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**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Transource Pennsylvania, LLC :  
 for a Finding that a Building to Shelter :  
 Control Equipment at the Furnace Run : Docket No. P-2018-  
 Substation in York County, Pennsylvania is :  
 Reasonably Necessary for the Convenience :  
 or Welfare of the Public :

**PETITION OF TRANSOURCE PENNSYLVANIA, LLC**

TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Transource Pennsylvania, LLC ("Transource PA") hereby petitions the Pennsylvania Public Utility Commission ("Commission"), pursuant to 52 Pa. Code § 5.41 and 53 P.S. § 10619, for a finding that a building to shelter control equipment ("Control Equipment Building") at the proposed Furnace Run Substation in York County, Pennsylvania is reasonably necessary for the convenience or welfare of the public and, therefore, exempt from any local zoning ordinance ("Zoning Petition"). Subject to the Commission's approval, construction of this Project is scheduled to begin as soon as practicable to meet the in-service date of June 1, 2020. In support of this Zoning Petition, Transource PA states as follows:

**I. INTRODUCTION**

1. This Zoning Petition is filed by Transource PA, a public utility that was formed to construct, own, operate, and maintain electric transmission facilities and equipment in Pennsylvania subject to the regulatory jurisdiction of the Commission.

2. Transource PA is a limited liability company organized and existing under the laws of Delaware. Transource PA is a wholly-owned direct subsidiary of Transource Energy, LLC ("Transource Energy").

3. Transource PA's address is as follows:

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Transource PA's attorneys are authorized to receive all notices and communications regarding this Zoning Petition.

5. On December 27, 2017, Transource PA filed the "Application of Transource Pennsylvania, LLC filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230 kV Transmission Line Associated with the Independence Energy Connection-East Project in Portions of York County, Pennsylvania" ("Siting Application"). Therein, Transource PA is requesting approval to site and construct the transmission lines associated with the East portion of the Independence Energy Connection

Project ("IEC Project"). Also on December 27, 2017, Transource PA filed the "Application of Transource Pennsylvania, LLC filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230 kV Transmission Line Associated with the Independence Energy Connection-West Project in Portions of Franklin County, Pennsylvania."

6. The IEC Project was approved by PJM Interconnection, L.L.C. ("PJM") to alleviate transmission congestion constraints and provide reliability benefits in Pennsylvania, Maryland, West Virginia, and Virginia. The IEC Project will have two components—the IEC-West Project, which consists of the siting and construction of the Rice-Ringgold 230 kV Transmission Line in portions of Franklin County, Pennsylvania, and the IEC-East Project, which consists of the siting and construction of the Pennsylvania portion of the Furnace Run-Conastone 230 kV Transmission Line in portions of York County, Pennsylvania.

7. With the Siting Application, Transource PA filed Attachments 1-13, which provide additional detailed information regarding the IEC-East Project. Also accompanying the Siting Application are Transource PA Statement Nos. 1-6, which further explain the IEC-East Project.

8. As part of the IEC Project, Transource PA proposes to construct two new substations: the Furnace Run Substation to be located in York County, Pennsylvania and the Rice Substation to be located in Franklin County, Pennsylvania.<sup>1</sup>

9. Upon receipt of all necessary approvals, the new Furnace Run-Conastone 230 kV Transmission Line will extend approximately 15.8 miles, connecting the existing Conastone

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<sup>1</sup> Transource PA is filing separate zoning petitions for the Furnace Run Substation to be located in York County, Pennsylvania and the Rice Substation to be located in Franklin County, Pennsylvania, requesting findings that the buildings to shelter control equipment at each of the Substations are reasonably necessary for the convenience or welfare of the public and, therefore, exempt from any local zoning ordinance pursuant to 53 P.S. § 10619.

Substation located near Norrisville, Harford County, Maryland, and the new Furnace Run Substation to be located in York County, Pennsylvania.

10. The Pennsylvania portion of the IEC-East Project will extend approximately 12.7 miles from the new Furnace Run Substation to the Pennsylvania-Maryland border, and the Maryland portion of the IEC-East Project will extend approximately 3.1 miles from the Pennsylvania-Maryland border to the existing Conastone Substation. Transource PA will construct, own, operate, and maintain the Pennsylvania portion of the Furnace Run-Conastone 230 kV Transmission Line, and Transource MD will construct, own, operate, and maintain the Maryland portion of the line.

11. A complete copy of the IEC-East Project Siting Application has been served on all the same persons that are being served with this Zoning Petition. The IEC-East Project Siting Application and supporting Attachments and Testimonies are incorporated herein by reference.

## **II. NEED FOR THE PROJECT**

12. PJM is a FERC-approved Regional Transmission Organization charged with *ensuring the reliable and efficient operation of the electric transmission system under its functional control*, and coordinating the transmission of electricity in all or parts of thirteen states, including Pennsylvania, and the District of Columbia.

13. In order to ensure reliable transmission service, PJM prepares an annual Regional Transmission Expansion Plan ("RTEP"). The RTEP is an annual planning process that encompasses a comprehensive series of detailed analyses to ensure electric power continues to flow reliably to customers under stringent reliability planning criteria.

14. In addition to the reliability analysis, PJM's RTEP includes a Market Efficiency Analysis to identify congestion on electric transmission facilities that has economic or wholesale

market effects, as well as potential improvements to electric transmission economic efficiencies. The electric transmission needs identified in this analysis stem from the fact that the PJM transmission grid provides the means for generators to participate in a competitive wholesale market to supply electricity, both capacity and energy, to customers in PJM's geographic footprint no matter where in this area the electrical load is located.

15. The electric transmission infrastructure needs identified by the PJM Market Efficiency Analysis are addressed by market efficiency transmission projects, which are aimed specifically at improving electric transmission economic efficiencies and alleviating electric transmission constraints that have an economic impact on PJM's wholesale energy or capacity markets.

16. When PJM's Market Efficiency Analysis identifies a need to relieve congestion on electric transmission facilities, PJM opens a Long Term Proposal Window to solicit the submittal of potential solutions (i.e., market efficiency projects) to address those needs. PJM's solicitation of market efficiency project submittals through its Long Term Proposal Window is a competitive process consistent with FERC Order No. 1000. Potential solutions are evaluated using two criteria: first, the project must address the congestion identified in the Market Efficiency Analysis; and, second, the project benefits must exceed the costs by at least 25 percent. In addition, the project must meet PJM's congestion criteria and not create additional unacceptable congestion elsewhere on the system.

17. Market efficiency projects that are selected through PJM's Long Term Proposal Window are presented to stakeholders and recommended to the PJM Board of Managers ("PJM Board") for approval. If approved, such market efficiency projects are included in the RTEP as Baseline Projects.

18. Importantly, pursuant to Schedule 6 of PJM's Amended and Restated Operating Agreement, after the PJM Board approves a proposed market efficiency project, the successful project proponent is obligated to complete the project once PJM and the successful entity execute a Designated Entity Agreement, which specifically designates the entity or entities having construction responsibility for the project.

19. In October 2014, PJM opened a Long Term Proposal Window ("2014/15 RTEP Long Term Proposal Window") to solicit proposals to address, among other things, transmission congestion constraints in Pennsylvania, Maryland, Virginia, and West Virginia. In response, Transource Energy, the parent of Transource PA, submitted "Project 9A." The IEC Project is a major component of Project 9A.

20. After extensive evaluation and review with stakeholders, PJM selected Project 9A to address the needs identified in PJM's 2014/15 RTEP Long Term Proposal Window because it provided the highest benefit-to-cost ratio, the most total congestion savings, and the most production cost savings. On August 2, 2016, the PJM Board approved Project 9A as Baseline Upgrade Numbers b2743 and b2752, which includes the IEC Project.

21. Although the primary benefits from the IEC Project relate to market efficiency and the reduction of congestion costs, the new transmission facilities associated with the IEC Project will also enhance the electrical strength and reliability of the transmission system by virtue of the new transmission facilities in the area that will be part of the interconnected transmission grid. The IEC Project will provide additional and alternative paths for electricity in the event of outages on other Pennsylvania transmission facilities. The IEC Project will also allow the interconnection of future reliability, generation, and load projects in the area.

22. Pertinent to this Application, the IEC Project as approved by PJM involves: (i) construction of two new substations in Pennsylvania, namely the Rice Substation and Furnace

Run Substation, and (ii) construction of the Pennsylvania portion of two new overhead double-circuit 230 kV interstate transmission lines, namely the Rice-Ringgold 230 kV Transmission Line (the IEC-West Project) and the Furnace Run-Conastone 230 kV Transmission Line (the IEC-East Project), and associated structures, equipment, and other facilities necessary to operate the transmission lines.

### **III. THE PROPOSED PROJECT**

23. The IEC Project is being proposed in order resolve the transmission congestion constraints and improve overall system reliability as described above. The IEC Project approved by PJM involves: (i) construction of two new substations in Pennsylvania, the Rice Substation and the Furnace Run Substation; and (ii) construction of two new overhead double-circuit 230 kV interstate transmission lines, the Rice-Ringgold 230 kV Transmission Line and the Furnace Run-Conastone 230 kV Transmission Line.

24. Upon receipt of all necessary approvals, the new Furnace Run-Conastone 230 kV Transmission Line will extend approximately 15.8 miles, connecting the existing Conastone Substation located near Norrisville, Harford County, Maryland, and the new Furnace Run Substation to be located in York County, Pennsylvania. This transmission line project is referred to as IEC-East Project and is the subject of this Siting Application.

25. The Pennsylvania portion of the IEC-East Project will extend approximately 12.7 miles from the new Furnace Run Substation to the Pennsylvania-Maryland border, and the Maryland portion of the IEC-East Project will extend approximately 3.1 miles from the Pennsylvania-Maryland border to the existing Conastone Substation. Transource PA will construct, own, operate, and maintain the Pennsylvania portion of the Furnace Run-Conastone

230 kV Transmission Line, and Transource MD will construct, own, operate, and maintain the Maryland portion of the line.

26. A map of the proposed IEC-East Project is provided in Attachment 2 to the Siting Application.

27. The Pennsylvania portion of the new IEC-East Project will require the installation of approximately 71 structures with an average height of 135 feet. Approximately 2 to 4 taller structures (up to approximately 250 feet) may be used in certain locations to maintain appropriate clearances for certain structures and existing utility facilities. The spans between the structures will be approximately 950 feet.

28. The Pennsylvania portion of the new IEC-East Project will largely consist of tubular steel monopole and multi-pole structures. In certain areas, steel lattice structure may be used to better accommodate topographical, construction, or land use constraints. Depictions of typical structures to be used for the IEC-East Project are provided in Attachment 4 to the Siting Application.

29. The Furnace Run-Conastone 230 kV Transmission Line associated with the IEC-East Project will be a 230 kV double-circuit transmission line. The 230 kV double-circuit design will utilize twelve power conductors, with two conductors used for each of the six phase positions, and two overhead ground wires. An engineering description of the conductors and overhead ground wires is provided in Attachment 4 to the Siting Application.

30. Provided as "Appendix A" hereto is an exhibit showing the location of the tract of land on which the proposed Furnace Run Substation, together with the Control Equipment Building, will be constructed.

#### IV. EXEMPTION FROM LOCAL ZONING

31. The Pennsylvania Municipalities Planning Code ("MPC") provides, in relevant part, as follows:

This article 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 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.

Section 619 of the MPC, Act of July 31, 1968, P.L. 805, *as amended*, 53 P.S. § 10619. Thus, a municipality may zone a public utility building unless the Commission determines that the building is reasonably necessary for the convenience or welfare of the public. If the Commission finds that the building is reasonably necessary, the building is exempt from local zoning ordinances under the MPC. *Del-AWARE Unlimited, Inc. v. Pa. P.U.C.*, 513 A.2d 593, 596 (Pa. Cmwlth. 1986).

32. As explained above, and more fully in the Siting Application and supporting Attachments, the IEC-East Project, including the Furnace Run Substation, is necessary to relieve congestion constraints identified by PJM and enhance overall system reliability. The Furnace Run Substation must include certain equipment in order to operate properly and this equipment must be protected from the elements. The most efficient and appropriate means of protecting the equipment at this Substation is construction of a Control Equipment Building on the site proposed for the new Furnace Run Substation.

33. Because the IEC-East Project, including the Furnace Run Substation, is reasonably necessary for the public convenience and welfare, the Commission should find that the Control Equipment Building is reasonably necessary and, therefore, exempt from the Lower

Chanceford Township's local zoning ordinance pursuant to Section 619 of the MPC. *Del-AWARE Unlimited, Inc. v. Pa. P.U.C.*, 513 A.2d 593 (Pa. Cmwlth. 1986).

V. **THE LOWER CHANCEFORD TOWNSHIP ZONING ORDINANCE**

34. On January 11, 2001, the Commission adopted a policy statement to further the Commonwealth's goal of making agency actions consistent with sound land use planning by considering the impact of its decision upon local comprehensive plans and zoning ordinances. *See* 31 Pa. Bull. 951 (Feb. 17, 2001). Section 69.1101 of the Commission's Regulations provides:

[T]he Commission will consider the impact of its decisions upon local comprehensive plans and zoning ordinances. This will include reviewing applications for:

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(2) Siting electric transmission lines.

(3) Siting a public utility "building" under section 619 of the Municipalities Planning Code (53 P.S. § 10619)....

52 Pa. Code § 69.1101.

35. Lower Chanceford Township has adopted a zoning ordinance. *See* Lower Chanceford Zoning Ordinance No. 71-2, adopted July, 5, 1971, and amended February 2, 2016.<sup>2</sup>

36. The substation site for the Furnace Run Substation is zoned as Agricultural (A).

37. The Lower Chanceford Township Zoning Ordinance does not define public utilities or essential services. Under the Agricultural District (A) no building or structure may be erected or used and no land may be used or occupied except for those listed principal uses, accessory uses, and uses by special exception, none of which list utilities. However, Section 375 states that "public utility buildings and facilities shall be approved in any district, provided

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<sup>2</sup> Attached as "Appendix B."

however, that building or structures erected for these utilities shall be subject to the specific regulations provided here related to front/side/rear yards, building height, fencing requirements, external design of the building shall be in conformity with the buildings in the district, and access requirements." *See id.* § 375.

38. The Lower Chanceford Zoning Ordinance defines a "building" as any structure or edifice designed or intended for use as an enclosure, a shelter or protection of persons, animals or property. *See id.* § 501. In turn, the Zoning Ordinance defines "structure" as any combination of materials forming any construction the use of which require location of the ground or attachment to something having location on the ground. *See id.*

39. A building and/or zoning permit is required prior to the erection, construction, or use of any building, structure, or portion thereof. A building and/or zoning permit is also required prior to the use or change in land. *See id.* § 400 and 405

40. The control equipment building consists of an estimated 60ft x 16ft x 10ft tall prefabricated metal building. It will rest on a series of drilled shaft concrete foundations. The building will have an HVAC unit mounted to the side providing continuous heating and cooling. The substation and building will be surrounded by a seven-foot tall chain link fence with one additional foot of barbed wire. The fenced area will consist of approximately 7.5 acres. Access within the substation will be through lock secured swing gates of similar construction as the fence. Based on the foregoing, in the absence of a finding by the Commission under Section 619 of the MPC, it is unlawful under the Lower Chanceford Township Zoning Ordinance for Transource PA to commence work on and begin use of the Furnace Run Substation and Control Equipment Building. Per the Zoning Ordinance no building or structure shall be erected, moved, placed, constructed or enlarged within the limits Lower Chanceford Township unless a permit to do so shall be first secured in accordance with the provisions of the Township Building Permit

Ordinance. Further, it is unlawful to use any structure or building in any manner until a Use Certificate has been issued and obtained from the Zoning Officer.

41. For these reasons, Transource PA requests that the Commission find that the Control Equipment Building at the proposed new Furnace Run Substation is reasonably necessary for the convenience or welfare of the public and are, therefore, exempt from the requirements of the Lower Chanceford Township Zoning Ordinance that may, in the Township's opinion, impose any restriction, condition, or regulation on the construction of the Control Equipment Building at the Furnace Run Substation.<sup>3</sup> As explained by Mr. Ali in Transource PA St. No. 2, the IEC-East Project, including the Furnace Run Substation, is reasonably necessary for the convenience or welfare of the public.

42. Transource notes that it is serving copies of this Petition on the York County Planning Commission, York County Commissioners, Chanceford Township Board of Supervisors, and Chanceford Township Planning Commission.

## **VI. RELATED PROCEEDINGS**

43. As explained above, Transource PA previously filed Siting Applications with the Commission requesting approval to site and construct the IEC Project, including the proposed

<sup>3</sup> The lack of authority for a local municipality to regulate the design, location, or construction of public utility facilities is consistent with the long line of cases holding that public utilities are exempt from local ordinances. See *Duquesne Light Company v. Monroeville Borough*, 449 Pa. 573, 580, 298 A.2d 252, 256 (1972) ("This Court has consistently held, however, that the Public Utility Commission has exclusive regulatory jurisdiction over the implementation of public utility facilities") (citations omitted). See, e.g., *County of Chester v. Philadelphia Elec. Co.*, 420 Pa. 422, 218 A.2d 331 (1966) (holding that regulation by a multitude of jurisdictions would result in "twisted and knotted" public utilities with consequent harm to the general welfare); *Newtown Twp. v. Philadelphia Elec. Co.*, 594 A.2d 834, 837 (Pa. Cmwlth. 1991) (noting that "it is clear that no 'implied' power exists in the MPC which would allow the Township to regulate [the Philadelphia Electric Company] through its subdivision and land development ordinance"); *Heintzel v. Zoning Hearing Bd. of Millcreek Twp.*, 533 A.2d 832 (Pa. Cmwlth. 1987) (holding that township had no power to regulate, under its zoning ordinance, city's erection of water tower because that power was under the exclusive jurisdiction of the PUC); *South Coventry Twp. v. Philadelphia Elec. Co.*, 504 A.2d 368 (Pa. Cmwlth. 1986) (noting that to possibly subject [the Philadelphia Electric Company] to a miscellaneous collection of regulations upon its system would clearly burden and indeed disable it from successfully functioning as a utility); *Commonwealth v. Delaware and Hudson Railway Co.*, 339 A.2d 155 (Pa. Cmwlth. 1975) (holding that the MPC did not authorize local governments to regulate public utilities in any manner which infringes upon the power of the Commission to so regulate).

Furnace Run Substation and Control Equipment Building that is the subject of this Zoning Petition. Issues relating to the necessity for the IEC Project are interrelated with this Zoning Petition.

44. *Contemporaneously herewith this Zoning Petition, Transource PA is filing a Zoning Petition requesting a finding that a building to shelter control equipment at the proposed Rice Substation in Franklin County is reasonably necessary for the convenience or welfare of the public and, therefore, exempt from any local zoning ordinance pursuant to 52 Pa. Code § 5.41 and 53 P.S. § 10619. Both the Furnace Run and Rice Substations are required for the IEC Project. Issues related to the Zoning Petition for the Rice Substation are interrelated with this Zoning Petition. In addition, the Siting Applications for the IEC-East and IEC-West proceeding have been consolidated for purposes of hearing and decision.*

45. Finally, Transource PA is separately filing 133 Condemnation Applications, pursuant to 15 Pa.C.S. §1511(c), for findings and determinations that the service to be furnished through its proposed exercise of the power of eminent domain to acquire rights-of-way and easements over certain tracts of land for the proposed IEC Project is necessary or proper for the service, accommodation, convenience, or safety of the public. Issues relating to the need for these condemnations are interrelated with this Zoning Petition.

46. Pursuant to 52 Pa. Code § 57.75(i)(1), Transource PA requests that these related proceedings be consolidated for purposes of hearings, if necessary, and decision.

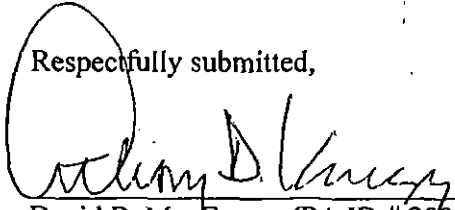
## **VII. CONCLUSION**

WHEREFORE, Transource PA respectfully requests that the Pennsylvania Public Utility Commission: (1) consolidate this Furnace Run Zoning Petition with the IEC-East and IEC-West Siting Applications, Rice Zoning Petition, and the 133 Condemnation Applications contemporaneously filed herewith; and (2) find that the control equipment building proposed by Transource PA at the Furnace Run Substation is reasonably necessary for the convenience or welfare of the public and, therefore, are exempt from the Zoning Ordinance of Lower Chanceford Township.

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Respectfully submitted,

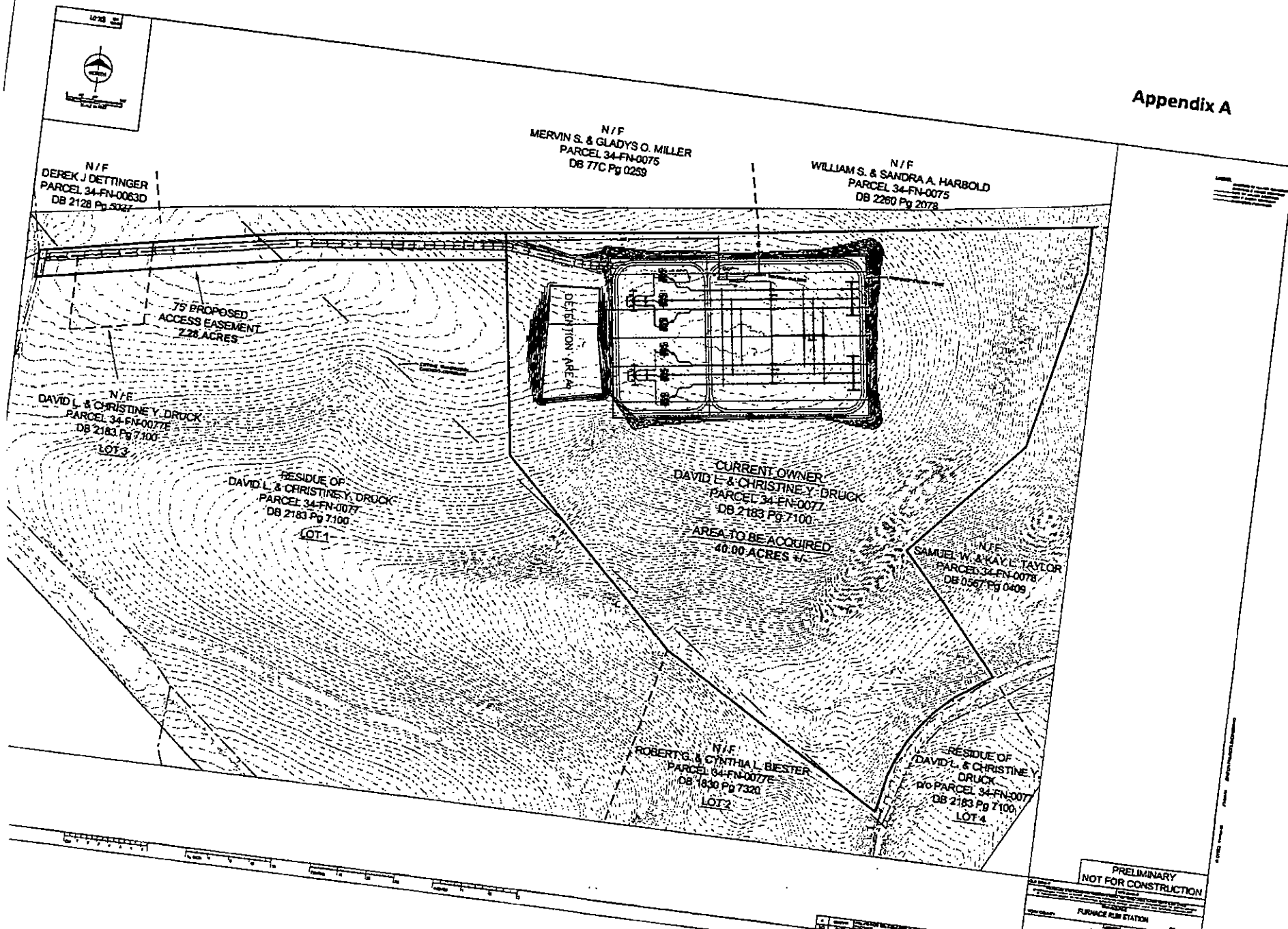


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# **Appendix A**

# Appendix A



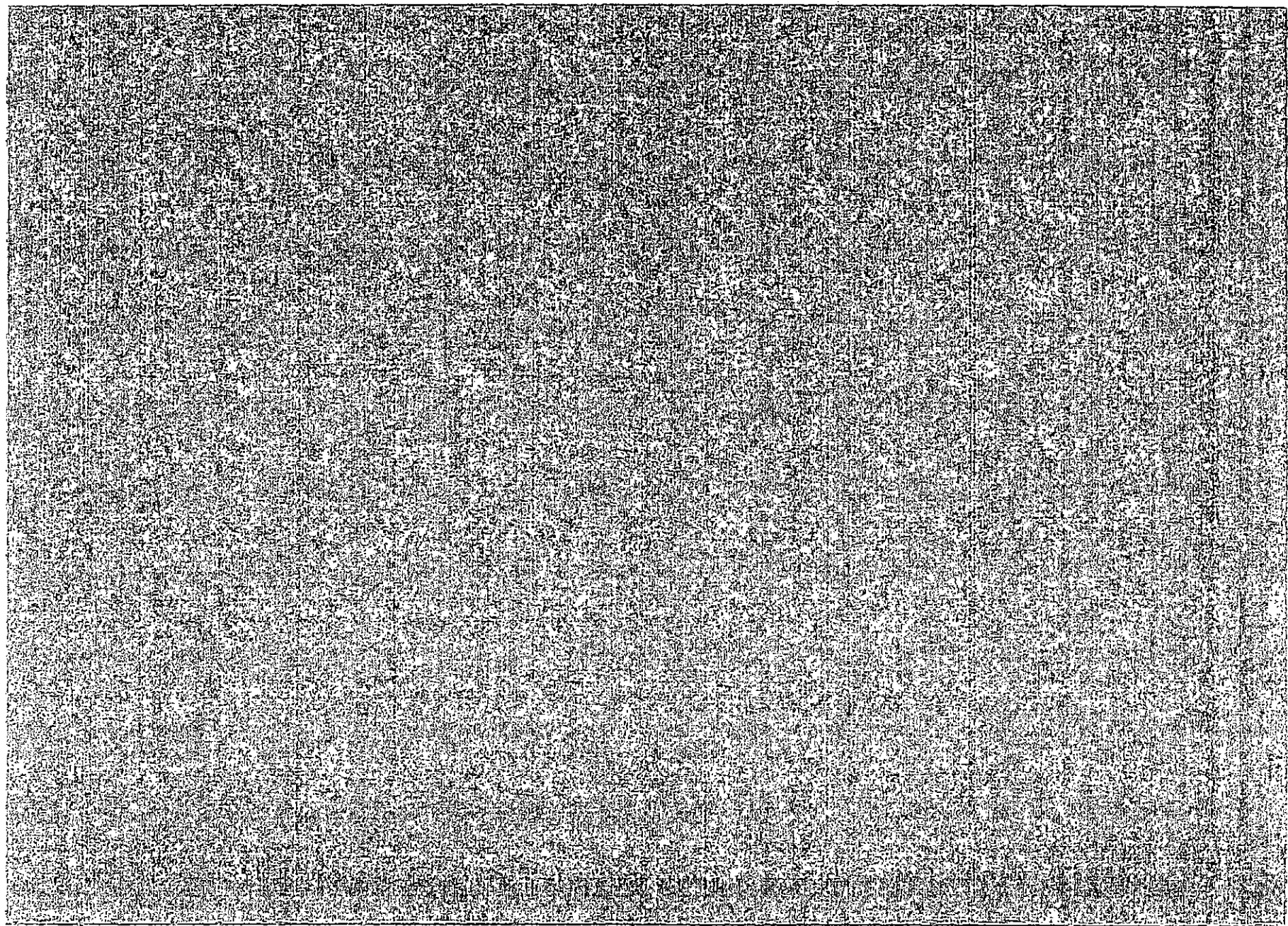
## **Appendix B**

8/2016

# LOWER CHANCEFORD TOWNSHIP

## ZONING ORDINANCE

YORK COUNTY, PENNSYLVANIA



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**ORDINANCE NO. 71-2**

AN ORDINANCE REGULATING AND RESTRICTING THE HEIGHT, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES; THEIR CONSTRUCTION, ALTERATION, EXTENSION, REPAIR, MAINTENANCE AND ALL FACILITIES AND SERVICES IN OR ABOUT SUCH BUILDINGS AND STRUCTURES; PERCENTAGE OF LOT THAT MAY BE OCCUPIED; THE SIZE OF YARDS, COURTS AND OTHER OPEN SPACES; THE DENSITY OF POPULATION AND THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCE OR OTHER PURPOSES; AND FOR THESE PURPOSES ESTABLISHING ZONES AND BOUNDARIES AND DESIGNATING AND REGULATING RESIDENTIAL, COMMERCIAL, INDUSTRIAL, PUBLIC AND SEMI-PUBLIC, AGRICULTURAL AND CONSERVATION USES WITHIN SUCH ZONES AND BOUNDARIES; PROVIDING FOR THE ADMINISTRATION OF THIS ORDINANCE AND PENALTIES FOR THE VIOLATION THEREOF, IN THE TOWNSHIP OF LOWER CHANCEFORD IN THE COUNTY OF YORK AND THE STATE OF PENNSYLVANIA.

BE IT ORDAINED by the BOARD OF SUPERVISORS OF THE TOWNSHIP OF LOWER CHANCEFORD in the County of York and the State of Pennsylvania, as follows:

**PART I**

**SHORT TITLE, PURPOSES AND ZONES**

**SECTION 100.1 SHORT TITLE**

This Ordinance shall be known as the "Lower Chanceford Township Zoning Ordinance."

**SECTION 100.2 PURPOSE OF ORDINANCE**

The regulations of this Ordinance have been promulgated with the purpose of promoting, protecting, and facilitating:

- a. Harmonious community development.
- b. Proper density of population.
- c. Adequate water and sewerage.
- d. Adequate schools, parks, and other public grounds and buildings.
- e. Adequate light and air.
- f. Adequate transportation, parking and loading space.
- g. The public health, safety, morals and general welfare.
- h. The preservation of prime agricultural land for agricultural use.

The regulations are also designed to prevent:

- i. Overcrowding of land.
- j. Blight
- k. Danger and congestion in travel and transportation.
- l. Injury and loss of health, life, or property from fire, flood, panic or other dangers.

This Ordinance is enacted as part of the overall plan for the orderly growth and development of Lower Chanceford Township and as such it is an integral part of the Township Comprehensive Plan.

### **SECTION 100.3 ESTABLISHMENT OF ZONES**

The Township of Lower Chanceford is divided into zones enumerated below and shown on the map entitled "Zoning Map of Lower Chanceford Township" which map is part of this Ordinance.

- R Residential
- C Commercial
- I Industrial
- A Agricultural
- Cv Conservation

### **SECTION 100.4 BOUNDARIES OF ZONES**

Where uncertainty exists as to the boundaries of the zones as shown on the zoning map, the following rules shall apply:

- a. Boundaries indicated as approximately following the centerlines of streets, highways or alleys shall be construed to follow such centerlines.
- b. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- c. Boundaries indicated as approximately following municipality limits shall be construed as following municipality limits.
- d. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
- e. Boundaries indicated as approximately following the centerlines of streams, rivers or other bodies of water shall be construed to follow such centerlines.
- f. Boundaries indicated as parallel to or extensions of features indicated in Subsection a through e above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
- g. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or in circumstances not covered by Subsections a through f above, the Zoning Hearing Board shall interpret the district boundaries.

### **SECTION 100.5 STATEMENT OF COMMUNITY DEVELOPMENT OBJECTIVES**

The primary objective of the Township's development policy is to preserve for agricultural use the major portion of the Township's quality farmlands. This should be done by preserving most of the best land in agricultural use and by minimizing the presence of conflicting uses in the agricultural zones which would tend to impair or interfere with continued agricultural activity.

Preservation of farmland should be achieved by:

- a. Directing residential growth away from areas of quality farmland.
- b. Utilizing the least productive farmland where possible for industrial, commercial and residential growth.
- c. Providing an extensive well insulated agricultural area in order to encourage continued agriculture and agricultural related industries.
- d. Preventing the Township from becoming the situs for leap frog development and exurban sprawl.
- e. Maintaining agricultural parcels or farms in sizes which will permit efficient agricultural operations.

Lands set aside for agricultural should reflect the better agricultural soils as well as including those areas to be protected from unnecessary development. Where feasible, soils classified as good for agricultural purposes should be preserved for agricultural use.

In planning for agricultural land, it is the Township's policy not to consider agricultural land as "undeveloped farmland awaiting another use." Farmland must be considered as "developed land." It is being used to produce a product. Farming is a land intensive manufacturing process which converts raw materials into a product comparable to other industrial operations, with occasional accompanying nuisances of noise, odor and dust. The agricultural zone should not be considered as a holding zone but as a zone having a positive purpose of utilizing the Township's natural resources for the benefit of the entire community and the Township should protect the agricultural zone from interference by incompatible uses which breakdown the integrity of the zone and also interfere with normal and customary operations within the zone.

Residential development should occur in limited amounts consistent with the area's needs. The location of the Township dictates that minimal residential development should occur. It does not represent a reasonable or logical place for residential development oriented toward either Baltimore or toward York. Small residential districts have been established. In addition some minimal development should occur in the agricultural areas of the Township. This development should be directed toward lower quality agricultural soils. Large lot or farmette type development wastes land and should be discouraged.

The Township's need for commercial development is minimal but to the extent such development is to occur it should occur adjacent to a major highway and so as not to increase traffic on residential and farm roads.

The Township has no significant unemployment and therefore no great need for industrial development. Also its location and in particular the absence of major highways transversing the Township indicates that there is little likelihood of major industry desiring to locate in the Township. If such development is to occur it is important that it not degrade the quality environment currently existing in the Township and that it not have the effect of accelerating residential and commercial development in order to serve the residential and commercial needs of those who would be employed in such industry with resulting loss of productive farmland and environmental quality.

The Township recognizes that its road network will require continuing maintenance and upgrading if it is to properly serve the needs of Township citizens. The Township also recognizes that its existing recreational facilities will need continued upgrading and with population growth additional facilities will be required.

**PART II**  
**ZONE REGULATIONS**

**A. USE REGULATIONS**

1. Type & Extent of Uses Permitted

**SECTION 200.0 USES PERMITTED**

The uses permitted in the zones established by this Ordinance and the permitted extent of these uses, are as shown in the zoning districts following. The uses shown as permitted in each zone are the only uses permitted in that zone and all other uses are subject to s.200.1. Unless otherwise noted, the extent-of-use or dimensional standards are the requirements for each use. However,

- a. Exceptions and modifications to the extent-of-use requirements are set forth in Part II-A-7, and
- b. Additional or special extent-of-use requirements for certain uses, are set forth in Part III.

**SECTION 200.1 ALL OTHER USES**

Any use not specifically allowed elsewhere in this Ordinance shall be allowed by special exception in the zone or zones where, and to the extent that, similar uses are permitted or allowed by special exception provided that said use meets the requirements for a special exception and does not constitute a public or private nuisance.

**SECTION 200.2 ACCESSORY USES AND STRUCTURES**

Accessory uses and structures shall be permitted in conjunction with the principal uses permitted by this Ordinance and shall be further subject to the requirements for accessory uses and structures as set forth in Part III-A.

**SECTION 200.3 USES WITH NUISANCE EFFECT**

In no case is a use permitted which by reason of noise, dust, odor, appearance, or other objectionable factor creates a nuisance, hazard, or other substantial adverse effect upon the property value or reasonable enjoyment of the surrounding property. Every reasonable effort must be made to prevent this effect through-

- a. Control of lighting.
- b. Design and maintenance of structures.
- c. Use of planting screens or attractive fences.
- d. Placement of structures on the site.
- e. Appropriate control of use.
- f. Prompt removal of trash or junk.

## **2. Residential District (R)**

### **SECTION 201.0 PURPOSE**

The residential zone is for people to live in. The purpose of this residential zone is to provide for the orderly expansion of residential development; to provide for the public health and to prevent the overcrowding of land through the application of maximum housing densities; to provide standards which will encourage the installation of public facilities and the preservation of open space; to exclude any activities not compatible with residential development.

### **SECTION 201.1 USE REGULATIONS**

No building or structure may be erected or used and no land may be used or occupied except for one of the following uses:

#### **Principal Uses:**

1. Single family dwelling
2. Two family dwelling
3. Rooming house
4. Multi-family conversion
5. Public buildings and facilities
6. Parks and other open spaces of a non-profit nature
7. School
8. House of worship
9. Cemetery
10. Agriculture
11. Agricultural Processing Establishment - See Section 308 - Accessory only to principal uses 1, 2, 6, 8, 10 and 12 and accessory use 10.
12. Fire company and emergency services, buildings or structures

#### **Accessory Uses:**

1. The sale of any products grown or produced on the farm on which they are sold
2. Home occupation (see Section 303)
3. Signs (see Section 310)
4. Storage (see Section 350 et seq.)
5. Private non-commercial swimming pool or pond
6. Domiciliary care unit (see Section 304)
7. Farmers Market - Accessory only to principal uses 5, 8 and 12
8. Auction Sales - Accessory only to principal uses 5 and 12
9. Special Events - Accessory only to principal uses 5, 6, 7, 8 and 12
10. Agricultural Commodity Sales - See Section 307 - accessory only to principal uses 1, 2 and 10
11. Any other use customarily incidental to any of the uses permitted by this section as a principal permitted use

## **SECTION 201.2 USES BY SPECIAL EXCEPTION**

The following uses shall be permitted as special exceptions when authorized by the Zoning Hearing Board. The Zoning Hearing Board shall hear and decide request for such uses according to the criteria established in Part IV in this Ordinance.

### **Principal Uses:**

1. Multi-family dwelling (see Section 220 and 444)
2. Row dwelling (see Section 219 and 444)
3. Dwelling group (see Section 219 and 444)
4. Mobile home park (see Section 330)
5. Nursing home or Convalescent home (see Section 365)
6. Professional office
7. Medical clinic laboratory
8. Bait shop (see Section 394)
9. Personal Care Home (see Section 366)
10. Child Day Care Center (see Section 363)
11. Nursery school (see Section 364)

### **Accessory Uses:**

1. Home occupation (see Section 303)
2. Bed and Breakfast Inn (see Section 397)
3. Any other use customarily incidental to any of the uses permitted by this section as special exception uses

## **SECTION 201.3 LOT AREA AND WIDTH**

The lot area and width of not less than the dimensions shown on the following table shall be provided for every dwelling unit and/or principal nonresidential structure hereafter erected or altered for any use permitted in this district.

	<u>Public Water &amp; Public Sewer</u>	<u>Public Water or Public Sewer</u>	<u>No Public Water or Public Sewer</u>
Minimum Lot Size	8,000 sq. ft.	15,000 sq. ft.	43,560 sq. ft.
Minimum Lot Width	70 ft.	80 ft.	200 ft.

## **SECTION 201.4 BUILDING COVERAGE**

The maximum coverage of lot area by buildings or structures shall be as permitted in Section 218.

## **SECTION 201.5 BUILDING SETBACK AND YARD REQUIREMENTS**

1. Minimum front yard -
  - a. For a nonagricultural use - thirty (30) feet
  - b. For a principal or accessory building - thirty (30) feet

2. Minimum side yard -
  - a. For a principal building - fifteen (15) feet
  - b. For an accessory building - ten (10) feet
  - c. For a nonagricultural use - fifteen (15) feet
3. Minimum rear yard -
  - a. For a principal building - thirty (30) feet
  - b. For an accessory building - ten (10) feet
  - c. For a nonagricultural use - ten (10) feet

#### **SECTION 201.6 BUILDING HEIGHT**

The height limit for a main building shall be two and one-half (2 ½) stories, but not over thirty-five (35) feet, except that the height limit may be extended to three and one-half (3 ½) stories but not over forty-five (45) feet if each side yard is increased in width one-half (½) foot for each additional foot of height. The height limit for accessory buildings shall be two (2) stories, but not over twenty-five (25) feet. There shall be no height limitations for agricultural buildings. Height limits in excess of those specified herein for multi-family dwellings may be obtained by special exception.

#### **SECTION 201.7 EXTENT OF USE**

Unless otherwise noted the extent-of-use or dimensional standards as set forth herein are the requirements for each use in this district. However,

- a. Exceptions and modifications to the extent-of-use requirements are set forth in Part II-A-7, and
- b. Additional or special extent-of-use requirements for certain uses are set forth in Part III.

### 3. Agricultural District (A)

#### **SECTION 202.0 PURPOSE**

A primary purpose of the agricultural zone is to permit, protect and encourage the continued use of the land for agricultural purposes. This zone is composed of those areas in the Township whose predominant land use is agricultural. The regulations for this zone are designed to protect and stabilize the essential characteristics of these areas, to minimize conflicting land uses detrimental to agricultural enterprises, to limit development which requires highways and other public facilities in excess of those required by agricultural uses and to maintain agricultural parcels or farms in sizes which will permit efficient agricultural operations.

#### **SECTION 202.1 USE REGULATIONS**

No building or structure may be erected or used and no land may be used or occupied except for one of the following uses:

##### **Principal Uses:**

1. Agriculture (See Section 298)
2. Forest and wildlife preserves
3. Greenhouse, nursery.
4. Single Family Dwelling (see Section 298)
5. Small school (see Section 299)
6. Two-family dwelling (see Sections 298)

##### **Accessory Uses:**

1. The sale of any products grown or produced on the farm on which they are sold.
2. Home Occupation (see Section 303)
3. Signs (see Section 310 et seq.)
4. Storage (see Section 324)
5. Special Events - Accessory only to principal use 5
6. Agricultural Commodity Sales - see Section 307 - Accessory only to principal uses 1, 4 and 6
7. Agricultural Processing Establishment - See Section 308 - Accessory only to principal uses, 1, 4 and 6.
8. Any other use customarily incidental to any of the uses permitted by this section as a principal permitted use.

#### **SECTION 202.2 USES BY SPECIAL EXCEPTION**

The following principal uses shall be permitted as special exceptions when authorized by the Zoning Hearing Board. The Zoning Hearing Board shall hear and decide requests for such uses according to the criteria established in Parts III and IV of this Ordinance, provided, however, all of such uses shall be located on lands of low quality for agricultural use as defined in Section 298(e)(1) and (2) of this Ordinance.

1. House of worship
2. Cemetery
3. Agricultural society

4. Commercial greenhouse
5. Club room, club house, meeting hall
6. Outdoor recreational establishment including but not limited to golf courses, lakes, pools and ponds (see Section 360 - 362)
7. Veterinarian's office or animal hospital
8. Kennel
9. Sawmill
10. Commercial feed lot
11. Stockyards
12. Hospital
13. Public buildings and facilities
14. Parks and other open spaces of a non-profit nature
15. Automotive garage or service station (see Section 395)
16. School
17. Nursery School (see Section 364)
18. Communication transmitting and/or receiving facilities (see Section 399)
19. Fire company and emergency services, buildings or structures (see Section 376)
20. Agricultural Commodity Sales - see Section 307

**Accessory Uses:**

1. Home occupation (See Section 303)
2. Bed and Breakfast Inn (See Section 397)
3. Farmers Market - Accessory only to uses 3, 13, and 19
4. Auction Sales - Accessory only to use 19
5. Special Events - Accessory only to uses 1, 3, 13, 14, 16 and 19 and principal permitted use number 1.
6. Agricultural Commodity Sales - see Section 307
7. Agricultural Processing Establishment - See Section 308 - Accessory only to principal uses 1, 19 and 20.
8. Any other use customarily incidental to any of the uses permitted by this section as special exception uses.

Accessory uses 3, 4, 7, 8 and 5 except when to be located as accessory to "agriculture" shall be permitted by use certificate issued by the Zoning Officer. Accessory uses 2, 6, and 5 when to be located as accessory to "agriculture" shall be permitted by special exception when authorized by the Zoning Hearing Board subject to the criteria established by Section 443 and other relevant provisions of this ordinance.

**SECTION 202.3 LOT AREA AND LOT WIDTH**

For each use permitted by right or by special exception, the following lot area and lot widths are applicable:

<u>Use</u>	<u>Minimum Lot Area</u>	<u>Minimum Lot Width</u>
1. Farm	50 acres	200 ft.
2. Forest and Wildlife Preserve	10 acres	200 ft.
3. Two family dwelling	70,000 sq. ft.	250 ft.
4. All other uses	43,560 sq. ft.	200 ft.

#### **SECTION 202.4 BUILDING COVERAGE**

The maximum coverage of lot area by buildings or structures shall be as permitted in Section 218.

#### **SECTION 202.5 BUILDING SETBACK AND YARD REQUIREMENTS**

1. Minimum front yard -
  - a. For a nonagricultural use - thirty (30) feet
  - b. For a principal or accessory building - thirty (30) feet
2. Minimum side yard -
  - a. For a principal building - fifteen (15) feet
  - b. For an accessory building - ten (10) feet
  - c. For a nonagricultural use - fifteen (15) feet
3. Minimum rear yard -
  - a. For a principal building - thirty (30) feet
  - b. For an accessory building - ten (10) feet
  - c. For a nonagricultural use - ten (10) feet

#### **SECTION 202.6 BUILDING HEIGHT**

The building height limit shall be fifty (50) feet except in the case of agricultural buildings, in which case there shall be no height limitation.

#### **SECTION 202.7 EXTENT-OF-USE**

*Unless otherwise noted the extent-of-use or dimensional standards as set forth herein are the requirements for each use in this district. However,*

- a. Exceptions and modifications to the extent-of-use requirements are set forth in Part II-A-7, and
- b. Additional or special extent-of-use requirements for certain uses are set forth in Part III.

#### **SECTION 202.9 SUBDIVISION**

- a. Lots or parcels shall not be separated from the original tract unless it is determined that:
  1. There is being separated from the original tract no more than one acre for each dwelling unit assigned to the tract being separated, provided, however, that where the property owner can establish that he has sufficient land of low quality for agricultural use as defined in Section 298(e) of this Ordinance practical for the location of dwelling lots to permit the location of

all the dwellings permitted the property owner pursuant to the provisions of Section 298(a) of this Ordinance on such lands of low quality for agricultural use larger dwelling lots may be permitted. In addition, larger lots may be permitted if the effect of the larger lot size does not act to impair the ability of the property owner to locate all of the dwellings permitted such property owner pursuant to provisions of Section 298(a) of this Ordinance on land of low quality for agricultural use as defined in Section 298(e) of this Ordinance; or

2. The area being separated includes existing farm buildings and it is necessary to include all the land shown on the plan in order to include all the existing farm buildings and curtilage; or
3. All of the area in the "parcel" excepting that approved for inclusion in the tract's quota of dwelling unit lots, is being divided into or among two (2) or more "farms" each of which will after transfer contain at least fifty (50) acres of crop land (for purpose of this section, land converted from pasture or woodland after January 1, 2007 shall not be considered crop land excepting contiguous segments of prime agricultural land as defined in this ordinance which are at least two (2) acres in size) provided the area transferred to a "farm" pursuant to this section shall be merged with and not subsequently be separated from such farm; or
4. The original "parcel" contains less than fifty (50) acres of tillable land and land is proposed to be transferred to another "parcel" which will after such transfer contain at least as much tillable land as the transferor "parcel" prior to such transfer provided the tracts transferred to such a "parcel" pursuant to this section shall not subsequently be separated from such parcel; or
5. All of the land proposed to be separated is of low quality for agricultural use as defined in Section 298(e) of this Ordinance and is solely for the location of one or more of the uses permitted by special exception and is not larger in size than is reasonably necessary for the location of such use or uses.
6. Irrespective of the definition of tract as set forth in Section 501 of this ordinance, if the contiguous land
  - 1) was conveyed to the current owner by separate deeds or by separate wills; and
  - 2) each separately deeded or devised piece of land is at least one acre in size; and
  - 3) each separately deeded or devised piece of land is described in the tax records of York County by separate map and parcel number; and
  - 4) each separately deeded or devised piece of land has not been shown as combined with any other piece of land on any subdivision plan approved by Lower Chanceford Township,

each such separately deeded or devised piece of land may be separately conveyed without subdivision approval by Lower Chanceford Township and each such separately deeded or devised piece of land shall be considered as part of a separate tract, which tract shall also include all other land included in the same deed or devise as of December 30, 1976, and the lands contained within such deed or devise as of December 30, 1976, shall be permitted the

number of dwelling units permitted a tract of such size by Section 298 of this Ordinance; provided, however:

If any such separately deeded or devised piece of land when combined with other land included in the same deed or devise as of December 30, 1976, includes more dwelling units, either existing or permitted by reason of approved plans but not yet constructed than permitted by Section 298(a) of the Zoning Ordinance for a tract containing the acreage of the piece of land in question as of December 30, 1976, such dwelling units or permitted dwelling units in excess of that permitted such tract by Section 298(a) of this Ordinance shall reduce the number of dwelling units permitted on the tract or tracts which do not have existing or permitted dwelling units in excess of the number permitted by Section 298(a) of this Ordinance.

- b. Any new division line being created between two "farms" or "parcels" shall be agriculturally reasonable and shall not be so as to render the agricultural use of the tracts less efficient; i.e. under normal circumstances fields and contour strips shall not be split. No "farm" approved as having fifty (50) acres of crop land (See Section 202.9(a)(3)) shall subsequently be permitted to locate dwelling units allocated pursuant to Section 298 of this ordinance or accessory buildings so as to reduce the amount of crop land to less than fifty (50) acres.
- c. Existing buildings shall not be separated from the original tract unless it is determined that they have no functional utility in connection with the agricultural use of the original tract.
- d. There must be assigned both to the land being separated from the original tract or parcel and the remaining portion of the original tract or parcel at least one of the original tract's permitted allocation of dwelling units unless that land or parcel is being permanently joined to an adjacent tract or parcel which either contains an existing dwelling or has allocated to it the right to construct at least one dwelling.

#### **SECTION 202.10**

The applicant shall have the burden of proving that the land he seeks to subdivide or to utilize for a use or in a manner permitted only if the land is found to be of low quality for agricultural use, meets the criteria set forth in Section 298(e) of this ordinance.

#### **SECTION 202.11**

**SOIL CLASSIFICATION REVIEW** - Any land owner who disagrees with the classification of his farm or any part of it by the Soil Maps prepared by the York County Planning Commission for Lower Chanceford Township, may submit an engineering analysis of the soils on the portion of the farm which he seeks to have reclassified and if the Board of Supervisors finds the study to be accurate, it shall act in accordance with the results of such study.

#### **4. Conservation District (Cv)**

### **SECTION 203.0 PURPOSE**

The purpose of this zone is to prescribe a zoning category for those areas where, because of natural geographic factors and existing land uses it is considered feasible and desirable to conserve open spaces, water supply sources, woodland areas, wildlife and other natural resources. This zone may include extensive steeply sloped areas, stream valleys, water supply sources, and wooded areas adjacent thereto. This zone also includes substantial areas of prime agricultural land which it is desired be preserved for agricultural use.

### **SECTION 203.1 USE REGULATIONS**

No building or structure may be erected or used and no land may be used or occupied except for one of the following uses:

#### **Principal Uses:**

1. Agriculture - (See Section 298)
2. Forest and wildlife preserve
3. Greenhouse, nursery
4. Single Family Dwelling (see Section 298)
5. Small School (see Section 299)
6. Two family dwelling (see Section 298)
7. Parks, museums and open space uses of a non-profit nature

#### **Accessory Uses:**

1. The sale of any products grown or produced on the farm on which they are sold
2. Home occupation (see Sections 303-304)
3. Signs (see-Section 310)
4. Storage (see Section 324)
5. Special Events - accessory only to uses 5 and 7
6. Agricultural Commodity Sales - see Section 307 - Accessory only to principal uses 1, 4 and 6
7. Agricultural Processing Establishment - See Section 308 - Accessory only to principal uses 1, 4 and 6.
8. Any other use customarily incidental to any of the uses permitted by this section as principal permitted uses.

### **SECTION 203.2 USES BY SPECIAL EXCEPTION**

The following principal uses shall be permitted as special exceptions when authorized by the Zoning Hearing Board. The Zoning Hearing Board shall hear and decide requests for such uses according to the criteria established in Parts III and IV of this ordinance. provided, however, all of such uses shall be located on land of low quality for agricultural use as defined in Section 298(e)(1)(2) of this Ordinance.

1. House of worship
2. Cemetery

3. Outdoor recreational establishment, including but not limited to golf courses, lakes, pools and ponds (see Section 360-362)
4. Trailer camp or camp ground (see Section 393)
5. Sawmill
6. Bait shop (see Section 394)
7. Automotive garage or service station (see Section 395)
8. School
9. Nursery school (see Section 364)
10. Communication transmitting and/or receiving facilities (see Section 399)
11. Kennel (See Section 368)
12. Agricultural Commodity Sales - see Section 307

**Accessory Uses:**

1. Home occupation (See Section 303)
2. Bed and Breakfast Inn (See Section 397)
3. Special Events - Accessory only to uses 1 and 8 and principal permitted use 1.
4. Agricultural Commodity Sales - see Section 307
5. Agricultural Processing Establishment - See Section 308 - Accessory only to uses 1 and 12.
6. Any other use customarily incidental to any of the uses permitted by this section as special exception uses.

Accessory uses 5, 6 and 3, except when to be permitted as accessory to "agriculture", shall be permitted by use certificate issued by the Zoning Officer. Accessory uses 2, 4, and 3 when to be located as accessory to "agriculture" shall be permitted by special exception when authorized by the Zoning Hearing Board subject to the criteria established by Section 443 and other relevant provisions of this ordinance.

**SECTION 203.3 LOT AREA AND LOT WIDTH**

For each use permitted by right or by special exception, the following lot area and lot widths are applicable:

<u>Use</u>	<u>Minimum Lot Area</u>	<u>Minimum Lot Width</u>
1. Farm	50 acres	200 ft.
2. Forest and Wildlife Preserve	10 acres	200 ft.
3. Two family dwelling	70,000 sq. ft.	250 ft.
4. All other uses	43,560 sq. ft.	200 ft.

**SECTION 203.4 BUILDING COVERAGE**

The maximum coverage of lot area by buildings or structures shall be as permitted in Section 218.

**SECTION 203.5 BUILDING SETBACK AND YARD REQUIREMENTS**

1. Minimum front yard -
  - a. For a nonagricultural use - thirty (30) feet
  - b. For a principal or accessory building - thirty (30) feet

2. Minimum side yard -
  - a. For a principal building - fifteen (15) feet
  - b. For an accessory building - ten (10) feet
  - c. For a nonagricultural use - fifteen (15) feet
3. Minimum rear yard -
  - a. For a principal building - thirty (30) feet
  - b. For an accessory building - ten (10) feet
  - c. For a nonagricultural use - ten (10) feet

#### **SECTION 203.6 BUILDING HEIGHT**

The building height limit shall be fifty (50) feet except in the case of agricultural buildings, in which case there shall be no height limitation.

#### **SECTION 203.7 EXTENT-OF-USE**

Unless otherwise noted the extent-of-use or dimensional standards as set forth herein are the requirements for each use in this district. However,

- a. Exceptions and modifications to the extent-of-use requirements are set forth in Part II-A-7, and
- b. Additional or special extent-of-use requirements for certain uses are set forth in Part III.

#### **SECTION 203.9 SUBDIVISION**

- a. Lots or parcels shall not be separated from the original tract unless it is determined that:
  1. There is being separated from the original tract no more than one acre for each dwelling unit assigned to the tract being separated, provided, however, that where the property owner can establish that he has sufficient land of low quality for agricultural use as defined in Section 298(e) of this Ordinance practical for the location of dwelling lots to permit the location of all the dwellings permitted the property owner pursuant to the provisions of Section 298(a) of this Ordinance on such lands of low quality for agricultural use larger dwelling lots may be permitted. In addition, larger lots may be permitted if the effect of the larger lot size does not act to impair the ability of the property owner to locate all of the dwellings permitted such property owner pursuant to provisions of Section 298(a) of this Ordinance on land of low quality for agricultural use as defined in Section 298(e) of this Ordinance; or
  2. The area being separated includes existing farm buildings and is necessary to include all the land shown on the plan in order to include all the existing farm buildings and curtilage; or
  3. All of the area in the "parcel" excepting that approved for inclusion in the tract's quota of dwelling unit lots, is being divided into or among two (2) or more "farms" which will after

transfer contain at least fifty (50) acres of crop land (for purpose of this section, land converted from pasture or woodland after January 1, 2007 shall not be considered crop land excepting contiguous segments at least two (2) acres in size of prime agricultural land as defined in this ordinance) provided the area transferred to a "farm" pursuant to this section shall be merged with and not subsequently be separated from such farm; or

4. The original "parcel" contains less than 50 acres of tillable land and land is proposed to be transferred to another "parcel" which will after such transfer contain at least as much tillable land as the transferor "parcel" prior to such transfer provided the tracts transferred to such a "parcel" pursuant to this section shall be merged with and shall not subsequently be separated from such parcel; or

5. All of the land proposed to be separated is of low quality for agricultural use as defined in Section 298(e) of this Ordinance and is solely for the location of one (1) or more of the uses permitted by special exception and is not larger in size than is reasonably necessary for the location of such use or uses.

6. Irrespective of the definition of tract as set forth in Section 501 of this ordinance, if the contiguous land

- 1) was conveyed to the current owner by separate deeds or by separate wills; and
- 2) each separately deeded or devised piece of land is at least one acre in size; and
- 3) each separately deeded or devised piece of land is described in the tax records of York County by separate map and parcel number; and
- 4) each separately deeded or devised piece of land has not been shown as combined with any other piece of land on any subdivision plan approved by Lower Chanceford Township,

each such separately deeded or devised piece of land may be separately conveyed without subdivision approval by Lower Chanceford Township and each such separately deeded or devised piece of land shall be considered as part of a separate tract, which tract shall also include all other land included in the same deed or devise as of December 30, 1976, and the lands contained within such deed or devise as of December 30, 1976, shall be permitted the number of dwelling units permitted a tract of such size by Section 298 of this Ordinance; provided, however:

If any such separately deeded or devised piece of land when combined with other land included in the same deed or devise as of December 30, 1976, includes more dwelling units, either existing or permitted by reason of approved plans but not yet constructed than permitted by Section 298(a) of the Zoning Ordinance for a tract containing the acreage of the piece of land in question as of December 30, 1976, such dwelling units or permitted dwelling units in excess of that permitted such tract by Section 298(a) of this Ordinance shall reduce the number of dwelling units permitted on the tract or tracts which do not have existing or permitted dwelling units in excess of the number permitted by Section 298(a) of this Ordinance.

- b. Any new division line being created between two "farms" or "parcels" shall be agriculturally reasonable and shall not be so as to render the agricultural use of the tracts less efficient; i.e. under normal circumstances fields and contour strips shall not be split. No "farm" approved as having fifty (50) acres of crop land (See Section 203.9(a)(3)) shall subsequently be permitted to locate dwelling units allocated pursuant to Section 298 of this ordinance or accessory buildings so as to reduce the amount of crop land to less than fifty (50) acres.
- c. Existing buildings shall not be separated from the original tract unless it is determined that they have no functional utility in connection with the agricultural use of the original tract.
- d. There must be assigned both to the land being separated from the original tract or parcel and the remaining portion of the original tract or parcel at least one (1) of the original tract's permitted allocation of dwelling units unless that land or parcel is being permanently joined to an adjacent tract or parcel which either contains an existing dwelling or has allocated to it the right to construct at least one (1) dwelling.

#### **SECTION 203.10**

The applicant shall have the burden of proving that the land he seeks to subdivide or to utilize for a use or in a manner permitted only if the land is found to be of low quality for agricultural use, meets the criteria set forth in Section 298(e) of this Ordinance.

#### **SECTION 203.11**

**SOIL CLASSIFICATION REVIEW** - Any land owner who disagrees with the classification of his farm or any part of it by the Soil Maps prepared by the York County Planning Commission for Lower Chanceford Township, may submit an engineering analysis of the soils on the portion of the farm which he seeks to have reclassified and if the Board of Supervisors finds the study to be accurate, it shall act in accordance with the results of such study.

5. Commercial District (C)

**SECTION 204.0 PURPOSE**

The purpose of this zone is to provide reasonable standards for the development of commercial uses which serve the day-to-day shopping needs of the residents as well as those establishments which cater primarily to the motoring public. The standards of this district are designed to separate access roads from major thoroughfares, to minimize traffic congestion and to provide buffer yards and screen plantings where such adjoin residential areas.

**SECTION 204.1 USE REGULATIONS**

No building or structure may be erected or used and no land may be used or occupied except for one of the following uses:

**Principal Uses:**

1. Apartment above store
2. Public buildings and facilities
3. House of worship
4. Public or private parking lot
5. *Professional and business offices*
6. Medical clinic, laboratory
7. Financial institution
8. Commercial school
9. Retail store and personal service shops
10. Eating establishments including drive-in restaurants
11. Indoor and outdoor recreational establishments (s.360-361)
12. Motel, hotel, tourist home
13. Laundry and dry cleaning establishments
14. Outdoor and vehicle sales, service and repair
15. Service stations (Part III-C-1)
16. Animal hospital, kennel
17. Caretaker or watchman dwelling
18. Funeral home
19. Agriculture
20. Farmers Market
21. Auction Sales
22. Greenhouse, nursery
23. Parks and other open spaces of a non-profit nature
24. Forestation and wildlife preserve
25. Signs when erected and maintained in accordance with
26. Hospital or other health care facility
27. Single Family Dwelling (see Section 398)
28. Agricultural Commodity Sales - see Section 307
29. Massage Establishment
29. Agricultural Processing Establishment - See Section 308

Accessory Uses:

1. Storage (see s.350 et seq.)
2. Any other use customarily incidental to any of the uses permitted by this section as principal permitted uses.

**SECTION 204.2 USES BY SPECIAL EXCEPTION**

The following uses shall be permitted as special exceptions when authorized by the Zoning Hearing Board. The Zoning Hearing Board shall hear and decide requests for such uses according to the criteria established in Part IV of this Ordinance.

Principal Uses:

1. Mobile home park (see Section 330)
2. Club room, club grounds, meeting hall
3. Shopping center (see Section 445)
4. Processing establishment
5. Heavy storage services
6. Research laboratory
7. Personal Care Home (see Section 266)
8. Nursing Home or Convalescent Home (see Section 365)
9. Child Day Care Center (see Section 363)
10. Communication transmitting and/or receiving facilities (see Section 399)
11. Adult Entertainment Facility (See Section 369)

Accessory Uses:

Any other use customarily incidental to any of the uses permitted by this section as special exception uses.

**SECTION 204.3 LOT AREA AND WIDTH**

The lot area and width of not less than the dimensions shown on the following table shall be provided for each principal structure hereafter erected or altered for any use permitted in this district.

	Public Water & <u>Public Sewer</u>	Public Water or <u>Public Sewer</u>	No Public Water or <u>Public Sewer</u>
Minimum Lot Size	8,000 sq. ft.	15,000 sq. ft.	43,560 sq. ft.
Minimum Lot Width	70 ft.	80 ft.	200 ft.

**SECTION 204.4 BUILDING COVERAGE**

The maximum coverage of lot area by buildings or structures shall be as permitted in Section 218.

#### **SECTION 204.5 BUILDING SETBACK AND YARD REQUIREMENTS**

##### **1. Minimum front yard -**

- a. For a nonagricultural use - thirty (30) feet
- b. For a principal or accessory building - thirty (30) feet

##### **2. Minimum side yard**

- a. For a principal building - fifteen (15) feet
- b. For an accessory building - ten (10) feet
- c. For a nonagricultural use - fifteen (15) feet

##### **3. Minimum rear yard -**

- a. For a principal building - thirty (30) feet
- b. For an accessory building - ten (10) feet
- c. For a nonagricultural use - ten (10) feet

#### **SECTION 204.6 BUILDING HEIGHT**

The building height limit shall be three stories but in no case more than fifty (50) feet. The height limit for an accessory building shall be two stories but not over twenty-five (25) feet.

#### **SECTION 204.7 EXTENT-OF-USE**

Unless otherwise noted the extent-of-use or dimensional standards as set forth herein are the requirements for each use in this district. However,

- a. Exceptions and modifications to the extent-of-use requirements are set forth in Part II-A-7, and
- b. Additional or special extent-of-use requirements for certain uses are set forth in Part III.

## **6. Industrial District (I)**

### **SECTION 205.0 PURPOSE**

The purpose of this zone is to permit and encourage industrial development that will be so located and designed as to continue a harmonious and appropriate development, contribute to the soundness of the economic base of the Township and otherwise further the purposes of this Ordinance. In promoting these and the general purposes of this Ordinance, the specific intent of this zone is:

- a. To encourage the development of and continued use of land for industrial purposes.
- b. To prohibit any use which would substantially interfere with the development, continuation or expansion of industrial uses in the district.
- c. To establish reasonable standards for buildings and other structures, the areas and dimensions of yards and other open spaces, and the provision of facilities and operation of industries to minimize air pollution, noise, glare, heat, vibration and fire and safety hazards.

### **SECTION 205.1 USE REGULATIONS**

No building or structure may be erected or used and no land may be used or occupied except for one of the following uses:

#### **Principal Uses:**

1. Public or private parking lot
2. Caretaker or watchman dwelling
3. Professional and business offices
4. Processing establishments
5. Heavy storage services
6. Motor freight depot, truck terminal
7. Research laboratory
8. Agriculture
9. Single Family Dwelling (see Section 398)
10. Agricultural Commodity Sales - see Section 307
11. Agricultural Processing Establishment - See Section 308

#### **Accessory Uses:**

1. The sale of any products grown or produced on the farm on which they are sold
2. Home occupation (see Sections 303-304)
3. Signs (see Section 310 et seq.)
4. Any other use customarily incidental to any of the uses permitted by this section as principal permitted uses.

## **SECTION 205.2 USES BY SPECIAL EXCEPTION**

The following uses shall be permitted as special exceptions when authorized by the Zoning Hearing Board. The Zoning Hearing Board shall hear and decide requests for such uses according to the criteria set forth in Section 205.7 of this Ordinance and in accordance with the criteria established in Part IV of this Ordinance.

### **Principal Uses:**

1. Industrial park (see Section 446)
2. General manufacturing (see Section 204.7)

### **These include such uses as:**

- Food processing
- Furniture
- Textiles, leather, rubber, paper
- Fabricated metals, machinery
- Stone, clay, glass
- Printing and publishing
- Soft drink bottling, packaging products in the form of powder or other dry state
- Lace manufacture, sewing apparel
- Assembly of electronic apparatus
- Instrument making, tool and die making, cabinetmaking
- Electroplating metals, molding plastics

3. Automobile dismantling plant
4. Inclinator, baling or treatment of junk, scrap, metals, rays, paper
5. Sawmill
6. Landfill and other solid waste disposal facilities
7. Airport
8. Junkyard (see Section 446.5)
9. Automotive garage or service station (see Section 395)

### **Accessory Uses:**

1. Home occupation (see Section 303)
2. Any other use customarily incidental to any uses permitted by this section as special exception uses.

## **SECTION 205.3 LOT AREA AND WIDTH**

The lot area shall be not less than forty-three thousand five hundred sixty (43,560) square feet and the lot width shall be not less than two hundred (200) feet.

#### **SECTION 205.4 BUILDING COVERAGE**

The maximum coverage of lot area by buildings or structures shall be as permitted in Section 218.

#### **SECTION 205.5 SETBACKS**

Each lot shall meet front, side and rear setback requirements not less than the depth or width as follows:

- a. Front setback - thirty-five(35) feet
- b. Each side setback - twenty (20) feet
- c. Rear setback - thirty-five (35) feet

#### **SECTION 205.6 BUILDING HEIGHT**

The building height limit shall be three stories, but not more than one hundred (100) feet. The height limit for an accessory building shall be two stories, but not over twenty-five (25) feet.

#### **SECTION 205.7 INDUSTRIAL USES AND PERFORMANCE STANDARDS**

a. General manufacturing uses shall include:

- 1. Food processing
- 2. Meat packing
- 3. Furniture manufacturing
- 4. Textiles, leather, rubber, paper manufacturing and fabricating
- 5. Fabrication of metal
- 6. Stone, clay, glass
- 7. Printing and publishing
- 8. Soft drink bottling, packaging products in the form of powder or other dry state
- 9. Lace manufacture, sewing apparel
- 10. Assembly of electronic apparatus
- 11. Instrument making, tool and die making, cabinet making
- 12. Electroplating metals, molding plastics
- 13. Automobile dismantling plant
- 14. Incineration, baling or treatment of junk, scrap metals, rags or paper
- 15. Any similar type enterprise

b. Performance Standards - Before any permit for any use permitted in this zone by special exception is granted the applicant must establish that his proposed use will not --

- 1. Cause dust, smoke, fumes, gas or offensive odors to be disseminated beyond the boundaries of the lot.
- 2. Cause vibration beyond the boundaries of the lot.
- 3. Cause noise exceeding 70 dbA at the lot line.
- 4. Cause glare observable from beyond the boundaries of the lot.

5. Cause any pollution or discoloration of any waters of the Township.

6. Constitute unusual fire or explosion hazard

In the event a special exception is granted and it is established to the satisfaction of the Board of Supervisors that the operation is in fact causing--

1. Dust, smoke, fumes, gas or offensive odors to be disseminated beyond the boundaries of the lot;

2. Vibration beyond the boundaries of the lot

3. Noise exceeding 70 dbA at the lot line;

4. Glare observable from beyond the boundaries of the lot;

5. Any pollution or discoloration of any waters of the Township, or;

6. An unusual fire or explosion hazard, the special exception and use certificate issued with respect to this operation shall be revoked and this operation shall cease immediately.

#### **SECTION 205.8 EXTENT-OF-USE**

Unless otherwise noted the extent-of-use or dimensional standards as set forth herein are the requirements for each use in this district. However,

a. Exceptions and modifications to the extent-of-use requirements are set forth in Part II-A-7, and

b. Additional or special extent-of-use requirements for certain uses are set forth in Part III.

7. Exceptions and Modifications

**SECTION 210    YARD REGULATIONS**

1. Expansion of Existing buildings

- a. Expansion of buildings existing as of December 30, 1976 shall be permitted without regard to the yard requirements set forth in this Ordinance provided such expansion does not project further into the required yard area than does the building before expansion.

2. New buildings

- a. New principal buildings may be located in the required front setback or front yard area only if:
  - 1) the alignment of one or more of the existing principal buildings on each side of the lot proposed as the location for a new principal building and within a distance of two hundred (200) feet of the proposed building and fronting on the same side of the same road or street is more proximate to the center of the road or street than the required minimum setback line; and
  - 2) the proposed principal building will be located so that it is in alignment with the principal buildings on each side of the lot within a distance of two hundred (200) feet of the proposed building and fronting on the same side of the same road or street as the proposed building; and
  - 3) the resulting front setback is not less than thirty-five (35) feet from the center line of the road or street.

3. New Accessory Buildings

- a. New accessory buildings may be located within the minimum front setback or front yard areas only if:
  - 1) there is on the property proposed as the location for the accessory building another building within the required front setback or front yard area; and
  - 2) such building was existing on December 30, 1976; and
  - 3) the proposed accessory building will not project further into the required front setback or front yard area than the other building existing on December 30, 1976.
- b. New accessory buildings may be located in the existing front yard area as defined in relation to the principal building only if:
  - 1) the provisions of subsection (a) above are applicable to permit the accessory building be located within the minimum front setback or front yard area; or
  - 2) the proposed accessory building will be located in the Agricultural District or Conservation District; and

- a) the accessory building will be located at least five hundred (500) feet from any dwelling other than one owned by the owner of the accessory building; or
- b) the accessory building will be located on a farm containing at least fifty (50) acres.
- 3) accessory buildings permitted within the existing front yard area by reason of the provisions of (2)(a) or (2)(b) may not be located in the required front setback or front yard area.

## **SECTION 212 SIGHT DISTANCE**

Proper sight lines must be maintained at all street intersections. Measured along the centerline of the street, there must be a clear sight triangle with sides as follows:

<u>Street</u>	<u>Clear Sight Triangle Side</u>
Major Thoroughfares	150 feet
Minor Streets	75 feet

No building or construction is permitted in this area except as follows:

- a. Obstructions or plantings less than 3 feet in height.
- b. If not obstructing the view of traffic, post columns and trees not exceeding 1 foot in diameter.

## **SECTION 213 SETBACKS ON CORNER LOTS AND TRIANGULAR LOTS**

In the case of corner lots, two front setbacks of at least thirty-five (35) feet each shall be provided and two side setbacks of at least ten (10) feet shall be provided. In the case of triangular lots, one front setback of at least thirty-five (35) feet shall be provided and two side setbacks of at least ten (10) feet shall be provided.

## **SECTION 214 EXCEPTIONS FOR ACCESSORY OR APPURTENANT STRUCTURES:**

- a. Setbacks: The setback regulations do not apply to –
  - 1. School bus shelters and cornices, chimneys, steps, canopies, and similar extensions but not including porches or patios whether covered or not;
  - 2. Open, fireproof fire escapes.
  - 3. Eaves.
- b. Maximum Height:

The height regulations do not apply to –

  - 1. Structures such as chimneys, standpipes, flagpoles, television antennas or radio towers.

2. Structures on buildings such as clock towers, cupolas, water tanks, and other mechanical appurtenances, if such structures, at any level, do not cover more than twenty-five (25) percent of the roof on which they are located.
3. Parapet walls or cornices used solely for ornamental purposes if not in excess of five (5) feet.

#### **SECTION 215 MINIMUM HABITABLE FLOOR AREA**

All dwelling units must contain at least four hundred (400) square feet of habitable floor area, provided, however, that this section shall not apply to residential units occupied by a family headed by an individual that is employed as a farm worker on a full time basis by the owner of the property on which the residential unit is located.

#### **SECTION 216 NUMBER OF PRINCIPAL USES ON A LOT**

In an R zone, not more than one (1) principal use shall be permitted upon a lot except by special exception.

#### **SECTION 217 STREET ACCESS**

The front yard of any dwelling hereafter erected shall abut a public street unless otherwise authorized by special exception. A special exception shall not be granted if the result of granting such permit would be that the front yards of more than three (3) dwellings hereafter erected abutted a nonpublic street.

#### **SECTION 218 BUILDING COVERAGE**

Maximum coverage of lot area by buildings shall be permitted as follows:

- a. Lots which either contain a dwelling or which consistent with the provisions of this ordinance may be approved as the location for the construction or placement of a dwelling.
  1. If public water and public sewer are not used: fifteen percent (15%)
  2. If public water only is used: twenty percent (20%)
  3. If both public water and public sewer are used: thirty percent (30%)
- b. Lots in the Commercial or Industrial District which do not contain a dwelling and on which a dwelling may not be placed consistent with the requirements of this ordinance.
  1. If public water and public sewer are not used: thirty percent (30%)
  2. If public water only is used: forty percent (40%)
  3. If both public water and public sewer are used: sixty percent (60%)

#### **SECTION 219 ROW DWELLING OR GROUP DWELLING**

**Extent-of-Use Requirement** - Each dwelling unit in a row dwelling group must have a minimum lot area of three thousand (3,000) square feet and a minimum width of twenty (20) feet. The maximum number of dwelling units permitted in a row group is ten (10). Between row groups there must be at least forty (40) feet. At the end of each row group the side setback from a property line must be twenty (20) feet.

## **SECTION 220 MULTI-FAMILY DWELLINGS--DENSITY**

The lot for a multi-family dwelling unit must contain the area following per dwelling unit subject to the minimum lot size requirements found in s.201.3 and s.204.3.

1-story building: two thousand (2,000) square feet

2-story building: on thousand five hundred (1,500) square feet

Multiple story building: one thousand (1,000) square feet

### **B. IMPROVEMENTS**

#### **1. Parking**

## **SECTION 230 SIZE OF PARKING SPACE**

The parking space must have an area of not less than two hundred (200) square feet, exclusive of passageways and driveways appurtenant to the space and giving access to it. Where five (5) or more parking spaces are required, the total parking area including passageways and driveways must average three hundred (300) square feet per required parking space.

## **SECTION 231 SPACES REQUIRED**

Off-street parking spaces must be provided for each building erected or enlarged in accordance with the following schedule:

<u>Type of Use</u>	<u>Minimum of One Parking Space for Each</u>
Dwelling, except multi-family	Housing & Dwelling Unit
Multi-family dwelling	2/3 Dwelling Unit (i.e. 1 1/2 space per dwelling unit)
Rooming House	Bedroom
Hotel, motel, tourist home	Guest sleeping room
Office building	300 sq. ft. of gross floor area
Retail store or shop	100 sq. ft. of gross floor area
Eating establishments	4 seats
Bowling alley	1/5 lane (i.e. 5 space per lane)
Other recreational establishments	100 sq. ft. of gross floor area
Automobile repair, gasoline station	400 sq. ft. of gross floor area and ground area devoted to repair/service facilities
Other commercial buildings	400 sq. ft. of gross floor area
Hospital, Sanitarium	1/2 bed (i.e. 2 spaces per bed)

<u>Type of Use</u>	<u>Minimum of One Parking Space for Each</u>
Auditorium, Church, Theater & other such places of public assembly	3 seats
Industrial & Heavy Commercial establishments	1 ½ employees on major shift but at least 1 space for each 5,000 sq. ft. of gross floor area
Funeral homes	100 sq. ft. of gross floor area
Clubs, lodges and other similar places	100 sq. ft. of gross floor area
Drive-in establishments	As required by Zoning Hearing Board

#### **SECTION 232 LOCATION**

The parking area must be on the same or nearby premises. If on nearby premises-

- a. The nearest point of the parking lot shall be not further than the following distances to the nearest point of the property served: 100 feet in the case of a commercial use, 200 feet in case of a residential use, and 300 feet in the case of industrial use.
- b. The parking area must remain under control of the owner or operator of the use to which the parking area is appurtenant in a manner satisfactory to the Zoning Hearing Board.

#### **SECTION 233 LAYOUT**

Parking areas must be arranged so there will be no need for motorists to back over:

- a. Local streets, except in the case of residential uses.
- b. Major thoroughfares.

#### **SECTION 234 PARKING AREA ADJACENT TO STREET**

For multi-family and nonresidential uses, where a parking area, or other area open to movement of vehicles abuts the right-of-way line of a public street, a pipe railing, post and chain barricade, raised curbs or equally effective devices satisfactory to the Township must line the public right-of-way except at access points.

#### **SECTION 235 PAVING**

All required parking areas and all access drives for commercial or industrial uses shall be paved with a hard, dust-free material.

## 2. Loading

### **SECTION 240 SIZE: SURFACING**

The loading space must be not less than twelve (12) feet wide and forty (40) feet long. It must be surfaced so as to be available in all weather.

### **SECTION 241 SPACES REQUIRED**

Off-street loading spaces must be provided for each building erected or enlarged in accordance with the following schedule:

<u>Type of Use</u>	<u>Number of Loading Spaces</u>
Manufacturing, storage, display or sale of goods, hospitals and sanitarium.	1 space for a gross floor area of 5,000 to 25,000 sq. ft. and 1 additional space for each 10,000 sq. ft. of gross floor area in excess of 25,000 square feet.
Offices, hotels, theaters or similar uses	1 space for a gross floor area of from 20,000 to 100,000 sq. ft. and 1 additional space for each 40,000 sq. ft. of gross floor area in excess of 100,000 square feet.

### **SECTION 242 LAYOUT**

The loading area must be arranged so that there will be no need for motorists to back over public rights-of-way and must not be located in the front yard.

## 3. Driveways

### **SECTION 250 WIDTH**

Within ten (10) feet of the street right-of-way line, access driveways may not exceed 35 feet in width.

### **SECTION 251 NUMBER**

The number of driveways may not exceed two (2) per lot on any one street frontage. The Zoning Hearing Board may grant permission by special exception for additional driveways where required to meet exceptional circumstances and where frontage of unusual length exists.

### **SECTION 252 OFFSETS**

Driveways may not enter a public street:

- a. Within forty (40) feet of the street right-of-way line of an intersecting street.
- b. Within five (5) feet of a fire hydrant.
- c. Within twenty-five (25) feet of another access drive on the same property.

#### **SECTION 253 SIGHT DISTANCE; SLOPE; CUTS**

A driveway must be located in safe relationship to sight distance and barriers to vision. The drive may not exceed a slope of five (5) percent within twenty-five (25) feet of the street right-of-way line. Where a drive enters a bank through a cut, unless a retaining wall is used, the shoulders of the cut may not exceed fifty (50) percent in slope within twenty-five (25) feet of the point at which the drive intersects the street right-of-way. The height of the bank must not exceed three (3) feet within ten (10) feet of the street.

#### **4. Illumination**

#### **SECTION 260**

Where a use involves exterior lighting, the lighting must be so located and shielded that no objectionable illumination or glare is cast upon adjoining properties. Furthermore, such lighting must be so located and shielded that no direct illumination or glare is caused to be directed at an angle above the horizontal level of the lighting source, except where all direct illumination or glare from such source falls upon the principal or appurtenant buildings of subject use.

#### **5. Drainage**

#### **SECTION 270 ADEQUATE DRAINAGE REQUIRED**

No principal building may be erected, structurally altered, or relocated on land-

- a. Which is not adequately drained at all times
- b. Which is subject to periodic flooding.

#### **SECTION 271 BUILDING RESTRICTED ADJACENT TO DRAINAGE CHANNELS & WATERCOURSES**

Except for a boathouse, no building may be erected, structurally altered or relocated-

- a. Within twenty (20) feet of the ordinary high water line of any surface water drainage channel or natural watercourse.
- b. So that its lowest floor is less than three (3) feet above the high water line.

#### **SECTION 272 DRAINAGE UPON STREETS**

In order to prevent improper surface water drainage upon streets, each building erected, structurally altered, or relocated, and its driveways, must be at a grade in satisfactory relationship-

- a. With the established street grade, or
- b. With the existing street grade where none is established.

### **SECTION 273 DRAINAGE UPON ADJOINING PROPERTIES: SLOPES**

In order to protect adjoining property owners, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land may be made which would-

- a. Result in a slope of more than ten (10) percent within twenty (20) feet of a property.
- b. Alter the existing drainage or topography in any way so as to adversely affect adjoining properties.

In no case may any slope exceed the normal angle of slippage of the material involved. All slopes must be protected against erosion.

### **SECTION 274 OBSTRUCTION TO DRAINAGE PROHIBITED**

The damming, filling, or otherwise interfering with the natural flow of a surface watercourse is not permitted without approval of the Township Supervisors.

#### **6. Other Improvements**

### **SECTION 280 WATER SUPPLY**

Unless safe water supply is provided, a use certificate will not be issued for a building involving human use or occupancy. Any private water supply for a principal building involving human use and occupancy must be in accordance with minimum standards approved by the Pennsylvania Department of Environmental Resources.

### **SECTION 281 SEWAGE**

Unless a sewage system approved by the Pennsylvania Department of Environmental Resources or the Township Sewage Enforcement officer is provided a Use Certificate will not be issued for a building involving human use or occupancy. The following additional regulations shall apply with respect to sewage disposal systems:

- a. Hereafter no sewage system of any kind shall be erected, constructed, installed, altered, or extended within the limits of Lower Chanceford Township except as set forth in Section I of the Lower Chanceford Township's Sewage Permit Ordinance, unless a permit to do so shall first be secured in accordance with the provisions of the Lower Chanceford Township Sewage Permit Ordinance and unless such erection, construction, installation, alteration, or extension is in strict accordance with the application submitted pursuant to the Lower Chanceford Sewage Permit Ordinance and with the permit issued pursuant thereto in accordance with the procedures set forth in such ordinance.
- b. No person, firm, association, or corporation shall maintain or use any sewage disposal system of any kind so that vectors (insects or rodents capable of carrying disease) may have access to the excrementitious matter contained therein or so that the sewage disposal system directly or indirectly drains or discharges over or upon the surface of the ground or into any waters of the Township. It shall also be unlawful for any person, firm, association or corporation to fail to

comply with the requirements set forth in subparagraphs (a) and (b) of Section II of the Lower Chanceford Township Sewage Permit Ordinance.

- o. All the provisions of the Lower Chanceford Township Sewage Permit Ordinance are incorporated herein by reference. Any violation of any provision of that ordinance shall constitute a violation of this ordinance.

### **C. NONCONFORMITIES**

#### **SECTION 290 NONCONFORMING STRUCTURES**

- a. Continuation of Nonconforming Structures - Any nonconforming structure may remain although such structure does not conform to the dimensional requirements of this ordinance.
- b. Restoration - If any nonconforming building or structure shall be destroyed or damaged by reason of wind, storm, fire, explosion or other act of God, or torn down by the owner thereof, such building or structure may be restored or rebuilt at its original location provided that the original location is at least sixteen and one-half (16-1/2) feet from the center line of a public road or at an alternate location provided the alternate location does not involve a greater encroachment into the required setback or yard area than did the original location and provided such restoration or reconstruction is commenced within two (2) years of the date of the casualty or demolition and is completed within two (2) years thereafter. Unless such building or structure is restored or reconstructed as set forth above it shall be considered abandoned and shall not be restored or reconstructed except in conformance with the provisions of this ordinance.
- c. Extension, expansion or alteration - A nonconforming building or structure may be extended, expanded, or altered provided the extension, expansion or alteration does not involve a greater encroachment into the required setback or yard area than did the original building or structure.

#### **SECTION 291 NONCONFORMING LOTS**

- a. Continuation of Nonconforming Lots

Any nonconforming lot may be continued although such lot does not conform to the lot requirements of the district in which it is located.

- b. Construction

The provisions of this ordinance shall not prevent the construction of a structure on a nonconforming lot, provided the setback, height and other applicable dimensional requirements are met for the establishment of a use on a nonconforming lot.

#### **SECTION 292 NONCONFORMING USES**

- a. Continuation of Nonconforming Uses

Any nonconforming use may be continued indefinitely although such use does not conform to the provisions of this ordinance. Unless specifically provided by the Zoning Hearing Board for a particular use, no change of title or possession or any other change in status of a property on which a nonconforming use exists shall prevent the continuation of such nonconforming use.

b. Extension or Expansion of Nonconforming Uses

The Zoning Hearing Board may permit the extension or expansion of a nonconforming use provided the provisions of Section 447 of this ordinance are complied with.

c. Change of Use

The Zoning Hearing Board may permit the replacement of one nonconforming use by another nonconforming use provided the requirements of Section 448 of this ordinance are complied with.

d. Abandonment

A nonconforming use shall be considered abandoned when there occurs a cessation of any use or activity by an apparent act or failure to act on the part of the tenant or owner to reinstate such use within a period of one (1) year from the date of cessation or discontinuance. Such use shall not thereafter be reinstated and any structure located on the property shall not be reoccupied except in conformance with this ordinance.

**SECTION 295 ZONE CHANGES**

Whenever the boundaries of a zone shall be changed so as to transfer an area from one zone to another zone of a different classification, the foregoing provisions shall also apply to any nonconforming uses existing therein or created thereby.

**SECTION 296 ADDITIONAL REQUIREMENTS**

For additional requirements and regulations concerning non-conformities see Part IV-C-2, Sections 447 and 448.

**D. CONDITIONAL USES**

**SECTION 297**

All applications for approval of a conditional use shall be referred to the township planning code for recommendation.

**E. SINGLE FAMILY DWELLING UNITS IN AGRICULTURAL AND CONSERVATION DISTRICTS**

**SECTION 298**

Dwelling units in the agricultural and conservation districts shall be subject to the following limitations:

- a. There shall be permitted on each tract of land the following number of dwelling units:

<u>Size of Tract of Land</u> <u>(As of December 30, 1976)</u>	<u>Number of Dwelling Units Permitted</u> <u>(including those existing as of December</u> <u>30, 1976 and those located on a "farm")</u>
0 - 7 acres	1
7 - 30 acres	2
30-80 acres	3
80-130 acres	4
130 - 180 acres	5
180 - 230 acres	6
230 - 280 acres	7
283 - 330 acres	8
330 - 380 acres	9
380 - 430 acres	10
430 - 480 acres	11
480 - 530 acres	12
530 - 580 acres	13
580 - 630 acres	14
630 - 680 acres	15
680 - 730 acres	16
730 - 780 acres	17
780 - 830 acres	18
830 acres and over	19

In the event an agricultural easement or other easement restricting or limiting nonagricultural development has been placed on any parcel or part thereof, such parcel shall not have any allocation of dwelling units in excess of dwelling units currently existing on the parcel whether pursuant to this subsection or subsection (e) below unless the deed creating the easement specifically reserves to the parcel such dwelling rights or the property owner has entered into an agreement with the Township prior to the granting of such easement allocating permitted dwelling units between the portion of the parcel which will be subject to the easement and a portion of the parcel which will not be subject to the easement. In no event shall the permitted allocation exceed the number permitted the tract by subsections (a) or (e) of this section, as may be applicable. Each principal use described in Section 202.2 as permitted by special exception in the Agricultural District excepting uses 2, 4, 10, 18, and 20 and each principal use described by Section 203.2 as permitted by special exception in the Conservation District excepting uses 2, 5, 10, and 12 and "Special Events" when permitted as accessory to "agriculture" in either the Agricultural District or the Conservation District shall reduce the number of dwelling rights available to the "tract" by one. Such uses shall not be permitted unless there is at least one dwelling right to allocate to such use.

- b. New dwelling units, sewage disposal systems and accessory structures and uses must be located on lots which together with the driveway or driveways providing access to such lots consist in their entirety of land of low quality for agricultural use as defined in subsection (e) of this section. Where such location is not feasible permits shall be issued to enable dwelling units, sewage disposal systems and/or accessory structures and uses to be located on lots containing higher quality soils. However, in all cases such dwelling units, sewage disposal systems, accessory structures and uses and residential lots together with access drives or driveways providing access to such lot shall be located on the least agriculturally productive land feasible and so as to minimize interference with agricultural production.

- c. A lot on which a new dwelling is to be located shall not contain more than one (1) acre per dwelling unit unless the lot in its entirety is composed of land of low quality for agricultural use as defined in Section 202.9(e) of this Ordinance, and it is determined from the subdivision plan submitted by the property owner that the increased size of the proposed lot will not have the effect of precluding the property from locating all of the dwelling units permitted his tract by paragraph (a) of the this section on lots composed in their entirety of the type of land described in paragraph (e) of this section, or that the physical characteristics of the land itself require a lot size in excess of one (1) larger lot size in order to properly locate a dwelling, a driveway, and an on-site sewage disposal system. If a new dwelling is to be located on a residual tract which currently is not improved with the dwelling, that dwelling must be located on the least agriculturally productive land feasible, and so as to minimize interference with agricultural production.
- d. A property owner submitting a subdivision plan will be required to specify on his plan which lot or lots shall carry with them the right to erect or place any unused quota of dwelling units this tract may have. The property owner shall be required to assign to each lot the right to erect or place at least one dwelling unit and to demonstrate that the lot can be approved as a location for the placement or erection of a dwelling unless the lot is being permanently merged with another parcel which has either an existing dwelling or the right to erect or place at least one dwelling.
- e. Lots for the location of dwelling units in addition to those authorized by subparagraph (a) may be permitted provided that all of the dwelling units permitted by subparagraph (a) and constructed after December 30, 1976, and all the additional new dwelling units are located on lots which consist in their entirety of land of low quality for agricultural use. Land shall be considered of low quality for agricultural use if:
  - 1. The land is not "prime agricultural land" as defined by this ordinance; or
  - 2. The areas of prime agricultural land are minor and isolated (meaning not contiguous with other areas of prime agricultural land) and cumulatively do not "exceed the lesser of one-tenth (1/10) of the lot or sixty-five hundred (6500) square feet; or
  - 3. The land has not been farmed in the past five (5) years and is not feasible to be farmed,
    - a) due to the existing features of the site such as rock too close to the surface to permit plowing, swamps, the fact that the slope of the area exceeds fifteen percent (15%); or
    - b) due to the fact that the size or shape of the area suitable for farming is insufficient to permit efficient use of the type of farm machinery typically used at the present time by farmers in the area (for purposes of the application of this subsection the land to be contained in the lot shall be considered as a part of the original tract).

Such additional lots must meet all the requirements of this ordinance, the Township Subdivision and Land Development Ordinance and all the requirements of the Pennsylvania Department of Environmental Protection.

The number of dwelling lots permitted by this section shall not be such as to permit there to be on any tract of land more than twice the number of dwelling units permitted on that tract of land by subsection (a) of this section.

- f. In the event two or more tracts are in common ownership, the owners may transfer the right to construct or erect dwellings as provided by Section 298(a) of this Ordinance from one tract to another owned by them providing the resulting dwelling unit or units are located on lots which, when considered as a part of the entire tract, consist in their entirety either of land of low quality for agricultural use as defined in Section 298(e) of this Ordinance or of land which is less desirable for agricultural use than any land on which a single family dwelling lot could feasibly be located on the transferor tract.

Before such transfer is approved the owner or owners must enter into a recordable agreement with the Township in a form approved by the Township Solicitor to give public notice of the transfer.

A transfer may not be approved if the location of the dwellings allocated to the transferor tract by Section 298(a) of this Ordinance on such transferor tract is precluded by physical features such as inadequate access, steep slopes, wetlands, etc. as opposed to the desire to preserve agricultural land in agricultural use.

No tract from which dwelling rights have been transferred pursuant to this section shall be permitted additional dwelling units as provided by Section 298(e) of this Ordinance.

Following the transfer the transferor tract must either contain an existing dwelling or have allocated to it the right to construct at least one dwelling unless it is being permanently joined to an adjacent tract or parcel which either contains an existing dwelling or has allocated to it the right to construct at least one dwelling.

- g. Each, two-family dwelling shall constitute two dwelling units for the purpose of determining the total number of dwelling units permitted any tract by the provisions of subparagraphs (a) and (e) of this section.
- h. Each dwelling unit approved pursuant to subsection (a) or subsection (e) of this section shall be located upon a separate and approved lot whether intended for transfer of title or not. Such additional dwelling lot or lots must meet all of the requirements of this Ordinance, the Township Subdivision and Land Development and all of the requirements of the Pennsylvania Department of Environmental Protection.

#### **SECTION 299 SMALL SCHOOL**

A small school (school designed to provide for less than fifty (50) students) shall be permitted in the Agricultural and Conservation Zones of the Township subject to all of the siting requirements for a single family dwelling as set forth in Section 298 of this Ordinance. Such small school shall utilize one of the tract's allocation of dwelling units permitted by Section 298(a) of this Ordinance.

## **PART III**

### **ADDITIONAL REGULATIONS FOR PARTICULAR USES**

#### **A. ACCESSORY USES AND STRUCTURES**

##### **SECTION 300 ATTACHED STRUCTURES**

A permanent-roofed accessory structure, attached to the principal building, is considered a part of the principal building for all regulatory purposes.

Expansion of buildings existing as of January 1, 1983, shall be permitted without regard to the yard requirements set forth in this Ordinance provided such expansion does not project further into the required area than does the building before expansion.

##### **SECTION 301 NONATTACHED STRUCTURES**

A permanent-roofed accessory structure, standing apart from the principal structure, shall not be erected within the front yard; provided, however, this regulation shall not apply to the agricultural district or the conservation district if the accessory structure is going to be located at least five hundred (500) feet from any dwelling other than one owned by the owner of the accessory structure or is going to be located on a farm containing at least fifty (50) acres. Where there is on the property proposed as a location of an accessory building, another building within the required front yard area and such building was existing on January 1, 1983, the accessory building may project into the required front yard area provided it does not project further into the front yard area than the other building.

Structures originally designed for transportation after fabrication on streets and highways on their own wheels and arriving at the site where they are to be utilized complete and ready for use except for minor and incidental unpacking and assembly operations, for location on jacks or permanent foundations connection to utilities and the like, including but not limited to structures originally designed as mobile homes, as vans or as busses, are not permitted as accessory structures in any zone excepting that up to two (2) such structures originally designed as storage trailers may be permitted as an accessory use on parcels in the Agricultural and Conservation Districts larger than ten (10) acres in size.

##### **SECTION 302 FENCES AND WALLS**

No fence or wall (except a retaining wall or a wall of a building permitted under the terms of this ordinance) shall be erected to a height of more than six (6) feet in any yard area except that a chain link fence may be erected to a height of no more than twenty (20) feet. A chain link fence is a fence constructed of steel or vinyl wires less than one-eighth inch in thickness with openings between each set of parallel wires at least one (1) inch in width.

## **SECTION 303 HOME OCCUPATION**

Home occupation shall be conducted in accordance with the following requirements:

1. The following requirements shall apply to all home occupations:
  - a. The home occupation shall be carried on only by members of the immediate family of the operator of the home occupation, which family members reside on the lot where the home occupation will be located and a maximum of one (1) nonresident employee.
  - b. The use will not involve any outside storage.
  - c. The use will not be one which tends to create dust, heat, glare, smoke, vibration or odors outside the building in which the use is being conducted or noise audible outside the building in which the use is being conducted. Motor vehicle repair facility is a use which tends to create noise audible outside the building in which the use is being conducted, and therefore is not permitted.
  - d. The character or external appearance of the dwelling unit or accessory structure must be that of a dwelling or structure normally accessory to a dwelling. No display of products may be shown so as to be visible from outside the dwelling or the accessory structure. A nameplate not larger than nine (9) square feet in area shall be permitted. It must be illuminated only by indirect lighting.
  - e. If the home occupation is to be conducted in a dwelling as opposed to an accessory building, not more than twenty-five (25%) percent of the habitable floor area of the dwelling unit may be devoted to a home occupation.
  - f. In addition to the required parking for the dwelling unit, additional parking located in the rear yard is required as follows:
    - (1) One space for the home occupation and one space for each employee.
    - (2) Three additional spaces for a physician or dentist.
  - g. The premises must at all times be kept neat and orderly.
  - h. The use will not result in a substantial increase in traffic. A twenty (20%) percent increase in traffic shall be regarded as substantial. For this purpose, measurement of traffic increase shall occur on the nearest non-dead or non-cul-de-sac street.
  - i. The use will not involve any waste product other than domestic sewerage or municipal waste (as defined in the Pennsylvania Solid Waste Management Act).
2. If the home occupation meets all of the above requirements and all of the following requirements, it shall be permitted in any zone upon receipt of a use certificate to be issued by the Township Zoning Officer.
  - a. The use will not involve any item not made on the premises except as incidental to the home occupation. Beauty shops, insurance agent offices, physician offices, bake shops,

handcraft shops, are examples of the type of uses which normally will meet this requirement.

- b. The use will not involve any dimensional alteration to any existing building other than a dwelling, use of any building constructed or placed after January 1, 1985, other than a dwelling, or construction or placement of any new building other than a dwelling.
3. If the proposed use would fail to meet one or more of the requirements of Section 303(2), the use will be permitted only following application and approval as a special exception by the Zoning Hearing Board. The Zoning Hearing Board shall review the application and approve it only if the applicant establishes that all of the requirements of Section 303(1) will be met and the applicant also establishes that the following additional requirements will be met:
  - a. If a new building is to be constructed or placed, an existing accessory building is to be enlarged or a building constructed or placed after January 1, 1985 is to be utilized to accommodate the proposed use, the building after enlargement or construction shall not have a ground floor area in excess of fifty (50%) percent of the ground floor area of the dwelling unless the building is at least five hundred (500) feet from any neighboring residence.
  - b. Unless the use is to be located in a dwelling or in a building constructed or placed prior to January 1, 1985, if it is in the agricultural or conservation district, it shall be located on land of low quality for agricultural use as defined by Section 298(e) of this ordinance.
4. A small business not qualifying as a home occupation pursuant to the criteria set forth in Section 303(1) through 303(3) shall be permitted as a home occupation in all districts except the residential district by special exception to be granted by the Zoning Hearing Board if the applicant establishes that the following requirements will be met:
  - a. The small business will be conducted in a building which was in existence on January 1, 1985 or in a building meeting the requirements of Section 303 (3);
  - b. The existing building which is to be used for the small business, if in the Agricultural or Conservation District, has no functional utility in connection with the agricultural use of the tract of land where the building is located.
  - c. The small business will be conducted by either the owner of the tract of land where the small business is located or by an ancestor or direct descendant of the owner, and either the owner or operator of the business resides on the tract of land where the business is located.
  - d. The premises will be kept neat and orderly and there will be no outdoor storage of the following:
    - (1) Automobiles, busses, vans, recreational vehicles and other vehicles of the type required to be registered for highway operation pursuant to the provisions of Chapter 13 of the Pennsylvania Motor Vehicle Code but not so registered, or parts thereof.
    - (2) Automobiles, busses, vans, recreational vehicles and other vehicles of the type required to be registered for highway operation pursuant to the provisions of Chapter 13 of the Pennsylvania Motor Vehicle Code and so registered but not displaying a

currently valid certificate of inspection and approval issued pursuant to Chapter 47 of the Pennsylvania Motor Vehicle Code, or parts thereof.

- (3) Motor vehicle parts or accessories.
  - (4) Junk as defined in this ordinance.
- e. The owner must establish that he has made satisfactory provisions for the removal and disposition of any and all waste products.
  - f. The use will not involve noise audible to neighboring residents between 6:00 P.M. and 7:00 A.M. The Zoning Hearing Board may require as a condition to any special exception that the applicant put in noise insulation and take other action so as to minimize audible noise during the period 7:00 A.M. to 6:00 P.M. If the Zoning Hearing Board determines that the use will involve unreasonable noise which cannot be satisfactorily reduced by insulation and other action by the applicant, the application shall not be approved.
  - g. The use will not result in a substantial increase in traffic. A twenty (20%) percent increase in traffic shall be regarded as substantial.
  - h. The use shall not create any vibrations, smoke, odors, heat or glare detectable beyond the property of the owner of the use.
  - i. There will not be more than six (6) employees including the owner or owners of the small business.
  - j. Prior to obtaining a permit for this use, the owner must have obtained a permit to install a sewage disposal system sized in accordance with needs of the business and must install the system before commencing the use.
  - k. In addition to the required parking for the dwelling unit, additional off-street parking on a stone or macadam surface in the rear yard is required as follows:
    - (1) One space for each non-resident employee.
    - (2) Such additional parking spaces as the Zoning Hearing Board determines is reasonably necessary to accommodate anticipated customers' needs. No customer parking may occur in the public right-of-way.
- 5. The applicant must include with the application for a use certificate or for a special exception, if the use requires a special exception, such drawings as will enable the Zoning Officer to have an adequate record of the location and extent of the proposed use. The applicant must also supply to the Zoning Officer such information as will enable the Zoning Officer or Zoning Hearing Board if a special exception application, to insure that all of the above enumerated requirements will be met.
  - 6. Any use certificate issued pursuant to the provisions of this section of the ordinance, whether or not issued pursuant to special exception granted by the Zoning Hearing Board, shall be for the duration of the calendar year during which it is issued. It shall be renewed each December for the following calendar year. There shall be no cost to the applicant if the application is filed

prior to December 31 each calendar year. In the event the application is filed after December 31, there shall be a charge of twenty, five (\$25.00) dollars. The use certificate shall automatically terminate if not renewed within three (3) months following the beginning of the year or when any of the requirements for the use certificate as set forth in this section of the Zoning Ordinance or in the order of the Zoning Hearing Board are no longer met. Any use must be terminated thirty (30) days following the expiration of any use certificate.

#### **SECTION 303A - NO IMPACT HOME-BASED BUSINESS**

This use shall be permitted in all Zones as an accessory use secondary to the use of a property as a residential dwelling without receipt of a use certificate for the no-impact home-based business provided all of the following criteria are met:

- A. The business activity is compatible with the residential use of the property and surrounding residential uses;
- B. The business employs no employees other than family members residing in the dwelling;
- C. There is no display or sale of retail goods; no customer, client or patient traffic, whether vehicular or pedestrian; no pickup, delivery or removal functions to or from the premises in excess of those normally associated with residential use and no stockpiling or inventory of a substantial nature;
- D. There is no outside appearance of a business use including, but not limited to parking, signs, or lights;
- E. The business activity does 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;
- F. The business activity does not generate any solid waste or sewage disposal in volume or type which is not normally associated with residential use in the neighborhood;
- G. The business activity is conducted within the dwelling and occupies not more than twenty-five (25%) of the habitable floor area;
- H. The business activity does not involve any illegal activity;
- I. The character or external appearance of the dwelling unit is that of a dwelling; and
- J. The premises are at all times kept neat and orderly.

#### **SECTION 304 DOMICILIARY CARE UNIT**

This shall be permitted as accessory to use as a single family dwelling or to use as a two family dwelling or to use as a multi-family dwelling subject to the limitations which are applicable in this ordinance with respect to the location of single family dwellings, two family dwellings and multi-family dwellings.

### **SECTION 305 FAMILY DAY CARE HOME**

This shall be permitted as accessory to use as a single family dwelling, to use as a two family dwelling, or to use as a multi-family dwelling subject to the limitations which are applicable in this ordinance with respect to the location of single family dwellings and multi-family dwellings.

### **SECTION 306**

Except for "home occupation", "domiciliary care unit", and "family day care home", there may be no business use or other use involving monetary receipt to the property owner or operator of the "use" accessory to the use of a tract for residential purposes.

### **SECTION 307 AGRICULTURAL COMMODITY SALES**

This use is permitted upon property owned and operated by a land owner who produces at least fifty percent (50%) of the value of the commodity sold as an accessory use in every zoning district by use certificate issued by the Zoning Officer. Such sales shall be permitted without regard to the fifty percent (50%) limitation under circumstances of crop failure due to reasons beyond the control of the land owner. The operator shall maintain records sufficient to establish compliance with the requirements of this section.

This use shall be permitted by use certificate in the Commercial and Industrial Districts and by special exception in the Agricultural and Conservation Districts as either a principal use or as an accessory use without regard to the fifty percent (50%) limitation, without regard to whether the operator of the use is the owner of the land where the use occurs and without regard to the requirements of Sections 202.2 and 202.3 that uses permitted by special exception be located on land of low quality for agricultural use.

In granting a special exception in the Agricultural and Conservation Districts, the Zoning Hearing Board shall require in addition to the general requirements of Section 443 the following:

1. All agricultural commodities sold must be produced at a location not greater than forty (40) miles from the location where sold. The operator shall maintain records sufficient to establish compliance with the requirements of this section.
2. The establishment of this use shall utilize one of the tract's allocation of dwelling units permitted by Section 298.
3. If a new building is to be constructed or placed, an existing building is to be enlarged, or a building constructed or placed after October 1, 2009 is to be utilized to accommodate the proposed use, all parts of the building must be at least five hundred (500) feet from any dwelling not owned by the owner of the land occupied by the use.
4. Parking shall be available in accordance with the requirements of Section 230-235 of this Ordinance.

### **SECTION 308 AGRICULTURAL PROCESSING ESTABLISHMENT**

This use is permitted as a principal use in the Commercial and Industrial Districts, as an accessory use to a House of Worship and Fire Company Emergency Services and Buildings or Structures in

all districts where such principal uses are permitted and as accessory to Agricultural Commodity Sales where such use is permitted as a principal permitted use or by special exception:

This use is also permitted upon property owned and operated by a landowner who produces at least fifty (50%) per cent of the value of the commodities processed as accessory to "Agriculture", "Single Family Dwelling" and "Two Family Dwelling" in every zoning district.

## B. OUTDOOR SIGNS

### SECTION 310 SIGNS PERMITTED AND EXTENT-OF-USE

- a. Drive-in Business: For a drive-in business, one (1) business sign not exceeding thirty (30) square feet in area is permitted on each street frontage. Additional signs are permitted as long as their number does not exceed two (2) per street frontage and their combined area does not exceed twenty (20) square feet per street frontage.
- b. Other Uses: For other uses, one (1) sign is permitted on each street frontage of a lot for each occupancy or purpose and an additional sign for each occupancy or purpose is permitted for every one hundred (100) feet of street frontage or major fraction thereof all in accordance with Subsection d. below. However, for business signs, any number of signs are permitted as long as their total area does not exceed the maximum under (d.) below.
- c. All Uses: For all uses, an advertising and a business sign must be at least sixty (60) feet apart, and no sign exceeding thirty (30) square feet in area may be located within seventy-five (75) feet of a residential zone.
- d. Type, Location and Size of Sign:

<u>Type of Sign</u>	<u>Where Permitted</u>	<u>Maximum Size</u>
Traffic	any zone	
Home occupation or Home Profession, Farm or Home Identification	any zone	9 sq. ft.
Trespassing	any zone	1 sq. ft.
Utility	any zone	2 sq. ft.
For sale, for rent, sold and rented	any zone	6 sq. ft.
Work sign of builders, painters and other artisans while performing work on the premises	any zone	6 sq. ft.
Directional	any zone but R	6 sq. ft.

<u>Type of Sign</u>	<u>Where Permitted</u>	<u>Maximum Size</u>
Identification and information of churches, schools, and other nonprofit institutions	any zone	20 sq. ft.
Apartment bulletin board	Same zone as apartments	20 sq. ft.
Temporary sign for sale of agricultural and horticultural products and for construction projects (s.315)	any zone	20 sq. ft.
Business, except for agricultural and horticultural products	any zone but R	A Zone or CV Zone: Two (2) signs neither to exceed twenty (20) sq. ft. in size. R Zone - One sign not to exceed sixteen (16) sq. ft. in size. C. Zone and I Zone: 160 sq. ft. or 3 sq. ft. for each lineal foot of building frontage which-ever is greater. Where the nature of the business and its location requires such long range visibility of signs that the above dimensions are inadequate to reasonably attract business, the maximum size may be increased by special exception to the extent necessary to provide reasonable visibility.
Advertising	C, I Zones	300 sq. ft.
Industrial park, subdivision, shopping center, tourist	Special exception must be obtained from the Zoning Hearing Board.	

#### **SECTION 311 SETBACK OF SIGNS**

- a. **Attached Signs:** No portion of an attached sign may extend beyond the building setback line.
- b. **Free-standing Signs:** No portion of a free-standing sign may be closer to a street right-of-way line than a distance equal to its height and in no event closer than fifteen (15) feet.

#### **SECTION 312 BUNTINGS & PENNANTS**

Buntings and pennants are permitted only to announce the opening of a new business or industry and must be removed after 7 days.

### **SECTION 313 PROJECTION OF SIGNS**

No sign may project:

- a. Over a public sidewalk area.
- b. Over a public highway or street unless specifically authorized by other Township or State regulations.
- c. More than twenty-five (25) feet above the ground except for an attached sign which may project ten (10) feet above the roof of a building providing the sign so placed does not project more than thirty-five (35) feet above the ground.

### **SECTION 314 ILLUMINATION OF SIGNS**

- a. All Zones: Flashing and intermittent lights are prohibited.
- b. A sign may be illuminated only if the lighting is so screened that it is not directed or reflected toward any adjacent residence within one hundred (100) feet. Furthermore, such lighting must be so located and shielded that no direct illumination or glare is caused to be directed at an angle above the horizontal level of the lighting source, except where all direct illumination or glare from such source falls upon the subject sign.
- c. Near Highway Traffic Lights: Signs which are illuminated in the colors, red, green, or amber, either by colored bulbs or tubing, or in high reflection by the use of special preparations such as fluorescent paint or glass, may not be located within a radius of 100 feet of a highway traffic light or similar safety device or in the center of any street intersection, or within fifty (50) feet of any public highway or street cartway.

### **SECTION 315 TEMPORARY SIGNS**

- a. A temporary sign for the sale of agricultural and horticultural products may be erected for a period not exceeding 6 months.
- b. A temporary sign for a construction project may be erected and maintained for as long as the project is under construction.
- c. A temporary sign such as those advertising activities of churches and nonprofit organizations may be erected for a period not exceeding sixty (60) days.

### **SECTION 316 CONSTRUCTION & MAINTENANCE**

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

### **SECTION 317 TERMINATION OF ENTERPRISE**

Upon termination or abandonment of a commercial, or industrial use, all signs pertaining to the enterprise must be removed

### **C. OTHER USES WITH POSSIBLE NUISANCE EFFECT**

1. Gasoline Stations: A gasoline station must comply with the additional extent-of-use and improvements regulations following:

#### **SECTION 320 MINIMUM SETBACKS FROM STREET RIGHT-OF-WAY LINES**

- a. Pumps: Fifteen (15) feet
- b. Building: Forty (40) feet

#### **SECTION 321 ACCESS DRIVES (SEE ALSO PART II-B-3)**

- a. Minimum offset from intersection of street right-of-way lines: Forty (40) feet
- b. Side lot line offset: Ten (10) feet
- c. Minimum width: Twelve (12) feet
- d. Maximum width: Thirty-five (35) feet
- e. Minimum separation of drives on same lot: Twenty-five (25) feet

#### **SECTION 322 CURBING**

Except along access drives, a concrete curb eight (8) inches in height must be placed along all street right-of-way lines.

#### **SECTION 323 LIGHTING**

All lights must be diverted inward and downward.

#### **SECTION 324 STORAGE**

No outdoor stockpiling of tires or outdoor storage of trash is permitted. Storage is permitted as a principal use in the commercial district and is permitted as an accessory use in all districts, provided that no part of the street right-of-way, no sidewalks or other areas intended or designed for pedestrian use, no required parking areas and no part of the front yard shall be occupied by outdoor storage or display. The permitted storage of items as an accessory use must involve the storage of items used on the lot or tract where stored in connection with a principal permitted use of such lot or tract of land.

"The following may not be stored out of doors in any district except in an approved "junkyard" in the Industrial District"

- a. Automobiles, busses, vans, recreational vehicles, and other vehicles of the type required to be registered for highway operation pursuant to the provisions of Chapter 13 of the Pennsylvania Motor Vehicle Code but not so registered;

- b. Automobiles, busses, vans, recreational vehicles and other vehicles of the type required to be registered for highway operation pursuant to the Pennsylvania Motor Vehicle Code and so registered; but not displaying a currently valid certificate of inspection and approval issued pursuant to Chapter 47 of the Pennsylvania Motor Vehicle Code.

(Excepting, however, each lot or parcel in separate ownership in the Residential District may be permitted one such vehicle and each lot or parcel in separate ownership in any of the other districts may be permitted two such vehicles, provided the property owner is actively repairing such vehicle or vehicles or using the vehicle or vehicles as parts for the repair of other vehicles and such vehicle or vehicles do not remain on the property for an unreasonable period of time.)

- c. Discarded motor vehicle parts or accessories.
- d. Other trash or junk as defined in this Ordinance.

#### **SECTION 325 LANDSCAPING**

At least ten (10) percent of the lot on which the gasoline station is situated must be devoted to landscaping.

#### **2. Mobilehome Parks**

#### **SECTION 330**

A mobile home park and extension thereof must conform with the additional extent-of-use and improvement regulations following.

- a. The minimum tract area shall be 10 acres.
- b. Lot sizes must conform to the minimum lot size requirements for the zone in which the mobile home park is to be located.
- c. Regardless of lot size, the side yard distances measured from outside each mobile home to the lot line shall not be less than thirty (30) feet in total and no one side yard distance less than twelve (12) feet. Front yards shall not be less than twenty (20) feet and rear yards shall not be less than ten (10) feet and in no case shall the distance between any two mobile homes be less than thirty (30) feet.
- d. The Zoning Hearing Board may require suitable screen planting, or may restrict the proximity of mobile homes or other improvements to adjoining properties, or may attach such other conditions or safeguard to the use of land for a mobile home park as the Board may deem necessary to protect the general welfare.
- e. A mobile home park and extension thereof shall also comply with all applicable state and/or municipal regulations now in effect or hereafter enacted.

3. Screens & Buffers

**SECTION 340 SCREENS AND BUFFERS**

Where a commercial or industrial zone abuts a residential zone except for street or alley frontage:

- a. A fence or hedge must be placed sufficient to screen any proposed industrial or commercial uses of structures from any location in a residential district and from any existing residence in an agricultural district.
- b. The space along the side lot line in the commercial or industrial zone abutting a residential zone for (50) feet in depth may not be used for commercial or manufacturing operations. This area must be suitably landscaped and maintained.

4. Unenclosed Storage

**SECTION 350 TRAILERS AND TRUCKS**

In a residential zone, trailers other than house trailers, and trucks over 2 tons, and similar objects and materials, must be:

- a. Parked or stored within a garage, carport or an enclosed storage structure, or
- b. Be completely shielded by landscaping, walls or fencing so as to screen the object at all seasons of the year from the street.

**SECTION 351 R, C AND I ZONES**

In R, C and I zones, no outdoor stockpiling of any material or outdoor storage of trash is permitted in front yards.

**SECTION 352 TRASH OR JUNK**

The accumulation of trash or junk out-of-doors for a period in excess of thirty (30) days is prohibited in all zones.

**SECTION 353 TRAVEL TRAILERS, CAMPERS AND RECREATIONAL VEHICLES**

No travel trailers, campers or other recreational vehicles may be used or occupied for dwelling purposes except for sleeping by visitors of the owners of the lot for periods which cumulatively do not exceed fourteen (14) days in anyone hundred twenty (120) day period.

5. Outdoor Recreation Uses

**SECTION 360 SCREENS**

Where an outdoor recreational use, other than a golf course, adjoins or is in a residential zone, trees or shrubs must be planted on the site of this use so as to form an effective visual barrier between the outdoor recreational use and adjoining residential properties.

### **SECTION 361 OUTDOOR SWIMMING POOL**

Every outdoor swimming pool must conform to all applicable requirements of State law and in addition must be completely surrounded by a fence or wall not less than 4 feet in height, which shall be so constructed as not to have openings; holes or gaps larger than 6 inches in any dimension; and if a picket fence is erected or maintained, the horizontal or vertical dimension of space between pickets shall not exceed 6 inches. All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. Farm ponds shall be excluded from the requirements of this Section.

All swimming pools must be located either in the existing side yard area or the existing rear yard area, excepting that this requirement shall not apply if the swimming pool is to be located at a distance greater than one hundred (100) feet from the center of a public road.

No water may be placed in such outdoor swimming pool until all of the protective fence requirements of this section have been complied with and all required fencing and safety equipment has been constructed or installed, provided, however, if the nature of the pool is such that the pool cannot be installed without water being placed in it, the Zoning Officer may permit a "temporary fence" sufficient to prevent trespassers from entering the pool. In all circumstances, the permanent protective fence must be completed within thirty (30) days following the placement of water in the pool.

### **SECTION 362 LAKES, PONDS & POOLS**

- a. Proof that the lake, pond, or pool will not become polluted by reason of existing uses of nearby land, reasonably anticipated increases in the existing use of such land not exceeding one hundred percent (100%) or from other sources. Such proof shall be supplied by an engineer retained by the Township at the expense of the applicant.
- b. If the applicant proposes to remove the pollution which would otherwise enter into the lake, pond, or pool, the Zoning Hearing Board shall require proof that the proposal will be effective in removing pollution, which proof shall be supplied by an engineer retained by the Township at the expense of the applicant.
- c. Also, the Zoning Hearing Board shall require proof that the devices proposed to remove the pollution will be continued permanently and that in the event the lake, pond, or pool did become polluted, the pollution problem would be solved by the lake, pond, or pool being drained.
- d. A lake, pond, or pool shall be considered polluted if the dissolved oxygen content drops below six (6) parts per million by reason of organic intrusion or if the phosphate content exceeds 0.1 part per million.
6. Other Uses

### **SECTION 363 CHILD DAY CARE CENTER**

In passing upon a special exception application for a Child Day Care Center, the Zoning Hearing Board must require the following:

- a. That there are covers over all electrical outlets
- b. That the location of the child day care center meets all of the requirements of this Ordinance regarding the location of buildings.
- c. In the event the facility requires certification and/or licenses from Federal and/or State agencies to permit its operation, the applicant must establish that he has secured or will be able to secure such certifications and licenses.
- d. The facility must be inspected by the local fire chief, who shall submit a written report to the Zoning Hearing Board containing his recommendations to insure adequate fire protection, which recommendations shall be a condition of any approval unless found to be unreasonable by the Zoning Hearing Board.
- e. There must be a fenced play area.
- f. No portion of a residence may be used as a child day center and no portion of a child day care center may be used as a residence.
- g. There must be one parking space for each employee of the center and an off-street area where children can be dropped off and picked up.
- h. All general requirements imposed by Section 443 of this Ordinance must be complied with.

#### **SECTION 364 NURSERY SCHOOL**

In passing upon a special exception application for a Nursery School, the Zoning Hearing Board must require the following:

- a. That there are covers over all electrical outlets.
- b. That the location of the nursery school meets all of the requirements of this Ordinance regarding the location of buildings and in particular, if the building is located or to be located within the Agricultural District or Conservation District the applicant must establish that the requirements of Section 202.2 and/or Section 203.2 regarding such location are complied with.
- c. In the event the facility requires certifications and/or licenses from Federal and/or State agencies to permit its operation, the applicant must establish that he has secured or will be able to secure such certifications and licenses.
- d. The facility must be inspected by the local fire chief who shall submit a written report to the Zoning Hearing Board containing his recommendations to insure adequate fire protection, which recommendations shall be a condition of any approval unless found to be unreasonable by the Zoning Hearing Board.
- e. If in the Commercial District there must be a fenced play area.
- f. No portion of a residence may be used as a nursery school and no portion of a nursery school may be used as a residence.

- g. That unless the applicant proposes to locate in the Commercial District, the applicant must establish that it is a non-profit organization and exempt from Federal tax pursuant to the provisions of Section 501 (c) of the Internal Revenue Code. Any special exception granted shall terminate immediately if the owner or operator loses its status as a non-profit corporation or as an exempt organization pursuant to Section 501 (c) of the Internal Revenue Code.
- h. There must be one parking space for each employee of the nursery school and an off-street area where children can be dropped off and picked up.
- i. All general requirements imposed by Section 443 of this Ordinance must be complied with.

#### **SECTION 365 NURSING HOME OR CONVALESCENT HOME**

In passing upon a special exception requirement for the establishment of a nursing home or convalescent home, the Zoning Hearing Board must require that the applicant establish that:

- a. The facility shall have direct access to an arterial or collector road;
- b. The administrator of the nursing home must be licensed pursuant to the "Nursing Home Administrator's License Act".
- c. In the event the facility requires certifications and/or licenses from Federal and/or State agencies to permit its operation, the applicant must establish that he has secured or will be able to secure such certifications and licenses.
- d. The facility must be inspected by the local fire chief who shall submit a written report to the Zoning Hearing Board containing his recommendations to insure adequate fire protection, which recommendations shall be a condition of any approval unless found to be unreasonable by the Zoning Hearing Board.
- e. All general requirements imposed by Section 443 of this Ordinance must be complied with.

#### **SECTION 366 PERSONAL CARE HOME**

In passing upon a special exception application for the establishment of a personal care home, the Zoning Hearing Board must require that the application establish that:

- a. In the event the facility requires certifications and/or licenses from Federal and/or State agencies to permit its operation, the applicant must establish that he has secured or will be able to secure such certifications and licenses.
- b. The facility must be inspected by the local fire chief who shall submit a written report to the Zoning Hearing Board containing his recommendations to insure adequate fire protection, which recommendations shall be a condition of any approval unless found to be unreasonable by the Zoning Hearing Board.
- c. All general requirements imposed by Section 443 of this Ordinance must be complied with.

### **SECTION 367 HOSPITAL**

In passing upon a special exception application for the establishment of a hospital, the Zoning Hearing Board must require that the applicant establish that:

- a. The facility shall have direct access to an arterial or collector road.
- b. The applicant must demonstrate compliance with all state regulations respecting the establishment and operation of hospitals.
- c. All general requirements imposed by Section 443 of this Ordinance must be complied with.

### **SECTION 368 KENNEL**

In passing upon a special exception application for the establishment of a kennel, the Zoning Hearing Board must require that the applicant establish that:

- a. The kennel will be located at least one thousand (1000) feet away from any dwelling owned by someone other than the owner of the kennel;
- b. The kennel shall not at any one time have present more than fifteen (15) adult dogs nor more than forty-five (45) dogs of any age;
- c. The owner or operator of the facility shall insure that the facility does not become a nuisance to the community because of unreasonable barking or making of noise by dogs residing in such facility. Dog barking shall be considered unreasonable if such barking or noise is audible by residents of dwellings in the township not owned by the owner of the kennel and extends continuously or virtually continuously for more than two periods in excess of fifteen (15) minutes each within any twenty-four hour period;
- d. The owner or operator of the kennel shall establish screening around the facility when it is reasonably possible to do so and when such screening will be helpful in minimizing transfer of noise to nearby residents and/or will reduce the visibility of the facility from nearby dwellings and adjacent yard areas; and
- e. The owner or operator of the facility shall comply with all state and federal regulations applicable to the facility.

### **SECTION 369 ADULT ENTERTAINMENT FACILITY**

In passing upon a special exception application for an adult entertainment facility, the Zoning Hearing Board must require the following:

- a. That the adult entertainment facility not be located within one thousand (1000) feet of any other adult entertainment facility.
- b. That the adult entertainment facility not be located within one thousand (1000) feet of any public or private school, day care facility, public recreational facility, or house of worship.

- c. That no materials, merchandise, film, or service offered for sale, rent, lease, loan or for view involving nudity shall be exhibited, displayed, or graphically represented outside of a building or structure.
- d. That no individual shall appear nude or in a state of nudity outside of a building or structure or although inside a building or structure be visible in such state of nudity from outside such building or structure.
- e. That any building or structure used and occupied as an adult entertainment facility be windowless or have an opaque covering over all windows or doors of any area in which materials, merchandise, film, service or entertainment are exhibited or displayed and that no sale of materials, merchandise, film or offered items of service or entertainment be visible from outside the structure.
- f. That trees or shrubs be planted around the perimeter of the Facility (other than the road frontage) to form an effective visual barrier between the adult facility and any residence, school, recreation facility, or other non-commercial or non-industrial use.
- g. That no sign be erected upon the premises depicting or giving a visual representation of the type of materials, merchandise, film, service or entertainment offered therein.
- h. That each and every entrance to the structure be posted with a notice of at least four (4) square feet that the use is an adult entertainment facility; and that persons under the age of eighteen (18) are not permitted to enter; and warning all others that they may be offended upon entry.
- i. That parking be established at a minimum ratio of one (1) parking space for each one hundred (100) square feet of gross floor area and one (1) parking space for each employee.
- j. That no sexual conduct or sexual activity, prostitution, solicitation for prostitution or gambling shall be permitted within or on the grounds of any adult entertainment facility; provided, however, consensual sexual conduct and sexual activity shall be permitted in an adult motel.
- k. That any adult cabaret must:
  - (1) maintain a transparent barrier or a buffer of at least six (6) feet between customers and employees who are in a state of nudity or semi-nudity with a glow-in-the dark line marking the buffer area;
  - (2) ensure that all employees in a state of nudity or semi-nudity are separated from customers by being on an elevated stage at least five (5) feet above floor level; and
  - (3) prohibit direct customer payment to employees who are or have in the past four (4) hours appeared publicly in a state of nudity or semi-nudity.
- l. An individual applicant or all of the officers and directors of a corporate applicant and all partners, including limited partners of a partnership or limited liability partnership and the proposed manager who will be in charge of operation of the business must establish that they have not been convicted of any offense involving sexual misconduct within the Commonwealth of Pennsylvania including, but not limited to, prostitution, obscenity, possession of child pornography, solicitation for prostitution, rape, sexual abuse of children, statutory sexual assault and indecent assault.

In the event that a special exception for a use permitted for an adult entertainment facility is granted by the Zoning Hearing Board and a permit and use certificate are issued therefor by the Township Zoning Officer and it is established to the satisfaction of the Board of Supervisors that the use is in violation of any of the provisions of subsections (c) through (i) above, or one of the owners, partners or managers has been convicted of any offense described in subsection (g) above or has failed or refused to permit a requested inspection, then and in such event the Township shall send a notice to the permit holder pursuant to the provisions of Section 616.1 of the Pennsylvania Municipalities Planning Code, and if the notice is not appealed within the time set forth in such notice or if the Zoning Hearing Board finds in favor of the Township, the Township shall revoke the permit and use certificate issued with respect to the adult entertainment facility and the use shall terminate immediately.

In applying for a special exception and a use certificate for an "Adult Entertainment Facility", the applicant agrees to accept and be bound by the provisions of this Ordinance and agrees that the Township Zoning Officer shall have the right to inspect the facility for the purpose of insuring compliance with the zoning ordinance and other legal requirements at any time the facility is occupied and open for business.

#### **D. PUBLIC UTILITY FACILITIES**

##### **SECTION 375 PUBLIC UTILITY BUILDINGS**

Public utility buildings and facilities shall be approved in any district provided however, that buildings or structures erected for these utilities shall be subject to the following regulations:

- a. Front, side and rear yards shall be provided in accordance with the regulations of the district in which the building is located.
- b. Height of building shall be as required by the district regulations.
- c. Unhoused equipment shall be enclosed with a chain-link fence six (6) feet in height, topped with barbed wire.
- d. Housed Equipment - When the equipment is totally enclosed within a building, no fence or screen planting shall be required and the yard shall be maintained in conformity with the district in which the facility is located.
- e. Screen planting in residential districts - The required fence for unhoused equipment shall be surrounded by an evergreen planting.
- f. The external design of the building shall be in conformity with the buildings in the district.
- g. Access for Unhoused Equipment - Where vehicular access is across the front yard, the gate shall be constructed of solid materials having not less than fifty (50) percent solid in ratio to open space. In residential districts, the permitted public facilities shall not include the storage of vehicles or equipment used in the maintenance of any utility and no equipment causing unreasonable noise, vibration, smoke, odor, or hazardous effect shall be installed.

## **SECTION 376 FIRE COMPANY AND EMERGENCY SERVICES, BUILDINGS OR STRUCTURES**

In passing upon a special exception for the establishment of fire company and emergency services, buildings or structures, the Zoning Hearing Board must require that the applicant establish that:

- a. If it is a fire company, it is financially supported by the township and that it provides fire protection throughout the township, and that if it is an ambulance or other rescue or life saving service agency, it receives financial support from the township and that it provides such service throughout the township. The Zoning Hearing Board shall establish as a condition to the grant of any special exception that the requirements of this section continue at all times to be met and that the special exception will be void if at any time such requirements do not continue to be met.
- b. The tract of land selected for this use must be of low quality for agriculture use as defined in Section 598(e)(1) and (2) of this ordinance excepting that if such location is not feasible considering the nature of the proposed use and its need to be along a heavily traveled road, higher quality lands may be utilized to the extent necessary to permit the development of the use provided, however, such use shall be located on the least agriculturally productive feasible and so as to minimize interference with agricultural production. The applicant shall have the burden of establishing that the requirements of this section have been met and that the tract of land proposed for the use represents the least productive land feasible for the use and will minimize interference with agricultural production giving effect to the purpose of the agricultural district as set forth in Section 202.0 of this ordinance to maintain agricultural parcels or farms in sizes which will permit efficient agricultural operations and that the use of the entirety of a small parcel will represent less interference with agricultural operations than dividing a larger parcel.

### **E. QUARRIES**

#### **1. Quarrying Standards**

## **SECTION 379**

Quarrying operations may be approved by special exception in any district except residential. In passing upon a special exception applications for quarrying operations, the Zoning Hearing Board must consider the factors following:

- a. Location of quarrying pit, buildings, stockpiles, waste piles, in relation to other existing or planned uses in the area.
- b. Physical factors.

Soil nature and characteristics, including possible erosion by water and wind.

1. Soil - nature and characteristics, including possible erosion by water and wind.
2. Drainage.
3. Prevailing wind.

- c. Abutting land and streets - lateral support slopes and grades.
  - d. Rehabilitation Plan: The possible reuses of the site and provision for the best possible reuse. In particular
    - 1. If the land is agricultural, and this use seems the best possible reuse, provision may be made for stripping the topsoil, stockpiling, and replacing it.
    - 2. Consideration may be given to recreational and residential reuses of the land.
  - e. General development of the area, including land values, and such other factors as may bear upon or relate to the coordinated, adjusted, and harmonious physical development of the Township.
2. Operational Requirements

#### **SECTION 380 MACHINERY EQUIPMENT: OPERATIONS**

All machinery, equipment and materials used in quarrying; all processing and manufacturing operations; and all hauling of quarrying products must be maintained, operated, or conducted in such a manner that in a residential zone -

- a. Flying objects and debris are not thrown.
- b. Noxious gases are not disseminated.
- c. There is no appreciable noise, vibration, dust or mist.

#### **SECTION 381 BARRIERS**

- a. Fencing: A six (6) foot substantial fence or other suitable barrier six (6) feet high must surround the area of actual quarrying, unless such requirement is waived by special exception issued by the Zoning Hearing Board. If guarded at all times, the entrance of the pit where adjacent to the quarry office, may be left unfenced.
- b. Screens: Where the quarry operations will substantially impair the beauty and character of the surrounding countryside, trees or shrubs must be planted, or attractive earth barriers erected, to screen the operation as far as practical from normal view.

#### **SECTION 382 WASHING**

The washing of any earth material is permitted except -

- a. Where the quantity of water required will seriously affect the supply for residential uses in the area.
- b. Where in the written opinion of the Pennsylvania Department of Environmental Resources, disposal of water will result in contamination, pollution, or excessive silting.

### **SECTION 383 SETBACKS FROM RESIDENTIAL ZONES**

Where the lot or parcel of land which is the focus of quarrying operations is adjacent to a residential zone -

- a. No stockpiles, waste piles, processing or manufacturing equipment, may be closer than one thousand (1,000) feet to the residential zone.
- b. No part of the quarrying pit, private access road, truck parking area, scales, or operations equipment, may be closer than five-hundred (500) feet to the residential zone.

### **SECTION 384 STREET SETBACKS**

From the right-of-way line of a public street or highway, no part of the quarrying pit, stockpiles, waste piles, processing or manufacturing equipment, scales, or operational equipment, may be closer than one hundred (100) feet.

### **SECTION 385 PROPERTY LINE SETBACKS**

From a property line, except for those following:

- a. No part of the quarrying pit, stockpiles, waste piles, processing or manufacturing equipment, may be closer than two hundred (200) feet.
- b. No private access road, truck parking area, scales, or operational equipment, may be closer than one hundred (100) feet.

Where a quarrying property abuts another quarry property, an operating railroad's right-of-way property or a property in an agricultural zone, no part of the quarrying operation except an access road may be closer than fifty (50) feet.

### **3. Rehabilitation Requirements**

### **SECTION 390 REHABILITATION REQUIRED**

Within two (2) years after the termination of quarrying operations, the area of actual quarrying operations must be rehabilitated to a condition of reasonable physical attractiveness and restored.

### **SECTION 391 REHABILITATION STANDARDS**

In rehabilitating the area of actual quarrying operations, the owner or operator must comply with the following standards:

- a. Slope: The slope of earth material in any excavated pit must not exceed the angle of slippage.
- b. Topsoil and Ground Cover: Where filling of the pit is desirable, the fill must be of a kind and depth to sustain grass, plants or trees and such must be planted.
- c. Drainage: To prevent any silt, erosional debris, or other loose material from filling any existing drainage course, or encroaching on State or Township roads or private property, all surface

drainage existing or developing by or through the topsoil site must be controlled by dikes, barriers, or drainage structures. All measures to control natural drainage or flood water must meet with the approval of the Board of Supervisors.

- d. Removal of Plant and Equipment: Within 2 years after termination of operations, all plant and equipment must be removed, except where the plant and equipment is still used for processing earth material from other properties. If substantially covered, foundations and piers may be left in the ground.

## **SECTION 392 REPORTING OF OPERATIONAL AND REHABILITATION INFORMATION**

In order to keep the Zoning Officer abreast of impending termination of quarrying operations and plans for the rehabilitation as well as operational activities which he has a duty to check, each quarry owner or operator must submit to the Zoning Officer, annually in the month of October, the information following:

- a. Operational data:
  - 1. Ownership and acreage of the land which is the situs of quarrying operations, including all land held under contract or lease.
  - 2. Type of earth resources quarried.
  - 3. Present depth of quarrying operations.
- b. Location map, at a scale of one (1) inch = one hundred (100) feet, or such other scale acceptable to the Township showing -
  - 1. All land owned or under option, contract or lease.
  - 2. Lot or land quarried.
  - 3. As practical, contours at twenty (20) feet intervals extending beyond the site to the nearest public street or highway.
  - 4. Private access roads and abutting streets and highways.
  - 5. Existing structures.
  - 6. Existing stockpiles and waste piles.
  - 7. Title, scale, north point, and date.
  - 8. Fencing and screen planting. If fencing is vegetation, give details of size and type.
- c. Rehabilitation Plan
  - 1. The proposed reuse of the land to be quarried.
  - 2. Plantings or other planned special features of rehabilitation.

3. The proposed methods by which rehabilitation is to be accomplished.

4. Proposed termination date.

#### **SECTION 393 TRAILER CAMPS AND CAMPGROUND**

In passing upon a special exception application for a trailer camp or camp ground, the Zoning Hearing Board must require the following:

1. That none of the automobile trailers, cabins, travel trailers, motor homes, tents, or campers approved for location on the premises be utilized as a permanent place of abode, as a permanent dwelling, or be resided in for consecutive periods in excess of four weeks and further, none of the automobile trailers, travel trailers, motor homes, campers, or tents shall remain on the approved premises for periods in excess of four weeks in any three month period.
2. Every trailer camp or camp ground shall have erected thereon at a distance not greater than 400 feet from any cabin, tent site, trailer site, or camper site which it is designed to serve, a suitable building for housing toilets, showers and laundry facilities. Such building to be known as the service building.
  - a. There shall be provided separate toilet rooms for each sex. Flush toilets shall be provided with an adequate water supply in the ratio of one men's toilet and one ladies toilet for each eight cabins, trailer sites, tent sites, or camper sites or fraction thereof. Toilet rooms shall contain lavatories with hot and cold water in the ratio of one lavatory to every two or less water closets.
  - b. Separate bathing facilities for each sex shall be provided with one shower enclosed in a compartment at least four feet square for each eight cabins, tent sites, camper sites, or trailer sites, or fraction thereof. Each shower compartment shall be supplemented by an individual dressing compartment of at least twelve feet square.
  - c. Laundry facilities shall be provided in the ratio of one double tray and one ironing board for each ten tent sites, cabin sites, trailer sites, or camper sites.
  - d. Floors of toilets, showers, and the laundry shall be of concrete, tile, or similar material impervious to water and easily cleaned and pitched to a floor drain.
3. All water from showers, toilets, laundries, faucets and lavatories shall drain into a sewage disposal system meeting the approval of the Pennsylvania Department of Environmental Resources.
4. In every trailer camp or tourist camp there shall be an office building in which shall be located the office of the person in charge of the camp, which office building shall be occupied by someone in charge of the camp facilities at all times the camp facility is occupied or is open to the public for occupancy.
5. Each cabin, campsite, trailer site, or camper site, shall be accessible to a roadway or driveway which shall have an improved cartway at least twenty (20) feet in width and shall be improved with a six (6) inch stone base, and there shall be a roadway with an improved cartway at least

twenty-eight (28) feet in width improved by an eight (8) inch stone base leading from a public road to the campsite.

6. The application for a special exception shall be accompanied by such plans as will enable the Zoning Hearing Board to insure that the above requirements will be met and proof of Department of Environmental Resources approval of proposed on-site sewage disposal system and proof that the proposed water supply is sufficient to meet the water supply needs of the proposed trailer camp or camp ground.

#### **SECTION 394    BAIT SHOP**

In addition to meeting the other requirements for the granting of a special exception within the Conservation District or the Residential District, the applicant must establish that his proposed facility will be in close proximity to and readily accessible to fisherman utilizing either Muddy Creek or the Susquehanna River.

#### **SECTION 395    AUTOMOTIVE GARAGE OR SERVICE STATION**

In addition to meeting the other requirements for the granting of a special exception within the district where the use is proposed to be located, an applicant for a special exception to establish an automotive garage or service station must establish that:

- a. There will be adequate off-street parking for the use.
- b. The premises will at all times be kept neat and orderly and there will be no outdoor storage of the following:
  - i) Automobiles, buses, vans, recreational vehicles and other vehicles of the type required to be registered for highway operation pursuant to the provisions of Chapter 13 of the Pennsylvania Motor Vehicle Code but not so registered;
  - ii) Automobiles, buses, vans, recreational vehicles and other vehicles of the type required to be registered for highway operation pursuant to the Pennsylvania Motor Vehicle Code and so registered, but not displaying a currently valid certificate of inspection and approval issued pursuant to Chapter 47 of the Pennsylvania Motor Vehicle Code;
  - iii) Discarded motor vehicle parts or accessories;
  - iv) Other trash or junk as defined in this Ordinance.
- c. The use will not result in a substantial increase in traffic. A twenty (20%) percent increase in traffic shall be regarded as substantial. For this purpose measurement of traffic increase shall occur on the nearest non-dead end or non-cul-de-sac street. (Not applicable if in the industrial district).
- d. The use will be at least five hundred (500) feet from any neighboring residence.
- e. The use will not involve noise audible to neighboring residents between 6:00 p.m. and 7:00 a.m. The Zoning Hearing Board may require as a condition to any special exception that the applicant put in noise insulation and take other action so as to minimize audible noise during the period

between 7:00 a.m. and 6:00 p.m. If the Zoning Hearing Board determines that the use will involve *unreasonable noise which cannot be satisfactorily reduced by insulation or other action* by the applicant, the application shall not be approved;

- f. The use will not create any vibrations, smoke, dust odor, heat or glare detectable beyond the property of the owner of the use.

#### **SECTION 396    FLOOD PLAIN REGULATIONS**

The following uses and activities are prohibited if located completely or partially within any of the areas identified as being subject to the one hundred (100) year flood in the Flood Insurance Study prepared for Lower Chanceford Township by the Federal Insurance Administration in March, 1981:

1. 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:
  - a. Hospitals
  - b. Nursing Homes
  - c. Jails or Prisons
2. The commencement of, or any construction of, a new mobile home park or mobile home subdivision, or substantial improvement to an existing mobile home park or mobile home subdivision.
3. Any new or substantially approved structure which:
  - 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.

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
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 rodenticide)
18. Radioactive substances, insofar as such substances are not otherwise regulated

**SECTION 397    BED AND BREAKFAST INN**

1. In passing upon a special exception application for the establishment of a Bed and Breakfast Inn, the Zoning Hearing Board must require that the applicant establish the Bed and Breakfast Inn shall be operated only by members of the immediate family of the owner residing in the dwelling unit where the Bed and Breakfast Inn will be located and a maximum of one (1) nonresident employee.
2. The character or external appearance of the dwelling unit must be that of a dwelling.
3. Only short term overnight lodging is to be provided maximum guest stay shall be limited to seven (7) consecutive days and must be limited to seven (7) days in each calendar month.
4. In addition to the required parking for the dwelling unit, additional parking is required as follows:
  - a. One (1) space for the Bed and Breakfast Inn, one (1) space for each guest room available for rent and one (1) space for each employee not residing in the dwelling unit.
5. One (1) sign shall be permitted with the nameplate not being larger than nine (9) sq. ft., with such sign being illuminated only by indirect lighting.
6. The Bed and Breakfast Inn may not involve any dimensional alterations to any existing building, use of any building constructed or placed after July 1, 1995 or construction or placement of any new building except that such alteration, enlargement or construction shall be permitted, if such building after alteration, enlargement or construction does not have a ground floor area in excess of two thousand (2,000) sq. ft. and is not more than three (3) stories high. This limitation shall not apply if the building is at least five hundred (500) feet from any neighboring residence.
7. The Bed and Breakfast Inn may not be used for any other business use or other use involving monetary receipt to the property owner or operator of the Bed and Breakfast Inn.

**SECTION 398    SINGLE FAMILY DWELLINGS IN THE COMMERCIAL AND INDUSTRIAL DISTRICTS**

Single Family Dwellings may be permitted in the Industrial or Commercial District only if the Board of Supervisors finds that the dwelling proposed to be constructed or placed is for the long term personal use and occupancy of a child of the owner of the property on July 5, 1971. No permit shall be issued for more than one (1) dwelling for the same child.

**SECTION 399    COMMUNICATION, TRANSMITTING AND/OR RECEIVING FACILITIES**

In passing upon a special exception application for communication, transmitting and/or receiving facilities, the Zoning Hearing Board must require the following:

1. The access to the facilities must be over an existing roadway or through lands of low quality for agricultural use as defined in Section 298 (e) (1) and (2) of this Ordinance and be so as not to interfere with agricultural use of the tract of land through which the access road or drive passes.
2. All facilities, including towers, constructed pursuant to this special exception use must be removed within sixty (60) days after cessation of use.
3. Any tower or towers to be constructed must accommodate other users if possible including local fire, police and ambulance companies.
4. The lot to be purchased or leased for the use must not be larger than reasonably necessary to accommodate the facilities to be located thereon.
5. The proposed tower or towers must be at least one and one-half times the height of the tower away from any dwelling other than a dwelling owned by the lessor or grantor of the lands where the proposed tower or towers will be located.

## **PART IV**

### **ADMINISTRATION**

#### **A. APPLICANT - Procedures, Rights, and Penalties**

##### **1. Permits**

#### **SECTION 400 BUILDING PERMITS**

Hereafter no building or structure shall be erected, moved, placed, constructed or enlarged within the limits of Lower Chanceford Township unless a permit to do so shall first be secured in accordance with the provisions of the Township Building Permit Ordinance, all of which are incorporated herein by reference and unless a permit is secured in accordance with the provisions of the Construction Code Ordinance of Lower Chanceford Township if such permit is required by the provisions of that ordinance, all of which provisions are incorporated herein by reference.

Hereafter no building or structure shall be altered, repaired, demolished or removed within the limits of Lower Chanceford Township unless a permit to do so shall first be secured in accordance with the provisions of the Construction Code Ordinance of Lower Chanceford Township if a permit is required by that ordinance for such alteration. All erection, movement, placement, construction and enlargement must be performed in strict accordance with the application submitted pursuant to the Lower Chanceford Township Building Permit Ordinance, any application submitted pursuant to the Construction Code Ordinance of Lower Chanceford Township and with the permit issued pursuant thereto and in accordance with the procedures set forth in such ordinance. Any violation of the provisions of the Township Building Permit Ordinance and any violation of the Construction Code Ordinance of Lower Chanceford Township shall constitute a violation of this ordinance.

#### **SECTION 401 SPECIAL EXCEPTIONS**

For any use permitted by special exception, a special exception must be obtained from the Zoning Hearing Board. In addition to the information required on the building permit application, the special exception application must show:

- a. Ground floor plans and elevations of proposed structures.
- b. Names and addresses of adjoining owners.

Unless otherwise specified or extended by the Zoning Hearing Board a special exception authorized by the Board expires if the applicant fails to obtain, where required to do so, a building permit within 6 months of the date of the authorization of the special exception.

#### **SECTION 402 TEMPORARY PERMITS**

A temporary permit must be obtained from the Zoning Hearing Board for a nonconforming structure or use which is or will be seasonal or is or will be in the public interest. (See s.453)

## **2. Use Certificates**

### **SECTION 405 USE CERTIFICATE**

Before commencing

- (a) Any use of a structure erected, constructed, placed, moved or altered after the effective date of this ordinance;
- (b) Any use of any portion of a structure which has been altered, repaired, demolished or removed in such manner as to require a permit under the Construction Code Ordinance of Lower Chanceford Township;
- (c) Any use of vacant land except for agricultural purposes; or
- (d) Any change or use of any land or structure

The owner must have the intended use certified by the Zoning Officer as being in compliance with this ordinance and all other relevant township ordinances. Before any use certificate or certificate of use and occupancy is issued for any structure or portion of a structure erected, constructed, placed, moved, altered, repaired, demolished or removed after the effective date of this ordinance, the Zoning Officer must verify that the structure is in compliance with all requirements of the Township Building Permit Ordinance and that the Building Code Official has verified that the structure is in compliance with all requirements of the Construction Code Ordinance of Lower Chanceford Township. The application for a use certificate or a certificate of use and occupancy must include a statement of the intended use and any existing use of the structure or land. The certificate continues in effect as long as the use of the structure or land for which it is granted conforms with this ordinance.

## **3. Variances**

### **SECTION 410 FILING OF VARIANCE APPLICATION; EXPIRATION**

Where (a) the strict application of a regulation of this Ordinance would result in peculiar and exceptional practical difficulty to, or exceptional and undue hardship upon, the owner of property and (b) this difficulty or hardship is due to unique physical circumstances or physical conditions of the owner's property, he may apply to the Zoning Hearing Board for a variance from the regulation. The application must be on a form provided for that purpose by the Zoning Officer. It must be filed with the Board and copies given to the Zoning Officer and Planning Commission. The applicant must provide all the information requested on the form, together with any other information and data that may be required to advise the Board on the variance, whether such information is called for by the official form or not.

Unless otherwise specified or extended by the Board, a variance authorized by it expires if the applicant fails to obtain a building permit within 6 months from the date of authorization of the variance.

#### 4. Appeals

##### **SECTION 412 FILING OF APPEAL**

Any person aggrieved or affected by provision of this Ordinance or decision of the Zoning Officer, may appeal to the Zoning Hearing Board. The appeal must be on a form provided for that purpose by the Zoning Officer. It must be filed with the Board and a copy given to the Zoning Officer. The appellant must provide all the information requested on the form, together with any other information and data that may be required to advise the Board on the appeal, whether such information is called for by the official form or not.

##### **SECTION 413 APPEALS-COURTS OF LAW**

Within thirty (30) days after a decision of the Zoning Hearing Board

- a. A person aggrieved by the decision,
- b. A taxpayer, or
- c. The Board of Township Supervisors

may appeal to the Court of Common Pleas of the County, by petition, setting forth that the decision is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law, and specifying the ground upon which he relies.

#### 5. Other Matters

##### **SECTION 415 FEES**

For each application, permit, or appeal, the applicant or appellant must pay the Township a fee as set by the Township Supervisors.

##### **SECTION 416 ENFORCEMENT REMEDIES**

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 Township Board of Supervisors or with the approval of the Township Board of Supervisors, an officer of the Township, or any aggrieved owner or tenant of real property who shows that his property or person will be initially effected substantially effected 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 such action is instituted by landowner, or tenant, notice of that action shall be served upon the township at least thirty (30) day prior to the time the action is begun by serving a copy of the complaint on the Township Board of supervisors. No such action shall be maintained until such notice has been given.

##### **SECTION 417 PENALTIES**

Any person, partnership or corporation who or which has violated or permitted a violation of any provision of this ordinance shall, upon being found liable therefore in a civil enforcement proceeding

commenced by the Township, pay a judgment in the amount of five hundred (\$500.00) Dollars plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or be payable until the date of the determination of the violation by the District Justice. If the Defendant neither pays nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable Rules of Civil Procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice determines that there has been a violation and 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 determination of violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs or reasonable attorney fees collected for the violation of this ordinance shall be paid over to the Township.

#### **SECTION 418    PUBLIC HEARINGS**

At public hearings, the applicant or appellant is entitled to the rights set forth in Part IV-C-4 and must conform to the procedures set forth there.

#### **B.    ZONING OFFICER**

#### **SECTION 420    APPOINTMENT AND POWERS**

For the administration of this Ordinance, a Zoning Officer, who may hold other office in the Township, shall be appointed. 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 the zoning ordinance. The Zoning Officer is the enforcement officer for this Ordinance. He issues all building permits, use certificates, and at direction of the Zoning Hearing Board, special exceptions and variances.

#### **SECTION 421    FORMS**

The Zoning Officer must provide a form or forms prepared by the Township Solicitor for

- a.    Building permits
- b.    Special exceptions
- c.    Use certificates
- d.    Appeals
- e.    Variances

#### **SECTION 422    TRANSMITTAL OF PAPERS**

Upon a receipt of an application for a special exception, variance or a notice of appeal, the Zoning Officer must transmit to the Secretary of the Zoning Hearing Board and to the Planning Commission, copies of all papers constituting the record upon the special exception, variance, or appeal.

#### **SECTION 423    ACTION ON BUILDING PERMITS**

Within thirty (30) days, except for holidays, after receipt of an application for a building permit, the Zoning Officer must grant or refuse the permit. If the application conforms to the applicable requirements of the building permit ordinance and this Ordinance, the Zoning Officer must grant a permit. If the permit is not granted, he must state in writing the grounds of his refusal.

#### **SECTION 424    ACTION ON USE CERTIFICATES**

Within thirty (30) days, except for holidays, after receipt of an application for a use certificate, the Zoning officer must grant or refuse the certificate. If the specifications and intended use conform in all respects with the provisions of this Ordinance, he must issue a certificate to that effect. Otherwise, he must state in writing the grounds of his refusal.

#### **SECTION 425    RECORDS**

The Zoning Officer must keep a record of:

- a. All applications for building permits, use certificates, special exceptions and variances and all actions taken on them, together with any conditions imposed by the Zoning Hearing Board.
- b. All plans submitted.

All records and plans are available for public inspection.

#### **SECTION 426    REPORTS**

At intervals of not greater than 6 months, the Zoning Officer must report to the Township Supervisors:

- a. The number of building permits and use certificates issued.

#### **C.    ZONING HEARING BOARD - Powers & Duties**

1.    General

#### **SECTION 430    MEMBERSHIP OF BOARD**

The membership of the Board shall consist of three residents of the Township appointed by the Board of Supervisors. Their terms of office shall be three years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the Township Supervisors of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the Township, except that no more than one member of the Board may also be a member of the Planning Commission.

#### **SECTION 431    ORGANIZATION OF BOARD**

The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum

shall be not less than a majority of all 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 Part IV-C-4. 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 and shall submit a report of its activities to the governing body once a year.

#### **SECTION 432 POWERS**

The Zoning Hearing Board has the following powers:

- a. Interpretation - To interpret any provision of this Ordinance including zone boundaries.
- b. Special Exceptions - To hear and decide special exceptions upon which the Board is required to pass under this Ordinance as per Part IV-C-2 following.
- c. Appeals - To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Officer in the enforcement or interpretation of this Ordinance.
- d. Variances - To authorize, upon application, in specific cases a variance from the terms of the Ordinance as per Part IV-C-3 following.
- e. Rehearings - To grant the rehearing of a case if it appears there has been a substantial change in the facts as evidence of the case as presented at the initial hearing.

In exercising the powers above, the Board, in conformity with the provisions of this Ordinance, may reverse, affirm, or modify the order, requirement, decision, or determination appealed from or requested, and may make any order, requirement, decision or determination as ought to be made.

#### **SECTION 433 BOARD CALENDAR**

Each application or appeal filed in the proper form with the required data, must be numbered serially and be placed upon the calendar of the Board by the Secretary. Applications and appeals must be assigned for hearing in the order in which they appear on the calendar. However, for good reason, the Board may order the advance of the application or appeal. The Board must fix a reasonable time for hearings.

2. Special Exceptions

#### **SECTION 440 REFERRAL TO PLANNING COMMISSION**

All applications for a special exception shall be referred to the Planning Commission for a report.

#### **SECTION 441 CONDITIONS**

The Zoning Hearing Board in passing upon special exception applications, may attach conditions considered necessary to protect the public welfare and the comprehensive plan, including conditions which are more restrictive than those established for other uses in the same zone.

## **SECTION 442    APPLICATION OF EXTENT-OF-USE REGULATIONS**

The extent-of-use regulations as set forth in the USE REGULATIONS must be followed by the Zoning Hearing Board. Where no extent-of-use regulations are set forth for the particular use, the Board must impose extent-of-use requirements as necessary to protect the public welfare and the Comprehensive Plan.

## **SECTION 443    GENERAL STANDARDS**

The Zoning Hearing Board, before granting a special exception for any use, must find that the use and the proposed operations and development in connection with the use would be in harmony with the purpose of the zone in which the use is proposed to be located. Also the Board must make the findings following in writing:

- a. Use: That the items below are in harmony with the purpose of the zone in which the use is to be located.
  1. Location of the use, including location with respect to the existing or future streets giving access to it.
  2. Nature and intensity of the operations involved.
  3. The applicant must establish that the drainage requirements of Section 270 through 274 of this Ordinance will be complied with.
  4. Buildings, Walls, and Fences: That the use of adjacent land and buildings will not be discouraged and the value of adjacent land and building will not be impaired by the location, nature, and height of buildings, walls, and fences.
  5. Traffic: That the use will not create traffic congestion or cause commercial or industrial traffic to use minor roads or streets.
  6. The applicant must establish that adequate provision can and will be made to dispose of the sewerage created by the proposed use consistent with the requirements set forth by the regulations promulgated by the Pennsylvania Department of Environmental Resources and with the requirements of the Township Sewage Permit Ordinance.
  7. If connection to an existing public water supply system is proposed, the applicant must submit an agreement committing the public water system to provide such water as will be utilized by the proposed special exception use for such period of time and under such terms and conditions as the public water supply system provides water service elsewhere in its service area. If the water supply system proposed involves the utilization of water obtained from the tract proposed for the location of the special exception use, or from a nearby tract, the applicant must establish through a study by a registered engineer or hydrologist that the ground water recharge on the tract where the water supply system is located, after development, computed during drought conditions (when the precipitation is forty (40%) per cent below normal) will exceed projected water usage. The Zoning Hearing Board may require as a condition of approval that the applicant execute an agreement with the Township committing the proposed special exception use not to utilize more ground water

on a daily basis than the ground water recharge computed during drought conditions and to establish procedures pursuant to which the usage can be verified.

Additional findings or considerations to weigh for particular uses follow in the remainder of this Part IV-C-2.

The applicant for a special exception shall have the burden of proof, which shall include the burden of going forward with the evidence and the burden of persuasion on all questions of fact which are to be determined by the Zoning Hearing Board.

Unless otherwise specified, or extended by the Zoning Hearing Board, a special exception authorized by the Board expires if the applicant fails to, where required to do so, obtain a building permit or use certificate within six (6) months of the date of the authorization of the special exception or fails to complete the work in the year next following the issuing of the building permit; excepting that in cases where the granting of a building permit or use certificate must be preceded by Township approval of a subdivision or land development plan, the special exception authorized by the Board expires if:

- 1) The applicant fails to file with the Township a preliminary subdivision or land development plan meeting applicable subdivision and zoning requirements within six (6) months of the date of the authorization of the special exception; or
- 2) Fails to file with the Township a final subdivision or land development plan meeting applicable subdivision and zoning requirements within six (6) months of the date of the approval by the Township of the preliminary plan; or
- 3) Fails to obtain a building permit or use certificate within six (6) months of the date of the approval by the Township of the final plan; or
- 4) Fails to complete the work within one (1) year of the issuing of the building permit.

**SECTION 444      SEMI-DETACHED DWELLINGS, ROW DWELLINGS, & GROUP DWELLINGS, MULTI-FAMILY DWELLINGS WHERE NO PUBLIC SEWER**

In passing upon a special exception application for the construction of a semi-detached dwelling, row dwelling, group dwelling, or multi-family dwelling, the Zoning Hearing Board must require:

The applicant to submit a feasibility study on connecting or extension to a public sewerage system or construction of a private sewage treatment facility.

If connection or extension to a public sewerage system or construction of a private sewage treatment facility is not feasible, that soil absorption tests be performed concerning the suitability of the soil for subsurface sewage disposal. All feasibility reports and soil testing results are to be prepared by a registered professional engineer and submitted to the Pennsylvania Department of Environmental Resources for review and approval and that the dwelling will pose no sanitation or health hazard in the area involved.

#### **SECTION 445     SHOPPING CENTER STANDARDS**

In passing upon special exception applications for shopping centers, the Zoning Hearing Board must require the following:

- a. Location: Have access to a major thoroughfare so as to avoid traffic on residential streets.
- b. Parking: Adequate site area, permitting parking space at the ratio of parking space to gross floor area of 4 to 1.
- c. Design: Site and building design, in order to provide and maintain, where appropriate, a proper "buffer" of unbuilt-on space between the shops and adjoining uses.
- d. Control: Control of uses to minimize disturbances to residential areas:

#### **SECTION 446     INDUSTRIAL PARK STANDARDS**

In passing upon special exception applications for industrial parks, the Zoning Hearing Board must require the following:

- a. Streets & Highways: The industrial park site must have access to a major thoroughfare. Traffic going to and from the industrial park will be permitted on nonresidential streets only; traffic routes and exits will be far enough away from houses so that truck noise and vibration will not be perceived.
- b. No Harmful Effects: Satisfactory provision will be made to minimize harmful or unpleasant effects (noise, odors, fumes, glare, vibration, smoke, vapors, and gases, electrical emissions, and industrial wastes).
- c. Appearance is Harmonious: This feature includes but is not limited to: landscaping, enclosure of principal and accessory uses, height control, sign control, low structural density, and architectural controls.
- d. Buffers: The distance separating all park uses and buildings from surrounding properties will be great enough to constitute in fact a buffer: e.g., loading docks and truck maneuvering areas and terminals must be further from residential areas than buildings. In addition to the extent-of-use requirements in the Use Regulations, the Board must require that from an R zone boundary
  1. A truck terminal or motor freight depot be at least five hundred (500) feet distant.
  2. A shipping or receiving dock to be at least 300 feet distant.

In any case, a buffer yard of not less than one hundred fifty (150) feet must be along any residential zone boundary line.

**SECTION 446.5      JUNKYARD**

- a. In passing upon a special exception for a junkyard and the Zoning Hearing Board must require that:
- (1) Any area used for this purpose be at least seventy-five (75) feet from any property line and one hundred (100) feet from any street line.
  - (2) No garbage or other organic waste be stored on such premises.
  - (3) The manner of storage and arrangement of junk and the drainage facilities on the premises shall be such as to prevent the accumulation of stagnant water upon the licensed land and to facilitate access for inspection purposes and fire-fighting.
  - (4) Every structure erected upon the premises and used in connection therewith be of fireproof construction.
  - (5) The premises be enclosed by a metal chain-link fence constructed of good heavy duty steel and supported upon steel posts, or in lieu thereof a solid masonry or metal wall of a uniform design texture, and structure. The erection of such fence or wall shall be controlled by the setback provisions of this ordinance. Such fence or wall shall not be less than eight (8) feet in height. If a chain link fence is utilized, it shall be constructed so as to make it sight tight. The foregoing fencing provisions shall be applicable only to that portion of the premises being immediately used for the storage of junk and shall not be applicable to the balance of the property owned or used by said junkyard operator, so long as said remaining portions of lands not being used for the storage of junk as defined in this ordinance.
  - (6) The land area between the fence or wall structure required above the public highway or street and the area between the fence or wall structure and any neighboring property line be planted with evergreen trees or other vegetation approved by the township. Trees shall be planted in two (2) rows, twenty (20) feet apart within the row. The rows shall be eight (8) feet apart. The rows shall be staggered so as to create a screening effect. The trees when planted shall be a least five (5) feet in height from the ground. The trees shall be maintained in good health and replaced as required in order to achieve a full screening effect within five (5) years. Irrespective of the above provisions, the access drive and area required to provide adequate sight distance to the access drive shall be kept free of plantings which interfere with such sight distance.
  - (7) All burning in connection with any junkyard be in full compliance with any applicable township, county, state, and federal laws, rules and regulations. There shall be no burning of tires, upholstery, rubber, vinyl, cloth, plastic, or other rubbish.
  - (8) All junk contained in a junkyard shall be arranged and maintained in a neat and orderly fashion. All junk vehicles and other junk shall be arranged in rows with a minimum of twenty (20) feet of clear space between rows with each row to be no greater in width than forty (40) feet. Vehicles shall not be stored on top of one another so as to be visible beyond the fence or wall constructed pursuant to paragraph 5 of this ordinance.

- (9) No junk shall be stored or located within or closer than one hundred (100) feet to a river, water course, run, creek, irrigation ditch, designated wetland, or any other natural water course.
- (10) There be, within the boundary lines of the property upon which the junkyard is maintained, off-street parking for at least five (5) vehicles.
- (11) The applicant submit and demonstrate the ability to implement an operation plan that shall include the following:
  - (a) the unloading, transfer, and disposition of material shall be continually supervised.
  - (b) there shall be no access permitted to the site when an attendant is not on duty.
  - (c) access drives shall be secured by fences, gates, locks, and other means to deny access at unauthorized times.
  - (d) there shall be a plan for the prompt removal of all hazardous materials. Drainage of fluids shall be conducted only on a township approved reinforced concrete drainage pad with a thickness of at least six (6) inches. The drainage pad must be under roof and drain to catch basin or storage tanks with at least a two hundred fifty (250) gallon capacity. It shall be the duty of the permittee to insure that all fluids drain to such catch basin or storage tank and that such catch basins or storage tanks do not overflow. Any violation of this requirement shall result in immediate revocation of any permit issued.
  - (e) the applicant shall submit quarterly proof to the township of proper and authorized disposal of all petroleum and other products including oil, gasoline, freon, and anti-freeze.
  - (f) the applicant shall create sufficient drainage swales so as to preclude water from lands at higher grade than the applicant's from washing over the applicants' junkyard area.
  - (g) crushing of automobiles and operation of a crusher shall occur only during Monday through Friday between the hours of 7:00am and 4:00pm. No crushing of vehicles shall take place on federal or state holidays.
  - (h) the applicant shall drill a well at a location on his property chosen by the township but at a location to not unreasonably interfere with the applicant's activities. The applicant shall have the well water tested on a monthly basis for the presence of petroleum or anti-freeze residues and shall submit such reports to the township on a monthly basis. If any test shows deterioration in water quality, the applicant shall be required to take remedial action to remove contamination and cease accepting any additional items of junk until such remedial action has been completed. If such remedial action is not completed within ninety (90) days, the use shall terminate and all items of junk and related material shall be removed from the junkyard within the following ninety (90) days.
- (12) The environmental requirement of Section 205.7 of this ordinance will be complied with.

- (13) The use shall front upon and have direct access to a collector or arterial street as set forth in the township Comprehensive Plan. No structures, junk or vehicles shall be placed within one hundred (100) feet of any property line.
- b. Every junkyard in Lower Chanceford Township shall, at all times, be subject to inspection by the Board of Supervisors of Lower Chanceford Township, or its duly designated and authorized agent or representative for the purpose of determining whether the owner has established and maintained its premises in full compliance with the provisions of this ordinance and with the special exception issued by the Zoning Hearing Board and with the operation plan submitted pursuant to Paragraph (a)(11) hereof.
- c. If the operator of the junkyard ceases operation and business activity at the junkyard premises for a period of sixty (60) days, the township will consider the operation abandoned and closed. The owner of the premises must cause to be removed all unregistered or inoperable vehicles, junk, tires, waste fluids and any out of doors stationery machinery used in the processing of junk or scrap metal within six (6) months following the end of such sixty (60) day period.

#### **SECTION 447     STANDARDS FOR EXPANSION OF NONCONFORMING USES**

In passing upon a special exception application for the expansion of nonconforming uses the Zoning Hearing Board must require the following:

- a. Expansion Confined to Lot: That expansion of the nonconforming use be confined to the lot on which the use is located on the effective date of this Ordinance.
- b. Access, Parking & Loading: Provision of access drives, off-street parking and off-street loading consistent with standards required by this Ordinance.
- c. Yards, Height & Building Area: Provision of yards, building height and building area consistent with the standards required for permitted uses in the zone in which the nonconforming use in question is located.
- d. Appearance: That appearance is harmonious with surrounding properties. This feature includes but is not limited to: landscaping, enclosure of principal and accessory uses, height control, sign control, architectural control and maintenance in good condition of all improvements and open spaces.
- e. Buffers and Screens: Buffers and screens as necessary to adequately protect neighboring properties, including, but not limited to fences, walls, planting and open spaces.
- f. Additional Requirements: Such additional requirements as may be necessary to assure that the proposed expansion will not impair the use or development of neighboring properties.
- g. Limitations on Expansion: Extension or expansion of a nonconforming use shall be restricted to an additional area not exceeding fifty percent (50%) of the area devoted to the nonconforming use at the time such use became nonconforming.

#### **SECTION 448 STANDARDS FOR REPLACEMENT OF ONE NONCONFORMING USE BY ANOTHER NONCONFORMING USE**

Before granting a special exception for the replacement of one nonconforming use by another, the Zoning Hearing Board must determine that the proposed nonconforming use will have no more adverse effect upon adjacent property than the existing nonconforming use. In making this determination, the Board should consider particularly the effect upon adjacent property of the following:

- a. Signs and lighting.
- b. Extent and appearance of structures.
- c. Traffic generation and movement.
- d. Parking and loading.
- e. Emission of noise, odors, fumes, glare, vibration, smoke, vapors, gases, wastes or storm water runoff.
- f. Fire, explosion or other hazards.

#### **3. Variance**

#### **SECTION 450 REFERRAL TO PLANNING COMMISSION**

*All applications for a type-of-use variance shall be referred to the Planning Commission for a report.*

#### **SECTION 451 STANDARDS FOR VARIANCES**

Where there is unnecessary hardship, the Board may grant a variance in the application of the provisions of this Ordinance only if all of the findings following, in writing, are made:

- a. There are unique physical circumstances or conditions, including (1) irregularity, narrowness, or shallowness of lot size or shape, or (2) exceptional topographical or other physical conditions peculiar to the particular property, and is not due to circumstances or conditions generally created by the provisions of the zoning ordinance in the neighborhood or zone in which the property is located.
- b. Because of these physical circumstances or conditions, the property cannot reasonably be used in strict conformity with provisions of the zoning ordinance.
- c. The unnecessary hardship is not financial in nature and has not been created by the appellant.
- d. The variance, if authorized, will not alter the essential character of the neighborhood or zone 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.
- e. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

#### **SECTION 452 CONDITIONS**

In granting any variance, the Board may attach such reasonable conditions and safeguards as it considers necessary to implement the purposes of this Zoning Ordinance.

#### **SECTION 453 TEMPORARY PERMITS**

Granting of: The Zoning Hearing Board may grant a temporary permit for a nonconforming use or structure, existing or new, which:

- a. Is beneficial to the public health or general welfare, or
- b. Is necessary to promote the proper development of the community, or
- c. Is seasonal in nature.

The permit may be issued for a period not exceeding one (1) year, and may be renewed for an aggregate period not exceeding three (3) years. The nonconforming structure or use must be completely removed upon the expiration of the permit without cost to the Township.

#### **SECTION 454 HARDSHIP PERMIT**

The Board of Supervisors may grant a hardship permit to place a mobile home on a lot where the same would not otherwise be permitted by the terms of this ordinance provided that the applicant establishes that:

- a. All of the residential units located on the tract of land where the mobile home is proposed to be located are occupied by the landowner or a member of his family, family to include only ancestors and direct descendants of the landowner. This condition shall not apply if the residential unit not occupied by a member of the family is such a distance from the residence of the owner of the tract of land so as not to permit the owner of the tract of land to render the personal care to a member of the family as contemplated by this section or alternatively to receive the care contemplated by this section; and
- b. No rent or other consideration will be received for the use of the mobile home or the space which is being occupied; and
- c. There is a genuine medical hardship involved which requires that the occupant of the mobile home for which the permit is issued live in close proximity to the owner of the tract of land on which the mobile home to be permitted is a direct descendent of one or more of the landowners who reside on the tract of land in question and will provide care to such landowner or landowners; or
- e. The occupant of the mobile home is a parent or grandparent of one or more of the landowners who reside on the tract of land in question and will receive care from one or more such landowners.
- f. The applicant must establish that adequate provision meeting the approval of the Township Sewage Enforcement Officer has been made to handle the sewage discharge from the mobile home.

The hardship permit shall be for the duration of the calendar year during which it is issued. It shall be renewed each December for the following calendar year. There shall be no cost to the applicant if the application is filed prior to December 31 each calendar year. In the event the application is filed after December 31, there shall be a charge of twenty-five (\$25.00) dollars. The hardship permit shall automatically expire when any of the requirements of this section are no longer met. Such mobile home or other residential unit must be removed from the premises within ninety (90) days following the expiration of the permit.

#### 4. Public Hearings

### **SECTION 460 NOTICE: CONDUCT OF MEETING**

Notice shall be given to the public, the applicant, the County 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. 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. The governing body may establish reasonable fees, based on cost, to be paid by the applicant and by persons requesting any notice not required by ordinance.

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, but the parties may waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.

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 with any party or his representative unless all parties are given an opportunity to be present.

### **SECTION 461 REPRESENTATION: STATEMENTS**

The parties to the hearing shall be any person who is entitled to notice under s.460 without special request therefore who has made timely appearance of record before the Board and any other person permitted to appear by the Board.

The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witness on all relevant issues.

Statements are to be made in the following order or as the Chairman may direct:

- a. Applicant or appellant
- b. Zoning Officer and other officials

c. Any private citizen

The applicant or appellant must be given an opportunity for rebuttal.

#### **SECTION 462 WITNESSES**

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.

#### **SECTION 463 DECISION PROCEDURE**

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 (45) days. 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 act or 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. 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 final decision or entry of findings. Where the Board has power to render a decision and the Board or the hearing officer, as the case may be, fails to render the same within the period required by this clause, the decision shall be deemed to have been rendered in favor of the applicant.

A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing. The Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

Whenever the Board imposes a condition or conditions with respect to the granting of an application or appeal, this condition must be stated in the order of the Board and in the permit issued pursuant to the order by the Zoning Officer. This permit remains valid only as long as the condition or conditions upon which it was granted or the conditions imposed by this Ordinance are adhered to.

#### **SECTION 464 RECORDS**

The Board or the hearing officer, as the case may be, shall keep a record of the proceedings, either stenographically or by sound recording, and a transcript of the proceedings and copies of graphic or written materials received in evidence shall be made available to any party at cost.

#### **D. TOWNSHIP ENGINEER - Powers and Duties**

#### **SECTION 470 DRAINAGE**

At the request of the Zoning Officer or the Zoning Hearing Board the Township Engineer must review site plans or other data to ascertain that provision for surface water drainage will be adequate (Part II-B-5).

#### **SECTION 471 BUILDING ADJACENT TO DRAINAGE CHANNELS AND WATERCOURSES**

The Township Engineer shall review plans for buildings adjacent to drainage channels or watercourses to ascertain that the building will be an adequate distance from the high water the line (Part II-B-5).

#### **SECTION 472 ZONING HEARING BOARD CASES**

Where the exercise of the above powers and duties involves an application or appeal to the Zoning Hearing Board, the Township Engineer shall make recommendations to the Board. The approving authority in such cases shall be the Zoning Hearing Board and not the Township Engineer.

#### **E. PLANNING COMMISSION - Powers and Duties**

#### **SECTION 480 ZONING HEARING BOARD CASES**

Within thirty (30) days of receiving an application for a special exception or variance from the Zoning Hearing Board, the Planning Commission must give a written report on it to the Board. The Commission is governed by the same standards as the Board in making its recommendation plus its special knowledge gathered from planning for the Township.

#### **SECTION 481 AMENDMENTS**

The Planning Commission may recommend amendments to the regulations and provisions of this Zoning Ordinance to the Township Supervisors. For a proposed amendment stemming from other sources, the Commission must review it and make recommendation regarding it to the Township Supervisors within forty-five (45) days after receipt of the proposal.

#### **SECTION 482 SCREENS WHERE C AND I ZONES ABUT R ZONES**

In reviewing plans for fences or hedges where C and I Zones abut an R Zone, the Planning Commission must accept or refuse the plans, depending on their adequacy for this purpose (see s.340).

#### **F. TOWNSHIP SUPERVISORS - Powers and Duties**

#### **SECTION 490 ZONING HEARING BOARD - APPOINTMENT**

The Township Supervisors must appoint three (3) residents of the Township to a Zoning Hearing Board. No member may hold any other Township Office except Planning Commissioner. Only one (1) Planning Commissioner may be appointed to the Board. The Township Supervisors must designate one (1) member to serve until the first (1st) day of January following the effective date, one (1) member to serve until the first (1st) day of the second January thereafter, and one (1) member to serve until the first (1st) day of the third (3rd) January thereafter. Successors must be appointed on the expiration of the respective terms above to serve three (3) years. Appointments to fill vacancies must be only for the unexpired portion of the terms.

#### **SECTION 491     CHANGES**

The Township Supervisors may from time to time on its own motion, or on petition or on recommendation of the Township Planning Commission, amend, supplement, or repeal any of the regulations and provisions of this Ordinance after public notice and hearing. Before the public hearing, a proposed change, except those coming from the Commission, must be referred to the Planning Commission for its recommendations. If the Commission fails to make a recommendation within forty-five (45) days the Township Supervisors may act without the Commission's recommendation. In case, however, of the receipt of an unfavorable recommendation on the change from the Commission, or of a protest against the change signed by thirty-three and one-third (33 1/3) percent or more of property owners (as defined below) the change may be passed only by a favorable vote of two-thirds of all members of the Board of Supervisors.

- a. Owners of the lots included in the proposed change or
- b. Owners of lots within two thousand (2000) feet of any property included in the proposed change.

#### **SECTION 492     FEES**

The Township Supervisors shall set fees for all applications, permits, variances, or appeals provided for by the Pennsylvania Municipalities Planning Code or by this Ordinance to defray the costs of advertising, mailing notices, processing, inspecting, and copying applications, permits, use certificates and in addition to provide compensation for members of the Zoning Hearing Board if the action is brought before the Zoning Hearing Board; to provide compensation for the members of the Board of Supervisors if the application is brought before the Board of Supervisors; to defray all legal and stenographic costs incurred by the Zoning Board if the application is brought before it; to defray all stenographic costs incurred by the Board of Supervisors if the application is brought before it; and to defray the cost of independent counsel to advise the Board of Supervisors in the admission of evidence and in preparing the report required by the Pennsylvania Municipalities Planning Code if the action is brought before it. The payment of all fees and costs as set by the Board of Supervisors pursuant to this paragraph shall be a prerequisite to the validity of any permit, variance, ruling or decision issued in favor of an applicant pursuant to any of the applications set forth above.

## **PART V**

### **GENERAL INTERPRETATION**

#### **A. DEFINITION**

#### **SECTION 500     GENERAL INTERPRETATION**

In this Ordinance when not inconsistent with the context:

- a. The word "lot" includes the word "plot" or "parcel."
- b. Words in the present tense imply also the future tense.
- c. The singular includes the plural.
- d. The male gender includes the female gender.
- e. The term "shall" or "must" is always mandatory.
- f. The word "person" includes a partnership or corporation as well as an individual.

#### **SECTION 501     SPECIFIC WORDS AND PHRASES**

**ACCESSORY STRUCTURE** - A subordinate structure or the principal structure on use of which is customarily incidental to that principal structure.

**ACCESSORY USE** - A use customarily incidental and subordinate to the principal use or building and located on the same lot with this principal use or building.

**ADULT ENTERTAINMENT FACILITY** - An establishment open to the general public or a private club open to members that is used and occupied for one or more of the following activities:

**Adult Arcade** means any place to which the public is permitted or invited wherein coin-operated or slug-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 or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing "sexual conduct or sexual activity" or "specified anatomical areas".

**Adult Book Store** or **Adult Video Store** means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

- A. books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe "sexual conduct or sexual activity" or "specified anatomical areas"; or

- B. instruments, devices, or paraphernalia which are designed for use in connection with "sexual conduct or sexual activity". A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "sexual conduct or sexual activity" or "specified anatomical areas" and still be categorized as "Adult Book Store" or "Adult Video Store". Such other business purposes will not serve to exempt such commercial establishment from being categorized as an "Adult Book Store" or "Adult Video Store" so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "sexual conduct or sexual activity" or "specified anatomical areas."

Adult Cabaret means any facility which features dancers or similar entertainers who, while performing, do not have all of their "specified anatomical areas" completely and opaquely covered.

Adult Motel means a hotel, motel or similar commercial establishment which:

- A. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "sexual conduct or sexual activity" or "specified anatomical areas"; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
- B. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- C. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

Adult Motion Picture Theater means 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 "sexual conduct or sexual activity" or "specified anatomical areas".

Adult Theater means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "sexual conduct or sexual activity".

**AGRICULTURAL COMMODITY** - Any of the following:

1. Agricultural, aquacultural, horticultural, floricultural, viticultural or dairy products
2. Livestock and the products of livestock
3. Ranch-raised fur-bearing animals and the products of ranch-raised fur-bearing animals.
4. The products of poultry or bee raising
5. Forestry and forestry products
6. Any products raised or produced on farms intended for human consumption and the processed or manufactured products of such products intended for human consumption

**AGRICULTURAL BUILDINGS OR STRUCTURES** - Buildings or structures used to store agricultural equipment, feed, crops or farm supplies owned by the owner or operator of the farm where located or to house farm animals owned by the owner or operator of the farm where located. Farm animals include cattle, swine, horses, sheep, turkeys, chickens, ducks and geese.

**AGRICULTURAL PROCESSING ESTABLISHMENT** - An enterprise utilized for the processing of agricultural commodities for sale including but not limited to milk processing plants, creameries, cheese or yogurt making facilities, grain mills, slaughter houses, canning houses and wineries. Such enterprise may be co-located with "Agricultural Commodities Sales".

**AGRICULTURE** - The use of land for farming, dairying, pasturage, agriculture horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating or storing the produce and equipment and for housing and feeding the animals and housing the equipment. The use of land as a place for the location of a dwelling is not an agricultural use.

**ALTERATIONS** As applied to a building or structure, any change or rearrangement in the total floor area, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

**ALTERATIONS, STRUCTURAL** - Any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

**ANIMAL HOSPITAL** - A building used for the treatment, housing, or boarding of small domestic animals such as dogs, cats, rabbits, and birds or fowl by a veterinarian.

**APARTMENT, CONVERSION** - A multi-family dwelling constructed by converting an existing building into apartments for more than one family, without substantially altering the exterior of the building.

**APARTMENT HOUSE** - A building occupied by three (3) or more dwelling units.

**AUCTION SALES** - The sale of goods or property at a location not owned by the owner of the items being sold that involve the intended buyers bidding against one another for individual items with the item being sold to the bidder offering the highest price. Except in the Commercial District such sales shall not occur more than four times per year on any single property.

**BASEMENT** - A story having part but not more than one-half (1/2) of its height below grade. A basement shall be considered in determining building height.

**BED AND BREAKFAST INN** - A dwelling unit where, in exchange for compensation, the owner, who resides on the premises, provides lodging and at least one meal for guests.

**BOARDING HOUSE** - A building where, for compensation, provisions are made for lodging and meals of at least three (3) but not more than fifteen (15) persons.

**BUILDING** - Any structure or edifice designed or intended for use as an enclosure, a shelter, or protection of persons, animals or property.

**BUILDING AREA** - The total area of outside dimensions on a horizontal plane at ground level of the principal building and all accessory buildings

**BUILDING LINE** - The required setback (front, side or rear) of a building from the property or street line.

**CAMP GROUND** - Any park, tourist park, tourist camp, court, site, lot, parcel or tract of land upon which one or more camp cottages or cabins are located and maintained for the accommodations of transients by the day, week or month or upon which tents, recreational vehicles or other temporary accommodations may be placed by transient occupants. It shall not include mobile home parks.

**CHILD DAY CARE CENTER** - A facility licensed by the Commonwealth of Pennsylvania that provides a wide range of formal day care services outside of a residence to children who are not relatives of the care giver.

**CELLAR** - A story partly underground and having more than one-half ( $\frac{1}{2}$ ) of its clear height below the finished grade.

**CROPLAND** - Land planted in cultivated agricultural plants such as grain, vegetables, fruit, nursery plants and grass or legumes if utilized for hay or haylage as opposed to pasture, or Christmas trees.

**CORNER LOT** - A lot having frontage on two roads or streets which intersect each other at an angle of less than one hundred twenty ( $120^\circ$ ) degrees as a location either within or adjacent to the lot.

**DOMICILIARY CARE UNIT** - A building or structure designed for living quarters for one or more families, provides on a state or federal licensed and supervised basis, twenty-four (24) hour supervised, protective living arrangements by the families residing therein for not more than three (3) persons eighteen (18) years of age and above who are disabled physically, mentally, emotionally or as a result of old age and are unrelated to the family provided the care.

**DRIVEWAY** - A paved surface other than a street which provides vehicular access from a street or a private road to a lot.

**DWELLING** - A building or structure designed for living quarters for one or more families, including (trailers) mobile homes which are either supported by a foundation or by blocks or jacks or are otherwise permanently attached to the land, but not including rooming houses, convalescent homes, motels, hotels, and tourist homes or other accommodations used for transient occupancy.

**DWELLING, DETACHED** - A building arranged or designed to provide living facilities for one or more families entirely separated from any other building or structure by space on all sides.

**DWELLING, GROUP** A group of two (2) or more single family, two-family, or multi-family dwellings occupying a lot in one ownership.

**DWELLING, MULTI-FAMILY** - A building used by three (3) or more families living independently of each other and doing their own cooking; including apartment houses, row houses, or town houses.

**DWELLING, SINGLE FAMILY** - A building used as a dwelling unit by not more than one family. Two mobile homes when attached together become a Two Family dwelling opposed to a Single Family Dwelling irrespective of whether one (1) or two (2) families may reside in such combined structure any given time.

**DWELLING, SEMI-DETACHED** - One of two buildings, arranged or designed as dwellings located on abutting lots and separated from each other by a party wall.

**DWELLING, TWO FAMILY** - A building used by not more than two (2) families, arranged one above the other or side by side.

**DWELLING UNIT** - A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

**FAMILY** - A single person occupying a dwelling unit and maintaining a household; two (2) or more persons related by blood, marriage, or adoption occupying a dwelling unit, living together and maintaining a common household, or not more than four (4) unrelated persons occupying a dwelling unit, living together, and maintaining a common household. Family may include court appointed wards and foster children but not occupants of a club, fraternal lodging, rooming house, boarding house, institutional care facility, personal care facility, or any other arrangement pursuant to which compensation is paid in exchange for the right to reside in such facility, to receive meals, supervision and/or care.

**FAMILY DAY CARE HOME** - A facility located in a single family residence which provides supervisory care for enumeration to not more than six (6) children at any one time who are not relatives of the care giver.

**FARM** - A tract of land containing at least fifty (50) acres which is used in the raising of agricultural crops, fruit, livestock, poultry, fish, bees, or dairy products and the necessary accessory uses for packing, treating or storing the produce and improved with a single family dwelling, and with barns, sheds and/or other farm buildings or structures normally utilized for housing and feeding farm animals and storing farm equipment.

**FARMERS MARKET** - A facility either indoor or outdoor for the sale of agricultural commodities by producers of such commodities at a location not owned or operated by said producer. It may include the sale of foods baked or prepared by those selling such items irrespective of whether the ingredients were grown by the individual selling such items.

**FOREST AND WILDLIFE PRESERVE** - A tract of land containing at least ten (10) acres utilized in its entirety for the production of forest products and/or the maintenance of a sanctuary for wildlife (non-domesticated animals).

**HABITABLE FLOOR AREA** - The aggregate of the horizontal areas of rooms used for habitation, such as living room, dining room, kitchen, bedrooms, and bathrooms, but not including hallways, stairways, cellars, basements, attics, service rooms or utility rooms, closets, areas intended for the parking of motor vehicles, areas intended for storage of lawn and garden equipment, areas intended for location of heating or ventilating equipment, or other similar spaces, nor unheated areas such as enclosed porches, nor rooms without at least one window or skylight opening onto an outside yard or court. At least one-half of the floor area of every habitable room shall have a ceiling height of not less than seven (7) feet and the floor area of that part of any room where the ceiling height is less than five (5) feet shall not be considered as part of the habitable floor area. The minimum total window area, measured between stops, shall be ten (10) percent of the habitable floor area of such room.

**HEAVY COMMERCIAL USE** - A commercial use with a predominantly manufacturing or industrial character due to the extent of production, repairing, or storing of goods such as contractor's yards or storage tanks.

**HOME OCCUPATIONS OR PROFESSION** - A special type of accessory use. It is an occupation or profession which:

1. Is carried on in a dwelling unit or in a structure accessory to a dwelling unit.
2. Is carried on by a member of the family residing in the dwelling unit, and
3. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

**HOSPITAL** - An institution having an organized medical staff which is primarily engaged in providing to in-patients, by or under the supervision of physicians, diagnostic and therapeutic services for the care of injured, disabled, pregnant, diseased, sick, or mentally ill persons, or rehabilitation services for the rehabilitation of injured, disabled, pregnant, diseased, sick, or mentally ill persons. The term includes facilities for the diagnosis and treatment of disorders within the scope of specific medical specialties, but not facilities caring exclusively for the mentally ill.

**HOUSING UNIT** - A group of rooms or a single room occupied or intended for occupancy as separate living quarters; that is, when the occupants do not live and eat with any other persons in the building, and when there is either:

1. Direct access from the outside or through a common hall, or
2. Kitchen or cooking equipment for the exclusive use of the occupants.

**INDUSTRIAL PARK**- An industrial park is an industrial area:

1. Organized and laid out in accordance with an overall plan for a community of industries including the servicing of these industries, and
2. Designed to insure compatibility between the industrial operations in the park and the surrounding area through such devices as landscaping, architectural control, setbacks, and use requirements.

**JUNK** - Any discarded material or article including, but not limited to, scrap metal, scrap, abandoned or junked motor vehicles, containers and structures. It shall not include however, refuge or garbage kept in a proper container for the purpose of prompt disposal.

**JUNKYARD** - A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material, or for the abandonment, collecting, dismantling, demolition, storage and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof.

**KENNEL** - A facility where five (5) or more adult dogs (over six (6) months of age) reside and, one or more dogs irrespective of whether such dogs are over six (6) months of age are being utilized for a commercial purpose such as being boarded, held for sale or used for breeding.

**LOADING SPACE** - An off-street space suitable for the loading or unloading of goods and having direct usable access to a street or alley.

**LOT** - A designated parcel, tract or area of land established by a plat or otherwise permitted by law to be used, developed or built upon as a unit. "Lot" shall include all land included within the definition of "tract" unless division of such tract has been approved by the Township after December 30, 1976 by reason of approval of a subdivision plan approving such division.

**LOT WIDTH** - The width of a lot measured parallel and, in the agricultural and conservation zones forty (40) feet distant from, and in the residential, commercial and industrial zones, thirty-five (35) feet distant from the right-of-way line of a road or street currently maintained by Lower Chanceford Township or by the Commonwealth of Pennsylvania, the right-of-way of a private road designed and approved in accordance with the provision of Sections 605 through 608 or 617(j) of the Township Subdivision and Land Development Ordinance, by the right-of-way line of a private road not so improved but approved by the Township as a means of access to the property in questions pursuant to the provisions of the Township Subdivision and Land Development Ordinance.

**MASSAGE ESTABLISHMENT** - Any establishment or business which provides the services of massage and body manipulation, including exercises, heat and light treatments of the body in all forms and methods of physiotherapy. This definition does not include establishments where sexual conduct or sexual activity occurs nor does it include an establishment where massage services are performed by individuals in a state of nudity or semi-nudity.

**MOBILE HOME** - A single family dwelling designed for transportation after fabrication on streets and highways on its own wheels or on flat bed or other trailers and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, location on jacks or permanent foundation, connection to utilities and the like. Not to include mobile dwelling units.

**MOBILE HOME PARK** - Any lot, parcel, tract, or contiguous tracts or lots, whether or not separated by public or private roads, and whether or not separated by parcels advertised from the original tract or parcel, owned by the same person or persons or corporation, (for this purpose any person shall be considered to own all tracts or lots owned by himself, his spouse, or by a corporation or partnership in which he and/or his spouse together own at least fifty percent (50%) of the outstanding voting stock of the corporation or at least fifty percent (50%) of the ownership equity in the partnership), and designed, maintained, or used for the purpose of supplying a location or a accommodation for two or more mobile homes, or upon which two or more mobile homes are parked or located; and the owner of the property in question receives consideration directly or indirectly for the use of the space occupied by the mobile home; and shall include all buildings and structures used or intended for use as a part of the equipment thereof. The term "mobile home park" shall not include any automobile, mobile home, or trailer sales lot on which any unoccupied mobile home is parked for the purpose of inspection and sale and shall not include a mobile home occupied by a family headed by an individual employed as a farm worker on a full-time basis by the owner of the property in question.

**NO-IMPACT HOME-BASED BUSINESS** - A special type of home occupation administered or conducted as an accessory use, which is clearly secondary to the use as a residential dwelling and which involves neither customer, client or patient traffic nor pickup, delivery or removal functions in excess of those normally associated with residential use. The activity must further satisfy the requirements of Section 303A of this ordinance.

**NONCONFORMITY** - A use, structure, or lot (1) existing on the effective date of this Ordinance, or (2) existing at any subsequent amendment of this Ordinance, or (3) created by variance, and in conflict with the regulations of this Ordinance. Specifically, the following types of Nonconformities are distinguished:

**Nonconforming Structure** - A structure not designed for a use permitted in the zone in which the structure is located.

**Nonconforming Use of Building** - A use carried on within any building which is not a type of use permitted in the zone in which the building is located.

**Nonconforming Use of Land** - A use of open land (e.g. junk yards) which is not a use permitted in the zone in which the land is located. The openness of land is to be gauged by the substantiality of structures affixed to the ground.

**Dimensional Nonconformity** - A lot or structure which is nonconforming because it is not in compliance with the extent-of-use or dimensional regulations of this Ordinance.

**Variance** - A modification of any provision of this Ordinance granted by the Zoning Hearing Board.

**NUDITY OR STATE OF NUDITY** - The showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering; the showing of the female breasts with less than a fully opaque covering of any part of the breasts below a point immediately above the top of the areola; the exposure of any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, natal cleft, perineum anal region, or pubic hair region, or the exposure of any device worn as a cover over the nipples and/or areola of the female breasts, which device simulates and gives the realistic appearance of nipples and/or areola.

**NURSERY SCHOOL** - A facility designed and operated to provide regular instruction and day time care for two (2) or more children under the age of elementary school students. No portion of a nursery school or of a building which is used as a nursery school shall be used as a residence.

**NURSING HOME OR CONVALESCENT HOME** - A building or structure in which nursing care and related medical or other health services are provided for a period exceeding twenty-four (24) hours for two (2) or more individuals who are not relatives of the operator, who are not acutely ill and not in need of hospitalization, but how, because of age, illness, disease, injury, convalescence, or physical or medical infirmity need such care.

**OUTDOOR RECREATIONAL USE** - A use of open land for leisure time activities such as a beach, swimming pool, tennis court, riding stable, golf course, or a drive-in theater.

**PARCEL** - For purposes of the application of Section 202.9 and 203.9, a parcel shall mean all contiguous land owned by the same owner or owners at the date of the proposed transfer. Land shall be considered contiguous even though separated by public or private roads and/or by land adversed from the original tract since June 15, 1964.

**PARKING GARAGE** - A building where passenger vehicles may be stored for short-term, daily, or overnight off-street parking.

**PARKING LOT** - An open lot where passenger vehicles may be stored for short-term, daily, or overnight offstreet parking.

**PARKING SPACE** - An off-street space available for the parking of one (1) motor vehicle and having direct usable access to a street or alley.

**PASTURE** - Land in grass and/or legumes primarily used or formerly used primarily for grazing. Pasture land includes land which is occasionally used for field crops less than one year in seven or which has been periodically renovated with rye grass, wheat, oats, etc. for grazing. Such land may contain shade trees or scattered timber trees with less than ten percent (10%) canopy, but the principal plant cover identifies its use as permanent grazing land.

**PERSONAL CARE HOME** - A building or structure in which food, shelter, and personal assistance and/or supervision are provided for a period exceeding twenty-four (24) hours for four (4) or more adults who are not relatives of the operator and who do not require the services of a "nursing home" but do require assistance or supervision in matters such as dressing, bathing, diet, financial matters, evacuation of a residence in the event of an emergency, or medication prescribed for self administration.

**PRIME AGRICULTURAL LAND** - Land containing soils in Soil Capability Units classified as Class 1, 2, or 3 as depicted on maps prepared by the York County Planning Commission for Lower Chanceford Township, which maps are based on the U.S. Department of Agriculture, Natural Resources Conservation Service, Soil Survey of York County dated 2002.

**PRINCIPAL USE** - The main or primary use of property or structures, measured in terms of net floor area.

**PUBLIC SEWER** - A municipal sanitary sewer system or a comparable common or package sanitary facility approved and permitted by the Pennsylvania Department of Environmental Resources.

**PUBLIC WATER** - A municipal water supply system, or a comparable common water facility approved and permitted by the Pennsylvania Department of Environmental Resources.

**ROOMING HOUSE** - A building containing a single dwelling unit and guest rooms, where lodging is provided with or without meals for compensation.

**SCHOOL** - A place of instruction, either public or private, other than a commercial school.

**School, Commercial** - A school conducted for profit for such special instruction as business, art, music, trades, handicraft, dancing or riding.

**SCREEN PLANTING** - A vegetative material of sufficient height and density to conceal from the view of property owners in adjoining zones the structures and uses on the premises on which the screen planting is located.

**SEMI-NUDITY** - A state of dress in which clothing covers no more than the genitals, pubic region and areola of the female breasts together with portions of the body covered by supporting straps or devices.

**SETBACK** - The horizontal distance between a structure and a property or street line.

**Setback, Front** - The distance between the street line and the front building line, projected the full width of the lot.

**Setback Rear** - The distance between the rear lot line and the rear building line, projected the full width of the lot.

**Setback, Side** - The distance between the side lot line and side building line, projected from the front yard to the rear yard.

**SEXUAL CONDUCT OR SEXUAL ACTIVITY** - This includes any of the following:

1. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
3. Masturbation, actual or simulated.

**SHOPPING CENTER** - A group of stores planned and designed for the site on which it is built, functioning as a unit, with off-street parking provided on the property as an integral part of the unit.

**SIGN** - A device for visual communication that is used to bring the subject to the attention of the public, but not including lettering of symbols that are an integral part of another structure or flags or other insignia of any government, government agency, or of any civic, charitable, religious, fraternal, or similar organization.

**Sign, Advertising** - A sign whose major purpose is for directing attention to a business commodity, service or entertainment conducted, sold or offered elsewhere than upon the same lot, such as billboards.

**Sign, Business** - A sign directing attention to a business or profession conducted on the same lot or, as incidental to a business, to products sold upon the same lot.

**Sign, Directional** - A sign which is for directing patrons or attendants to an establishment off the main-traveled highway or to service clubs, churches, or other nonprofit organizations.

**Sign, Free-standing** - A sign supported by uprights or braces placed upon the ground and not attached to a building.

**Sign, Projecting** - A sign which is attached to a building or other structure and extends beyond the line of a building or structure or beyond the surface of that portion of the building or structure to which it is attached.

**SPECIAL EVENTS** - Business activities such as wedding receptions, anniversary celebrations, fund raising events by non-profit organizations and similar uses bringing financial gain to the owners of the property where the activities occur.

**SPECIFIED ANATOMICAL AREAS -**

1. Less than completely and opaquely covered: (1) human genitals, pubic regions; (2) buttock; and (3) female breasts below a point immediately above the top of the areola; and
2. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

**STORAGE TRAILER** - A structure originally designed for transportation after fabrication on streets and highway on its own wheels and arriving at the site where intended to be utilized complete and ready for use except for minor and incidental unpacking and assembly operations, for location on jacks or permanent foundation, connection to utilities and the like and designed for material storage and not for human occupation or for transportation of persons, animals or materials.

**STORY** - That portion of a building, excluding cellars, included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between any floor and the ceiling next above it.

**Story, Half** - A story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor.

**STREET** - A public or private way, excluding driveways, which affords the principal means of access to abutting properties.

**STREET GRADE** - The officially established grade of the street upon which a lot fronts or in its absence the established grade of other streets upon which the lot abuts, at the midway of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the street at such midpoint shall be taken as the street grade.

**STREET LINE** - The dividing line between the street and lot, also known as right-of-way line.

**STRUCTURAL ALTERATION** - Any change in or addition to the supporting members of a structure.

**STRUCTURE** - Any combination of materials forming any construction the use of which requires location on the ground or attachment to something having location on the ground.

**SWIMMING POOL** - A body of water in an artificial or semi-artificial receptacle or other container 18 inches or more in depth, used or intended to be used for public, semi-public or private swimming by adults or children.

**TRACT** - All land which (1) was owned by the same owner or owners on December 30, 1976 and was contiguous. Land shall be considered contiguous even though separated by public or private roads and/or by land adversed from the original tract since December 29, 1971.

**TRAILER CAMP** - A tract of land:

- a. Where two (2) or more travel trailers, motor homes or campers are parked or
- b. Which is used or held out for the purpose of supplying to the public a parking space for two (2) or more travel trailers, mobile homes or campers.

**TRAVEL TRAILER** - A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational, and vacation uses, permanently identified "Travel Trailer" by the manufacturer on the trailer. Unoccupied travel trailers do not constitute mobile homes, as used in this ordinance.

**TRIANGULAR LOT** - A lot which when surveyed has only three sides and three bearings and distances.

**USE** - The specific purpose for which land or a structure is designed, arranged, intended, occupied or maintained.

**WOODLAND** -

- A. Land at least ten per cent (10%) stocked by forest trees of any size capable of producing timber, pulpwood or other wood products;
- B. Land from which trees have been cut but the land has not been prepared for other use; or
- C. Afforested (planted) areas. Land freshly clear cut and smoothed for crops or pasture, or prepared for development, is considered developed for other use and is included within the definition of such anticipated use.

**YARD** - The portions of a lot not occupied by a dwelling.

**Front Yard**: The open unoccupied space on the same lot with the principal structure extending the full width of the structure project to the sidelines of the lot. The depth of the front yard shall be measured between the street line and the most proximate point of the principal structure. For purposes of defining a front yard, porches, uncovered stairs and landings to the main floor shall be considered as part of the principal structure.

**Rear Yard**: The open unoccupied space on the same lot with the principal structure extending the full width of the structure projected to the sidelines of the lot. The depth of the rear yard shall be measured between the rear lot line and the most proximate point of the dwelling. This definition shall not include attached, unenclosed structures, as defined in this Ordinance.

**Side Yard**: The open unoccupied space on the same lot with the principal structure, situated between the principal structure and the side lot line, and extending from the front yard to the rear yard. Any lot line not a front lot line or a rear lot line shall be deemed a side lot line.

**B. BUILDINGS UNDER CONSTRUCTION**

**SECTION 502**

If the construction is completed by one (1) year after effective date, a building, the foundation of which was completed before effective date, may be constructed without being bound by the requirements of this Ordinance. In like manner, a building, the foundation of which was completed before an amendment, may be constructed if the construction is completed within one (1) year after the amendment.

### **C. DIVISION OF BUILT-ON LOTS**

#### **SECTION 503**

No lot may be formed from part of a lot occupied by a building unless each newly-created lot will meet all the applicable provisions of this Ordinance.

### **D. ERRONEOUS PERMIT**

#### **SECTION 504**

A building permit or other permit or authorization issued or approved in violation of the provisions of this Ordinance, is void without the necessity of any proceedings for revocation. Any work undertaken or use established pursuant to such a permit or other authorization is unlawful. No action may be taken by a board, agency, or employee of the Township purporting to validate such a violation.

### **E. INTERPRETATION**

#### **SECTION 505**

In their interpretation and application the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

### **F. REPEALER**

#### **SECTION 506**

All ordinances or parts of ordinances in conflict with this Zoning Ordinance or inconsistent with the provision of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

### **G. VALIDITY**

#### **SECTION 507**

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

**H. EFFECTIVE DATE**

**SECTION 508**

This Ordinance shall take effect immediately upon adoption and publication according to law.

Adopted by the Board of Supervisors of Lower Chanceford Township, York County, Pennsylvania, and enacted and ordained into an ordinance this 5th day of July, 1971, and amended on October 7, 1975, December 30, 1976, July 7, 1977, July 3, 1979, September 3, 1981, February 2, 1982, June 1, 1982, July 5, 1983, December 6, 1983, May 1, 1984, April 1, 1986, October 6, 1987, January 4, 1988, October 4, 1988, January 2, 1990, April 3, 1996, November 7, 1996, March 7, 2000, July 3, 2001, September 3, 2002, April 1, 2003, June 3, 2003, December 7, 2004, April 4, 2006, September 4, 2007, February 3, 2008, April 1, 2008, January 4, 2010, November 4, 2010, August 2, 2011, January 3, 2012, August 6, 2013, March 3, 2015, August 4, 2015 and February 2, 2016.

Board of Supervisors  
Lower Chanceford Township  
York County, Pennsylvania

By: /s/ J. Ray Scott  
Chairman






/s/ Gilbert Malone  
Solicitor

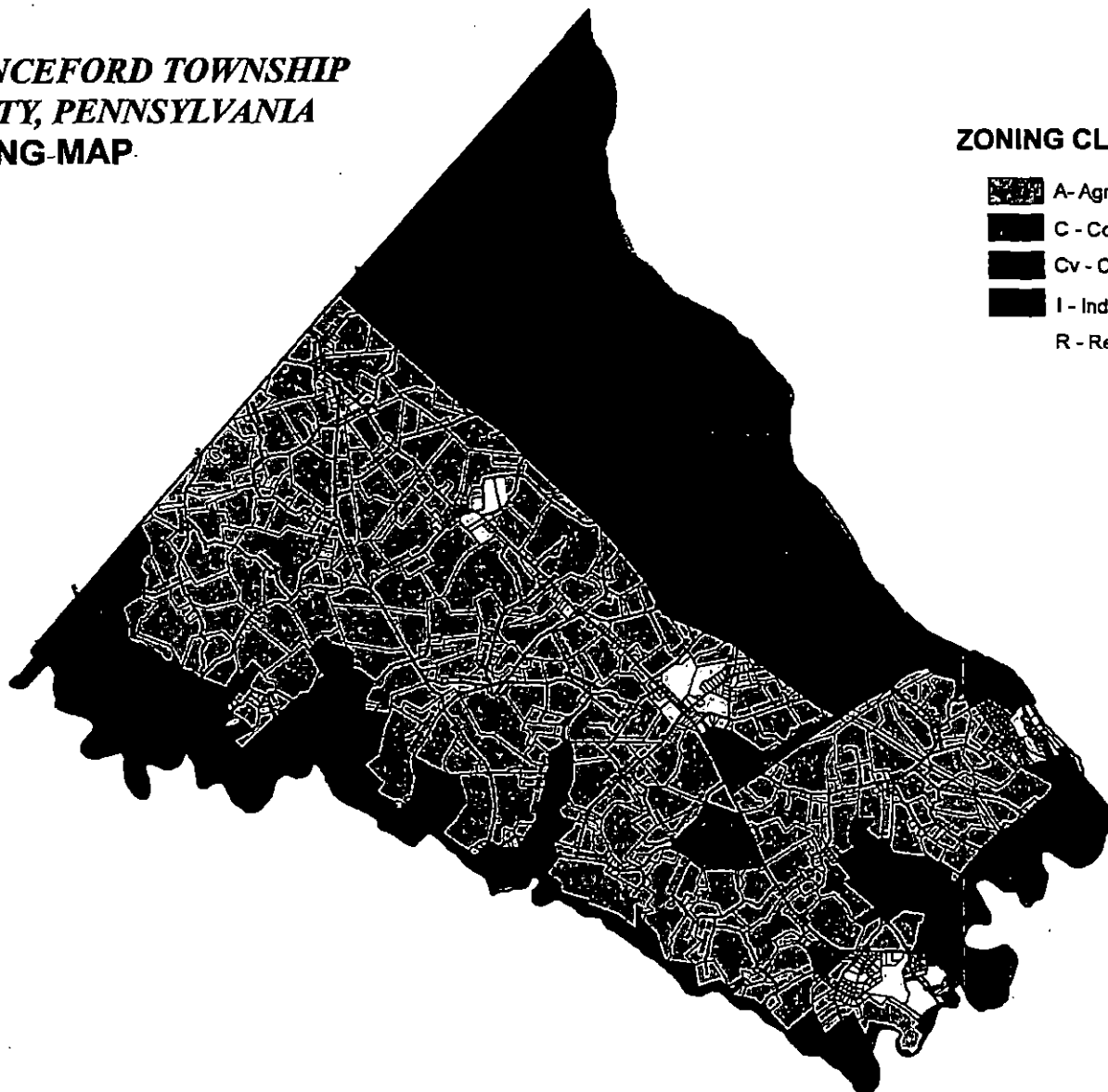
Attest:

/s/ Merle R. Walker  
Secretary

**LOWER CHANCEFORD TOWNSHIP  
YORK COUNTY, PENNSYLVANIA  
ZONING-MAP**

**ZONING CLASSIFICATIONS**

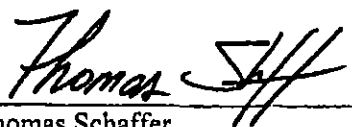
-  A - Agricultural
-  C - Commercial
-  Cv - Conservation
-  I - Industrial
-  R - Residential



### VERIFICATION

I, Thomas Schaffer, Manager, Transmission Right of Way for Transource Pennsylvania, LLC, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect Transource Pennsylvania, LLC to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: May 15, 2018

  
\_\_\_\_\_  
Thomas Schaffer  
Manager, Transmission Right of Way  
Transource Pennsylvania, LLC



17 North Second Street  
12th Floor  
Harrisburg, PA 17101-1601  
717-731-1970 Main  
717-731-1985 Main Fax  
www.postschell.com

Anthony D. Kanagy

akanagy@postschell.com  
717-612-6034 Direct  
717-731-1985 Direct Fax  
File #: 166570

A-2017-2440195  
et al.  
2/21/19  
1009  
jk

May 15, 2018

**VIA ELECTRONIC FILING**

Rosemary Chiavetta, Secretary  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
400 North Street, 2nd Floor North  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Re: Petition of Transource Pennsylvania, LLC for a Finding that a Building to Shelter Control Equipment at the Rice Substation in Franklin County, Pennsylvania is Reasonably Necessary for the Convenience or Welfare of the Public**  
**Docket No. P-2018-**

Dear Secretary Chiavetta:

Enclosed for filing is the Petition of Transource Pennsylvania, LLC in the above-referenced proceeding. Copies will be provided as indicated on the Certificate of Service.

Respectfully submitted,

  
Anthony D. Kanagy

ADK/jl  
Enclosures

cc: Honorable Elizabeth Barnes  
Honorable Andrew M. Calvelli  
Certificate of Service

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been served upon the following persons, in the manner indicated, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant).

### VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

Bureau of Investigation & Enforcement  
Commonwealth Keystone Building  
400 North Street, 2nd Floor West  
PO Box 3265  
Harrisburg, PA 17105-3265

Office of Consumer Advocate  
555 Walnut Street  
Forum Place, 5th Floor  
Harrisburg, PA 17101-1923

Office of Small Business Advocate  
300 North Second Street, Suite 202  
Harrisburg, PA 17101

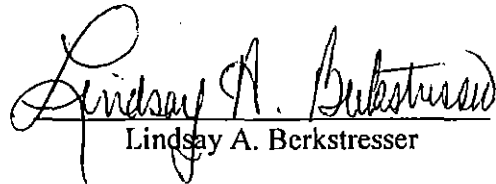
Franklin County Planning Commission  
218 North Second Street  
Chambersburg, PA 17201  
Attn: Phil Tarquino, Director

Franklin County Commissioners  
14 North Main Street  
Chambersburg, PA 17201  
Attn: David Keller, Chairman

Southampton Township  
Board of Supervisors  
705 Municipal Drive  
Shippensburg, PA 17257  
Attn: Mr. Paul Witter, Chairman

Southampton Township  
Planning Commission  
705 Municipal Drive  
Shippensburg, PA 17257  
Attn: Dr. Jack Benhart, Chairman

Date: May 15, 2018

  
Lindsay A. Berkstresser

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of Transource Pennsylvania, LLC :  
for a Finding that a Building to Shelter :  
Control Equipment at the Rice Substation in : Docket No. P-2018-\_\_\_\_\_  
Franklin County, Pennsylvania is :  
Reasonably Necessary for the Convenience :  
or Welfare of the Public :

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**PETITION OF TRANSOURCE PENNSYLVANIA, LLC**

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TO THE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

Transource Pennsylvania, LLC ("Transource PA") hereby petitions the Pennsylvania Public Utility Commission ("Commission"), pursuant to 52 Pa. Code § 5.41 and 53 P.S. § 10619, for a finding that a building to shelter control equipment ("Control Equipment Building") at the proposed Rice Substation in Franklin County, Pennsylvania is reasonably necessary for the convenience or welfare of the public and, therefore, exempt from any local zoning ordinance ("Zoning Petition"). Subject to the Commission's approval, construction of this Project is scheduled to begin as soon as practicable to meet the in-service date of June 1, 2020. In support of this Zoning Petition, Transource PA states as follows:

**I. INTRODUCTION**

1. This Zoning Petition is filed by Transource PA, a public utility that was formed to construct, own, operate, and maintain electric transmission facilities and equipment in Pennsylvania subject to the regulatory jurisdiction of the Commission.

2. Transource PA is a limited liability company organized and existing under the laws of Delaware. Transource PA is a wholly-owned direct subsidiary of Transource Energy, LLC ("Transource Energy").

3. Transource PA's address is as follows:

Transource Pennsylvania, LLC  
1 Riverside Plaza, 29<sup>th</sup> Floor  
Columbus, Ohio 43215-2372

4. Transource PA's attorneys are:

David B. MacGregor (PA ID # 28804)  
Anthony D Kanagy (PA ID # 85522)  
Lindsay A. Berkstresser (PA ID # 318370)  
Post & Schell, P.C.  
17 North Second Street  
12th Floor  
Harrisburg, PA 17101-1601  
Phone: 717-731-1970  
Fax: 717-731-1985  
E-mail: dmacgregor@postschell.com  
E-mail: akanagy@postschell.com  
E-mail: lberkstresser@postschell.com

Amanda Riggs Conner (DC ID # 481740)  
Hector Garcia (VA ID # 48304)  
American Electric Power Service Corporation  
1 Riverside Plaza, 29th Floor  
Columbus, OH 43215  
Phone: 614-716-3410  
Fax: 614-716-1613  
E-mail: arconner@aep.com  
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Transource PA's attorneys are authorized to receive all notices and communications regarding this Zoning Petition.

5. On December 27, 2017, Transource PA filed the "Application of Transource Pennsylvania, LLC filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230 kV Transmission Line Associated with the Independence

Energy Connection-West Project in Portions of Franklin County, Pennsylvania” (“Siting Application”). Therein, Transource PA is requesting approval to site and construct the transmission lines associated with the West portion of the Independence Energy Connection Project (“IEC Project”). Also on December 27, 2017, Transource PA filed the “Application of Transource Pennsylvania, LLC filed Pursuant to 52 Pa. Code Chapter 57, Subchapter G, for Approval of the Siting and Construction of the 230 kV Transmission Line Associated with the Independence Energy Connection-East Project in Portions of York County, Pennsylvania.” The IEC Project was approved by PJM Interconnection, L.L.C. (“PJM”) to alleviate transmission congestion constraints and provide reliability benefits in Pennsylvania, Maryland, West Virginia, and Virginia. The IEC Project will have two components—the IEC-West Project, which consists of the siting and construction of the Rice-Ringgold 230 kV Transmission Line in portions of Franklin County, Pennsylvania, and the IEC-East Project, which consists of the siting and construction of the Pennsylvania portion of the Furnace Run-Conastone 230 kV Transmission Line in portions of York County, Pennsylvania.

6. With the Siting Application, Transource PA filed Attachments 1-13, which provide additional detailed information regarding the IEC-West Project. Also accompanying the Siting Application are Transource PA Statement Nos. 1-6, which further explain the IEC-West Project.

7. As part of the IEC Project, Transource PA proposes to construct two new substations: the Furnace Run Substation to be located in York County, Pennsylvania and the Rice Substation to be located in Franklin County, Pennsylvania.<sup>1</sup>

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<sup>1</sup> Transource PA is filing separate zoning petitions for the Furnace Run Substation to be located in York County, Pennsylvania and the Rice Substation to be located in Franklin County, Pennsylvania, requesting findings that the buildings to shelter control equipment at each of the Substations are reasonably necessary for the convenience or welfare of the public and, therefore, exempt from any local zoning ordinance pursuant to 53 P.S. § 10619.

8. The IEC-West Project involves the siting and construction of the new Rice-Ringgold 230 kV Transmission Line that will extend approximately 28.8 miles to connect the existing Ringgold Substation located near Smithsburg, Washington County, Maryland and the new Rice Substation to be located in Franklin County, Pennsylvania. Approximately 24.4 miles of the IEC West Project will be located in Pennsylvania and approximately 4.4 miles will be located in Maryland.

### **III. NEED FOR THE PROJECT**

9. PJM is a FERC-approved Regional Transmission Organization charged with ensuring the reliable and efficient operation of the electric transmission system under its functional control, and coordinating the transmission of electricity in all or parts of thirteen states, including Pennsylvania, and the District of Columbia.

10. In order to ensure reliable transmission service, PJM prepares an annual Regional Transmission Expansion Plan ("RTEP"). The RTEP is an annual planning process that encompasses a comprehensive series of detailed analyses to ensure electric power continues to flow reliably to customers under stringent reliability planning criteria.

11. In addition to the reliability analysis, PJM's RTEP includes a Market Efficiency Analysis to identify congestion on electric transmission facilities that has economic or wholesale market effects, as well as potential improvements to electric transmission economic efficiencies. The electric transmission needs identified in this analysis stem from the fact that the PJM transmission grid provides the means for generators to participate in a competitive wholesale market to supply electricity, both capacity and energy, to customers in PJM's geographic footprint no matter where in this area the electrical load is located.

12. The electric transmission infrastructure needs identified by the PJM Market Efficiency Analysis are addressed by market efficiency transmission projects, which are aimed specifically at improving electric transmission economic efficiencies and alleviating electric transmission constraints that have an economic impact on PJM's wholesale energy or capacity markets.

13. When PJM's Market Efficiency Analysis identifies a need to relieve congestion on electric transmission facilities, PJM opens a Long Term Proposal Window to solicit the submittal of potential solutions (i.e., market efficiency projects) to address those needs. PJM's solicitation of market efficiency project submittals through its Long Term Proposal Window is a competitive process consistent with FERC Order No. 1000. Potential solutions are evaluated using two criteria: first, the project must address the congestion identified in the Market Efficiency Analysis; and, second, the project benefits must exceed the costs by at least 25 percent. In addition, the project must meet PJM's congestion criteria and not create additional unacceptable congestion elsewhere on the system.

14. Market efficiency projects that are selected through PJM's Long Term Proposal Window are presented to stakeholders and recommended to the PJM Board of Managers ("PJM Board") for approval. If approved, such market efficiency projects are included in the RTEP as Baseline Projects.

15. Importantly, pursuant to Schedule 6 of PJM's Amended and Restated Operating Agreement, after the PJM Board approves a proposed market efficiency project, the successful project proponent is obligated to complete the project once PJM and the successful entity execute a Designated Entity Agreement, which specifically designates the entity or entities having construction responsibility for the project.

16. In October 2014, PJM opened a Long Term Proposal Window ("2014/15 RTEP Long Term Proposal Window") to solicit proposals to address, among other things, transmission congestion constraints in Pennsylvania, Maryland, Virginia, and West Virginia. In response, Transource Energy, the parent of Transource PA, submitted "Project 9A." The IEC Project is a major component of Project 9A.

17. After extensive evaluation and review with stakeholders, PJM selected Project 9A to address the needs identified in PJM's 2014/15 RTEP Long Term Proposal Window because it provided the highest benefit-to-cost ratio, the most total congestion savings, and the most production cost savings. On August 2, 2016, the PJM Board approved Project 9A as Baseline Upgrade Numbers b2743 and b2752, which includes the IEC Project.

18. Although the primary benefits from the IEC Project relate to market efficiency and the reduction of congestion costs, the new transmission facilities associated with the IEC Project will also enhance the electrical strength and reliability of the transmission system by virtue of the new transmission facilities in the area that will be part of the interconnected transmission grid. The IEC Project will provide additional and alternative paths for electricity in the event of outages on other Pennsylvania transmission facilities. The IEC Project will also allow the interconnection of future reliability, generation, and load projects in the area.

19. Pertinent to this Application, the IEC Project as approved by PJM involves: (i) construction of two new substations in Pennsylvania, namely the Rice Substation and Furnace Run Substation, and (ii) construction of the Pennsylvania portion of two new overhead double-circuit 230 kV interstate transmission lines, namely the Rice-Ringgold 230 kV Transmission Line (the IEC-West Project) and the Furnace Run-Conastone 230 kV Transmission Line (the

IEC-East Project), and associated structures, equipment, and other facilities necessary to operate the transmission lines.

#### **IV. THE PROPOSED PROJECT**

20. The IEC Project is being proposed in order resolve the transmission congestion constraints and improve overall system reliability as described above. The IEC Project approved by PJM involves: (i) construction of two new substations in Pennsylvania, the Rice Substation and the Furnace Run Substation; and (ii) construction of two new overhead double-circuit 230 kV interstate transmission lines, the Rice-Ringgold 230 kV Transmission Line and the Furnace Run-Conastone 230 kV Transmission Line.

21. Upon receipt of all necessary approvals, the new Rice-Ringgold 230 kV Transmission Line will be sited to extend approximately 28.8 miles, connecting the existing Ringgold Substation located near Smithsburg, Washington County, Maryland, and the new Rice Substation to be located in Franklin County, Pennsylvania. This transmission line project is referred to as the IEC-West Project and is the subject of this Siting Application.

22. The Pennsylvania portion of the IEC-West Project will extend approximately 24.4 miles from the new Rice Substation to the Pennsylvania-Maryland border, and the Maryland portion of the IEC-West Project will extend approximately 4.4 miles from the Pennsylvania-Maryland border to the existing Ringgold Substation. Transource PA will construct, own, operate, and maintain the Pennsylvania portion of the Rice-Ringgold 230 kV Transmission Line, and Transource MD will construct, own, operate, and maintain the Maryland portion of the line.

23. A map of the proposed IEC-West Project is provided in Attachment 2 to the Siting Application.

24. The Pennsylvania portion of the new IEC-West Project will require the installation of approximately 162 structures with an average height of 135 feet. Approximately 2 to 4 taller structures (up to approximately 250 feet) may be used in certain locations to maintain appropriate clearances for certain structures and existing utility facilities. The spans between the structures will be approximately 800 feet.

25. The Pennsylvania portion of the new IEC-West Project will largely consist of tubular steel monopole and multi-pole structures. In certain areas, steel lattice structure may be used to better accommodate topographical, construction, or land use constraints. Depictions of typical structures to be used for the IEC-West Project are provided in Attachment 4 to the Siting Application.

26. The Rice-Ringgold 230 kV Transmission Line associated with the IEC-West Project will be a 230 kV double-circuit transmission line. The 230 kV double-circuit design will utilize twelve power conductors, with two conductors used for each of the six phase positions, and two overhead ground wires. An engineering description of the conductors and overhead ground wires is provided in Attachment 4 to the Siting Application.

27. Provided as "Appendix A" hereto is an exhibit showing the location of the tract of land on which the proposed Rice Substation, together with the Control Equipment Building, will be constructed.

## **V. EXEMPTION FROM LOCAL ZONING**

28. The Pennsylvania Municipalities Planning Code ("MPC") provides, in relevant part, as follows:

This article 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 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.

Section 619 of the MPC, Act of July 31, 1968, P.L. 805, *as amended*, 53 P.S. § 10619. Thus, a municipality may zone a public utility building unless the Commission determines that the building is reasonably necessary for the convenience or welfare of the public. If the Commission finds that the building is reasonably necessary, the building is exempt from local zoning ordinances under the MPC. *Del-AWARE Unlimited, Inc. v. Pa. P.U.C.*, 513 A.2d 593, 596 (Pa. Cmwlth. 1986).

29. As explained above, and more fully in the Siting Application and supporting Attachments, the IEC-West Project, including the Rice Substation, is necessary to relieve congestion constraints identified by PJM and enhance overall system reliability. The Rice Substation must include certain equipment in order to operate properly and this equipment must be protected from the elements. The most efficient and appropriate means of protecting the equipment at this Substation is construction of a Control Equipment Building on the site proposed for the new Rice Substation.

30. Because the IEC-West Project, including the Rice Substation, is reasonably necessary for the public convenience and welfare, the Commission should find that the Control Equipment Building is reasonably necessary and, therefore, exempt from the Southampton Township's local zoning ordinance pursuant to Section 619 of the MPC. *Del-AWARE Unlimited, Inc. v. Pa. P.U.C.*, 513 A.2d 593 (Pa. Cmwlth. 1986).

## **VI. THE SOUTHAMPTON TOWNSHIP ZONING ORDINANCE**

31. On January 11, 2001, the Commission adopted a policy statement to further the Commonwealth's goal of making agency actions consistent with sound land use planning by considering the impact of its decision upon local comprehensive plans and zoning ordinances.

See 31 Pa. Bull. 951 (Feb. 17, 2001). Section 69.1101 of the Commission's Regulations provides:

[T]he Commission will consider the impact of its decisions upon local comprehensive plans and zoning ordinances. This will include reviewing applications for:

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(2) Siting electric transmission lines.

(3) Siting a public utility "building" under section 619 of the Municipalities Planning Code (53 P.S. § 10619)....

52 Pa. Code § 69.1101.

32. Southampton Township has adopted a zoning ordinance. See Southampton Township, Pennsylvania Code of Ordinances Codified through Ordinance No. 2017-003, enacted December 26, 2017 (Zoning Chapter 39).<sup>2</sup>

33. The substation site for the Rice Substation is zoned as Agricultural / Woodland Conservation (A).

34. Southampton Township's zoning ordinance defines the allowances and restrictions associated with the various zoning districts and identifies "Essential Services" as:

the erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies or private corporations under contract to a municipality, of gas, electrical, telephone, steam or water transmission or distribution system, and sewer and solid waste disposal systems, including buildings, enclosures, wells, pumping stations, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic light signals, hydrants, sanitary landfills, incinerator waste disposal areas, and other similar equipment and accessories and services in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or private corporations under contract to a municipality including firehouse of fire companies and emergency services

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<sup>2</sup> Available at [https://library.municode.com/pa/southampton\\_township\\_franklin\\_county/codes/code\\_of\\_ordinances?nodeId=CH39ZO](https://library.municode.com/pa/southampton_township_franklin_county/codes/code_of_ordinances?nodeId=CH39ZO).

under agreement with the municipality or for the public health or safety or general welfare.

*See id.* § 39-1300.

35. Under the Agricultural / Woodland Conservation District (A) conditional uses include public utility facilities and essential services, provided that "all buildings including accessory buildings shall not cover more than ten percent of the area of the lot". *See id.* § 39-Part 7. On application, and after a public hearing and the receipt of recommendations by the Township and County Planning Commissions, and after all required subdivision or land development plan approvals, the Supervisors may authorize the issuance of land use permits for any of the conditional uses permitted by the zoning ordinance. *See id.* § 39-1101.

36. The Southampton Zoning Ordinance defines a "building" as any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals, or chattels, and including covered porches or bay windows and chimneys. *See id.* § 39-1300. In turn, the Zoning Ordinance defines "structure" any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land. *See id.*

37. A building and/or zoning permit is required prior to the erection, construction, or use of any building, structure, or portion thereof. A building and/or zoning permit is also required prior to the use or change in land. *See id.* § SEC. 39-501 AND 39-502

38. The proposed control equipment building at the Rice Substation as designed will generally consist of an estimated 60ft x 16ft x 10ft tall prefabricated metal building. It will rest on a series of drilled shaft concrete foundations. The building will have an HVAC unit mounted to the side providing continuous heating and cooling. The substation and building will be surrounded by a seven-foot tall chain link fence with one additional foot of barbed wire. The

fenced area will consist of approximately 8 acres. Access within the substation will be through lock secured swing gates of similar construction as the fence.

39. Based on the foregoing, in the absence of a finding by the Commission under Section 619 of the MPC, it is unlawful under the Southampton Township Zoning Ordinance for Transource PA to commence work on and begin use of the Rice Substation and Control Equipment Building. Per the Zoning Ordinance no building or structure in any district, unless otherwise exempted, shall be demolished, erected, reconstructed or restored, or structurally altered without a land use permit duly issued upon application to the Township. No land use permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of this Part and the Township Land Use Permit Ordinance. Further, it is unlawful to use any structure or building in any manner until a Certificate of Zoning Compliance has been issued and obtained from the Zoning Officer.

40. For these reasons, Transource PA requests that the Commission find that the Control Equipment Building at the proposed new Rice Substation is reasonably necessary for the convenience or welfare of the public and are, therefore, exempt from the requirements of the Southampton Township Zoning Ordinance that may, in the Township's opinion, impose any restriction, condition, or regulation on the construction of the Control Equipment Building at the Rice Substation.<sup>3</sup> As explained by Mr. Ali in Transource PA St. No. 2, the IEC-West Project,

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<sup>3</sup> The lack of authority for a local municipality to regulate the design, location, or construction of public utility facilities is consistent with the long line of cases holding that public utilities are exempt from local ordinances. See *Duquesne Light Company v. Monroeville Borough*, 449 Pa. 573, 580, 298 A.2d 252, 256 (1972) ("This Court has consistently held, however, that the Public Utility Commission has exclusive regulatory jurisdiction over the implementation of public utility facilities") (citations omitted). See, e.g., *County of Chester v. Philadelphia Elec. Co.*, 420 Pa. 422, 218 A.2d 331 (1966) (holding that regulation by a multitude of jurisdictions would result in "twisted and knotted" public utilities with consequent harm to the general welfare); *Newtown Twp. v. Philadelphia Elec. Co.*, 594 A.2d 834, 837 (Pa. Cmwlth. 1991) (noting that "it is clear that no 'implied' power exists in the MPC which would allow the Township to regulate [the Philadelphia Electric Company] through its subdivision and land development ordinance"); *Heintzel v. Zoning Hearing Bd. of Millcreek Twp.*, 533 A.2d 832 (Pa. Cmwlth. 1987) (holding that township had no power to regulate, under its zoning ordinance, city's erection of water tower because

including the Rice Substation, is reasonably necessary for the convenience or welfare of the public.

41. Transource notes that it is serving copies of this Petition on the Franklin County Planning Commission, Franklin County Commissioners, Southampton Township Board of Supervisors, and Southampton Township Planning Commission.

## **VII. RELATED PROCEEDINGS**

42. As explained above, Transource PA previously filed Siting Applications with the Commission requesting approval to site and construct the IEC Project, including the proposed Rice Substation and Control Equipment Building that is the subject of this Zoning Petition. Issues relating to the necessity for the IEC Project are interrelated with this Zoning Petition.

43. Contemporaneously herewith this Zoning Petition, Transource PA is filing a Zoning Petition requesting a finding that a building to shelter control equipment at the proposed Furnace Run Substation in York County is reasonably necessary for the convenience or welfare of the public and, therefore, exempt from any local zoning ordinance pursuant to 52 Pa. Code § 5.41 and 53 P.S. § 10619. Both the Furnace Run and Rice Substations are required for the IEC Project. Issues related to the Zoning Petition for the Furnace Run Substation are interrelated with this Zoning Petition. In addition, the Siting Applications for the IEC-East and IEC-West proceeding have been consolidated for purposes of hearing and decision.

44. Finally, Transource PA is separately filing 133 Condemnation Applications, pursuant to 15 Pa.C.S. § 1511(c), for findings and determinations that the service to be furnished

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that power was under the exclusive jurisdiction of the PUC); *South Coventry Twp. v. Philadelphia Elec. Co.*, 504 A.2d 368 (Pa. Cmwlth. 1986) (noting that to possibly subject [the Philadelphia Electric Company] to a miscellaneous collection of regulations upon its system would clearly burden and indeed disable it from successfully functioning as a utility); *Commonwealth v. Delaware and Hudson Railway Co.*, 339 A.2d 155 (Pa. Cmwlth. 1975) (holding that the MPC did not authorize local governments to regulate public utilities in any manner which infringes upon the power of the Commission to so regulate).

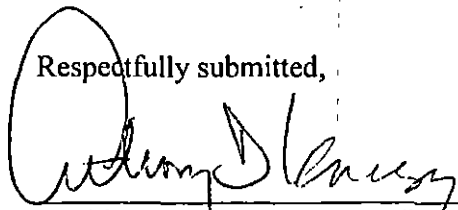
through its proposed exercise of the power of eminent domain to acquire rights-of-way and easements over certain tracts of land for the proposed IEC Project is necessary or proper for the service, accommodation, convenience, or safety of the public. Issues relating to the need for these condemnations are interrelated with this Zoning Petition.

45. Pursuant to 52 Pa. Code § 57.75(i)(1), Transource PA requests that these related proceedings be consolidated for purposes of hearings, if necessary, and decision.

### **VIII. CONCLUSION**

WHEREFORE, Transource PA respectfully requests that the Pennsylvania Public Utility Commission: (1) consolidate this Rice Substation Zoning Petition with the IEC-East and IEC-West Siting Applications, Furnace Run Substation Zoning Petition, and the 133 Condemnation Applications contemporaneously filed herewith; and (2) find that the control equipment building proposed by Transource PA at the Rice Substation is reasonably necessary for the convenience or welfare of the public and, therefore, are exempt from the Zoning Ordinance of Southampton Township.

Respectfully submitted,



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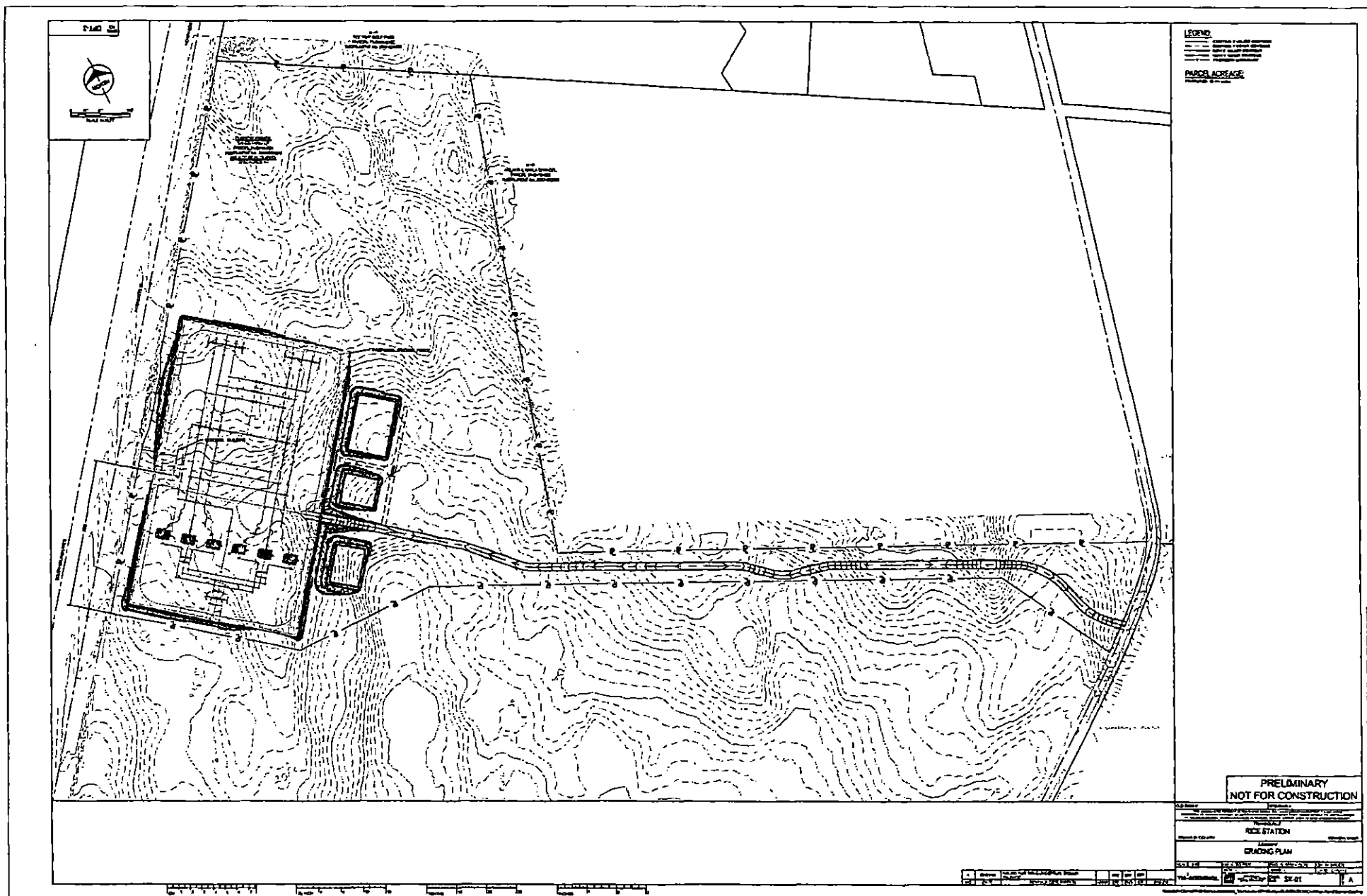
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Date: May 15, 2018

Counsel for Transource Pennsylvania, LLC

# **Appendix A**

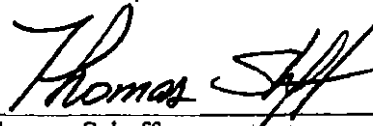
# Appendix A



### VERIFICATION

I, Thomas Schaffer, Manager, Transmission Right of Way for Transource Pennsylvania, LLC, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect Transource Pennsylvania, LLC to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

Date: May 15, 2018

  
Thomas Schaffer  
Manager, Transmission Right of Way  
Transource Pennsylvania, LLC