) a record of having such an impairment; or 3) being regarded as having such an impairment. However, "handicapped" shall not include current illegal use of or addiction to a controlled substance, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals.

Health Care Facilities

Health Care Facilities consist of several different types of facilities such as hospitals, medical centers, nursing homes, hospice institutions, and other similar uses where people can receive medical treatment and related support services due to their inability to meet their own physical care needs. Rooming and boarding houses, and drug rehabilitation facilities and drug treatment centers other than for the medical treatment of persons requiring medical treatment for traumatic conditions resulting from overdosing on illegal controlled substances are not considered to be health care facilities.

Home Occupation

A home occupation is a commercial or other nonresidential use of a dwelling which is customarily conducted entirely within a dwelling unit or accessory building, which is conducted by the inhabitants residing therein; provided that such use is clearly incidental and secondary to the use of the dwelling for dwelling purposes. The inability of the proposed use to meet the space limitations or other requirements herein established shall conclusively establish that such proposed use was not intended to be a home occupation, as defined herein.

Hotel

A building designed for occupancy as the temporary residence of individuals who are lodged with or without meals and in which no provision is made for cooking in individual rooms or suites.

Hub Height

The distance measured from the surface of the tower foundation to the height of the wind turbine hub to which the blade is attached.

Impervious Coverage

The coverage of land by buildings and other impervious materials such as asphalt, which prevent the percolation of water into the ground.

Junk

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

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

Junk shall not include:

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

Junk Yard

An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of junk as defined herein, with or without the dismantling, processing, salvage, sale or other use or disposition of the same. Vehicle sales lots managed by licensed vehicle dealers operated in accord with the Township's requirements shall not be considered junk yards. The following shall also be considered to be junk yards:

A. The deposit or storage on a lot of three (3) or more abandoned or junked vehicles; and
B. The outside storage or deposit on a lot of one (1) or more mobile/manufactured homes that are not in habitable condition, excluding those which are being held by a mobile home park operator pending disposition of failure to pay rent.
C. Construction and contractors' equipment for use as parts for equipment and machinery used as part of an active, on-going contracting business legally operating in accord with the Township's requirements, provided that such equipment is stored on the premises of the operation, can be legitimately used for parts and is adequately screened in accordance with the provisions hereof.

Landings, Uncovered

Landings and related stairways that may be erected on the exterior of a building, where such facilities are not required in order to meet fire code standards or other safety standards. Such landings or stairways are not required to be constructed of metal; and they shall not be placed in the front of a building.

Lot or Zone Lot

A designated parcel, tract or area of land, having frontage on a public street, or an approved private drive, regardless of size, established by a plat or other legal means, and intended for transfer of ownership, use, lease, or improvements or for development, regardless of how or if it is conveyed.

a. Lot, Corner

A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street, such streets or parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lot lines is the "corner".

b. Lot, Depth

The mean horizontal distance between the front and the rear lot lines.

c. Lot Lines

The property lines bounding the lot.

1. Lot Line, Front. That boundary of a lot which is along an existing or proposed right-of-way.

2. Lot Line, Rear. That boundary of a lot most distant from and most parallel to the front lot line.

3. Lot Line, Side. .Any boundary of a lot not a front or rear lot line

4. Lot Line, Street or Alley. A lot line separating the lot from a street or alley.

d. Lot Width

The mean width of the lot measured at right angles to its depth. Such a line along which the minimum lot frontage shall be measured at a point which shall coincide with the building set back or front yard line.

e. Lot Area

The area of a lot exclusive of any vehicular or pedestrian rights-of-way that may traverse the subject lot.

Malodor

An odor which causes annoyance or discomfort to the public and which the Township determines to be objectionable to the public.

Medical Centers

Medical Centers, including Mini Medical Centers are establishments, other than hospitals, which provide medical evaluation and treatment services to individuals; such treatment may include day-surgery, out-patient surgery, magnetic resonance imaging centers and similar uses, but, they may not include drug rehabilitation facilities or drug treatment centers other than for the medical treatment of persons requiring medical treatment for traumatic conditions resulting from overdosing on illegal controlled substances. Satellite hospital facilities which do not include facilities for the overnight stay of patients are also included in this use category.

Medical/Dental Office or Clinic

A use involving the treatment and examination of patients by State-licensed physicians, chiropractors or dentists, provided that no patients shall be kept overnight on the premises unless a hospital is also permitted. This use may involve the testing of tissue, blood or other human materials for medical or dental purposes.

Medical Testing Laboratory

A facility that provides testing services in accordance with physician requirements for the evaluation and measurement of various patient medical conditions.

Methadone Treatment Facility

A site, the primary purpose of which is to conduct projects approved by the PA Department of Health which projects use the drug methadone in the treatment, maintenance or detoxification of persons.

Minerals

Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas.

Mixed Use Structure

A structure which contains two or more distinctly separate uses such as a commercial use and a residential use.

Mobile (Manufactured) Home

A transportable, single family dwelling intended for permanent occupancy, office, or place of assembly, contained in one or more sections, built on a permanent chassis, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations, and constructed so that it may be used with or without a permanent foundation. The term Manufactured Home shall not include recreational vehicles or any unit of less than forty (40) feet in length or ten (10) feet in width.

Mobile (Manufactured) Home Park

A parcel of land under single ownership which has been planned and improved for the placement of two (2) or more manufactured homes for non-transient use.

Motels, Motor Courts and Motor Hotels

A series of attached or semi-attached dwelling structures, where each unit has convenient access to parking space for the use of the units' occupants. The units, with the exception of the manager's office or caretaker's unit, are designed to provide sleeping accommodations for automobile transients or overnight guests.

Motorized Race Track

A recreational facility, open to the public subject to admission fees on a site of not less than ten (10) acres that is used for racing automobiles and other motorized vehicles.

Municipality

The Township of Madison.

Net Developable Area/Net Site Area

The remainder of the gross site area after subtracting 100% of the area of all lands within the rights-of-way and 65% of all lands without development capability due to restrictions such as drainage easements, restrictive covenants and conservation easements, and other environmental constraints such as excessive slope, wetlands and floodplains. The area of a tract that is suitable for development, exclusive of rights-of-way, and environmentally constrained areas such as floodplains, wetlands, and steep slopes in excess of 20%.

No-Impact Home Business

"No-impact home-based business," a business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements:

1. The business activity shall be compatible with the residential use of the property and surrounding residential uses.

2. The business shall employ no employees other than family members residing in the dwelling.

3. There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature.

4. There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights.

5. The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.

6. The business activity may not generate any solid waste or sewage.

7. The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.

8. The business may not involve any illegal activity.

Nonconforming Lot

A lot the area or dimension of which was lawful prior to the adoption or amendment of this zoning ordinance, but which fails to conform to the requirements of the requirements established by such adoption or amendment.

Nonconforming Structure

A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions set forth herein or any amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reasons of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

Nursing Home

A facility licensed by the State for the housing and intermediate or fully-skilled nursing care of 3 or more persons needing such care because of old age or a physical illness or disability or a developmental disability, but not including a "Treatment Center."

Open Space

a. Open Space, Common. A parcel or parcels of land or an area of water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of the residential development, not including streets, off-street parking areas, and areas set aside for public facilities. Common open space includes both developed (active) and undeveloped (passive) open space.

b. Open Space, Developed (Active). Land that is set aside for use as active recreational areas, such as playfields, playgrounds, skating rinks, swimming pools, tennis courts, and similar activities.

c. Open Space, Undeveloped (Passive). Land used for passive recreation, agriculture, resource protection, amenity, or buffers and protected from future development by the provisions of this Ordinance to ensure that it remains as open space.

Patio

An extension of a principal dwelling structure utilized for accessory outdoor activities relating to the use of the dwelling; provided, however that a patio shall not be more than six (6) inches above the mean ground elevation around the exterior of the dwelling structure where the patio adjoins the structure.

Parking Area, Private

An open area for the same uses as a private garage, and regulated as a private garage.

Parking Area, Public

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

Planning Commission

The Planning Commission of the Township of Madison.

Portable Swimming Pool

A pool which is not connected to a pool filter and which is capable of being relocated and stored during non-swimming seasons.

Professional Office

The office of a member of a recognized profession. When conducted in a residential, a professional office shall be incidental to the residential occupancy, shall be conducted by a member of the residential family entirely within a residential building, and shall include only the offices of doctors, or physicians, dentists, optometrists, ministers, architects, landscape architects, professional engineers, lawyers, artists, authors and such other similar professional occupations which may be so designated by the Zoning Hearing Board upon finding by the Board that such occupation is truly professional in character by virtue of the need for similar training and experience as a condition for the practice thereof and that the practice of such occupation shall in no way adversely affect the safe and comfortable enjoyment of property rights in any zone to a greater extent than for the professional activities listed herein. The issuance of a State or Local license for regulation of any gainful occupation need not be deemed indicative of professional standing.

Public and Semi-Public Uses

Uses which provide government services as well as private organizations which provide service to the public on a not-for-profit basis.

Recreation

a. Recreation Commercial

   Recreation facilities operated as a business and open to the general public for a fee.

b. Recreation, Private, Non-Commercial

   Clubs or recreation facilities, operated by a non-profit organization and open only to bonafide members of such organization.

c. Recreation, Public

Recreation facilities operated as a non-profit enterprise by the Municipality, and other governmental entity or any non-profit organization and open to the general public.

Related or Relative (as used in Section 5.490 of this Ordinance).

Persons who are related by blood, marriage, or adoption to result in one of the following relationships: parent, grandparent, great-grandparent, child, grandchild, great-grandchild, uncle, aunt, father-in-law, or mother-in-law.

Residential Conservation Development

A residential cluster shall include an area to be developed as a single entity according to a plan containing residential housing units in which the individual lots have a common or public open space as an appurtenance. Such common or public open space shall be assured of continued operation and maintenance either through the dedication of such area to the Municipality and the Municipality's acceptance thereof, or through the creation of a homeowners association, or the developer's acceptance of such responsibility including such legally binding agreements as may be required to achieve such assurances.

Residential Property/Residential Area

A residential property shall be a property on which is located one (1) or more dwelling units.

A residential area is one which, either:

a. Is an approved residential subdivision/land development: or
b. Is an area containing three (3) or more dwelling units within a radius of up to 600 feet from the nearest point of a property proposed to be developed for a nonresidential use.

Sanitary Land Fill

A sanitary land fill is considered to be any facility devoted to the storage and/or disposal of solid wastes pursuant to the regulations of the Pennsylvania Department of Environmental Protection governing sanitary land fills. Sanitary landfills may include Staging Areas as defined herein. Sanitary landfills shall be subject to all regulations contained herein governing earth-moving activities.

Setback Line

A line established by the subdivision regulations and/or zoning ordinance generally parallel with and measured from the lot line, defining the limits of a yard in which no building or structure may be located above ground, except as may be provided in said codes.

Shooting Club/Rifle Range

A property where firearms are used for target shooting when such property is owned by a private club, or by a non profit organization, or by a similar organization. Such property shall occupy an area of not less than 25 acres.

Shooting Range, Personal

The use of a portion of a parcel utilized for the use of firearms for target practice by the owner occupant of the parcel and by his/her guests. Personal shooting ranges shall be allowed only as accessory residential or agricultural uses on parcels of not less than three (3) acres. No guests shall be required to pay any fees for the use of the shooting range.

Shopping Center

A group of retail stores planned and designed to function as a unit, and having off-street parking as an integral component of the unit.

Sign

A "sign" is a name, identification, description, display, or illustration which is affixed to, or painted, or represented directly or indirectly upon a building, structure, or piece of land, vehicle, equipment or other portable gear, and which directs attention to an object, product, place, activity, person, institution, organization or business. However, a "sign" shall not include any display of official court, or public office notices, nor any official traffic control device, nor shall it include the flag, emblem or insignia of a nation, state, county, municipality, school or a religious group. A "sign" shall not include a sign located completely within an enclosed building except for illuminated or animated signs within show windows. Each display surface of a sign shall be considered to be a "sign".

Sign, Business

A "business sign" is a sign which directs attention to a business or profession conducted or to a commodity, service, or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.

Sign, Flashing

A "flashing sign" is any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this Ordinance any revolving, illuminated sign or traveling message panel shall be considered a "flashing sign".

Sign, Gross Surface Area

The "gross surface area" of a sign shall be the entire area within a single continuous perimeter enclosing the extreme limits of such and in no case passing through or

between any adjacent elements of same. However, such perimeter shall not include any structural or framing elements, lying outside the limits of such sign and not forming an integral part of the display. The gross surface area of free standing signs shall include the area of one (1) side of such sign even if display information is included on both sides of the sign.

Sign, Outdoor Advertising

An outdoor sign or billboard which directs attention to a business, profession, commodity or entertainment conducted, sold, or offered elsewhere than upon the same lot. Under the provisions of this ordinance, outdoor advertising shall not be erected on the premises in any of the residential area.

Sign, Outdoor Advertising - Double Sign

A double outdoor advertising sign shall be a sign constructed with separate framing elements which are structurally connected at their sides. No half of such a double sign shall, however, exceed two-thirds of the maximum permitted gross surface area of an individual sign; and the combined gross surface area shall not exceed the maximum permitted for a single sign.

Solid Waste

Any garbage, refuse, industrial, lunchroom or office waste or other material including solid, liquid, semi-solid or contained gaseous materials, resulting from the operation of residential, municipal, commercial or institutional establishments and from community activities. The term shall also include any garbage, refuse, other discarded material or other waste, including solid, liquid, semi-solid or contained gaseous materials resulting from industrial, mining, agricultural operations, local facilities or any other byproduct or effluent from an industrial mining, agricultural or water supply treatment facility, wastewater treatment facility or air pollution control facility.

Solid Waste, Municipal

Any garbage refuse, industrial lunchroom or office waste and other material, including solid, liquid, semisolid or contained gaseous material, resulting from operation of residential, municipal, commercial or institutional establishments and from community activities and any sludge not meeting the definition of residual or hazardous waste in the Solid Waste Management Act from a municipal, commercial or institutional water supply treatment plant, wastewater treatment plant or air pollution control facility. The term does not include source-separated recyclable materials.

Solid Waste Transfer Station

A solid waste transfer station is a facility for the temporary storage of solid waste en route to a solid waste disposal facility. A transfer station is intended to serve as a facility to improve the efficiency of transporting solid waste materials to a disposal facility.

Special Exceptions

A "special exception" is a use which because of its unique characteristics requires individual consideration in each case by the Zoning Hearing Board as specified in Articles 8 and 9, before it may be permitted. In accordance with the provisions of this ordinance, the Zoning Hearing Board may require certain conditions and safeguards before such a use is permitted.

Specimen Tree

Any existing tree with a caliper that is 75 percent or more of the record tree of the same species in the Commonwealth of Pennsylvania.

Staging Area and Transfer Station

a. Staging Area

A staging area is an area designated for motor vehicles or other means of transportation or any other types of refuse container containing solid waste materials which are to be deposited at a sanitary landfill site. Loaded vehicles awaiting their opportunity to deposit such wastes shall wait for their turn in a designated staging area on the sanitary landfill site. All staging areas shall be subject to all regulations contained herein governing sanitary landfills.

b. Transfer Station

A transfer station is a facility for the temporary storage of solid waste en route to a solid waste disposal facility. A transfer station is intended to serve as a facility to improve the efficiency of transporting solid waste materials to a disposal facility.

Story

That portion of a building, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling above it.

a. Story, Half

A partial story under gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four (4) feet above the floor of such story; provided, however, that any partial story shall not be used for residential purposes, other than for a janitor or caretaker or his family.

b. Story, First

The lowest story or the ground story of any building the floor of which is not more than twelve (12) inches below the average contact ground level at the exterior walls of the building.

Street

A public or private thoroughfare not less than thirty (30) feet in width if in existence prior to the passage of this ordinance nor less than fifty (50) feet in width if established subsequent to the passage of this ordinance which affords the principal means of access to abutting property, including avenue, place, way, drive, land boulevard, highway, road and any other thoroughfares except an alley.

a.. Residential Street

A street between two intersecting streets where 50 percent or more of the abutting street frontage is in predominantly residential use.

b. Other Street Classifications

1) Minor Street – A street that provides vehicular access to adjacent properties, and serves or is anticipated to serve less than 1,000 vehicles per day.

2) Collector Street – A street that collects traffic from, and distributes traffic to local streets and higher level streets such as highways and other collector streets. Such streets serve or are anticipated to serve more than 1,000 vehicles per day.

3) Minimum Access Drive – A privately owned and maintained right-of-way or easement providing access to one (1) planned single-family residential lot where such lot is to the rear of another lot and does not have direct frontage on an approved public or private road, nor does it directly abut an approved street in the case of a flag lot as defined herein. Minimum Access Drives shall never be offered or accepted by the municipality for public maintenance.

4) Country Lane – A Country Lane provides access to not more than five (5) single-family residential lots from an approved public street. Country Lanes shall be the responsibility of property owners benefiting from the use thereof and shall not be offered or accepted by the municipality for public maintenance or dedication unless constructed to minimum township standards for minor streets.

Structure

Anything constructed or erected, the use of which requires location on the ground or attachment to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, swimming pools, carports, walls, fences and billboards. Accessory outdoor recreation equipment on Residential Zone Lots shall not be classified as a structure.

Structural Change

Any change in the structural members of a building, such as walls, beams columns or girders.

Telecommunications Facilities, Residential

Antennas for private, noncommercial and amateur purposes, including T.V. satellite dish antennas.

Temporary Uses

Temporary uses shall include those activities which will be undertaken for a period of time specified in the application for a permit for such a use. Said period of time shall be one (1) year or less. If additional time is required a new application shall be submitted. No application for temporary uses shall be for a period of more than one (1) year.

Tract

Land held in single ownership which consists of lands to be subdivided or suitable for a land development. The tract shall consist of not less than the minimum area required for subdivision or development as set forth herein.

Transient Housing Facilities

Transient housing facilities shall include halfway houses, emergency shelters or missions, and other types of housing facilities which are to be occupied on a temporary basis, such as a fixed period of time. Such housing shall be distinguished from housing occupied by a family in that family occupancy equates to an indefinite occupancy period.

Travel Trailer

A vehicle, less than 30 feet in length and used for temporary living or sleeping purposes, and standing on wheels.

Treatment Center

A use (other than a prison or a permitted accessory use in a "hospital") providing housing facilities for persons who need specialized housing, treatment and/or counseling for stays in most cases of less than 1 year and who need such facilities because of:

a. Criminal rehabilitation, such as a criminal half-way house/criminal transitional living facility or a treatment/housing center for persons convicted of driving under the influence of alcohol,

b. Chronic abuse of or addiction to alcohol and/or a controlled substance, or

c. A type of mental illness or other behavior that could cause a person to be a threat to the physical safety of others.

Turbine Height

The distance measured from the surface of the tower foundation to the highest point of the turbine rotor plane

Ultimate Right-of-way

The full width of the road designated by the Governing Body to be the minimum required width of any public right-of-way.

Windmill

A machine that operates on the energy generated by a series of blades or slats rotated by the wind.

Windmill, Accessory

A windmill that serves as an accessory source of energy to a principal use.

Windmill Height

The vertical distance measured from the base of the support structure at grade to the highest point of the structure, including blades. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the height.

Yard

An open space, as may be required by this Ordinance, of uniform width or depth on the same lot with a building or a group of buildings, which open space lies between the principal building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward except as herein permitted.

a. Yard, Front

An open space extending the full width of the lot between the front of the building and the ultimate right-of-way line unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

b. Yard, Rear

An open space extending the full width of the lot, between a building and the rear lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

c. Yard, Side

An open space extending from the front yard to the rear yard between a building and the nearest side lot line, unoccupied and unobstructed from the ground upward except as specified elsewhere in this Ordinance.

Variance

The Zoning Hearing Board may authorize departure to a minor degree from the terms of this Ordinance in direct regard to hardship peculiar to an individual lot in accordance with the procedures set forth in the Ordinance.

Zoning Hearing Board

The Zoning Hearing Board of the Township of Madison.

Zoning Officer

The administrative officer, appointed by the Governing Body who shall administer and enforce the provisions of this Ordinance.

Zoning Map

The Zoning Map or Maps of the Township of Madison, Pennsylvania dated April 6, 2009, together with all amendments subsequently adopted.

ARTICLE 12

INTERPRETATION AND VALIDITY

12.100 INTERPRETATION

In the interpretation and the application of the provisions of this Ordinance, they shall be held to the minimum requirements for the promotion of the health, safety morals, and general welfare. It is not intended to interfere with or abrogate or annul other rules, regulations or ordinances, provided that where this Ordinance imposes greater restrictions upon the use of buildings or premises, or upon the height or bulk of a building, or requires larger open spaces, the provisions of this Ordinance shall control.

12.200 EXEMPTIONS

This Ordinance shall not apply to any existing or proposed building, or extension thereof, used or to be used by a public utility corporation, if, upon petition of the corporation, the Pennsylvania Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public.

12.300 VALIDITY

If any section, subsection, sentence, clause, or phrase of this Ordinance or the location of any district boundary shown on the Zoning Map that forms a part hereof is for any reason held by a Court of competent jurisdiction to be invalid, such a decision shall not affect the validity of the remaining portions of this Ordinance or Zoning Map. The Governing Body of the Township of Madison hereby declares that it would have passed this Ordinance and each section or part thereof irrespective of the fact that any one or more sections or parts thereof be declared invalid.

12.400 EFFECTIVE DATE

This Ordinance shall take effect thirty (30) days from the date of adoption.

Duly presented and adopted at a regular meeting of the Board of Supervisors of the Township of Madison, Pennsylvania held on this **6th day of April, 2009**.

Andrew Nazarenko
Chairman

ATTEST:

Deborah J. Gromlich
Secretary

Charles Frey
Supervisor

Philip Setzer
Supervisor