

**DAMASCUS TOWNSHIP  
WAYNE COUNTY, PENNSYLVANIA**

**ZONING ORDINANCE COMPILATION -- 2008**

**INTRODUCTION**

This compilation has not been adopted as a whole by the Board of Supervisors, but simply includes all the provisions of the Zoning Ordinance of 1997 and subsequent amendments as cited below. The intent is to facilitate the public's use of the Zoning Ordinance and amendments. Nevertheless, the provisions of the underlying ordinances remain in full force and effect and shall apply to the extent that the provisions of same have not been changed by any subsequent amendment.

This document is a compilation of the following:

1. Zoning Ordinance of August 4, 1997.
2. Ordinance No. 99-01 including thirteen items.
3. Ordinance No. 2000-02 including seven items.
4. Ordinance No. 2007-03 including twenty-two items.

## ARTICLE I - GENERAL PROVISIONS

### 101 Title and Short Title

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

### 102 Purpose

This Ordinance is created for the purpose of promoting and protecting the public health, safety, and welfare consistent with Section 604 of the Pennsylvania Municipalities Planning Code.

### 103 Community Development Objectives

The Community Development Objectives of this Ordinance are in general conformance with the Damascus Township Comprehensive Plan. They include, but are not limited to the following:

- 103.1 Guiding land uses to areas of the Township which can best accommodate them so as to provide for both controlled growth and economic development.
- 103.2 Maintaining safe means of circulation through the Township.
- 103.3 Maintaining good housing conditions and affordable housing availability.
- 103.4 Protecting the community to as great a degree as practical from natural or man-made disasters or other dangers.
- 103.5 Ensuring all development is done with proper regard for health, safety and welfare concerns of the Township and necessary improvements can or will be made to accommodate the activities which will result.
- 103.6 Protecting agricultural security areas and farm operations so as to preserve the economic vitality of such enterprises, particularly family farms, and to promote the agricultural and farm character of the Township.

### 104 Interpretation

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

In interpreting the language of this Ordinance to determine the extent of the restriction upon the use of the property, the language shall be interpreted, where doubt exists as to the intended meaning of the language written and enacted by the governing body, in favor of the property owner and against any implied extension of the restriction.

## ARTICLE II - DEFINITIONS

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

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

**Accessory Structures:** A subordinate structure or portion of the main structure on a lot, the use of which is customarily incidental to that of the main structure, including fences, electronic reception devices, and all swimming pools as herein defined. It shall also be constructed of a combination of materials which is safe and stable.

**Accessory Use:** A use of land or of a structure or portion thereof customarily incidental and subordinate to the principal permitted, conditional or special exception use of the land or structure and located on the same lot with such use including accessory structures.

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

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

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

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas" and still be categorized as an "Adult Bookstore," "Adult Novelty Store" or "Adult Video Store". Such other business purposes will not serve to exempt such commercial establishment from being categorized as an "Adult Bookstore," "Adult Novelty 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 "specified sexual activities" or "specified anatomical areas". The term Adult Bookstore shall include but not be limited to an "Adult Novelty Store" and an "Adult Video Store", and all such uses shall be considered an "Adult Business" for the purpose of this Ordinance.

**Adult Business:** Any of the following:

- A. A use of a building or land for a business which has obscene materials as a substantial or significant portion of its stock-in-trade.
- B. A use of a building or land for a business which involves the sale, lease, trade, gift or display of drug paraphernalia as a substantial or significant portion of its stock-in-trade.
- C. Any nightclub, bar, restaurant, arcade, theater, or any other establishment that conducts live performances as part of its business that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities", or films, motion pictures, video cassettes, slides, or other photographic reproductions in which a substantial portion of the total presentation time is devoted to the showing of material that is characterized by an emphasis upon the depiction or description of "specified sexual

activities" or "specified anatomical areas", or where any "specified sexual activities" are conducted for economic gain or any other form of consideration.

- D. Any of the following as defined in this Article II:
1. adult arcade
  2. adult bookstore, adult novelty store or adult video store
  3. adult live entertainment use or facility
  4. adult motel
  5. adult motion picture theater
  6. adult theater
  7. escort agency
  8. massage parlor
  9. nude model studio
  10. sexual encounter center

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

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

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

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

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

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

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

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

**Agriculture:** The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forest management program.

**Agricultural Service Facilities:** Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, veterinary and other animal services and farm labor and management services.

**Airport:** A tract of land or body of water, with or without buildings, where airplanes, jets, helicopters and/or any other type of aircraft land and take off.

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

**Antique Vehicle:** Any vehicle twenty-five (25) years or older which has been restored to good operating and road-worthy condition. (See definition of good operating and road-worthy condition.)

**Basement:** Any area of the building having its floor below ground level on all sides.

**Boarding or Tourist Home:** Any dwelling in which more than three persons either individually or as families are housed or lodged for hire with meals normally included as a part of the services rendered. Bed and breakfast operations shall be included in this definition.

**Boat/Canoe Livery:** A business or facility for the leasing or renting of any type of watercraft or waterborne vessel for outdoor water based recreation. This definition shall not include access areas operated by a bona fide, non-profit property owners association or similar organization for the use of members.

**Building:** A combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.

**Building Height:** The vertical distance of a building measured from the average elevation of the finished grade within twenty feet of the structure to the highest point of the roof. Agricultural silos are exempt from this requirement.

**Buffer:** A strip of land that: separates one use from another use or feature, and is not occupied by any building, parking, outdoor storage or any use other than open space or approved pedestrian pathways. It is used to provide separation between incompatible uses to effect a visual barrier, reduce noise, block physical passage between uses, and reduce noise, dust and litter. The separation may be effected by fencing, dense vegetative planting, the provision of additional setback distances, berms or a combination thereof; and, in general, widths of buffers are increased as the density of the barrier decreases. A buffer yard may be a part of the minimum setback distance but land within an existing street right-of-way shall not be used to meet a buffer yard requirement.

**Campground:** A plot of ground upon which two or more campsites are located, established or maintained for temporary occupancy by persons using tents or recreational vehicles.

**Church or Other Places of Worship:** A structure, or groups of structures, which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

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

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

**Collector Vehicle:** Any vehicle of limited manufactured production from the present through twenty-four (24) years old, in good operating and road-worthy condition. (See definition of good operating and road-worthy condition)

**Commercial Communication Device:** Any device which is intended for transmitting or receiving commercial television, radio or telephone communications, excluding the following:

- A. Industrial, scientific and medical equipment as regulated by the Federal Communications Commission in 47 CFR 18.
- B. Military and government radar antennas and associated communication towers used for navigational purposes as regulated by 47 CFR 87.
- C. Amateur (ham) and citizen band transmitting and receiving antennas and associated communication towers as regulated by 47 CFR 97 and 47 CFR 95, respectively, and which are less than forty-five (45) feet in height.
- D. Radio transceivers normally hand-held or installed in a vehicle, such as an automobile, truck, trailer or water craft.
- E. A radio frequency machine which is designated and marketed as a consumer product, such as microwave ovens and radio control toys.

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

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

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

**Corner Lot:** A lot or parcel of land at the junction of two or more streets.

**Cultural Facilities:** Structures or uses designed and/or operated for purposes of displaying the crafts of artisans, not including theaters or adult stores.

**Detention Facility:** A facility used to house and/or rehabilitate adults or juveniles detained, sentenced or adjudicated delinquent by the criminal justice system, including but not limited to, jails, prisons, penitentiaries, reformatories, halfway houses, transitional living facilities, juvenile detention facilities, and similar facilities.

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

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

**Dwelling Unit:** One (1) or more rooms in a dwelling structure, including a kitchen, sleeping facilities, bath and toilet, designed as a household unit for extended periods of occupancy for living and sleeping purposes by not more than one (1) family at a time.

**Dwelling, Multi-family:** A structure or structures designed for occupancy by three (3) but no more than four (4) families living independently of each other in separate dwelling units. The term "multi-family dwelling" shall include condominium as well as non-condominium housing units including the following construction types:

- A. Residential Conversion to Apartments: Conversion of an existing single-family detached dwelling having been used as such for ten (10) or more years into three (3) to five (5) dwelling units and not exceeding two and one-half (2-1/2) stories in height.
- B. Garden Apartment: Multi-family dwelling originally designed as such; containing three or more dwelling units and not exceeding two and one-half (2-1/2) stories in height, not including townhouses.
- C. Townhouse: Multi-family dwelling of three (3) or more dwelling units of no more than two and one-half (2-1/2) stories in height in which each unit has its own front and rear accesses to the outside, no unit is located over another unit and separated from any other unit by one or more common fire resistant walls.
- D. Medium High-rise Apartment: Multi-family dwellings of more than two and one-half (2-1/2) stories but not exceeding the height limitations (in feet) of this Ordinance.

**Dwelling, Single-Family:** A dwelling unit accommodating a single family and having two (2) side yards

**Dwelling, Two-Family:** Dwelling accommodating two families either with units which are attached side by side through the use of a party wall, and having one side yard adjacent to each dwelling unit; or upstairs/downstairs units.

**Electronic Reception Device:** A receiving device for radio, television, telephone, etc., as an accessory use only to residential use.

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

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

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

**Family:** One or more individuals occupying a dwelling unit and living as a single household unit.

**Farm Stand:** A booth or stall from which produce and farm products are sold to the general public. Accessory use that is on the same lot with and customarily incidental to a related permitted use.

**Fast Food Establishments:** Restaurants offering limited menus of which a substantial portion of the items are sold for consumption off premises.

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

**Fraternal Clubs:** A group of people formally organized for a common interest, usually cultural, religious or entertainment, with regular meetings, rituals and formal written membership requirements.

**Gambling or Betting Use:** A use where lawful gambling activities are conducted including, but not limited to, offtrack para-mutual betting. This term shall not include betting under the State Lottery programs or betting under

the Small Games of Chance provisions of State law, which shall instead be regulated under the regulations applicable to the principal use of the property.

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

**Grand fathered:** See Non-Conforming Lot, Structure and Use definitions.

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

- A. Involves the care of the maximum number of persons permitted by the group home standards of Section 430, and meets all other standards of such section.
- B. Involves persons functioning as a common household.
- C. Involves providing non-routine support services and oversight to persons who need such assistance to avoid being placed within an institution, because of physical disability, old age, mental retardation or other handicap\* as defined by applicable Federal law.
- D. Does not meet the definition of a treatment center/clinic.
- E. Does not involve the housing or treatment of persons who could reasonably be considered a threat to the physical safety of others.

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

**Health Facilities:** Establishments primarily engaged in providing services for human health maintenance including hospital facilities, nursing and adult homes and medical clinics and offices whether publicly or privately operated, but excluding treatment centers/clinics.

**Home Occupation:** Any use customarily conducted entirely within a dwelling or in a structure accessory thereto and carried on by the inhabitants residing therein, providing that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes (see Section 401 for further details).

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

**Indoor Theaters:** Facilities operated for the purpose of showing films inside a closed structure not including adult stores.

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

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

Junk shall not include:

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

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

- A. The outside storage or deposit on a lot of three (3) or more abandoned or junked vehicles; and,
- B. The outside storage or deposit on a lot of one (1) or more mobile/manufactured homes that are not in habitable condition; and,

Vehicle sales lots managed by licensed vehicle dealers operated in accord with the Township Zoning Ordinance and storage areas for antique and collector vehicles with adequate screening approved by the Township shall not be considered junkyards.

**Kennel:** The keeping of four (4) or more dogs that are more than (6) months of age.

**Land Development:** Any of the following activities:

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

The definition of land development shall not include the following:

- A. The conversion of an existing single-family detached dwelling or single family semi-detached dwelling into not more than three residential units, unless such units are intended to be a condominium;
- B. The addition of an accessory building, including farm buildings, on a lot or lots subordinate to an existing principal building.
- C. The addition or conversion of buildings or rides within the confines of an amusement park which is a tract or area used principally as a location for permanent amusement structures or rides. This exclusion shall not apply to newly acquired acreage by an amusement park until initial plans have been approved by the Township.

**Light Manufacturing:** Facilities involving generally unobtrusive processes carried on entirely within a fully enclosed building with no outdoor storage unless screened from view, and not resulting in the non-incident storage of hazardous materials or the production of hazardous materials or products or the generation of hazardous waste, or other environmentally hazardous processes. Light manufacturing includes, if such use meets the terms of this definition, but is not limited to:

- A. Grain storage, distribution, processing and milling operations
- B. Fabrication, processing, assembly, repair, testing, packing and/or storage of products made from previously prepared materials, products, components and parts such as cloth, plastic, food, paper, glass, leather, stones, and electronic components

- C. Research, engineering or testing laboratories
- D. Textile and clothing manufacturing
- E. Furniture or other wood products production

**Livestock Operation (Intensive):** The wholesale raising or fattening of cattle in concentrated areas; the raising of hogs or poultry or other livestock in such numbers and in such conditions as to cause air pollution or odor problems noticeable in neighboring properties. For the purpose of this ordinance, the raising of three-hundred (300) cattle in concentrated areas, or five-hundred (500) hogs in one structure, or the raising and processing of one hundred thousand (100,000) poultry of any kind shall constitute intensive livestock operations.

**Lot:** Land occupied or to be occupied by a structure and its accessory structures, or by a dwelling group and its accessory structures, together with such open spaces as are required under the provisions of this Ordinance, having not less than the minimum area and width required by this Ordinance for a lot in the district which such land is situated, and having its principal frontage on a road or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a zoning permit for a structure on such land.

**Lot Area:** The horizontal land area contained within the lot lines of a lot measured in acres or square feet minus the rights-of-way of existing public streets or highways, existing or proposed overhead rights-of-way of utility lines, and any other rights-of-way.

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

**Lot Width:** The distance between side lot lines measured at the required minimum yard depth or at a point of the principle structure closest to the front lot line measured along a line parallel to a line connecting the end points of the front lot line.

**Lumber Yards:** A facility which primarily deals with the sale of lumber and associated products. No facility operating in the production of lumber from raw forested material, such as a saw mill, shall qualify as a lumber yard.

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

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

**Massage Parlor:** A person or business association or establishment which furnishes, offers to furnish, or advertises to furnish as one of its primary business purposes for a fee, tip, or other consideration a massage which involves the exposure of any "specified anatomical areas" or the conduct of any "specified sexual activities". This definition shall not preclude therapeutic body massages provided by individuals certified for the same by the Commonwealth of Pennsylvania and not involving the exposure of any "specified anatomical areas" or the conduct of any "specified sexual activities". A "Massage Parlor" shall be considered an "Adult Business" for the purpose of this Ordinance.

**Mechanical and Body Repair Use:** A facility where repairs or body work are performed on automobiles or other vehicles or equipment for remuneration. No facility operating in the manner of a "junk yard" shall qualify as a mechanical and body repair use.

**Menagerie:** A collection of animals which are kept in cages or enclosures, inside a building or outdoors, for exhibition or educational purposes.

**Mineral:** Any aggregate or mass of mineral matter, whether or not coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat, and crude oil and natural gas.

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

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

**Mineral Processing:** The refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means to specifications for sale or use, and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants, manufacture of concrete and clay products, or any similar cold or hot process. Mineral processing shall be considered manufacturing and industry for the purposes of this Ordinance.

**Mobile Home:** A transportable, single family dwelling intended for permanent occupancy, office or place of assembly contained in one unit, or in two units designed to be joined into one integral unit capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and constructed so that it may be used without a permanent foundation. This is not intended to include modular construction housing.

**Mobile Home Lot:** A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erections thereon of a single mobile home.

**Mobile Home Park:** A parcel or contiguous parcels of land which has been so designated and improved that it contains two (2) or more mobile home lots for placement thereon of mobile homes.

**Natural Vegetative Buffer:** A completely planted visual barrier composed of evergreen shrubs and trees arranged to form both a low-level and high-level screen between grade and to a height of six (6) feet. A natural vegetative buffer plan shall be prepared by a qualified professional and approved by the Planning Commission.

**Non-Conforming Lot:** A lot the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

**Non-Conforming Structure:** A structure or part of a structure manifestly not designed to comply with the applicable use or extent of use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or to its location by reason of annexation. Such non-conforming structures include but are not limited to non-conforming signs.

**Non-Conforming Use:** A use, whether of land or of a structure, which does not comply with the applicable use provisions in this Ordinance or amendments heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of this Ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason or annexation.

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

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

**Nursing Homes:** Facilities providing room and board plus professional nursing care to persons requiring such services.

**Obscene Materials:** Any literature, book, magazine, pamphlet, newspaper, paper, comic book, drawing, photograph, figure, image, motion picture, video tape, sound recording, article, instrument or any other written or recorded matter which depicts or describes, any "specified anatomical areas" and/or "specified sexual activities" and which, 1) the average person applying contemporary community standards would find that the subject matter taken as a whole appeals to the prurient interest, 2) the subject matter depicts or describes in a patently offensive way, "specified sexual activities", and 3) the subject matter, taken as a whole, lacks serious literary, artistic, political, educational or scientific value.

**Off-Site Sewage Disposal:** A sanitary sewage system in which sewage is carried from individual lot or dwelling units by a system of pipes to a central treatment and disposal plant which may be publicly or privately owned and operated. A system designed to serve a two-family dwelling or two dwelling units located on the same property or adjacent properties or employing other disposal in any manner shall not be considered as off-site sewerage and in such a case all development standards will apply the same for each dwelling or unit as any single family unit.

**On-Site Sewage Disposal:** A single system of piping, tanks or other facilities serving only a single lot and disposing of sewage in whole or in part into the soil.

**Permanent Foundation:** A concrete block, concrete, treated wood or cinder block walled foundation erected on a poured concrete footing. A solid concrete slab or system of concrete piers extending to the frost level will also be considered a permanent foundation.

**Person:** An individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility or any other legal entity whatsoever, which is recognized by law as the subject of rights and duties.

**Personal care facilities:** Facilities providing room and board, usually to the elderly in age and no need of other care, such as nursing assistance or medical attention is needed.

**Power Plant:** Any facility, including structures, machinery and associated equipment, which generates electric energy from another source of energy, such as nuclear reactions, hydroelectric dams, or natural gas or coal fired plants, the primary purpose of which is the commercial sale of the energy which is generated. Power plants which produce electric energy, seventy-five (75) percent or more of which is used on the site of production, shall be considered part of the principal permitted use for which the energy is used.

**Private Recreational Facilities:** Outdoor or indoor areas or structures, operated by private non-profit or private commercial entities, open to the public, which contain entertainment and amusement devices or attractions including animal farms, zoological parks, tennis and racquetball courts, ski areas, golf courses and the like, but excluding theaters, public parks and playgrounds.

**Professional Services:** Medical doctors, dentists, eye doctors, lawyers, accountants, engineers, architects, and other similar licensed professionals.

**Public Hearing:** A formal meeting held pursuant to public notice by the Board of Supervisors, Planning Commission or Zoning Hearing Board, intended to inform and obtain public comment, prior to taking action.

**Public Meeting:** A prearranged gathering of an agency which is attended or participated in by a quorum of the members of an agency held for the purpose of deliberating agency business or taking official action.

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

**Public Uses:** A structure or a property owned and operated by a governmental agency to provide a governmental service to the public.

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

**Recreational Vehicle:** A vehicle which is (i) built on a single chassis; (ii) not more than four Hundred (400) square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable without a special permit by a light-duty truck or passenger automobile; (iv) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. This definition includes, but is not limited to, campers, travel trailers, buses, camping trailers, pick-up trucks with slide-in campers, recreational vehicle homes and motor homes.

**Restaurants:** An establishment where food and drink is prepared, served, and consumed primarily within the principal structure.

**Retail Establishments:** Stores and services operated for the purposes of serving local and visiting clientele, including grocery stores, clothing shops, pharmacies and the like but excluding vehicle and equipment sales operations, car washes, hotels and motels, fast food establishments, lumber yards, shopping centers and other activities broken out as specific uses on this schedule.

**Self-Storage Facility:** A building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time.

**Semi-Public Uses:** A structure operated by a non-profit agency or group providing services to the general public which are closely related to government (i.e., fire company, ambulance corps, community center, etc.)

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

**Services, Essential:** Public utility uses and public or semi- public or private providers of emergency services such as fire and ambulance uses.

**Service Station:** A structure, or area of land or any portion thereof that is used for the sale of gasoline and oil or any other motor vehicle fuel and/or other lubricating substance, which may or may not include facilities for lubricating, washing, sale of accessories, and otherwise servicing motor vehicles, but not including the painting and/or body work thereof. Any business or industry dispensing gasoline and servicing vehicles only for its own use will not be deemed to be a gasoline service station. No facility operating in the manner of a "junk yard" shall qualify as a service station.

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

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

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

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

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

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

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

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

**Solid Waste Staging Area:** Any parcel of property used for the transfer of solid waste from one vehicle to another vehicle, at a location other than the generation site, for transport to a solid waste facility; or which is used

for the parking or storage of vehicles and/or containers used to transport solid waste; and which is not regulated by the PA DEP as a solid waste transfer facility.

**Specified Anatomical Areas:** Any of the following:

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

**Specified Sexual Activities:** Any of the following:

- A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts.
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy.
- C. Masturbation, actual or simulated.
- D. Excretory functions as part of or in connection with any of the activities set forth in Subsections "A", "B" and "C" of this definition.

**Special Exception:** A use which is not appropriate to a particular zone district as a whole, but which may be suitable in certain localities within the district only when specific conditions and factors prescribed for such cases within this Ordinance are present. Special exceptions are allowed or denied by the Damascus Township Zoning Hearing Board after recommendations by the Damascus Township Planning Commission.

**Specialty Shops:** Establishments primarily engaged in providing services involving the care of a person or his or her apparel or specializing in a specific type or class of foods such as a barbershop, beauty shop, bakery, butcher shop, fish store or similar shops.

**Stable (Commercial):** A structure or area used for the shelter, care and/or riding of donkeys, horses or mules for hire, remuneration or sale.

**Stable (Private):** A structure or area used for the shelter, care of donkeys, horses or mules not for hire, remuneration or sale.

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

**Structure:** Anything constructed or erected on the ground or attached to the ground including, but not limited to buildings, sheds, manufactured homes, and other similar items. This term includes any man-made object having an ascertainable stationary location on or in land or water whether or not affixed to land.

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

**Swimming Pool (Private):** Any structure, whether of temporary or permanent nature, either above or below ground which contains water to a depth of 1.5 feet or more and is used for swimming purposes and which is not available for public use.

**Tourist Recreational Facility:** A public or private facility designed to provide a variety of generally passive recreational opportunities including but not limited to golfing, hiking, biking, nature sanctuaries, swimming, bed and breakfast operations, picnicking, golf shops, antique shops, museums, eating and drinking facilities, stables

and associated facilities for other animals used as part of the recreational program offering; but not including motels or hotels of more than (10) ten units in size, boat rentals of more than (10) ten water craft, campgrounds of more than (10) ten sites in size or any other activity of a major commercial nature which would have a significant impact on traffic or the conservation values of the area.

**Transient Use:** Occupancy of a dwelling by three or more families at separate times over the course of a year; not including persons who may, during such period, be temporarily staying at the location as a guest of the principal occupant.

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

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

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

**Variance:** The permission granted by the Zoning Hearing Board, following a public hearing that has been properly advertised as required by the appropriate municipal code, for an adjustment to some regulation which if strictly adhered to would result in an unnecessary hardship, and where the permission granted would not be contrary to the public interest, and would maintain the spirit and original intent of the Ordinance.

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

**Vehicle and Equipment Sales Operation:** The use of any structure, land area or other premise for the display and sale of new and used automobiles of operable condition; panel trucks or vans; mobile homes or trailers; recreation vehicles; or farm or construction equipment including any warranty repair work and other repair service as an accessory use. No facility operating in the manner of a "junk yard" shall qualify as a vehicle and equipment sales operation.

**Veterinary Services:** The medical or surgical treatment of animals or pets and the boarding of animals is limited to short-term care, incidental to the use. No facility operating in the manner of a "kennel or stable" shall qualify as a veterinary service.

**Vernal Pond:** An isolated, contained basin depression that holds water for at least two (2) months in the spring and summer, critical to several amphibian, reptile and invertebrate species. It also provides important storage for stormwater runoff and spring snow melt that would otherwise contribute to down stream flooding. A vernal pond is no bigger than three hundred (300) feet long and one hundred and twenty (120) feet wide and is often much smaller.

**Watercourse:** Any channel of conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial, intermittent or seasonal flow. This shall not include any channel or ditch designed and constructed solely to carry storm water.

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

**Wild or Exotic Animal:** Any species of animal whose natural or usual habitat within Pennsylvania is either in the wild or in a zoo, as opposed to a domesticated environment, regardless of whether such animal poses an actual or apparent threat to persons, other animals or property.

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

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

**Zoo:** A collection of animals which are maintained in a park by an educational, nonprofit or governmental entity.

The above definitions are also supplemented by those contained in other Damascus Township Ordinances. Where there is any conflict between definitions or provisions contained in this Ordinance and other Ordinances, the definitions or provisions contained herein shall apply insofar as they affect regulations which are part of this Zoning Ordinance.

### ARTICLE III - BASIC ZONING REGULATIONS

#### 301 Official Zoning Map

Damascus Township is hereby divided into Zoning Districts, as shown on the Official Zoning Map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be part of this Ordinance, together with all future notations, references and amendments.

#### 302 Classes of Districts

Damascus Township shall consist of the Zoning Districts as follows:

- RR - Rural Residential
- ND - Neighborhood Development
- ID - Industrial
- RD - River District

The intent of each District, and regulations which shall apply in each, are given in the Schedule of District Regulations.

- A. Floodplain Overlay District and Regulations - The Floodplain Overlay District is hereby created to be coterminous with the flood hazard areas as shown on the most recent Flood Insurance Rate Map and detailed in the most recent Flood Insurance Study published by the Federal Emergency Management Agency for the Township. In addition to all the other applicable standards of this Zoning Ordinance and the normal provisions of the zoning district shown on the Official Zoning Map, all development in the Floodplain Overlay District shall comply with the requirements of Article VII of this Zoning Ordinance.

#### 303 District Boundaries

District boundary lines are intended to follow or be parallel to the center line of streets, streams and railroads, and lot or property lines as they exist on a recorded deed or plan of record in the Wayne County Recorder of Deeds Office and the Wayne County Tax Maps at the time of the enactment of this Ordinance, unless such district boundary lines are fixed by dimensions as shown on the Zoning Map. In any case of uncertainty, the Damascus Township Board of Supervisors shall interpret the intent of the map as to the location of District boundaries.

### **304 District Regulations - Generally**

District regulations are of two types; Use Regulations and Development Standards which shall apply to any proposed new use, expansion of any existing use or change of use of land and/or structures in Damascus Township.

### **305 Use Regulations**

- A. Schedule; Intents - Use Regulations and statements of intent for each District are provided in the Schedule of District Regulations.
- B. Permits - Permits for principal permitted uses and accessory uses shall be issued as a matter of right provided the standards contained in this Ordinance are otherwise met. Conditional uses and special exceptions shall be subject to additional review procedures as specified herein.
- C. Uses Not Specified in Schedule of District Regulations
  1. Jurisdiction - Whenever a use is neither specifically permitted nor specifically denied in any Zoning District established under this Ordinance and an application is made to the Zoning Officer for such use, the application shall be submitted to the Zoning Hearing Board which shall have the authority to permit the use or deny the use as a special exception.
  2. Findings - The use may be permitted only if the Zoning Hearing Board makes all of the following findings; and, the burden of proof shall be upon the applicant:
    - a. The use is similar to and compatible with the uses listed for the subject Zoning District by the Schedule of Uses.
    - b. The use in no way conflicts with the intent of the Zoning District and the general purpose and intent of this Ordinance.
    - c. The use is not permitted in any other Zoning District.
  3. Planning Commission Review - At the time the application is submitted to the Zoning Hearing Board, the Zoning Officer shall also provide a copy to the Planning Commission for its recommendation. The Zoning Hearing Board shall not conduct a public hearing on the application until the comments from the Planning Commission are received or thirty (30) days have passed from the time the application was referred to the Planning Commission.
  4. Conditions - The Zoning Hearing Board may attach reasonable conditions and safeguards to any special exception approval granted for a use not specified in the Schedule of District Regulations, incorporating standards in this Ordinance for similar uses in the district and such other conditions as the Zoning Hearing Board may deem necessary to protect and promote the public health, safety, morals and welfare and to implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code.

### **306 Development Standards**

The Development Standards which apply to each District include minimum lot sizes, minimum lot width, yard requirements, maximum lot coverage for structures, and maximum height. These standards vary among Districts and are so depicted in the Schedule of District Regulations which follows. Supplementary regulations (Article IV) may establish additional or differing standards as they apply to specific uses. Also, building height standards shall not apply to farm structures, electronic equipment or any other use which, by its nature, demands heights in excess of those permitted (i.e. well drilling equipment repair structure), residential structures excepted.

**SCHEDULE OF DISTRICT REGULATIONS**

**RR RURAL RESIDENTIAL:** The purpose of this district is to provide for residential, agricultural and commercial development in areas of the Township which are largely rural in character and to provide compatibility with existing agricultural, residential and rural uses.

PERMITTED PRINCIPAL USES	ACCESSORY USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	DEVELOPMENT STANDARDS
<ol style="list-style-type: none"> <li>1. Agriculture in all forms including horticulture and forestry, but excluding intensive livestock operations.</li> <li>2. Single family dwellings (whether seasonal or year-round).</li> <li>3. Mobile homes (individual).</li> <li>4. Veterinary services</li> <li>5. Churches and places of worship.</li> <li>6. Two-family dwellings.</li> <li>7. Undertaking services.</li> <li>8. Fraternal clubs.</li> <li>9. Professional Services</li> <li>10 Day care centers, twelve children or less</li> <li>11. Group Homes</li> </ol>	<ol style="list-style-type: none"> <li>1. Home occupations</li> <li>2. Private swimming pools</li> <li>3. Private garages</li> <li>4. Storage sheds</li> <li>5. Barns</li> <li>6. Private Stables</li> <li>7. Electronic reception devices</li> <li>8. Fences</li> <li>9. Farmstand</li> <li>10. Other accessory uses common to residential and agricultural uses.</li> <li>11. All accessory uses common to commercial uses</li> </ol>	<ol style="list-style-type: none"> <li>1. Intensive livestock operations</li> <li>2. Mobile home parks</li> <li>3. Cluster development</li> <li>4. Multi-family dwellings</li> <li>5. Cultural facilities</li> <li>6. Nursing homes</li> <li>7. Personal care facilities</li> <li>8. Hotels/Motels</li> <li>9. Boarding or tourist homes</li> <li>10. Private recreational facilities</li> <li>11. Restaurants</li> <li>12. Agricultural service facilities</li> <li>13. Campgrounds</li> <li>14. Car washes</li> <li>15. Specialty shops</li> <li>16. Light manufacturing (minimum lot size of 5 acres required)</li> <li>17. Service stations</li> <li>18. Vehicle &amp; equipment sales operations</li> <li>19. Retail stores and service establishments</li> <li>20 Lumber yards</li> <li>21. Commercial stables</li> <li>22. Kennels</li> <li>23. Junkyards</li> <li>24. Commercial communications devices</li> <li>25. Day care centers, thirteen children or more</li> <li>26. Airports</li> <li>27. Detention facilities</li> <li>28. Power plants</li> <li>29. Race tracks</li> <li>30. Storage yards for forest products and minerals</li> <li>31. Treatment centers/clinics</li> <li>32. Wind farms</li> <li>33. Zoos and menageries</li> </ol>	<ol style="list-style-type: none"> <li>1. Quarries/Surface Mining</li> <li>2. Public and semi-public uses</li> <li>3. Public parks and playgrounds</li> <li>4. Airports</li> <li>5. Health facilities</li> <li>6. Essential services</li> <li>7. Mineral extraction</li> </ol>	<p>*Minimum lot size</p> <ol style="list-style-type: none"> <li>1. 60,000 sq ft</li> <li>2. 44,000 sq ft</li> <li>3. 32,000 sq ft</li> </ol> <p>*Minimum lot width</p> <ol style="list-style-type: none"> <li>1. 200 ft</li> <li>2. 175 ft</li> <li>3. 140 ft</li> </ol> <p>corner lots 100 ft lots fronting cul-de-sac 65 ft</p> <p>*Minimum front yard 35 ft</p> <p>*Minimum side/rear yard 30 ft</p> <p>*Maximum building height 35 ft</p> <p>*Maximum lot coverage 40%</p> <ol style="list-style-type: none"> <li>1. On-site sewer and water</li> <li>2. Off-site sewer or water</li> <li>3. Off-site sewer and water</li> </ol>

<b>N-D NEIGHBORHOOD DEVELOPMENT:</b> The purpose of this district is to provide for continued neighborhood development, while allowing various amenities and conveniences offered by commercial establishment.				
<b>PERMITTED PRINCIPAL USES</b>	<b>ACCESSORY USES</b>	<b>CONDITIONAL USES</b>	<b>SPECIAL EXCEPTIONS</b>	<b>DEVELOPMENT STANDARDS</b>
1. Single family dwellings (whether seasonal or year-round). 2. Restaurants 3. Veterinary services 4. Churches and places of worship 5. Two-family dwellings 6. Undertaking services 7. Fraternal clubs 8. Professional services 9. Hotels/Motels 10. Boarding or tourist homes 11. Private recreational facilities 12. Agricultural service facilities 13. Car washes 14. Specialty shops 15. Service stations 16. Retail stores and service establishments 17. Day care centers, twelve children or less 18. Group Homes 19. Self-storage facilities	All accessory uses in the RR district	1. Fast food establishments 2. Shopping Centers or Malls 3. Multi-family dwellings 4. Indoor theaters 5. Service stations 6. Vehicle & equipment sales operations 7. Lumber yards 8. Day care centers, thirteen children or more	1. Public and semi-public uses 2. Public parks and playgrounds 3. Essential services	*Minimum lot size 58,000 sq ft *Minimum lot width 150 ft Corner lots 200 ft lots fronting cul-de sac 65 ft *Minimum front yard 40 ft *Minimum side/rear yard 15 ft *Maximum building height 35 ft *Maximum lot coverage 40% * If off-site sewer and or water see RR development standards

<b>ID INDUSTRIAL:</b> The purpose of this district is to provide sufficient space in appropriate locations to meet future needs for light manufacturing activity.				
PERMITTED PRINCIPAL USES	ACCESSORY USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	DEVELOPMENT STANDARDS
1. Single family dwellings (whether seasonal or year round). 2. Day care centers, twelve children or less 3. Group Homes	Accessory buildings common to industrial uses.	1. Research, engineering or testing laboratories 2. Administration offices 3. Assembly from components 4. Optical instruments production 5. Pharmaceutical production 6. Textile manufacturing 7. Enclosed storage facilities 8. Warehouses, distribution centers & terminals 9. Printers 10. Light Manufacturing 11. Saw mills and related wood product manufacturing 12. Quarries 13. Lumber yards 14. Other manufacturing uses 15. Junkyards 16. Adult Businesses 17. Commercial communications devices 18. Day care centers, thirteen children or more 19. Detention facilities 20. Gambling or betting uses 21. Power plants 22. Manufacturing and industry 23. Mineral processing 24. Solid waste facilities 25. Solid waste staging areas	1. Public and semi-public uses 2. Essential services	*Minimum lot size 2 acres *Minimum lot width 200 ft Corner lots 100 ft lots fronting cul-de-sac 65 ft *Minimum front yard 60 ft *Minimum side/rear yard 30 ft *Maximum building height 35 ft *Maximum lot coverage 50% ** any proposed industrial building in excess of the maximum building height of 35', shall be considered a conditional use.  **Any non-industrial use shall follow the front yard side/rear yard, and building height development standards as the above RR development standards.

<p><b>RD RIVER DISTRICT:</b> The intent of this district is to conform to the requirements of the National Wild and Scenic Rivers Act and the regulations developed by the U.S. Park Service, the managing agency for the river corridor; i.e., to allow for the enjoyment of the Delaware River valley by providing for housing, agricultural pursuits, river-related recreation and other activities in harmony with the intent of the Act.</p>				
PERMITTED PRINCIPAL USES	ACCESSORY USES	CONDITIONAL USES	SPECIAL EXCEPTIONS	DEVELOPMENT STANDARDS
<p>1. Agriculture in all forms including horticulture and forestry, but excluding intensive livestock operations.                      2. Single family dwellings (whether seasonal or year-round).                      3. Mobile homes (individual)                      4. Day care centers, twelve children or less                      5. Group Homes</p>	<p>1. Home occupations                      2. Private swimming pools                      3. Private garages                      4. Tool sheds                      5. Barns                      6. Private stables                      7. Electronic reception devices                      8. Fences                      9. Farmstand                      10. Other accessory uses common to residential and agricultural uses.</p>	<p>1. Boat/canoe liveries                      2. Commercial stables                      3. Campgrounds                      4. Boarding or tourist homes                      5. Private recreational facilities                      6. Tourist recreational facilities                      7. Retail and service establishments specifically directed toward river uses.                      8. Professional services                      9. Day care centers, thirteen children or more</p>	<p>1. Churches and places of worship                      2. Public and semi-public uses                      3. Public parks and playgrounds                      4. Essential services</p>	<p>*Minimum lot size: 2 acres                      *Minimum lot width: 200 ft                      Corner lots 100 ft                      lots fronting cul-de-sac 65 ft                      At river 200 ft                      *Minimum front yard 50 ft                      *Minimum side/rear yard 40 ft                      *Maximum yard to river 100 ft                      *Maximum building height 35 ft                      *Maximum lot coverage 30%</p>
<p>*FLOODWAY DEVELOPMENT: All development within a floodway as defined and regulated by Article VII of this Ordinance shall be considered a special exception.</p>				
<p>*WATERCOURSE SETBACKS: Within any General Flood plain Area, no new construction or development shall be located within the area measured fifty (50) feet landward from the top of bank of any watercourse (See Section 704.2, B).</p>				

## ARTICLE IV-SUPPLEMENTARY REGULATIONS

### 401 Home Occupations

It is the intent of this subsection to regulate the operation of home occupations. The burden of proof shall be on the applicant to demonstrate that the standards will be satisfied. Multiple home occupations shall be considered one (1) occupation for the purposes of this Section 401. In other words, additional building area, numbers of employees, signs, etc., cannot be permitted by the simple claim that two (2) or more occupations are being conducted on the premises.

Based upon the potential nuisances of a proposed home occupation not specifically permitted by this section, the Board of Supervisors may determine that a particular type or intensity of use is unsuitable to be a home occupation or that the proposed lot area or setbacks are not adequate. The standards in this Section 401 shall apply. (In cases where a commercial use is proposed which does not qualify as a home occupation, the use shall be permitted only in those districts in accord with the Schedule of District Regulations, and Section 404.3 - Two or More Uses on a Lot shall apply.)

#### 401.1

The home occupation must be conducted entirely inside a building and shall be clearly incidental and secondary to the use of the dwelling as a residence and not change the character of or have an exterior effect on the dwelling.

#### 401.2

No home occupation use shall generate nuisances such as traffic, noise, vibration, glare, odors, fumes, electrical interference, or hazards to any greater extent than what is usually experienced in the residential neighborhood.

#### 401.3

The home occupation shall be conducted only by members of the family residing in the dwelling and not more than three (3) persons other than residents of the dwelling shall be employed on the premises, on-the-road employees operating from the location excluded.

#### 401.4

Off-street parking shall be provided on the premises as required by this Ordinance to prevent parking on any public or private street right-of-way, and one (1) parking space shall be provided for each employee which is not a resident of the dwelling.

#### 401.5

The total area used by all home occupations on the premises does not exceed fifty (50) percent of the total floor area of the dwelling unit, including basement, and accessory structures.

#### 401.6

The use shall not involve the outdoor parking of more than two (2) trucks of any type. This shall not apply to the personal use vehicles of the home occupation operator and employees.

#### 401.7

The use shall not involve the outdoor storage of materials, goods, products, supplies, or equipment.

**401.8**

No goods or items for retail or wholesale sale shall be permitted except for items handmade or crafted on the premises or goods and items incidental to the operation of an approved home occupation with the total display and/or storage area limited to two hundred (200) square feet.

**401.9**

See Section 408.2,A, for home occupation signs.

**401.10**

Section 405 - Performance Standards, shall also apply to home occupations.

**401.11**

The following uses shall not be permitted as home occupations:

- A. Commercial kennels.
- B. Commercial stables.
- C. Motor vehicle sales, repair or maintenance shops.
- D. All types of retail or wholesale sales except in accord with Section 401.8.
- E. Restaurants.
- F. Undertaking services.
- G. Other uses not meeting the requirements of this Section 401.

**401.12**

The following types of uses shall be permitted as accessory uses in all districts:

- A. Professional offices for individual practitioners.
- B. Rooming and/or housing of not more than two (2) persons.
- C. Custom dressmaking or tailoring.
- D. Sale of handmade and crafted items in accord with Section 401.8
- E. Day care involving the care of twelve (12) or less children.
- F. Mail order or sales businesses not involving customer contact on the premises or wholesale brokering not involving stock on the premises.
- G. Businesses involving the use of personal computers for sales or services and which do not involve customer contact on the premises.

**401.13**

All applications for home occupations not specifically enumerated as permitted in Section 401.12, or prohibited by Section 401.11 shall be considered conditional uses.

**402 Accessory Uses or Structures**

No detached accessory structure, excepting signs, shall be erected in any required front yard or closer than fifteen (15) feet to any property line. An exception shall be provided for fences, which may be located on the property line and may be attached to the primary structure but shall not exceed a height of eight (8) feet and shall comply with clear-sight triangle requirements. Below ground swimming pools, lagoons, manure pits and similar structures where the liquid level is less than four (4) feet above the ground, shall, in addition to meeting the above requirements, also, be entirely enclosed with a permanent fence not less than four (4) feet in height; and, such fence shall be of a design adequate to restrict entry to the structure (e.g. chainlink, wire mesh, solid picket, etc.). The entrance gate shall be closed when the structure is not in use. All fences shall be maintained in an upright position. Natural bodies of water and excavated or impoundment ponds shall be exempt from this requirement. Unattached accessory buildings shall be located not less than five (5) feet from a principal structure.

## **403 Mobile Homes and Campgrounds**

### **403.1 Mobile Home Parks**

Mobile home parks shall comply fully with the applicable requirements of the "Damascus Subdivision and Land Development Ordinance" or the "Damascus Township Subdivision Regulations" prior to the issuance of any building or zoning permits relating to the same.

### **403.2 Individual Mobile Homes**

Any mobile home parked or placed outside a duly permitted mobile home park shall have an adequate supply of pure water for drinking and domestic purposes and a sewage disposal system meeting Township Ordinances. Individually sited mobile homes shall be permitted in RR and RD Districts but shall be located and appropriately secured on a permanent foundation as defined herein.

Skirting consisting of metal siding, wood, or other suitable material for screening the underside of the home from view and preventing the entrance of animals or children shall be installed along the perimeter of each mobile home permitted under this Section, which screening shall extend from the ground to the bottom of the mobile home.

### **403.3 Campgrounds**

Campgrounds shall be considered recreational land developments and shall comply fully with the applicable requirements of the "Damascus Township Subdivision and Land Development Ordinance" or the "Damascus Township Subdivision Regulations" prior to issuance of any building or zoning permits relating to the same.

## **404 Special Lot Provisions**

### **404.1**

All yards abutting a road line or corner lots shall meet district requirements for front yards.

### **404.2**

A clear-sight triangle of not less than 75 feet in either direction from the intersection shall be maintained on all corner lots.

### **404.3 Two or More Uses on a Lot**

- A. Development Standards - Two (2) or more principal buildings or uses located on a parcel in single ownership shall conform to all the requirements of this Ordinance which would normally apply to each building or use if each were on a separate district lot, including but not limited to setbacks, parking, lot coverage, and sewage disposal requirements.
- B. Residential Density - For the purposes of density of residential structures, lot size shall be increased to maintain the density required by this Ordinance. For example, the parcel size required for three (3) single-family dwellings on one parcel would be determined by multiplying the minimum lot size for one (1) dwelling by a factor of three (3).
- C. Non-Residential Uses - In the case of non-residential uses, there shall be no limit on the number of uses or structures on a single parcel provided all other standards of this Ordinance are satisfied. This shall not apply to adult businesses, junk yards, quarries/surface mining, land fills, or other uses with a special size requirement listed in

this Ordinance, in which case the parcel size shall be increased to provide for the minimum land area for each use on the parcel.

D. Residential and Non-Residential on the Same Lot

1. All Districts - Residential dwellings provided for in the District by the Schedule of District Regulations shall be permitted on the same lot as a permitted non-residential use provided the lot is of sufficient size to meet the residential unit density required by this Ordinance in addition to the land area needed to meet the density requirement for the non-residential use. For example, where on-site sewage disposal and water supply is provided, the minimum parcel size required for one (1) single-family dwelling and a retail store both located on the same parcel in the RR District would be 120,000 square feet, determined by adding sixty thousand (60,000) square feet, the minimum lot size for the dwelling, to sixty thousand (60,000) square feet, the minimum lot size required for the retail store. (See Section 401 for home occupations which are considered accessory uses not requiring an increased lot size.)
  2. ND and ID Districts - One residential unit per property shall be permitted in association with a non-residential use(s) without an increase in the minimum lot size requirement provided said unit is attached to and is an integral part of the principal non-residential structure. The residential unit shall be occupied only by the owner or employee of the non-residential use(s). Any additional residential dwelling units, if provided for in the District by the Schedule of District Regulations, shall be permitted on the same lot as a non-residential use only if the lot is of sufficient size to meet the residential unit density required by this Zoning Ordinance in addition to the land area needed to meet the density requirement for the non-residential use. (See Section 401 for home occupations which are considered accessory uses not requiring an increased lot size.)
- E. Structure Separation - Principal structures located on the same lot shall be separated by a distance at least equal to the height of the highest adjoining structure, but in no case less than twenty (20) feet. (See Section 402 for accessory structures.)

#### **405 Commercial and Manufacturing Performance Standards**

Wherever a commercial or manufacturing or other non-residential use, with the exception of agricultural activities, is proposed the following performance standards shall apply:

##### **405.1 Yards and Buffers**

Where a commercial or manufacturing use is contiguous to an existing residential use in any District (including those situated on the opposite side of a road) or any approved residential lot in an RR and N-D District, the minimum front, side and rear yards shall be increased to fifty (50) feet and a buffer consisting of a solid fence of wood and/or a dense evergreen planting not less than six (6) feet high shall be maintained, unless the properties are in the same ownership. Existing wooded areas shall be preserved whenever possible. This provision shall also not apply where the residential structure itself is located more than three-hundred (300) feet from the property line separating the uses.

##### **405.2 Fire and Explosion Hazards**

All activities involving any manufacturing, production, storage transfer or disposal of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices standard in the industry shall be required. Burning of waste materials in open fires is

prohibited. The relevant provisions of Federal, State and local laws and regulations shall also apply. Details of the potential hazards and details of planned safety and accident response actions shall be provided by the developer for review by the local fire company(s). In the case of conditional uses and special exceptions, larger setbacks, additional buffer areas or fencing may be required by the Township if the nature of the proposed use as determined by the Township so requires.

**405.3 Radioactivity or Electric Disturbance.**

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

**405.4 Noise.**

The outdoor day-night average sound level (DNL) from any activity, in decibels at the property line, shall not exceed sixty-five (65) decibels. The Zoning Officer in the investigation of a violation shall initially estimate DNL using the "Walk-Away Test" as described in the U.S. Department of Housing and Urban Development's 1979 Noise Assessment Guidelines. Should the test indicate a DNL exceeding 65 decibels the Officer shall notify the owner and any aggrieved party of his findings and the potential violation. He shall also recommend appropriate abatement measures. Should a subsequent investigation still indicate a problem the Officer shall determine such average sound level by taking no less than three measurements with a decibel meter, all of which shall occur within 72 hours but no less than 15 minutes apart. Sound levels from activities on a site need not be continuous but must regularly occur for a violation to exist. Examples include speakers, motors and blasting operated or performed on a recurring basis.

- A. No person shall operate or cause to be operated, on property, any source of continuous sound (any sound that is steady, fluctuating, or intermittent with a recurrence greater than one time in any fifteen second interval) in such a manner as to create a sound level that exceeds the limits set forth for the receiving land use category in the following Maximum Sound Levels Table when measured at the property line of the receiving land use.

MAXIMUM SOUND LEVELS Period	Category Limits (dBA)		
	Commercial	Manufacturing	All Others
Monday-Saturday, 7:00 a.m.-9:00 p.m.	65	70	60
Saturday, 9:00 p.m.- Monday, 7:00 a.m. Monday-Friday, 9:00 p.m.-7:00 a.m. Legal Holidays, 12:00-a.m.-12:00 p.m.	60	70	5

The maximum sound levels listed in the Maximum Sound Levels Table above do not apply to the following noise sources:

1. Emergency alerts.
2. Emergency work to provide electricity, water, or other public utilities when public health or safety is involved.
3. Snow removal or road repair.
4. Domestic power tools between 8:00 AM and 9:00 PM.
5. Explosives and construction operations between 7:00 AM and 6:00 PM, Monday through Saturday.
6. Agriculture and forestry operations.
7. The operation of legally registered and inspected motor vehicles designed for use on public highways.
8. Public celebrations authorized by the Township.

9. Railroads.
10. The unamplified human voice.
11. Outdoor sports or entertainment activities approved by the Township.
12. Commercial air traffic under the jurisdiction of the Federal Aviation Administration.

- B. For any source that emits a pure tone, the maximum sound level limits in the table above shall be reduced by five (5) dBA. For any source that emits an impulsive sound (a sound of short duration with an abrupt onset and rapid decay, and an occurrence of not more than one time in any fifteen second interval), the excursions of sound pressure level shall not exceed twenty (20) dBA over the ambient sound pressure level, regardless of time of day or night or receiving land use using the fast meter characteristic of a Type II meter, meeting the American National Standards Institute (ANSI) specifications S1.4-1971, as amended.

#### **405.5 Vibration**

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

#### **405.6 Glare**

No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding or otherwise, so as to be visible at the property line shall be permitted on a regular or continuing basis. This restriction shall not apply to signs otherwise permitted by the provisions of this Ordinance.

#### **405.7 Smoke**

No emission of smoke shall be permitted from any chimney or otherwise except in full compliance with PA Department of Environmental Protection requirements.

#### **405.8 Odors and Other Forms of Air Pollution**

No emission shall be permitted of odorous gases or other odorous matter except in full compliance with PA Department of Environmental Protection (DEP) requirements. Because the Township is a rural/agricultural area with many farms, normal agricultural operations and the spreading of sewage sludge approved by DEP or manure shall not be considered an offensive odor and shall be exempt from this provision. No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted except in full compliance with PA Department of Environmental Protection requirements.

#### **405.9 Surface and Ground Water Protection**

All activities involving the possible contamination of surface or ground water shall be provided with adequate safety devices to prevent such contamination. In cases where any earth disturbance will result in the excavation of bedrock, the Township shall require the applicant to submit a report from a qualified engineer or geologist detailing the geologic structure of the area proposed to be disturbed and identifying the probable impacts on groundwater supply and quality. Details of the potential hazards (including the groundwater characteristics of the area in which the use is proposed) and details of planned safety devices and contamination response actions shall be provided by the developer. The Township shall require a plan to be submitted for review and approval and shall require security for insuring contamination response. Monitoring wells and

water quality testing shall also be required by the Township. The developer shall also provide details about the use of ground water and any processes that could result in the depletion of ground water supplies. No use shall be permitted which would result in the depletion of ground water supplies. In cases where the use is of such a nature that large volumes of ground water are required the developer shall provide appropriate hydro-geologic studies which clearly establish that the proposed use will not cause a reduction in the quantity or the quality of ground water supplies available to other properties located within one thousand (1,000) feet of any portion of the property where the proposed use will be located.

#### **405.10 Waste Materials**

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

#### **405.11 Vehicle and Equipment Sales, Mechanical and Body Repair Performance Standards.**

Whenever a vehicle and equipment sales, mechanical and body repair use is proposed as a conditional use, or an expansion of an existing non-conforming use, the following performance standards shall apply and be in addition to the basic Commercial and Manufacturing Standards provided above for review of the application. Existing uses shall fully comply with sub-section B and C and, to the greatest extent physically possible with section A, within six months of the enactment of this ordinance.

- A. Yards and Buffers - Where a vehicle and equipment sales, mechanical and body repair use is contiguous to an existing residential use in any District (including those situated on the opposite side of a road but other than the operator/owner of the business) or any approved residential lot in a N-D District the minimum front, side and rear yards shall be one-hundred (100') feet and a buffer consisting of a solid fence of wood of sufficient height so the vehicles, equipment and/or parts are not visible from the neighboring properties or, a dense evergreen planting not less than six (6) feet high shall be maintained. Existing wooded areas shall be preserved whenever possible. The main parking for the vehicles shall be in the rear of the structure whenever possible.
- B. Operation, place of work - All mechanical and body repair work shall be performed within structures. No repair operation, unless an emergency, shall take place outdoors.
- C. Operation, storage of material - All mechanical and body repair material, new and used, shall be stored within structures. The storage of such materials is prohibited outdoors.
- D. Temporary vehicles to be repaired - Vehicles which are temporarily on the property awaiting to be repaired, shall be stored in an area which meets the minimum "yard and buffers" requirements established in Section A.

#### **405.12 Junk Yard Performance Standards**

Junk yards are considered conditional uses in the RR District and the ID District. In addition to the performance standards contained in Section 405 - Commercial and Manufacturing Performance Standards, and Section 608.1 - Standards and Criteria, and all other applicable

zoning requirements, junk yards shall comply with the Junk and Rubbish Regulation Ordinance of Damascus Township, as amended.

#### **405.13 Storm Water Management and Soil Erosion Control**

- A. Plan Required - A storm water management plan and soil erosion control plan shall be required for review and approval. Said plan shall be prepared and implemented pursuant to the standards contained in the Township Subdivision Ordinance or other applicable Township regulations and County Conservation District standards, and shall be based on generally accepted engineering principles appropriate for the proposed use.
- B. Water Quality - The protection of the quality of ground water and surface water shall be an integral part of all proposed storm water management practices; and all storm water management plans shall include an element specifically addressing water quality. The plan shall provide for the minimization of the discharge of "first flush" sediments off the project site or directly to infiltration structures. Containment of "first flush" sediments shall be accomplished by accepted and proven engineering design and practice, including but not limited to the use of grass buffer/filter strips, grass swales, detention basins, sediment traps, and special inlet devices.
- C. Management Plan - In any area of the Township where a storm water management plan has been prepared and adopted in accord with the Pennsylvania Storm Water Management Act, the provisions of any applicable storm water control ordinance shall apply.

#### **405.14 Settling and/or Storage Ponds and Reservoirs**

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

#### **405.15 Security**

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

#### **405.16 Water Supply**

All uses shall be provided with an adequate and safe water supply, as demonstrated by evidence to be provided by the applicant, documenting that the siting, density, and design of all proposed residential, commercial, industrial and other developments or uses will assure the availability of

reliable, safe and adequate water supplies to support the proposed land use(s) within the capacity of available water resources.

#### **405.17 Sewage Disposal**

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

#### **406 Multi-Family Dwellings**

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

##### **406.1 Project Design Process and Procedure**

- A. Subdivision and Land Development - Multi-family projects shall be considered major subdivisions and land developments also subject to the Township Subdivision and Land Development Ordinance. This major subdivision classification shall apply to all subdivision of property in connection with the development, regardless of whether or not the same are connected with building development, and the approvals required shall be requested and acted upon concurrently as one subdivision.
- B. Site Plan - A proposed site plan showing all necessary information to include at a minimum, location of all buildings and improvements including roads, parking areas, planting strips, signs, overall grading plan with storm drainage facilities, water supply and distribution systems, sewage treatment and collection systems and the specific areas provided as open space pursuant to the requirements of this Ordinance. Building layouts, floor plans and profiles shall also be provided indicating building dimensions, numbers, and sizes of units, common ownership or use areas, lighting and such other information as shall be required to determine compliance with the design standards contained herein and any other building standards which may be applicable in the Township. Setbacks from property lines, improvements, and other buildings shall also be specifically shown.
- C. Open Space - Open space area shall be preserved to the maximum extent possible in accord with a schedule or plan, and proposed agreement(s) either with the Township or a property owners' association. In no case shall the minimum open space be less than thirty (30) percent of the project parcel.

##### **406.2 Bulk and Density Standards; Parcel Configuration**

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

<b>MULTI-FAMILY DWELLING STANDARDS</b>	Townhouses	Garden Apartments	Apartment Buildings
Minimum size for project parcel (acres)	6	4	2
Density – square feet of land area required per dwelling unit	16,000	16,000	16,000
Maximum number of dwelling units per building	6	8	12
Maximum building height (feet)	35	35	35
Maximum lot coverage (percent)	- -	40	50

<b>ADDITIONAL TOWNHOUSE STANDARDS</b>	
Minimum lot size for townhouse units for individual sale	1,000 square feet
Minimum lot width at house location	18 feet
Minimum front and rear yard setback	10 feet front / 15 feet rear
Minimum side yard setback for end unit	15 feet
Maximum lot coverage for individual townhouse parcels	85%

**406.3 Design Criteria**

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

- A. Setbacks - No structure in a multi-family dwelling project shall be constructed within twenty (20) feet of the edge of the shoulder of any access drive (without a designated right-of-way) to or through the development or within ten (10) feet of any parking area. Setbacks of multi-family project buildings from access roads through the project shall meet these minimums, however, setbacks of adjacent buildings shall be varied so that adjacent buildings have a setback variation of not less than four (4) feet. A setback of fifty (50) feet for any structure shall be maintained from all existing or proposed public or private road rights-of-way and the boundary line of the entire project parcel. In the case of RD and ID districts the setbacks shall be increased to seventy-five (75) from all existing or proposed public or private road rights-of-way and one hundred (100) feet from the boundary line of the entire project parcel.
- B. Road Standards - Access roads through the development shall comply with the street requirements of the Township Subdivision Ordinance. Access drives serving twelve (12) units or less shall be considered driveways and any such access drive shall remain private. Direct access of individual parking spaces to a road shall not be permitted.
- C. Building Separation - All principal multi-family structures shall be separated by a distance as may be required by any applicable building code, but in no case less than twenty (20) feet.
- D. Landscaped Buffers - Buffers, not less than fifteen (15) feet in width shall be provided in accord with Section 405.1 of this Ordinance where multi-family structures adjoin existing single-family dwellings, two-family dwellings or any ID or RD District. In all cases, a landscaping plan shall be prepared and submitted by the developer for approval by the Township.
- E. Pedestrian Access - Walkways of such design and construction as approved by the Township shall be provided from all buildings and/or units to their respective parking area. (See Section 303.1,b of the Subdivision and Land Development Ordinance.)
- F. Trash Storage - Exterior storage areas for trash and rubbish shall be screened from public view on three sides and shall be contained in covered, vermin-proof containers. Interior storage areas for trash shall at all times be kept in an orderly and sanitary fashion.
- G. Architectural Renderings - Preliminary architectural renderings, models or photos for multi-family dwelling projects of more than ten (10) dwelling units shall be provided at

the time of submission of the conditional use application. The exterior appearance of the building(s) shall be unified in type, design, and exterior wall treatment, and so constructed and maintained, in order to retain the residential character of the neighborhood. Fire escapes, when required, shall be in the rear of the building and shall not be located on any wall facing a street unless any building, fire or other code so requires.

- H. Townhouses: Facade Changes - A minimum of two (2) changes in the front wall plane with a minimum offset of four (4) feet shall be provided for every attached grouping of townhouses in one (1) building. This can be met by varying setbacks among different dwellings or varying setbacks along the front of a dwelling, or dwellings set back farther than attached private garages.
- I. Parking - Parking for multi-family dwelling projects shall comply with Section 407 of this Ordinance. In addition, for every two (2) units intended for rental or other transient occupancy, one additional space to accommodate parking needs during sales and other peak visitation periods shall be provided.

#### **406.4 Non-Residential Use**

Non-residential uses and home occupations which employ other than unit residents shall not be permitted in a multi-family dwelling. Such ancillary facilities as laundry areas, service buildings, recreational facilities and the like for the use of the residents of the project shall be permitted. Where a developer proposes to construct multi-family units on property on which there are existing or proposed non-residential uses (other than ancillary facilities and open space uses) there shall be a minimum setback of the multi-family structures from such uses of two hundred (200) feet and the parcels shall be clearly segregate.

#### **406.5 Conversions of Existing Structures**

Conversions of existing structures to a multi-family dwelling use, regardless of whether such conversions involve structural alterations, shall be considered major subdivisions and, moreover, be subject to the provisions of this Section 406 and subject to the provisions of the Damascus Township Subdivision and Land Development Ordinance.

If the proposed project does involve structural alterations, the Preliminary Plan shall include a certification of a registered architect or engineer to the effect that the existing structure is structurally sound and that the proposed conversion will not impair structural soundness.

#### **406.6 Common Property Ownership and Maintenance**

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

#### **406.7 Water Supply and Sewage Disposal**

All multi-family dwelling projects shall be served by an off-site water supply and an off-site sewage disposal system as defined by the Damascus Township Subdivision and Land Development Ordinance.

#### **407 Off-Street Parking, Loading and Unloading Requirements**

- A. Off-street parking, loading and unloading facilities shall be provided to lessen congestion in the streets. The facilities required herein shall be available throughout the hours of

operation of the particular business or use for which such facilities are provided. As used herein, the term "parking space" includes either covered garage space or uncovered parking lot space located off the public right-of-way.

- B. Each parking space shall consist of not less than an average of two hundred seventy (270) square feet of usable area for each motor vehicle, including interior driveways, driveways connecting the garage, or parking space, with a road or alley. Garages, carports, and driveways not in the public right-of-way may be considered parking spaces. The net parking space per vehicle shall be not less than nine (9) feet wide and twenty (20) feet long.
- C. Parking spaces may be located on a lot other than that containing the principal use with the approval of the Planning Commission, provided a written agreement, approved by the Board of Supervisors, shall be filed with the application for a zoning certificate.
- D. Any lighting used to illuminate any off-street parking shall be so arranged as to reflect the light away from adjoining premises and public right-of-ways.
- E. Parking shall not be permitted on public right-of-ways.
- F. Any structure hereafter erected, converted, or enlarged for any of the following uses, or any open area hereafter used for commercial purposes, shall be provided with not less than the minimum spaces, as set forth below, which spaces shall be readily accessible to the uses served thereby. Fractional number of parking spaces shall be increased to the next whole number. Parking requirements for uses not listed for variations of such uses shall be determined by the Board of Supervisors in consultation with the Township Engineer and Zoning Officer.

Use	Parking Space(s) Required
Bowling alley	8 vehicle spaces for each alley
Churches, theaters, stadiums and other places of assembly	1 per every 3 seats
Drive-in eating facilities	3 per employee
Food markets and grocery	1 per 100 sq. ft. of public floor area
Funeral homes	1 per 100 sq. ft. of public floor area
Golf and other commercial outdoor recreation enterprises	1 per every 2 users
Home occupations	1 per employee other than occupants
Hospitals	1 per bed plus 1 per employee on largest shift
Industrial establishments	1 per employee on largest shift
Motels, hotels, boarding houses	1 per guest room unit
Office building	1.5 per employee
Personal services	4 parking spaces per patron capacity
Public and semi-public uses area	1 per 200 sq. ft. of floor
Residential	2 per dwelling unit
Restaurants and taverns	1 per 50 sq. ft. of public floor area
Retail business	1.5 per 100 sq. ft. of public floor area
Schools	1 per every 15 classroom seats
Service stations & garages	1 per 100 sq. ft. of floor area
Swimming pools	1 per 10 sq. ft. of water surface
Wholesale & trucking establishments	1 per employee on largest shift

- G. In addition to the off-street parking space required above, any structure erected, converted or enlarged in any district for commercial, office building, manufacturing,

wholesale, hospital or similar uses, shall provide adequate off-street areas for loading and unloading of vehicles. The minimum size loading space shall be sixty (60) feet in depth, twelve (12) feet in width, with an overhead clearance of fourteen (14) feet. In no case where a structure is erected, converted or enlarged for commercial, manufacturing, or business purposes shall the public rights-of-way be used for loading or unloading of materials. All loading facilities and platforms shall be placed in the rear of the structure as to not take away from the surrounding aspects of the existing neighborhood.

- H. Access to and from all off-street parking, loading and vehicle service areas along public rights-of-way shall consist of well defined separate or common entrances and exits and shall comply with the following provisions:
1. Access drives shall not open upon any Township public right-of-way within (80) feet of the nearest right-of-way line of any intersecting public road or where the sight distance in either direction would be less than two-hundred (200) feet. Access drives onto state highways shall be subject to Pennsylvania Department of Transportation standards.
  2. There shall be no more than one entrance and one exit to any business or parking area on any one road. Each entrance and exit shall be clearly defined with curbing, fencing, or vegetative screening so as to prevent access to the area from other than the defined entrance and exits. In no case shall one entrance and exit be located within 80 feet of any other on the same property or adjoining property along the same public right-of-way. Non-conforming lots, however, shall be exempt from this requirement.
- I. All non-residential parking and loading areas and parallel circulation and service lanes shall be separated from the paving edge of a public thoroughfare or adjoining property lines by a planting strip at least ten (10) feet in width.

## **408 Sign Regulations**

### **408.1 Definitions**

- A. The word or term "sign" shall mean any outdoor display, painting, drawing, message, plaque, billboard or other thing which is designed, intended or used to advertise or inform. As used herein it shall also include a publicly displayed notice to advertise the business where transacted or profession practiced and the name of the person or firm conducting such profession. It also shall include signs attached to structures or roadside signs, wherever visible from the road or navigable river
- B. "Surface area" is the size of any sign computed by multiplying its greatest length by its greatest height. Structural members not bearing advertising material or not in the form of a symbol shall not be included in the computation of surface area nor shall the reverse side of the sign. A double-faced sign is to be counted as one sign. In the case of signs with no definable edges (e.g. raised letters attached to a facade), the surface area shall be the area within the perimeter of a single line enclosing the extreme limits of the advertising material.

### **408.2 Business and Advertising Signs**

- A. A. The owner, lessee or occupant of any parcel of land in Damascus Township, may erect and maintain on such land not more than three (3) signs identifying the business, name or profession of such owner, lessee or occupant of the property and advertising the products

- or services offered thereon. Such signs shall not exceed thirty-two (32) square feet each in surface area. Name plates and home occupation signs, however, shall not exceed eight (8) square feet in surface area or two (2) in number.
- B. The signs actually physically attached to a business structure shall not be counted in the number of signs permitted hereunder.
  - C. Nothing herein contained shall prevent:
    - 1. The owner, occupant or lessee of property in a RR and ND districts from erecting as many as two (2) signs for any advertising purpose regardless of whether the same is connected to any activity on-site or not. Such signs shall not have a surface area of more than thirty-two (32) square feet in size and shall be set back from the edge of the road right-of-way a distance in lineal feet equal to the square feet of sign surface area.
    - 2. Signs bearing the words "sold" or "rented" or similar phrases, together with the name of the person effecting sale or rental. Such signs shall be removed within fourteen (14) days after the sale, rental or lease.
    - 3. Signs advertising the sale or development of the premises upon which they are erected, when erected in connection with the development of the premises by a builder, contractor, developer or other person interested in such sale or development, provided:
      - a. The size of such sign is not in excess of sixteen (16) square feet;
      - b. Not more than two (2) signs are placed upon any property unless such property fronts upon more than one (1) road, in which event two (2) such signs may be erected on each frontage;
      - c. Such sign is not illuminated.
  - D. River District (RD) signs shall not exceed twelve (12) square feet and shall be constructed of wood and shall conform in appearance to those found in National Park areas.
  - E. Signs to provide for the normal and safe flow of traffic into and out of the place of business such as entrance, exit and parking signs. Such signs shall not be of a size greater than necessary for persons of normal visual acuity to observe.

#### **408.3 Multi-family Project Signs**

One (1) sign identifying a multi-family project is permitted on the premises of such project providing the sign does not exceed twenty (20) square feet in surface area. Signs identifying each structure shall also be permitted. Such signs shall not exceed four (4) square feet and are attached to the structure facade.

#### **408.4 Cluster Commercial Signs**

- A. One (1) free-standing sign identifying a cluster commercial project is permitted on the premises of such project provided the sign does not exceed ninety-six (96) square feet in surface area.
- B. One (1) sign identifying each business or profession located in the cluster project is permitted provided the sign does not exceed sixteen (16) square feet in surface area. Such signs shall be attached to the same frame as the cluster commercial project sign provided for in Section 408.4-(A).
- C. One (1) additional sign identifying each business or profession in the cluster project is permitted provided the sign does not exceed thirty-two (32) square feet in surface area and the sign is attached directly to the facade of the structure housing the business or profession.

**408.5 Location of Signs**

No signs shall be erected, installed or maintained in a location which will constitute an obstruction to vision or endanger the safety of the traveling public.

**408.6 Temporary Signs**

The following temporary signs shall be permitted in all Districts: Special advertising or business identification signs or banners not exceeding sixty-four (64) square feet in total surface area; including, but not limited to, signs announcing to the general public any special events such as commercial sales days, cultural or entertainment attractions, or charitable activities. These shall be permitted for the length of the activity, but in no case exceeding seven (7) days after the event. Political signs may be permitted on a similar basis.

**408.7 General Regulations**

The following regulations shall apply to all permitted signs:

- A. A sign shall be permitted only in connection with a permitted use.
- B. All signs shall be removed when the reasons for their erection no longer apply.
- C. Signs shall not be permitted on the roof or above the roof line of the structure to which they are attached.
- D. No part of any sign shall project above the top or beyond the ends of the wall surface upon which it is located.
- E. Signs other than official traffic signs shall comply with side yard setbacks as established for principal structures in the District where the sign is located.
- F. No sign, except a public sign, visible from a public road, shall use the words "stop," "danger" or any other word, phrase, symbol or character which could be interpreted by a motorist as being a public safety warning or traffic sign.
- G. No light shall be permitted that by reason of intensity, color, location, movement or direction of its beam causes any interference with public safety.
- H. No sign shall be attached to any tree, fence, utility pole or other object not intended for such use.
- I. Portable signs shall be considered as any other sign and shall be subject to all regulations contained in this Ordinance.
- J. Signs exceeding a height of thirty (30) feet from the ground surface shall be considered special exceptions.

**408.8 Illumination**

Where permitted, signs shall be illuminated only by a steady, stationary (excepting for indicators of time and temperature), shielded light source directed solely at the sign, without causing glare for motorists, pedestrians or neighboring premises. The illumination shall not make the sign resemble traffic signals.

**408.9 Application**

An application for a permit to install or relocate a sign shall be made on a form obtained from the Township Zoning Officer and filed with the Township Secretary, together with the fee determined by the Board of Supervisors. Signs less than sixteen (16) square feet shall not require a permit. Township, County, State or Federal government signs shall be exempt from these regulations.

**408.10 Non-conforming Signs**

Existing non-conforming signs may be repaired or reconstructed on the same site, but shall not be relocated or increased in size.

**408.11 Penalties**

- A. No owner of any sign or lessee or owner of any land upon which the sign is located shall permit such sign to become unsightly or in disrepair so as to endanger the public or to become a public nuisance.
- B. In the event such a sign is not repaired or properly restored or removed within thirty (30) days after written notice has been given to the owner of the sign or lessee of the land upon which the sign is located, the Board of Supervisors may institute appropriate actions to prevent the violation or abate the nuisance.

**409 Flood Plain Development Standards**

See Section 302 for Flood plain Overlay District and Article VII for Flood plain development regulations.

**410 Stables and Kennels****410.1 Stables, Private**

Private stables are permitted as a principal or as an accessory use to a single-family residence in the RD, ND and RR Districts subject to the following conditions:

- A. A minimum parcel of 2 acres shall be required for the residence and stable.
- B. No more than 2 equines shall be kept except that one additional equine may be kept for each additional acre of land.
- C. A stable structure shall not be less than 200 square feet in size for 1 equine, with an additional 200 square feet for each additional equine.
- D. No stable structure or corral shall be located within 50 feet of any adjoining property line and 50 feet from any public or private road right-of-way.
- E. All equines shall be restricted from grazing or intruding on an adjoining property.

**410.2 Stables, Commercial**

Commercial stables are permitted as a conditional use in the RR and RD District subject to Section 608 of this Ordinance and the following conditions:

- A. A minimum parcel of 5 acres shall be required and single-family residence for the owner or manager shall be permitted on the premises provided all other Sections of this Ordinance and other applicable standards are met.
- B. No more than 3 equines are kept with the exception that 1 additional equine may be kept for each additional acre of land.
- C. A stable structure shall not be less than 200 square feet in size for 1 equine, with an additional 200 square feet for each additional equine.
- D. All equines shall be restricted from grazing or intruding on an adjoining property and any fences erected for the same shall be at least 5 feet away from the property line or public or private road right-of-way.
- E. Adequate off-street parking shall be provided pursuant to Section 407 of this Ordinance with one space provided for each non-resident employee and one space per two (2) equines kept on the premises.
- F. No stable structure or corral shall be located within 100 feet of an adjoining property line or 75 feet from any public or private road right-of-way.

**410.3 Kennels**

Kennels are permitted as a conditional use in the RR District subject to Section 608 of this Ordinance and the following conditions:

- A. A minimum parcel of 3 acres shall be required and the number of dogs housed shall not exceed five (5) per acre with a maximum of fifty (50) dogs per parcel.
- B. No structure used for the keeping of dogs shall be located closer than 125 feet to any property line or 100 feet to any public or private road right-of-way.
- C. Adequate off-street parking shall be provided pursuant to this Ordinance with one space for each non-resident employee and one space per four (4) dogs kept on the premises.
- D. A noise barrier consisting of a solid fence not less than 6 feet in height or a dense vegetative planting of not less than 6 feet in height shall be provided at a distance not to exceed 15 feet from the kennel area and fully encircling all kennel areas not enclosed in a structure.
- E. Dogs shall be restricted from using kennel areas not fully enclosed in a structure from 8:00 P.M. to 8:00 A.M.

**411 Adult Businesses****411.1 Findings**

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

- A. The concern over sexually transmitted diseases is a legitimate health concern of the Township which demands reasonable regulation of adult businesses and adult uses in order to protect the health and well-being of the citizens.
- B. Certain employees of sexually oriented business regulated by this Ordinance as adult theaters and adult live entertainment establishments engage in higher incidents of certain types of sexually oriented behavior at these businesses than employees of other establishments.
- C. Sexual acts occur at sexually oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, or live sex shows, as regulated by this Ordinance as adult book stores, adult novelty stores, adult video stores, adult motion picture theaters, or adult arcades.
- D. Offering and providing such space, encourages such activities, which creates unhealthy conditions.
- E. Persons frequent certain adult theaters, adult arcades, and other sexually oriented businesses for the purpose of engaging in sex within the premises of such sexually oriented businesses.

- F. At least fifty (50) communicable diseases may be spread by activities occurring in sexually oriented businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (AIDS), genital herpes, hepatitis B, non B amebiasis, salmonella infections and shigella infections; and, the incidence of many of these diseases is on the increase.
- G. Sanitary conditions in some sexually oriented businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- H. Classifying adult businesses as conditional uses is a reasonable means of accountability to ensure that operators of adult businesses comply with reasonable regulations and conditions, and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.
- I. There is convincing documented evidence that adult businesses, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, causing increased crime, the downgrading of property values, and the decline of the overall character of the community. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
- J. It is generally recognized that adult businesses, due to their nature, have serious objectionable operational characteristics, particularly when they are located in close proximity to each other, thereby contributing to neighborhood blight and downgrading the quality of life in the adjacent area. A number of municipal studies, including the 1986 Austin, Texas study, have demonstrated this.
- K. The Township desires to minimize and control these adverse secondary effects and thereby protect the health, safety and welfare of the citizenry, protect the citizens from increased crime, preserve the quality of life, preserve property values and the character of the surrounding community.

#### **411.2 Intent**

It is the intent of this Section 411 to:

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

### 411.3 Conditional Use in the ID Zoning District

Adult businesses are classified as conditional uses in the ID-Industrial District which provides a suitable area for the development of such uses away from areas with concentrated residential development.

### 411.4 Standards

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

- A. Setbacks - Adult businesses shall not be located less than:
  1. Two hundred (200) feet from any public road right-of-way unless the standards in Subsection 3 of this Section 411.4,A require larger setbacks;
  2. Two hundred (200) feet from any property line unless the standards in Subsection 3 of this Section 411.4,A require larger setbacks;
  3. One thousand (1,000) feet from any existing:
    - a. residence
    - b. church or synagogue
    - c. public or private school
    - d. public or semi-public building or use
    - e. public park or public recreation facility
    - f. commercial enterprises catering primarily to persons under eighteen (18) years of age
    - g. health facility
    - h. any establishment that sells alcoholic beverages
- B. Similar Businesses - Adult businesses shall not be located within five hundred (500) lineal feet of any existing adult business.
- C. Measurement - The setback distances established in this Section 411 shall be as measured from the nearest edge of the building used for the subject use, measured in a straight line (without regard to intervening structures or objects) to the nearest lot line of the premises of a use from which the required setback applies.
- D. Enlargement - Any enlargement or expansion of an existing, legally created adult business shall be considered a conditional use subject to the provisions of this Section 411 and all other applicable standards of this Zoning Ordinance.
- E. Limit of One (1) Use - It shall be a violation of this Ordinance for any person to cause or permit the operation, establishment, or maintenance of more than one (1) adult business in the same building, structure or portion thereof, or an increase of floor area of any adult business in any building, structure, or portion thereof that contains another lawfully existing adult business.
- F. Nonconformity - Any adult business lawfully operating on the date of enactment of this Ordinance that is in violation of any of the provisions of this Section 411 shall be deemed a nonconforming use. Such nonconforming uses shall be increased, enlarged, altered or extended, only in accord with the standards governing nonconformities and all other applicable standards of this Ordinance. The use may be changed to a conforming use. However, under no circumstances shall a non-conforming use as defined and regulated by this Ordinance be changed to any type of adult business.
- G. Location of New Neighboring Uses - An adult business lawfully operating as a conforming use shall not be rendered a nonconforming use if, subsequent to the grant of a conditional use permit, a use from which an adult business is required to provide a setback under this Section 411 is developed within the required setback distance. Any additions or expansions of the adult business use shall comply with all setbacks required by this Section 411.

- H. Alcohol - No adult business shall be operated in combination with the sale and/or consumption of alcoholic beverages on the premises.
- I. Visibility and Signs - No sexually explicit material, signs, silhouette, display or word shall be visible at any time from outside of the building. Signs shall comply with the provisions of this Ordinance governing signs; however, business signs shall be limited to a maximum of one (1), two (2) sided sign of twenty (20) square feet in area per side. Content of such signs shall be limited to only the text of the name of the business and the hours of operation. Off-premises, directional and/or directory signs, and/or billboards shall not be permitted for adult businesses.
- J. Reserved
- K. Lighting - Overhead lighting shall be provided to illuminate all improved areas of the property; and said lighting shall be in compliance with all requirements of this Ordinance.
- L. Exemption for Modeling Class: It is a defense to prosecution under this Section 411 that a person appearing in a state of nudity did so in a modeling class operated:
  1. By a proprietary school, licensed by the State, or an academically accredited college or university;
  2. By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation;
  3. In a structure -
    - a. which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
    - b. where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and where no more than one (1) nude model is on the premises at any one time; or
  4. By an organization which qualifies under Section 501(c)(3) of the U.S. Internal Revenue Code as a non-profit organization or foundation.

#### **411.5 Annual Permit**

All adult businesses shall comply with annual permit requirements as may be established by any applicable ordinance of the Township.

#### **412 Temporary Events**

A temporary activity including, but not limited to, flea markets, public exhibitions, festivals, auctions, carnivals, circuses, shows, and similar organizational events and meetings shall be permitted subject to the following provisions:

- A. Such temporary uses shall be limited to occurrences of not more than seven (7) days. Such events shall be limited to no more than four (4) in a calendar year. There shall be at least a thirty (30) day period between such occurrences.
- B. Signs advertising a temporary event shall meet the requirements of Section 408.6.
- C. The applicant shall provide the Zoning Officer with plans to ensure adequate parking, emergency access, road access, sanitary facilities, refuse collection, noise control and clean-up after the event.
- D. Such events shall cease from occurring between the hours of 10:30 P.M. and 8:00 A.M. on the days of occurrence.
- E. Such events occurring in existing structures such as schools, granges, churches and other such structures adequately able to handle large congregations of people, shall be exempt from this Section.

### 413 Commercial Communication Devices

The following regulations shall apply to commercial communication devices (CCD) including but not limited to, cellular phone antennae, antennae for communication service regulated by the PA Public Utility Commission, other commercial antennae and associated facilities. Such CCD and associated facilities shall be permitted only in the districts as provided on the Schedule of District Regulations in Article III of this Ordinance and this Section 413.

#### 413.1 Purposes

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

#### 413.2 Use Regulations

A permit shall be required for every CCD and support structure installed at any location and the following use regulations shall apply:

- A. Existing Tall Structures - A CCD site with a CCD that is attached to an existing communications tower, smoke stack, water tower, or other tall structure where the height of the CCD does not exceed the height of the existing structure by more than fifteen (15) feet shall be permitted in the all Districts as an accessory use and conditional use approval shall not be required. The applicant shall provide the following information:
  1. Evidence from a Pennsylvania registered professional engineer certifying that the proposed installation will not exceed the structural capacity of the Building or other Structure, considering wind and other loads associated with the antenna location.
  2. Detailed construction and elevation drawings indicating how the antennas will be mounted on the structure to document compliance with the applicable requirements.
  3. Evidence of agreements and/or easements necessary to provide access to the building or structure on which the antennas are to be mounted so that installation and maintenance of the CCD and associated equipment can be accomplished.
- B. New Structures - A CCD site with a CCD that is either not mounted on an existing structure, or is more than fifteen (15) feet higher than the structure on which it is mounted shall require conditional use approval in accord with this Section 413 and shall be permitted only in RR-Rural Residential Districts and ID-Industrial Districts.
- C. Associated Use - All other uses ancillary to the CCD (including a business office, maintenance depot, vehicle storage, etc.) are prohibited from the CCD site, unless otherwise permitted in the zoning district in which the CCD site is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the CCD.
- D. CCD as a Second Principal Use - A CCD shall be permitted on a property with an existing use subject to the following land development standards:

1. The telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
2. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the CCD shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area and other requirements.
3. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
4. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

### 413.3 Standards

- A. Location Requirement and Number - The applicant shall demonstrate, using technological evidence, that the CCD must go where it is proposed, in order to satisfy its function in the company's grid system. The number of CCD to be installed at a site by an applicant shall not exceed the current minimum necessary to ensure the adequacy of current service required by the Federal Communications Commission (FCC) license held by that applicant. The applicant must document the need for the additional CCD to ensure the adequacy of current service.
- B. Co-location; New Tower - If the applicant proposes to build a tower (as opposed to mounting the CCD on an existing structure), the Township shall require the applicant to demonstrate that it contacted in writing the owners of tall structures within an eight (8) mile radius of the site proposed, asked for permission to install the CCD on those structures, and was denied for reasons other than economic ones. This would include smoke stacks, water towers, tall buildings, CCD support structures of other cellular phone companies, other communications towers (fire, police, etc.) and other tall structures. The Township may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the CCD on an existing structure thereby documenting that there exists no other support structure which can reasonably serve the needs of the owner of the proposed CCD. A good faith effort shall demonstrate that one (1) or more of the following reasons apply to a particular structure:
  1. The proposed equipment would exceed the structural capacity of the existing structure and its enforcement cannot be accomplished.
  2. The proposed equipment would cause radio frequency interference with other existing equipment for that existing structure and the interference cannot be prevented.
  3. Such existing structures do not have adequate location, space, access or height to accommodate the proposed equipment or to allow it to perform its intended function.
  4. Addition of the proposed equipment would result in electromagnetic radiation from such structure exceeding applicable standards established by the federal communications commission governing human exposure to electromagnetic radiation.
- C. CCD Height - The applicant shall demonstrate that the CCD is at the minimum height required to function satisfactorily. No CCD and support structure that is taller than this minimum height shall be approved.
- D. Parcel Size; Setbacks - If a new CCD support structure is constructed (as opposed to mounting the CCD on an existing structure) or if the CCD height exceeds the height of

the existing structure on which it is mounted by more than fifteen (15) feet, the minimum parcel size and setbacks in this Subsection D shall apply.

1. Separate Parcel - If the CCD is manned and/or the parcel on which the CCD and support structure is a separate and distinct parcel, the zoning district minimum lot size shall apply and the setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of thirty (30) feet. The distance between the base of the support structure and any adjoining property line or public road right-of-way shall not be less than the height of the CCD structure. In any case, the lot shall be of such size that all required setbacks are satisfied.
  2. Lease, License or Easement - If the CCD is unmanned and the land on which the CCD and support structure is leased, or is used by license or easement, the setback for any part of the CCD, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement. The distance between the base of the support structure and any adjoining property line (not lease, license or easement line) or public road right-of-way shall not be less than the height of the CCD structure.
- E. CCD Support Structure Safety - The applicant shall demonstrate that the proposed CCD and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All support structures shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed CCD and support structure will be designed and constructed in accordance with the current Structural Standards for Steel Antenna Towers and Antenna Supporting Structures, published by the Electrical Industrial Association/Telecommunications Industry Association and applicable requirements of any applicable building code. Within forty-five (45) days of initial operation, the owner and/or operator of the CCD and support structure shall provide a certification from a Pennsylvania registered professional engineer that the CCD and support structure comply with all applicable regulations.
- F. Fencing - A fence to provide an effective barrier to prevent entry to the facility shall be required around the CCD support structure and other equipment, unless the CCD is mounted on an existing structure. The fence shall be a minimum of eight (8) feet in height.
- G. Landscaping - Landscaping may be required to screen as much of the support structure as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the CCD and support structure site from neighboring properties. The Township may permit any combination of existing vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping. If the CCD is mounted on an existing structure, and other equipment is housed inside an existing structure, landscaping shall not be required. In addition, existing vegetation on and around the site shall be preserved to the greatest extent possible.
- H. Co-location; Other Uses - In order to reduce the number of CCD support structures needed in the community in the future, the proposed support structure shall be required to accommodate other users, including but not limited to other cellular phone companies, and local fire, police, and ambulance companies. The applicant shall provide evidence of written contact with all wireless service providers who supply service within the region for the purpose of assessing the feasibility of co-located facilities. The proposed

structure, if evidenced by need as determined by the Township, shall be constructed to provide available capacity at reasonable cost for other providers should there be a future additional need for such facilities.

- I. Licenses; Other Regulations; Insurance - The applicant must demonstrate that it has obtained the required licenses from the Federal Communications Commission, the PA Public Utility Commission and other agencies. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the CCD; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the CCD and support structure.
- J. Access; Required Parking - Access to the CCD and support structure shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for a minimum of fifty (50) feet from the edge of the pavement of the connecting public road. If the CCD site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
- K. Color and Lighting; FAA and PA DOT Notice - CCD support structures under two hundred (200) feet in height should be painted silver or have a galvanized finish retained, in order to reduce the visual impact. Support structures may be painted green up to the height of nearby trees. Support structures two hundred (200) feet in height or taller, those near airports, or those which are otherwise subject to Federal Aviation Administration (FAA) regulations shall comply with the said regulations. No CCD support structure may be artificially lighted except in accord with Federal Aviation Administration requirements. The applicant shall provide a copy of the response to Notice of Proposed Construction or Alteration forms submitted to the FAA and PA DOT Bureau of Aviation, and the CCD and support structure shall comply with all FAA and PA DOT requirements.
- L. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished.
- M. Historic Structures - A CCD shall not be located on a building or structure that is listed on a historic register or within five-hundred (500) feet of such a structure.
- N. Discontinued Use - Should any CCD or support structure cease to be used as a communications facility, the owner or operator or then owner of the land on which the CCD and support structure is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Township to remove the facility and assess the cost of removal to the foregoing parties. The Township may also file a municipal lien against the land to recover the costs of removal and attorney's fees. In the case where there is no separate parcel, the lien shall be against the entire parent parcel of land upon which the CCD and/or support structure is located by lease, license or easement.
- O. Fire Suppression System - The applicant shall provide details about any fire suppression system installed in any structure or equipment container associated with the CCD.
- P. Site Plan - A full site plan shall be required for all CCD and support structure sites, showing the CCD, CCD support structure, building, fencing, buffering, access, and all other items required by Section 608.6,D of this Ordinance governing information required for conditional uses. The site plan shall not be required if the CCD is to be mounted on an existing structure and the CCD does not exceed the height of the existing structure by more than fifteen (15) feet.

**415 Property Line Buffer Areas**

It is the intent of this section to preserve the rural character of the Township by requiring the conservation of trees and other vegetation, especially during the land development process, and by requiring property line buffers. This will also minimize the detrimental effects of soil erosion and sedimentation and storm water run-off. The Township's agricultural and other open land are vital to the rural character of the Township, which is the keystone of the local economy, and the preservation of that character will protect and promote the public welfare. This section is not intended to prescribe specific cutting practices; or to prevent or hinder any landowner from realizing financial return from the sale of trees; or to prevent or hinder commercial tree harvesters from operating in the Township. (Note: This Section 415 shall not apply to agricultural uses and lands owned by the Commonwealth of Pennsylvania or the Pennsylvania Game Commission.)

**415.1 Natural Vegetation**

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

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

**415.2 Buffer Areas**

In addition to the requirements of Section 415.1, the following requirements shall apply to all parcels in ND and ID Districts:

- A. A buffer of not less than seventy-five (75) feet in width shall be maintained along all property lines and any road right-of-way. Existing vegetation in this buffer area shall not be disturbed except that trees may be harvested to the extent that the basal area of trees in the seventy-five foot buffer area shall not be reduced below sixty (60) percent of the basal area present before cutting or below sixty-five (65) square feet per acre, whichever is higher. Basal area is the area in square feet per acre occupied by tree stems at four and one-half (4.5) feet above the ground, normally measured by a calibrated prism or angle gauge. This buffer shall be maintained until such time as a development plan is approved for the parcel in accord with this Zoning Ordinance.
- B. Clearing of vegetation and landscaping for a development project shall be in accord with an overall plan to be submitted with the zoning and land development plan application. Such clearing shall not be initiated until the application is approved by the Township. For the purposes of installation, landscaping shall be considered an improvement in accord with the Township Subdivision and Land Development Ordinance. The clearing and landscaping plan shall show the type and extent of existing vegetation, the area proposed for clearing and proposed landscaping.

## **416 Buffers for Wetlands, Vernal Ponds, Lakes, Ponds and Watercourses**

### **416.1 Wetlands and Vernal Ponds**

A twenty-five (25) foot buffer, measured perpendicular to and horizontally from the edge of the delineated wetland or vernal pond, shall be maintained for all wetlands and vernal ponds. Stormwater conveyance required by the Township, buffer maintenance and restoration, the correction of hazardous conditions, stream crossings permitted by DEP and unpaved trails shall be permitted within the buffer. No other earth disturbance, grading, filling, buildings, structures, new construction, or development shall be permitted.

### **416.2 Lakes and Ponds**

A fifty (50) foot buffer measured perpendicular to and horizontally from the edge of the lake or pond, shall be maintained around any lake or pond more than two (2) acres in size. The buffer may be reduced to twenty-five (25) feet for lake or pond two (2) acres or less in size. This shall not include any pond or facility designed and constructed solely to contain storm water. Stormwater conveyance required by the Township, buffer maintenance and restoration, the correction of hazardous conditions, lake front views, boat docks, accessory boat storage structures not exceeding three hundred and fifty (350) square feet in area, and unpaved trails shall be permitted provided no buildings are involved. The area of the buffer impacted by permitted activities shall not exceed thirty-five (35) percent of the buffer on the subject parcel. No other earth disturbance, grading, filling, buildings, structures, new construction, or development shall be permitted.

### **416.3 Watercourses**

Unless otherwise regulated by the floodplain provisions of Article VII of this Ordinance, a fifty (50) foot inner buffer, measured perpendicular to and horizontally from the top-of-bank on both sides of the watercourse, shall be maintained on both sides of any watercourse. Stormwater conveyance required by the Township, buffer maintenance and restoration, the correction of hazardous conditions, stream crossings permitted by DEP, and boat launch sites constructed so as not to alter the flood plain cross section, and unpaved trails shall be permitted providing no buildings are involved. No other earth disturbance, grading, filling, buildings, structures, new construction, or development shall be permitted.

## **417 Steep Slope Areas**

Steep slopes shall be defined as slopes in excess of twenty-five percent (25%) grade as determined by a contour survey or other generally accepted method certified by a Professional Engineer or Registered Land Surveyor of the slope in question. Slope shall be measured at the points where any earth will be disturbed or where structures or other improvements are proposed. Any use or development of such steep slope areas shall be considered a conditional use, and in reviewing applications for use of sites partially or wholly included within an area identified as steep-sloped, the Board of Supervisors and Planning Commission shall be satisfied that the following performance standards have been or will be met:

- A. An accurate map prepared by a Registered Surveyor in the Commonwealth of Pennsylvania has been submitted showing property boundaries, building and drive locations, contours at two (2) foot intervals and any areas to be graded. The proposed location of other factors shall also be shown including streams, wetlands, areas subject to landslides and extent of vegetative cover.
- B. A grading and drainage plan has been prepared showing existing and proposed ground surfaces, plans for drainage devices, plans for walls or cribbing, etc., map of the drainage

- area affected, computation of the amount of runoff expected, an erosion control plan and schedule for completion of work.
- C. The total amount of impervious surface that may be installed or maintained on steep slopes shall not exceed fifty (50) percent of the maximum amount of impervious surface permitted for such use on any lot in the underlying zoning district. Provision shall be made for control of runoff from impervious surfaces to prevent erosion and stormwater damage to downstream properties.
  - D. No finished grade where fill is used shall exceed a fifty (50) percent slope.
  - E. Where fill is used to later support structures, a minimum compaction of ninety (90) percent of maximum density shall be achieved.
  - F. At least fifty (50) percent of the area to be used for any building or construction purposes shall be less than fifteen (15) percent slope.
  - G. Soils characterized by the NRCS as highly susceptible to erosion shall be avoided.
  - H. Roads and utilities shall be installed along existing contours to the greatest extent possible.
  - I. Any steep slope areas also characterized by seasonal high water tables shall be avoided.
  - J. Removal of, or disturbance to, existing vegetation on the site shall be minimized. The proposed impacts on existing vegetation shall be evaluated in terms of the potentially detrimental effects on slope stability, erosion potential, transpiration and recharge of stormwater, aesthetic and traditional characteristics of the landscape, and existing drainage patterns. Mitigation measures may be required by the Board as it deems appropriate.
  - K. In cases where structures are proposed, the applicant shall submit plans to the Zoning Officer detailing how the limitations of slope will be mitigated by the design of the structure(s).

#### **418 Zoos, Menageries, and Wild and Exotic Animals**

No individual other than a registered veterinarian in the course of his professional duties, or a licensed falconer who keeps and maintains only his own birds, is permitted to maintain, keep or possess within the Township any wild or exotic animal except in an approved menagerie or zoo. Menageries and zoos shall, in addition to all other applicable requirements of this Ordinance, comply with the following requirements:

- A. A minimum parcel size of five (5) acres shall be required.
- B. All animals and animal quarters shall be kept in a clean and sanitary condition. Adequate ventilation shall be maintained.
- C. The permit holder shall use every reasonable precaution to assure that the animals are not teased, abused, mistreated, annoyed, tormented or in any manner made to suffer by any means.
- D. Animals which are enemies by nature or are temperamentally unsuited shall not be quartered together or so near each other as to cause the animals fear or to be abused, tormented or annoyed.
- E. The permit holder shall maintain the premises so as to eliminate offense odors or excessive noise.
- F. The permit holder shall not permit any condition causing disturbance of the peace and quiet of his neighbors.
- G. Animals must be maintained in quarters so constructed as to prevent their escape. The permit holder assumes full responsibility for recapturing any animal that escapes from his premises. The permit holder shall make adequate provisions and safeguards to protect the public from the animals.

- H. The operation shall conform to all applicable local, state and federal laws and regulations.
- I. Any building, corral or other indoor or outdoor area used for feeding of animals, concentrated confinement of animals or animal waste storage shall not be located within one hundred twenty-five (125) feet of any adjoining property line and one hundred (100) feet from any public or private road right-of-way.
- J. The applicant shall provide for adequate disposal of all any waste materials generated on the premises, and a detailed plan for the same shall be included with the zoning application.

#### **419 Airports And Heliports**

The standards in this Section 419, in addition to other applicable standards in this Ordinance, shall apply to all proposed airports (which includes heliports) as defined and regulated by this Ordinance.

##### **419.1 Conditional Use**

The existence of airport hazard zones limits the uses of surrounding landowners. No airport shall be permitted to make any change which would effect the location of airport surface zones, approach zones, or hazard zones, and no new airport shall be developed unless conditional use approval has been granted. In addition to the other conditional use requirements of this Ordinance, the following procedures and criteria shall apply to any airport conditional use application. The following shall constitute changes at an airport requiring conditional use approval prior to the change:

- A. Any extension of a runway's length or location;
- B. Any change in the height of a runway;
- C. The paving of any previously unpaved portions of a runway, if such paving results in any change in airport rating category under 67 Pa. Code Section 471.5 as amended, effecting or altering the location or extent of any airport hazard zone;
- D. Any change of runway direction or alignment;
- E. Any change in the status of taxiways or holding areas effecting the location areas of airport hazard zones;
- F. Any change in airport rating category under 67 Pa. Code Section 471.5 as amended, effecting or altering the location or extent of any airport hazard zone.
- G. Any other physical, legal or rating change, or change in methods of operation, flight paths or change in instrumentation or technology resulting in a change in the location or extent of any airport hazard zone.

##### **419.2 Application Contents**

The application for conditional use shall contain the following documents and information:

- A. A full narrative description of the airport and any changes proposed.
- B. Plans and maps prepared by a registered professional engineer showing the airport and any changes proposed to the airport.
- C. Plans and maps prepared by a registered professional engineer showing existing and proposed locations of the airport hazard zones.
- D. Copies of all applications, correspondence, documents, maps or plans submitted to FAA and the Bureau of Aviation relating to the proposed change or construction, rating change, or other rating, legal or physical change.
- E. A plan showing of how the lands or air rights negatively affected shall be acquired.

- F. A list of the names and addresses of all landowners negatively affected by the proposed airport or change within a height of seventy-five (75) feet from the surface of said lands by the change in airport hazard zones.
- G. A list of the names and addresses of all landowners adjoining lands owned or leased by the airport owner.

#### **419.3 Engineering Review**

The Township Engineer shall review the application and report whether the application to the Planning Commission complies with all applicable ordinances, laws and regulations relating to airport hazard zones. The Township Engineer shall also report how the proposed airport or change will affect neighboring landowners and landowners in airport hazard zones. The Township Engineer shall also review and report on expected obstructions to aircraft resulting from the airport or change, and upon the adequacy, feasibility and practicality of the applicant's plan to acquire the necessary air rights.

#### **419.4 Costs**

Any airport or change to an airport resulting in a change of airport hazard zones shall be considered a land development, and in accord with Section 503(1) of the Pennsylvania Municipalities Planning Code the applicant shall be responsible for paying all reasonable and necessary charges of the Township's professional consultants or engineer relating to application review and report under the terms of the Township Subdivision and Land Development Ordinance.

#### **419.5 Notice to FAA, PennDOT Bureau of Aviation, and the County**

The Zoning Officer shall send a copy of the completed application to PennDOT Bureau of Aviation, FAA and the County Planning Department by certified mail, at least fourteen (14) days before the date of the hearing.

#### **419.6 Criteria to Review**

In acting on a conditional use, the Supervisors shall consider:

- A. The effect upon reasonable use of properties affected by the proposal.
- B. How the applicant plans to acquire any necessary air rights.
- C. The character of the flying operations expected to be conducted at the airport;
- D. The nature of the terrain within the airport hazard zone area;
- E. The character of the community which is affected by the proposal.
- F. The effect upon roads, development, transportation routes, and other aspects of the Township's Comprehensive Plan;
- G. The provision of hazard lighting and marking;
- H. The importance of aircraft safety.

#### **419.7 Runway and Landing Pad Setbacks**

The edges and ends of any runway and/or helicopter landing pad shall be a minimum of two hundred and fifty (250) feet from any property line.

#### **420 Gambling and Betting Uses**

In addition to all other applicable standards of this Ordinance, gambling and betting uses shall comply with the following:

**420.1 Setbacks**

Such an establishment shall not be located less than two hundred (200) feet from any RR or RD District or any residence and not less than one thousand (1,000) feet from any:

- A. Group care facility
- B. Commercial enterprises catering primarily to persons under eighteen (18) years of age
- C. Public or semi-public building or use
- D. Public park or public recreation facility
- E. Medical or health facility
- F. Church or synagogue
- G. Public or private school

The distance between any such gambling or betting establishment and any of the protected land shall be measured in a straight line, without regard to intervening structures, from the closest point of the structure in which such establishment is located to the closest point on the property line of such protected land use.

**420.2 Parking**

Off-street parking shall be provided at the rate of three (3) spaces per each one hundred (100) square feet of floor area open to customers of such gambling or betting establishment, plus one (1) space per each employee on the largest shift.

**420.3 Hours of Operation**

The gambling or betting establishment shall not be open for operation between the hours of 2:00 a.m. and 10:00 a.m.

**420.4 Nuisances**

The gambling or betting establishment shall ensure that noise from the property shall not reach neighboring properties, and shall not permit loitering outside the establishment; and, a litter control plan shall be established, maintained and paid for by the property owners to ensure that the property shall not become littered.

**420.4 Plan**

The application shall be accompanied by a preliminary plan containing the information and satisfying the standards as required for a major subdivision under the Township's Subdivision and Land Development Ordinance.

**421 Detention Facilities**

In addition to all other applicable standards in this Ordinance, detention facilities shall comply with the following:

**421.1 Parcel Size**

In order to provide an adequate buffer area for adjoining private property owners the site shall contain a minimum of ten (10) acres.

**421.2 Site Design Standards**

The site shall be improved in accordance with the following minimum requirements:

- A. The building and all secure areas for all detention facilities shall not be less than three hundred (300) feet from any property line and the right-of-way line of any abutting public road. The building and all secure areas for all jails, prisons and penitentiaries shall not be less than one thousand (1,000) feet, and the building and all secure areas for all reformatories, half-way houses, transitional living facilities, juvenile detention facilities, and other detention facilities shall not be less than five hundred (500) feet, from any:
1. Residence
  2. Group care facility
  3. Commercial enterprises catering primarily to persons under eighteen (18) years of age
  4. Public or semi-public building
  5. Public park or public recreation facility
  6. Medical health facility
  7. Any establishment that sells alcoholic beverages
  8. Church or synagogue
  9. Public or private school
- B. A perimeter security fence, of a height and type determined by the Township, may be required.

#### **421.3 Security**

A security plan shall be provided in accord with Section 405.15.

#### **421.4 Accessory Uses and Ancillary Activities**

Accessory uses permitted in conjunction with an institution shall include laboratories, offices, snack bars, educational facilities and programs, vocational training facilities and programs, recreational and sports facilities and other accessory uses ordinarily provided in conjunction with such institutions.

### **422 Mineral Extraction and Mineral Processing**

#### **422.1 Findings**

The primary minerals of importance extant in the Township are sand and gravel, and quarry stone. The Pennsylvania Municipalities Planning Code clearly recognizes mineral extraction as a lawful use. Along with other community effects, such uses can have impacts on water supply sources and are governed by state statutes that specify replacement and restoration of affected water supplies. In addition, the Planning Code now severely limits the range of development and operational standards which can be applied to mineral extraction by local municipalities, with location standards the primary tool available to the Township. Planning Code Section 603(I) states that zoning ordinances shall provide for the reasonable development of minerals in each municipality. The Code definition of minerals is: Any aggregate or mass of mineral matter, whether or no coherent. The term includes, but is not limited to, limestone and dolomite, sand and gravel, rock and stone, earth, fill, slag, iron ore, zinc ore, vermiculite and clay, anthracite and bituminous coal, coal refuse, peat and crude oil and natural gas. The Code, at Section 603(b) allows zoning ordinances to regulate mineral extraction, but only to the extent that such uses are not regulated by the state Surface Mining Conservation and Reclamation Act, the Noncoal Surface Mining Conservation and Reclamation Act, and the Oil and Gas Act. These Acts regulate such things as setbacks, dust, noise, blasting, water supply effects, and reclamation.

**422.2 Intent**

The intent of this section is to ensure the Township is supplied with all necessary information for making an informed decision about the proposed mineral extraction and to establish the foundation for any conditions required to protect the public health, safety and general welfare. In addition, location standards are included which are not addressed by the pre-emptive state statutes.

**422.3 Mineral Processing a Separate Use**

Any use which involves the refinement of minerals by the removal of impurities, reduction in size, transformation in state, or other means to specifications for sale or use, and the use of minerals in any manufacturing process such as, but not limited to, concrete or cement batching plants, asphalt plants, the manufacture of concrete and clay products, or any similar cold or hot process shall be considered mineral processing which is a separate and distinct use regulated by this Zoning Ordinance. This shall not preclude the incidental screening, washing, crushing and grading of materials originating on the site as part of a mineral extraction operation. Portable mineral processing plants shall be regulated the same as mineral processing; however, temporary portable mineral processing plants operating for less than a total of three (3) months and only between the hours of 7:00 a.m. and 8:00 p.m. shall be permitted as an accessory use to an approved development project or a road construction or improvement project undertaken by the Township or State.

**422.4 Mineral Extraction, Minor**

The intent of this section is to permit mineral extraction operations limited in area, duration and mechanical operations. Mineral extraction operations with an open face of ten thousand (10,000) square feet or less which will not result in a total disturbed area of more than two (2) acres on any one parcel over the life of the operation, and which do not involve on-site screening, washing, crushing and grading, and/or any mineral processing or the use of manufacturing equipment, shall be hereinafter referred to as mineral extraction, minor. The duration of the minor mineral extraction process shall not exceed one-hundred eighty (180) days and reclamation of the entire site shall be completed within one (1) year of the issuance of the zoning use permit. The subdivision of a parcel to qualify for additional mineral extraction, minor uses shall not be permitted. Mineral extraction, minor uses shall be exempt from the plan submission requirements of this Section 422; however, said operations shall comply with the operational and rehabilitation standards.

**422.5 Location Requirements**

Mineral extraction and mineral extraction, minor shall be permitted only in those districts specified in the Schedule of District Regulations and only in accord with the requirements of this Section 422 and all other applicable Ordinance requirements. The mineral extraction operation shall comply with the following additional location requirements:

- A. Parcel Size: The minimum parcel size shall be ten (10) acres for mineral extraction, minor and fifty (50) acres for mineral extraction.
- B. Property Line Setback, Zoning District Setback and Buffer: A setback of one hundred (100) feet shall be maintained between any mineral extraction operation and adjoining properties and public road rights-of-way.
- C. These setback areas shall be undisturbed to provide a buffer and shall not be used for parking, storage or any other purpose except landscaping and crossing of access roads. In determining the type and extent of the buffer required, the Township shall take into consideration the design of the project structure(s) and site, topographic features which may provide natural buffering, existing natural vegetation, and the relationship of the

proposed project to adjoining areas. If required, the landscaped buffer may be installed in the setback area, and shall consist of trees, shrubbery and other vegetation and shall be a minimum of twenty-five (25) feet wide. Design details of buffers shall be included on the site plan, and buffers shall be considered "improvements" for the purposes of guaranteeing installation in accord with the requirements for "land developments" in the Township Subdivision and Land Development Ordinance. It shall be the responsibility of the property owner to maintain all buffers in good condition, free of rubbish, and replace any dying or dead plants or deteriorating landscape material.

- D. State Road Access: Mineral extraction operations shall be permitted only on sites using access to a state road. This shall not apply to minor mineral extraction operations.

#### **422.6 Local, State and Federal Regulations**

Mineral extraction and mineral extraction, minor operations shall comply with all applicable local, state and federal laws and rules and regulations. No zoning permit shall be issued until such time as the applicant provides evidence of compliance with state and federal regulations. Applicable laws and rules and regulations include, but are not limited to the Noncoal Surface Mining Conservation and Reclamation Act and the Clean Streams Law.

#### **422.7 Information Requirements**

The applicant shall, at a minimum, provide the information required by this Zoning Ordinance and the information required for land developments in the Township Subdivision and Land Development Ordinance. In addition the applicant shall submit all other information required to enable the Township to assess the environmental, community and other public health, safety and welfare effects of the proposed operation. The findings of the Township based on this information shall serve as a basis for the establishment of conditions of approval in accord with Section 608 of this Ordinance and Section 603(c)(2) of the Pennsylvania Municipalities Planning Code.

- A. DEP Application Information - The applicant shall provide a copy of all applications and information required by the applicable DEP Rules and Regulations. However, applicants proposing mineral extraction operations qualifying as small noncoal operations under DEP regulations shall provide all information required by Chapter 77 - Noncoal Mining of DEP Rules and Regulations for operations which are not considered small noncoal operations.
- B. Surface and Ground Water Protection, Traffic Impact Study and Environmental Impact Statement - The Township shall require for mineral extraction and may require for mineral extraction, minor, the applicant to submit details about ground and surface water protection (see Section 405.9), an Environmental Impact Statement (see Section 431), and a Traffic Impact Study (see Section 429).

#### **422.8 Reporting Requirements**

For any mineral extraction operation approved by the Township, the operator shall submit to the Township copies of all DEP-required or DEP-issued documents and reports associated with the operation, within fifteen (15) days of the date of the document or report.

#### **423 Self-Storage Facilities**

Self-storage facilities shall be permitted only in those districts as specified in the Schedule of Uses and shall comply with the following standards in addition to all other applicable standards of this Ordinance.

**423.1 Bulk Requirements**

Minimum lot size, lot width and yards, and maximum lot coverage and building height shall conform to district standards. Minimum distance between buildings shall be twenty (20) feet.

**423.2 Setback Areas**

There shall be no storage, use or structure within the setback area, with the exception of the access drive(s).

**423.3 Habitation**

No storage unit shall be used for habitation or residential purposes and individual mini-warehouse units shall not be served by a water supply or a sewage disposal system.

**423.4 Storage Limitations**

No storage unit shall be used for any other purpose except storage and shall not be used for any other type of commercial or manufacturing activity. No material, supplies, equipment or goods of any kind shall be stored outside of the warehouse structure, with the exception of the vehicles required for the operation of the warehouse and boats and recreational vehicles and trailers.

**423.5 Lighting**

All facilities shall be provided with adequate outdoor lighting for security purposes; and such lighting shall be so directed as to prevent glare on adjoining properties.

**423.6 Fire - Water Damage**

All storage units shall be fire-resistant and water-resistant.

**423.7 Materials Stored**

All self-storage facility proposals shall include detailed information on the nature and quantity of materials to be stored on the premises. Proposed space rental agreements shall be submitted with the zoning application and shall provide specific rules and regulations to insure that the requirements of this Section 423 are or will be satisfied.

**424 Solid Waste**

Solid waste facilities, including transfer stations, and staging areas, herein referred to as facilities, shall be permitted only in those districts as specified in the Schedule of Uses, and shall, in addition to the other applicable standards in this Ordinance, be subject to all applicable state and federal regulations and the requirements of this Section 424.

**424.1 Traffic Study**

The facilities shall be located only where the roads serving the location are adequate to carry the volume and weight of the anticipated traffic. Such determination shall be made by the Township based on a traffic study conducted in accord with Section 429. The traffic study and plan shall establish the most direct proposed route or routes for vehicles carrying solid waste to the facility. This route shall minimize impacts on any residence, commercial or retail establishment, public school or religious institution.

**424.2 Standards**

- A. Parcel Size and Property Line Setbacks - No part of any facility expanded or created after the effective date of this Ordinance shall be located closer than two hundred and fifty (250) feet to an existing public road right-of-way or property line. The yard areas shall

- remain unoccupied with no improvements except required fencing and access road(s). A buffer (see definition) not less than fifty (50) feet in width shall be provided in all yards.
- B. Nuisances - Any facility shall be operated in such a manner to prevent the attraction, harborage or breeding of insects, rodents or vectors. The applicant/operator shall prove to the satisfaction of the Board of Supervisors that the use would not routinely create noxious odors off of the tract. The applicant/operator shall provide documentation to the satisfaction of the Board of Supervisors that proposed facility shall operate in such a manner as to not create a general nuisance, endanger the public health, safety and welfare or inhibit the public's use or enjoyment of their property.
  - C. Buffers - Buffers shall be provided in accord with Section 405.1 to minimize facility visibility from adjoining properties and minimize sound and odor emanating from the property.

#### **424.3 State and Federal Regulations and Reporting**

The operation and day-to-day maintenance of the facility shall comply with all local, state and federal statutes, rules, regulations and ordinances as a condition of the continuance of any permit of the Township. Violations of this condition shall also be considered to be violations of this Ordinance. All solid waste transfer facilities (as defined by this Ordinance) shall be subject to all requirements of 25 PA Code Chapter 279 (as amended) Transfer Facilities, regardless of whether a permit pursuant to said requirement is required. Where a difference exists between applicable regulations it is intended for the purposes of this Section 424 that the more stringent requirements shall apply, unless the local standard is pre-empted. A copy of all written applications, filings, plans and materials that are filed before any local, state and federal agency or which relate to other ordinances of the Township shall be concurrently submitted to the Zoning Officer.

#### **425 Storage Yards for Forest Products and Stone**

The intent of this section is to provide standards for access to public roads and setbacks for storage yards for forest products and minerals.

##### **425.1 Access to Public Roads**

- A. Highway Occupancy Permit - Access roads to Township and State roads shall be in accord with a valid highway occupancy permit.
- B. Stabilization - The access road shall be adequately stabilized with stone, shale or other material to minimize soil erosion and the tracking of mud onto the public road.
- C. Weight Limitations - All operations shall comply with all posted weight limits and road bonding regulations.
- D. Use of Public Roads - Felling or skidding on or across any public road shall be prohibited without the express written authorization of the Township or the Pennsylvania Department of Transportation, as applicable. Any road damage caused by any such activity shall be repaired to pre-harvest condition by the operator.
- E. Road Ditches - Ditches on the public road shall be cleaned and graded as necessary to be maintained to preharvest condition.

##### **425.2 Setbacks**

- A. Residential and Nonresidential Buildings - Storage yards shall not be less than three hundred (300) feet from any existing residential, commercial, institutional, public or semi-public building, other than such building located on the property on which the landing is located.

- B. Property Lines - Storage yards shall not be less than fifty (50) feet from any property line other than a property line along a public road right-of-way.
- C. Public Roads - Storage yards shall not be less than fifty (50) feet from any public road right-of-way.
- D. Streams, Water Bodies and Wetlands - Storage yards shall not be less than one hundred (100) feet from any stream, water body or wetland.
- E. Slope - Storage yards shall be located on ground not exceeding a slope of eight (8) percent that will provide good drainage. Low spots and poorly drained places shall be avoided.

#### **426 Treatment Centers/Clinics, Medical Offices, and Health Facilities**

In addition to all other applicable standards, treatment centers/clinics, medical offices, and health facilities including, but not limited to, hospital facilities and nursing and adult homes, whether publicly or privately operated, shall comply with the following:

##### **426.1 Waste Disposal**

Details shall be provided by the applicant about the types and amount of medical and hazardous waste anticipated to be generated at the facility and how such waste will be handled, stored and disposed of in accord with state and federal requirements.

##### **426.2 Treatment Centers/Clinics**

The following additional standards shall apply to treatment centers/clinics:

- A. In order to provide an adequate buffer area for adjoining private property owners the site shall contain a minimum of five (5) acres.
- B. The building and all secure areas shall not be less than two hundred (200) feet from any property line and the right-of-way line of any abutting public road, and five hundred (500) feet from any:
  1. Residence.
  2. Group care facility.
  3. Commercial enterprises catering primarily to persons under eighteen (18) years of age.
  4. Public or semi-public building or use.
  5. Public park or public recreation facility.
  6. Health facility.
  7. Any establishment that sells alcoholic beverages.
  8. Church or synagogue.
  9. Public or private school.
- C. A security plan shall be provided in accord with Section 405.15 of this Ordinance.
- D. A perimeter security fence, of a height and type determined by the Township, may be required.
- E. Methadone treatment facilities, as defined by Section 621(d) of the Pennsylvania Municipalities Planning Code, shall, in addition to the other requirements of this Section 426, comply with the requirements of Section 621 of the Pennsylvania Municipalities Planning Code.

#### **427 Race Tracks**

In addition to all other applicable standards, racetracks shall comply with the following:

- A. All race tracks for motor driven vehicles, including but not limited to automobiles, trucks, go-carts, motorcycles, motor scooters, dune buggies, water craft, and the like, shall be located not less than one (1) mile from any RD District.
- B. The track/course shall not be less than one thousand five hundred (1,500) feet from any property line or public road right-of-way, and buffers shall be required to minimize noise and visual impact.
- C. All service and repair activities shall be conducted within a completely enclosed building where adequate measures shall be taken to minimize motor noise, fumes, and glare; except that minor servicing such as changing tires, sale of gasoline or oil, windshield washing and other similar normal activities may be conducted outside the said building.
- D. No area on the lot which is required for the movement of vehicles in and about the buildings and facilities shall be used for complying with the off-street parking requirements of this Ordinance.
- E. All new or used tires and parts shall be stored within a completely enclosed building or area contained by a solid fence to provide screening. Used tires and parts shall not be stored on the premises in excess of what would normally accumulate in a week of normal operation.
- F. Gasoline pumps and other service appliance may be located in the required front yard but shall not be situated closer than thirty (30) feet from the road or street right-of-way line. Any above ground storage tanks shall not be placed in the front setback area.
- G. No vehicles, supplies, parts, or any other material shall be stored in any required setback areas normally required for the District.
- H. All major repair, welding, auto body, painting and similar work shall be performed within a building with a fume collection and ventilation system that directs noxious fumes away from any adjacent buildings. All such systems shall meet all required state and federal health and safety standards.

#### **428 Wind Farms**

In addition to all other applicable standards in this Ordinance, the following regulations shall apply to wind farms: (Note: See definition of wind farm which excludes accessory windmills.)

##### **428.1 Purposes**

- A. To accommodate the need for wind farms while regulating their location and number in the Township in recognition of the need to protect the public health, safety and welfare.
- B. To avoid potential damage to adjacent properties from windmill structure failure and falling ice, through engineering and proper siting of such structures.

##### **428.2 Permits; Use Regulations**

- A. Permits - A permit shall be required for every wind farm and windmill installed at any location in the Township.
- B. Associated Use - All other uses ancillary to the wind farm (including a business office, maintenance depot, etc., greater than 1,000 sq. ft.) are prohibited from the wind farm, unless otherwise permitted in the zoning district in which the wind farm is located. This shall not prohibit the installation as accessory structures of equipment containers not intended for human occupancy to house only equipment necessary for the operation of the wind farm.

- C. Wind Farm as a Second Principal Use - A wind farm shall be permitted on a property with an existing use subject to the following land development standards:
1. The minimum lot area, minimum setbacks and maximum height required by this Ordinance for the wind farm and windmills shall apply, and the land remaining for accommodation of the existing principal use(s) on the lot shall also continue to comply with the minimum lot area, density and other requirements.
  2. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
  3. The applicant shall present documentation that the owner of the property has granted an easement or other legal interest for the land for the proposed facility and that vehicular access is provided to the facility.

### 428.3 Standards

- A. Wind Farm Height - The applicant shall demonstrate that the windmills are at the minimum height required to function satisfactorily. No windmill that is taller than this minimum height shall be approved.
- B. Parcel Size; Setbacks
1. Separate Parcel - If the parcel on which the wind farm is a separate and distinct parcel, the zoning district minimum lot size shall apply and in all cases, the lot shall be of such size that all required setbacks are satisfied. No windmill shall be located closer to any property line than its height plus the normal setback for the district. The setback for equipment containers, other accessory structures and guy wire anchors shall be a minimum of thirty (30) feet.
  2. Lease, License or Easement - If the land on which the wind farm is leased, or is used by license or easement, the setback for any windmill, the support structure, equipment containers, other accessory structures, and guy wire anchors shall be a minimum of thirty (30) feet from the line of lease, license or easement. In any case, no windmill shall be located closer to any property line (not lease, license or easement line) than its height plus the normal setback for the district.
  3. Principal Structures - No windmill shall be located less than one thousand (1,000) feet from any principal residential structure existing prior to the erection of the windmill.
- C. Wind Farm Support Structure Safety - The applicant shall demonstrate that the proposed windmills are safe and the surrounding areas will not be negatively affected by structure failure, falling ice or other debris, electromagnetic fields, or radio frequency interference. All windmills shall be fitted with anti-climbing devices, as approved by manufacturers. The applicant shall submit certification from a Pennsylvania registered professional engineer that a proposed Wind farm and support structure will be designed and constructed in accord with accepted engineering practices and all requirements of any applicable construction code. Within forty-five (45) days of initial operation, the owner and/or operator of the wind farm shall provide a certification from a Pennsylvania registered professional engineer that the wind farm and all structures comply with all applicable regulations.
- D. Fencing - A fence may be required around windmills and other equipment, unless the design of the structures adequately provides for safety.
- E. Landscaping - Landscaping may be required to screen as much of the wind farm ground features as possible, the fence surrounding the support structure, and any other ground level features (such as a building), and in general buffer the wind farm ground features from neighboring properties. The Township may permit any combination of existing

- vegetation, topography, walls, decorative fences or other features instead of landscaping, if the same achieves the same degree of screening as the required landscaping.
- F. Licenses; Other Regulations; Insurance - The applicant must demonstrate that it has obtained the required licenses from governing state and federal agencies. The applicant shall also document compliance with all applicable state and federal regulations. The applicant shall submit the name, address and emergency telephone number for the operator of the Wind farm; and a Certificate of Insurance evidencing general liability coverage in the minimum amount of \$1,000,000 per occurrence and property damage coverage in the minimum amount of \$1,000,000 per occurrence covering the wind farm.
- G. Access; Required Parking - Access to the wind farm shall be provided by means of a public street or easement to a public street. The easement shall be a minimum of twenty (20) feet in width and shall be improved to a width of at least ten (10) feet with a dust-free, all weather surface for its entire length. If the wind farm site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, the number of required parking spaces shall equal the number of people on the largest shift.
- H. Color and Lighting; FAA and PA DOT Notice - Windmills shall comply with all applicable Federal Aviation Administration (FAA) and PA DOT Bureau of Aviation regulations. No windmill may be artificially lighted except as required by FAA requirements. The applicant shall provide a copy of the response to Notice of Proposed Construction or Alteration forms submitted to the FAA and PA DOT Bureau of Aviation.
- I. Communications Interference - The applicant shall document that the radio, television, telephone or reception of similar signals for nearby properties will not be disturbed or diminished, and this shall be accomplished by remedial measures instituted by the wind farm developer.
- J. Historic Structures - A wind farm shall not be located within five-hundred (500) feet of any structure listed on any public historic register.
- K. Discontinued Use - Should any wind farm or windmill cease to be used, the owner or operator or then owner of the land on which the wind farm or windmill is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Township to remove the facility and assess the cost of removal to the foregoing parties. The Township may also file a municipal lien against the land to recover the costs of removal and attorney's fees. In addition, at the time of zoning permit issuance for any windmill, the Township shall require a financial guarantee, in a term, form and amount determined by the Board of Supervisors with the advice of the Township Solicitor, to guarantee the removal of the windmill.
- L. Site Plan - A full site plan shall be required for all wind farm sites, showing the wind farm, windmills, building, fencing, buffering, access, and all other items required for conditional uses by this Ordinance.

#### **429 Traffic Impact Study (TIS)**

Traffic impact studies are required for certain activities to enable the Township to assess the effect on the transportation system in and around the Township and to:

- A. Ensure that proposed uses do not adversely affect the transportation network.
- B. Identify any traffic problems associated with site access.
- C. Determine traffic problems on private, Township, or State roads in the project traffic study area.
- D. Assist in the protection of the safety of the motoring public, air quality, and energy conservation.

**429.1 TIS Requirement** (This Section 429 shall not apply to agricultural operations which are not concentrated animal feeding operations.)

- A. Thresholds - A TIS shall be required for all proposals that are projected to generate one hundred fifty (150) or more trip-ends per project peak hour or one thousand five hundred (1,500) trip-ends or more per day based on the latest edition of Trip Generation published by the Institute of Transportation Engineers. A TIS shall also be required for additions to a use, changes of use and replacements of nonconforming uses that increase the total traffic (i.e., existing plus new traffic) above the peak hour or daily thresholds.
- B. Other Projects - The Board of Supervisors, Planning Commission, or Zoning Hearing Board, as the case may be, may also, based upon the nature of a project and potential impacts on the Township, require the developer to prepare and submit to the Township a TIS for the following types of developments and uses:
  - 1. Industrial parks
  - 2. Light manufacturing or manufacturing or industrial uses
  - 3. Junkyards
  - 4. Mineral extraction
  - 5. Mineral processing
  - 6. Agricultural products processing
  - 7. Solid waste facilities and staging areas
  - 8. Warehouses and trucking terminals
  - 9. Concentrated animal feeding operations
  - 10. Any use involving the initial or cumulative disturbance of 87,120 or more square feet of soil surface areas
  - 11. Any use involving the initial or cumulative construction, installation and/or placement of 43,560 square feet or more of buildings, structures or other impervious surface areas
  - 12. Any use involving development in any flood plain area

The requirements of this Section 429 may be applied to any other proposed conditional use or special exception, which for reasons of location, design, existing traffic or other community or environmental considerations, as determined by the Township, warrants the application of the study required contained herein in order to determine what conditions should be required to mitigate any adverse effects of the proposed use. The Board of Supervisors, Planning Commission, or Zoning Hearing Board, as the case may be, may waive certain components of the TIS should such components be deemed unnecessary for certain uses.

#### **429.2 Professional Requirements**

The TIS shall be prepared by a registered professional traffic engineer or transportation planner with verifiable experience in preparing such studies.

#### **429.3 Study Methodology and Area**

- A. Methodology - The TIS shall be in accord with the Institute of Transportation Engineers recommended Methodology and Pennsylvania Department of Transportation Guidelines.
- B. Study Area - The study area for the traffic study shall be based on engineering criteria and an understanding of existing traffic conditions at the site. It shall represent that area likely to be affected by the development, where highway users are likely to experience a change in the existing level of service. The study limits shall be initially agreed upon by the developer, his engineer and the Township's Engineer. The study area shall be

specifically subject to the approval of the Township with the advice of the Township Engineer and/or a qualified traffic engineer.

#### 429.4 Study Contents

The TIS shall contain the following elements:

- A. The study area boundary and identification of the roadways included within the study area.
- B. A general site description, including:
  1. Size, location, existing and proposed land uses and dwelling types, construction staging, and completion date for the proposed project.
  2. Existing land uses, approved and recorded subdivision and land developments, and subdivisions and land developments proposed but not yet approved and recorded in the study area that are agreed upon by the developer, his traffic engineer, and the Township's Engineer, as having bearing on the development's likely impact.
  3. Within the study area, a description of existing roadways and intersections (geometrics and traffic signal control) as well as improvements contemplated by government agencies or private parties.
- C. An analysis of existing conditions, including:
  1. Daily and Peak Hour(s) Traffic Volumes - Schematic diagrams depicting daily and peak hour(s) traffic volumes shall be presented for roadways within the study area. Turning movement and mainline volumes shall be presented for the three (3) peak hour conditions (AM, PM and site generated). However, only mainline volumes are required to reflect daily traffic volumes. The source and/or method of computation for all traffic volumes shall be included.
  2. Level of Service at Critical Points - Levels of service (A through F) for each lane group (not overall average) shall be computed and presented along with a description of typical operating conditions at each level of service.
  3. Accident Locations - A tabulation of accident locations during the most recent three-year period.
- D. An analysis of future conditions without the proposed development. The future year(s) for which projections are made will be specified by the Township and will be dependent on the timing of the proposed development. The following information shall be included:
  1. Daily and Peak Hour(s) Traffic Volumes - This section shall clearly indicate the method and assumptions used to forecast future traffic volumes. Regardless of the methods and other assumptions used, no TIS shall assume less than two (2) percent per year growth in traffic levels without the proposed development unless there are particular limitations applicable to a given highway that prevent such growth from being realized (e.g., a dead-end road with no room for further development). Schematic diagrams depicting projected future daily and peak hour(s) traffic volumes shall be presented for the roadways within the study area. Projected turning movement and mainline volumes shall be presented for the three (3) peak hour conditions (AM, PM and site generated). The source and/or method of computation for all projected traffic volumes shall be included.
  2. Volume/Capacity Analyses at Critical Locations - The ability of the existing roadway system to accommodate future traffic (without site development) shall be described in this section. If roadway improvements or modifications are

- committed for implementation, the volume/capacity analysis shall be presented for these conditions.
3. Levels of Service at Critical Points - Levels of service (A through F) for each lane group (not overall average) shall be computed and presented along with a description of typical operating conditions at each level of service.
- E. Trip Generation - The amount of traffic generated by the site shall be presented in this section for daily and the three (3) peak hour conditions (AM, PM and site generated). The trip generation rates used in this phase of the analysis shall be justified and documented to the satisfaction of the Township. Trip Generation (latest edition) published by the Institute of Transportation Engineers shall be used unless the Township approves other studies.
- F. Trip Distribution - The direction of approach for site generated traffic shall be presented in this section for the appropriate time periods. As with all technical analysis steps, the basic method and assumptions used in this work shall be clearly stated in order that the Township can replicate these results.
- G. Traffic Assignment - This section shall describe the utilization of study area roadways by site generated traffic. The proposed traffic volumes shall then be combined with the projected future traffic volumes without the project to describe mainline and turning movement volumes for future conditions with the site developed as the applicant proposed.
- H. Analysis of Future Conditions with Development - This section shall describe the adequacy of the roadway system to accommodate future traffic with development of the site. Any unique characteristics of the site or within the study (i.e., holiday shopping) affecting traffic shall be considered. If staging of the proposed development is anticipated, analysis for each stage of completion shall be made. The following information shall be included:
1. Daily and Peak Hour(s) Traffic Volumes - Mainline and turning movement volumes shall be presented for the highway network in the study area as well as driveways for the appropriate time periods.
  2. Levels of Service at Critical Points - Levels of service (A through F) for each lane group (not overall average) shall be computed and presented along with a description of typical operating conditions at each level of service.
  3. Effect on Highway Structure - The probable effect on the structure of the highway network shall be presented, particularly any effects associated with heavy vehicles.
- I. Recommended Improvements - If the analysis indicates that unsatisfactory levels of service (levels of service D, E or F) as described in Highway Capacity Manual (Transportation Research Board Special Report 209 - 2000 or latest edition) will occur on study area roadways, a description of proposed improvements to remedy deficiencies shall be included in this section. Such proposals shall not include committed projects by the Township and State that have been described and analyzed as required above. The following information shall be included:
1. Proposed Recommended Improvements - Describe the location, nature and extent of proposed improvements to ensure sufficient roadway capacity. Accompanying this list of improvements shall be preliminary cost estimates.
  2. Signs - Specific recommendations shall be included for the placement of traffic control signs (e.g., stop signs, speed limit signs, no parking signs, etc.) conforming to state and Township regulations.

3. Levels of Service at Critical Points - Levels of service (A through F) for each lane group (not overall average) shall be computed and presented along with a description of typical operating conditions at each level of service for the highway system with improvements.
  4. Highway Structure Improvements - Describe the location, nature and extent of proposed improvements to ensure the structural integrity of the roadway. Accompanying this list of improvements shall be preliminary cost estimates.
- J. Conclusion - The last section of the report shall include a clear concise description of the study findings.
- K. Implementation - All traffic improvements or improved levels of service shall be incorporated into the subdivision plan and/or land development plan and implemented and installed at applicant's expense as permitted by law.

### **430 Group Homes**

Group homes shall be permitted in any lawful single-family dwelling unit, in compliance with the other applicable standards of this Ordinance, and the following:

#### **430.1 Definition**

See Article II.

#### **430.2 Supervision**

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

#### **430.3 Certification**

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

#### **430.4 Counseling**

Any medical or counseling services provided on the property shall be limited to residents of the group home.

#### **430.5 Parking**

One off-street parking space shall be provided for each employee on duty at any one time, and for every two (2) residents of a type reasonably expected to be capable of driving a vehicle.

#### **430.6 Appearance**

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

#### **430.7 Bulk and Density**

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

**430.8 Number of Residents**

The maximum number of persons who shall reside in a group home, including the maximum number of employees/supervisors and/or care providers who routinely spend the night in the group home at any point in time, shall not exceed eight (8) total persons.

**431 Environmental Impact Statement (EIS)**

The intent of this Section 431 is to provide the identification of environmental and community impacts and means of mitigation of impacts of development projects in the Township. An EIS shall be required for the following types of developments and uses: (This Section 431 shall not apply to agricultural operations which are not concentrated animal feeding operations.)

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

The requirements of this Section 431 shall be applied to any other proposed conditional use or special exception which for reasons of location, design, existing traffic or other community or environmental considerations as determined by the Township, warrants the application of the study required contained herein in order to determine what conditions will be required to mitigate any adverse effects of the proposed use. The Supervisors or Zoning Hearing Board, as the case may be, may waive certain components of the EIS if such components are deemed unnecessary for certain uses.

**431.1 Purpose of EIS**

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

**431.2 Contents of EIS**

An EIS shall include a description of the proposed use, including location relationship to other projects or proposals, with adequate data and detail for the Township to assess the environmental impact. The EIS shall also include a comprehensive description of the existing environment and the probable future effects of the proposal. The description shall focus on the elements of the environment most likely to be affected as well as potential regional effects and ecological interrelationships. At a minimum, the EIS shall include an analysis of the items listed below regarding the impact of the proposed use and the mitigation of any such impacts:

- A. Soil Types
  - 1. U.S.D.A. Soil Types (show on map).
  - 2. Permeability of soil on the site.
  - 3. Rate of percolation of water through the soil for each five acres.
- B. Surface Waters
  - 1. Distance of site from nearest surface water and head waters of streams.
  - 2. Sources of runoff water.
  - 3. Rate of runoff from the site.
  - 4. Destination of runoff water and method of controlling down stream effects.
  - 5. Chemical additives to runoff water on the site.
  - 6. Submission of an erosion and sediment control plan meeting the requirements of the PA DEP and the Wayne County Conservation District.
  - 7. Said information shall be set forth in a storm water management plan meeting the requirements of the Township's Subdivision and Land Development Ordinance.
- C. Ground Cover Including Vegetation and Animal Life
  - 1. Extent of existing impervious ground cover on the site.
  - 2. Extent of proposed impervious ground cover on the site.
  - 3. Type and extent of existing vegetative cover on the site.
  - 4. Extent of proposed vegetative cover on the site.
  - 5. Type of animal life and effect on habitat.
- D. Topographic and Geologic
  - 1. Maximum existing elevation of site.
  - 2. Minimum existing elevation of site.
  - 3. Maximum proposed elevation of site.
  - 4. Minimum proposed elevation of site.
  - 5. Description of the topography of the site and any special topographic features, and any proposed changes in topography.
  - 6. Surface and subsurface geology.
- E. Ground Water
  - 1. Average depth to seasonal high water table.
  - 2. Minimum depth to water table on site.
  - 3. Maximum depth to water table on site.
  - 4. Quality.
- F. Water Supply
  - 1. The source and adequacy of water to be provided to the site.
  - 2. The expected water requirements (g.p.d.) for the site.
  - 3. The uses to which water will be put.
- G. Sewage Disposal
  - 1. Sewage disposal system (description and location).
  - 2. Expected content of the sewage effluent (human waste, pesticides, detergents, oils, heavy metals, other chemical).
  - 3. Expected daily volumes of sewage.
  - 4. Affected sewage treatment plant's present capacity and authorized capacity.
- H. Solid Waste
  - 1. Estimated quantity of solid waste to be developed on the site during and after construction.
  - 2. Method of disposal of solid waste during and after construction.
  - 3. Plans for recycling of solid waste during and after construction.
- I. Air Quality
  - 1. Expected changes in air quality due to activities at the site during and after construction.

2. Plans for control of emissions affecting air quality.
- J. Noise
1. Source and magnitude of noise levels expected to be generated at the site during and after construction.
  2. Proposed method for control of additional noise on site during and after construction.
- K. Land and Water Surface Use and Community Character
1. Past and present use of the site with particular attention to storage or disposal of toxic or hazardous waste.
  2. Adjoining land uses and character of the area.
  3. Type and concentration of existing water craft uses.
- L. Critical Impact Areas - Any area, condition, or feature which is environmentally sensitive, or which, if disturbed during construction, would adversely affect the environment. Critical impact areas include, but are not limited to, stream corridors, streams, wetlands, slopes greater than 15%, highly acid or highly erodible soils, areas of high water table, and mature stands of native vegetation and aquifer recharge and discharge areas.
- M. Historic Resources - Identification of structures or sites of historic significance and probable effect of the project.
- N. Transportation Network - Existing network traffic volumes and capacities and need for improvements required by the project.
- O. Law Enforcement - Existing law enforcement capabilities of the Township and State; and assess the impact of the proposed development on said law enforcement agencies along with actions proposed to mitigate any burdens created by the development.
- P. Community Facilities and Services - Existing community facilities and services and how the proposed use will affect those facilities and services, including projected needs for additional facilities and services.
- Q. Economic and Social Impacts - The local economy and social structure and how the proposed use is likely to affect them.
- R. Additional Requirements - In addition to the above requirements, the Board of Supervisors or the Zoning Hearing Board may require such other information as may be reasonably necessary for the Township to evaluate the proposed use for its affect on the community.

### **431.3 Additional Considerations**

The following shall also be addressed:

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

### **431.4 Qualifications**

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

**431.5 Procedures for Evaluating the EIS**

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

**ARTICLE V-NON-CONFORMING USES AND STRUCTURES**

It is the purpose of this Section to limit the injurious impact of non-conforming uses, lots and structures on other adjacent properties within a particular district and the community as a whole, while recognizing that alterations, continuations and extensions of non-conforming uses and/or structures may not be contrary to the public interest or the general purpose of this Zoning Ordinance, when failure to allow such alteration, continuation or extension would itself lead to neighborhood or district deterioration. It is further the purpose of this Section to set forth those standards which are to be applied by the Township in determining the reasonableness of proposals to alter, continue or extend a non-conforming use and to establish when Township review and approval shall be required for such actions. The following are regulations which shall apply to the alteration, continuation or extension of non-conforming uses:

**501 Normal Maintenance and Repair Activities**

Normal maintenance and repair activities, such as painting, replacing a roof or fixing gutters, shall be permitted, as well as alterations (i.e. adding or removing windows) and interior renovations that do not structurally alter structures.

**502 Outside Storage or Display of Retail or Wholesale Inventory**

The outside storage or display of retail or wholesale inventory which, in the ordinary course of business would be sold within one year, and increases in the same shall be permitted, junk yards excepted, provided they do not eliminate parking spaces, unoccupied open spaces or accessed which are required by this Ordinance. Notwithstanding this provision, however, the Township Board of Supervisors, in reviewing any conditional use application for expansion or upon determining, with respect to any present use, that a condition exists which requires remedies, may establish limits on such storage or display or require removal of inventory (altogether or to another location on the site) to preserve adequate sight distances and residential buffers or otherwise protect the public health, safety and welfare.

**503 Changes and Additions**

All changes and additions to non-conforming uses, excepting those identified in Sections 501 and 502 above and accessory uses, shall be considered conditional uses, and permits for alterations, changes in use or additions shall be granted only after a determination by the Township Supervisors that the following conditions have been, or will be, satisfied.

**503.1 Storage of Materials**

There shall be no expansion in the land area outside a non-conforming facility which is used for storage of materials, supplies and/or products, excepting with respect to those types of uses outlined in Section 502 above and Section 503.2 below.

**503.2 Screening**

Where the non-conforming activity is one which necessarily results in the storage of large quantities of material, supplies or products outside (such as a wood products manufacturer), the use may only be expanded if a solid fence of wood and/or a dense evergreen screen, not less than six (6) feet in height, is present on all sides of the immediate area in use. Stored material shall not exceed the height of the screening material and nine (9) feet at the maximum.

**503.3 Yards and Setbacks**

No addition, change or expansion of a non-conforming use shall further violate setback and/or height regulations of the district in which it is located.

**503.4 Storm Water**

There shall be no increase in the amount of storm water runoff for the site over what was existing as of the date of the enactment of this Ordinance. The U.S.D.A. Natural Resources Conservation Service, a Professional Engineer or other appropriate professional may be relied on to recommend appropriate measures to control storm water runoff which may be attached as conditions of approval by the Township.

**503.5 Parking and Traffic**

In no case will a change, addition or expansion of non-conforming use be allowed which would result in the diversion of traffic, or relocation of a driveway on the site to any point nearer a residence should one be located within 100 feet of the property line, or result in violation of any of the parking and unloading requirements of this Ordinance. If the total number of parking spaces for the site is to be increased more than 25% over those available as of the date of this Ordinance, the Township may require vegetative screening of the parking area from nearby residential areas.

**503.6 Extension Onto Other Properties**

The use may only be expanded or extended onto another property of record if; that property is immediately adjacent to the lot on which the original structure or use was located as of the effective date of this Ordinance or amendments hereto; the use is not one which has been altogether prohibited as a new use under this Ordinance; the owner has clearly exhausted the alternatives available for expansion on the existing property and the owner has combined the affected properties into one larger lot and recorded a new deed for the same.

**503.7 Prohibited Expansions**

Should the use proposed for expansion or extension be one which is specifically prohibited as a new use in the Township or is a use judged by the Board of Supervisors with the advice of the Planning Commission to be one similar to such a use or of such a nature as to impose health,

safety or welfare concerns which cannot be satisfied by the imposition of the conditions permitted under this Ordinance, the requested expansion or extension shall be denied.

#### **504 Re-establishment**

A non-conforming structure use may be re-established within a period of twelve (12) months after it has been discontinued or vacated, with an extension in time allowable where proven necessary.

#### **505 Restoration or Reconstruction**

If less than 75% of the floor area of any non-conforming use is damaged, it may be restored or reconstructed within twelve (12) months of the date of the damage, with an extension in time allowable where proven necessary. If more than 75% is affected then the replacement or reconstruction shall be permitted by conditional use permit.

#### **506 Existing Lots of Record**

A structure may be erected on any existing lot of record, providing the owner does not own adjoining property; no yard is reduced to less than fifty (50) percent of the requirements for the district in which it is located; and a sewage permit can be properly issued. This does not exempt the owner from meeting all other requirements that may occur as a result of this or any other relevant ordinance.

### **ARTICLE VI - ADMINISTRATION**

#### **601 Zoning Officer**

It shall be the duty of a Zoning Officer, to be appointed by the Board of Supervisors, to enforce the provisions of this Ordinance. The Zoning Officer shall examine all applications for permits, issue permits for construction and uses which are in accordance with the requirements of this Ordinance, record and file all applications for permits with accompanying plans and documents and make such reports as the Board of Supervisors may require. Permits for construction and uses which are conditional uses shall be issued only upon written order of the Planning Commission and the Board of Supervisors. Permits for construction and uses which are a special exception or a variance to requirements of this Ordinance shall be issued only upon written order of the Zoning Hearing Board. The Zoning Officer shall administer this Ordinance in accordance with its literal terms and shall not have the power to permit any construction or any use or change of use which does not conform to this Ordinance.

#### **602 Permits**

##### **602.1 Requirements of Permits.**

A building and/or zoning permit shall be required prior to the erection, addition, or alteration of any structure or portion thereof (including accessory structures of 100 square feet or more in size) including in-ground swimming pools; prior to the use or change in use of a structure or land; and prior to the change or extension of a non-conforming use, accessory uses excluded as provided herein for other uses. It shall be unlawful for any person to commence work for the land use until

a permit has been duly issued therefore. No zoning permit and/or building permit shall be required in cases of normal maintenance activities (painting, replacement of siding or new roofing), minor repairs or alterations which do not structurally change a structure, or change the use. Accessory uses, not involving new construction, fences, and structures which are less than 100 square feet in size (and portable) shall also be exempt from obtaining a zoning permit. In the case of accessory uses and structure attachments, however, this shall not exempt one from otherwise conforming with the requirements of this Ordinance.

#### **602.2 Applications for Permits.**

All applications for permits shall be accompanied by a plot sketch in duplicate, drawn at scale to show the actual shape and dimensions of the lot to be built upon, the exact size and location of any structures existing on the lot, the lines within which the proposed structure shall be erected or altered, the existing and intended use of each structure or part of a structure, the number of families or dwelling units the structure is designed to accommodate and such information as may be necessary to determine compliance with this Ordinance and all other pertinent ordinances. All applications with accompanying plans and documents shall become a public record after a permit is issued or denied. Applications for uses which also necessitate approvals under the Damascus Township Subdivision and Land Development Ordinance or Damascus Township Subdivision Regulations shall be processed in the manner provided for plat approval in the Development Ordinance. Such applications shall also contain all information or data normally required for a submission under the Damascus Township Subdivision and Land Development Ordinance. A zoning permit shall not be issued until the proposed use has been granted a Preliminary Approval under the Damascus Township Subdivision and Land Development Ordinance.

#### **602.3 Issuance of Permits.**

No permit shall be issued until the Zoning Officer has certified that the proposed structure, addition or alteration, complies with all the provisions of this Ordinance as well as with all the provisions of other applicable regulations. Within ninety (90) days of receiving a proper and complete application for a principal permitted or accessory use (permitted by right), the Zoning Officer shall either 1) issue the permit under this Ordinance; or, 2) deny the permit, citing from the Ordinance at least one (1) applicable reason in writing to the applicant or his/her representative. A permit issued hereunder shall become void eighteen (18) months after the issuance date if no activity has taken place.

#### **602.4 Temporary Permit.**

A temporary permit may be authorized by the Board of Supervisors for a non-conforming structure or use which it deems necessary to promote the proper development of the community, provided that such non-conforming structure or use shall be completely removed upon expiration of the permit for a specified period of time not to exceed one (1) year and may be renewed annually for an aggregate period not exceeding three (3) years

#### **603 Fees**

The board of Supervisors shall establish a uniform schedule of fees, charges and expenses, as well as a collection procedure for zoning permits, special permits, variances and other matters pertaining to this Ordinance. Such fees may be waived by the Board of Supervisors for good cause. Said schedule of fees shall be posted in the office of the Zoning Officer.

Permits, special exceptions and variances shall be issued only after fees have been paid in full, and the Zoning Hearing Board shall take no action on appeals until preliminary charges have

been paid in full. Structures destroyed by natural causes may have the permit fee waved, upon request to the supervisors, but the issuance of a permit is still required prior to reconstruction.

## **604 Inspection**

### **604.1 Inspection by the Zoning Officer.**

It shall be the duty of the Zoning Officer, or his duly appointed representative, to make the following minimum number of inspections on property for which a permit has been issued:

- A. At the beginning of construction: A record shall be made indicating the time and date of the inspection and the finding of the Zoning Office in regard to conformance of the construction with plans submitted with the application for the structure. If the actual construction does not conform to the application, a written notice of the violation shall be issued by the Zoning Officer, and such violation shall be discontinued. Upon proper correction of the violation and receipt of written notice from the Zoning Officer, construction shall proceed.
- B. At the completion of construction: A record shall be made indicating the time and date of the inspection and the findings of the Zoning Officer in regard to the issuance of Certificate of Use Permit.

## **605 Certificate of Use**

### **605.1**

A Certificate of Use shall be a statement issued by the Zoning Officer setting forth either that a structure or parcel of land complies with the provisions of this Ordinance; or that a structure lawfully may be employed for specified uses under the provisions of this Ordinance, or both.

### **605.2**

No vacant land shall be occupied or used, and no structure or part of a structure, hereafter erected, structurally altered or changed in use shall be occupied or used, until a Certificate of Use shall have been issued therefore by the Zoning Officer.

### **605.3**

A Certificate of Use, either for the whole or part of a new structure or for the alteration of an existing structure, shall be applied for co-incidentally with the application for a building permit, and shall be issued within fifteen (15) days after the erection or alteration of such structure or part shall have been completed in conformity with the provisions of this Ordinance.

### **605.4**

A Certificate of Use for the use or occupancy of vacant land or for a change in the use of land, or for a change in the use of an existing structure, shall be applied for and issued before any such land shall be occupied or used or such land or structure changed in use, and such Certificate shall be issued within fifteen (15) days after application has been made, provided such proposed use is in conformity with the provisions of this Ordinance.

### **605.5**

A Certificate of Use for changing or extending a non-conforming use, existing at the time of the passage of this Ordinance or of an amendment thereto, shall be applied for and issued before any such non-conforming use shall be changed or extended. Such Certificate shall be issued within

fifteen (15) days after application has been made, provided such proposed change or extension is in conformity with the provisions of this Ordinance.

#### **605.6**

A record of all Certificates of Use shall be kept on file in the administrative offices of the Township and a copy shall be furnished on request to any person having a proprietary or tenancy interest in the structure or land affected.

#### **606 Violations**

Failure to comply with any provision of this Ordinance, failure to secure or comply with a decision of the Board of Supervisors of Zoning Hearing Board or the failure to secure a permit, when required, prior to or (when ordered) after the erection, construction, extension, or addition to a structure or prior to or after the use or change of use of land; or failure to secure a Certificate of Use Permit, shall be violations of this Ordinance. When written notice of a violation of any of the provisions of this Ordinance has been served by the Zoning Officer on the owner, occupant and/or contractor, such violation shall be discontinued immediately.

#### **607 Penalties and Remedies**

It shall be unlawful to erect, construct, reconstruct, alter and maintain or use any structure or to use any land in violation of any provisions of this Ordinance or amendment thereto. Any person, partnership or corporation who or which shall violate any of the provisions of this zoning ordinance or prior enabling laws shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, be sentenced to pay a fine of not more than five hundred (\$500) dollars plus all court cost, including reasonable attorney fees incurred by the Township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays, nor timely appeals the judgment, the Township may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless, the district justice determining that there has been a violation, further determines that there was a good faith basis for the person, partnership or corporation violating this Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of a violation by the district justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the Township whose Ordinance has been violated.

In case any structure, or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any ordinance the Board of Supervisors or, with the approval of the Board of Supervisors, an officer of the Township, in addition to other remedies, may institute in the name of the Township any appropriate action or proceeding to prevent, restrain, correct, or abate such structure, or land, or to prevent in or about such premises, any act, conduct, business or use constituting a violation.

#### **608 Conditional Uses and Special Exceptions**

##### **608.1 Applications**

Applications for conditional uses and special exceptions shall, at a minimum, include the information required in Section 608.6. The Township Planning Commission, Board of Supervisors, or the Zoning Hearing Board shall require any other information deemed necessary for the review of the proposal.

### **608.2 Conditional Uses**

Uses specified as conditional uses shall be permitted only after review and approval pursuant to the express standards as provided for specific conditional uses in this Ordinance and in Section 608.4 and any other applicable standards in this Ordinance.

- A. Expansions - Expansions or additions to uses classified as conditional uses shall also be considered conditional uses. The addition of an accessory structure shall not be considered a conditional use.
- B. Procedure
  1. Submission - The applicant shall submit the application as follows:
    - a. Five (5) complete copies of any required plan shall be submitted to the Zoning Officer.
    - b. The Zoning Officer shall refuse to accept an incomplete application which does not provide sufficient information to determine compliance with this Ordinance.
  2. Distribution - The Zoning Officer shall distribute copies of the site plan to the Planning Commission and the Board of Supervisors. A minimum of one (1) copy shall be retained in the Township files. The Township Fire Company should be given an opportunity for a review, if deemed appropriate by the Zoning Officer.
  3. Zoning Officer Review - The Zoning Officer shall report in writing or in person to the Planning Commission or the Board of Supervisors stating whether the proposal complies with this Ordinance. The Zoning Officer may request a review by the Township Engineer.
  4. Planning Commission - The Planning Commission shall review the conditional use application and submit a recommendation to the Board of Supervisors. The Planning Commission shall make its recommendation to the Board of Supervisors in writing with respect to compliance with all applicable standards and criteria, and the recommendation shall include any proposed conditions to be attached to the application should approval be recommended.
  5. Board of Supervisors Action
    - a. Prior to rendering a decision, the Board of Supervisors shall conduct a public hearing, as defined in Article II of this Ordinance, on the application. Such hearing shall be conducted pursuant to public notice within sixty (60) days from the date of the applicant's request for a hearing.
    - b. The Board of Supervisors shall render a written decision or, when no decision is called for, make written findings on the conditional use application within forty-five (45) days after the last hearing before the Board of Supervisors. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provision of the PA Municipalities Planning Code 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 light of the facts found.

- c. Where the Board of Supervisors fails to render the decision within the period required by this subsection or fails to hold the required hearing within sixty (60) days from the date the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the public record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of the decision within ten (10) days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this Ordinance. If the Board shall fail to provide such notice, the applicant may do so.
- d. In granting a conditional use, the Board of Supervisors may attach such reasonable conditions and safeguards (in addition to those expressed in this Ordinance) as it determines are necessary to implement the purposes of the PA Municipalities Planning Code and this Ordinance, and to protect the public health, safety and welfare.
- e. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. A copy of the final decision, or where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him no later than the day following its date.

### **608.3 Special Exceptions**

Uses specified as special exceptions shall be permitted only after review and approval by the Township Zoning Hearing Board pursuant to the express standards as provided for specific special exceptions in this Ordinance and in Section 608.4.

- A. Expansions - Expansions or additions to uses classified as special exceptions shall also be considered special exceptions. The addition of an accessory structure shall not be considered a special exception.
- B. Procedure
  - 1. All applicants for a special exception use shall submit five (5) sets of plans for the proposed use to the Zoning Officer together with a written application. Photographs of the existing site or buildings may also be requested to be presented by the applicant.
  - 2. All plans shall contain the information required in Section 608.6.
  - 3. Township Procedures.
    - a. The Zoning Officer shall forward the application to the Zoning Hearing Board, the Planning Commission and the Zoning Hearing Board solicitor. A minimum of one (1) copy shall be retained in the Township files.
    - b. The Zoning Officer shall, prior to the next Zoning Hearing Board meeting where the application will be discussed, review the Plan to determine compliance with this Ordinance and report these findings to the Zoning Hearing Board.
  - 4. Planning Commission Review of Special Exception Uses.
    - a. The Planning Commission shall be provided with an opportunity to review any proposed special exception use at a regular meeting prior to a decision by the Zoning Hearing Board. The Commission, at its option, may provide a written advisory review.

- b. If such review is not received within the time limit within which the Board must issue a decision, or within thirty (30) days of such application being sent to the Planning Commission, then the Board may make a decision without having received comments from the Planning Commission.
5. Zoning Hearing Board Action on Special Exception Uses.
- a. The Board shall hear and decide such request for a special exception use under the procedures of this Ordinance and the State Planning Code.
  - b. The Board shall schedule the first hearing within sixty (60) days of submission of a proper application, unless granted a written extension by the applicant. The Board shall issue a decision within forty-five (45) days after the conclusion of the final hearing on the matter.
  - c. The decision of the Board shall be in writing and shall be communicated to the applicant or their representative in accordance with this Ordinance.

#### **608.4 Standards and Criteria**

The standards and criteria applied to conditional uses and special exceptions are intended to ensure that the proposed use will be in harmony with the purposes, goals, objectives and standards of this Ordinance and other ordinances of the Township. In addition to the applicable general provisions of this Ordinance and to the standards provided in this Ordinance for specific conditional uses and special exceptions, the following standards and criteria shall be applied in the review of applications for conditional uses and special exceptions.

- A. The proposed use shall be in harmony with the purposes, goals, objectives and standards of the Township Comprehensive Plan, this Ordinance and all other ordinances of the Township.
- B. The proposal shall also be evaluated as to the degree to which the proposed location may be particularly suitable or unsuitable for the proposed use in terms of the physical characteristics of the site.
- C. The proposed use at the proposed location shall not result in a substantial or undue adverse effect on adjacent property, the character of the neighborhood, traffic conditions, parking, public improvements, public sites or rights-of-way, adjacent property values, or other matters affecting the public health, safety, and general welfare, either as they now exist or as they may in the future be developed as a result of the implementation of this Ordinance, or any other plan, program, map or ordinance of the Township or other government agency having jurisdiction to guide growth and development.
- D. The proposed use shall not impose an undue burden on any of the improvements, facilities, utilities, and services of the Township, whether such services are provided by the Township or some other entity. The applicant shall be wholly responsible for providing such improvements, facilities, utilities, or services as may be required to adequately serve the proposed use when the same are not available or are inadequate to serve the proposed use in the proposed location. As part of the application and as a condition of approval of the proposed use the applicant shall be responsible for establishing ability, willingness and binding commitment to provide such improvements, facilities, utilities and services in sufficient time and in a manner consistent with this and other ordinances of the Township. The permit approval shall be so conditioned.
- E. In reviewing an application, the following additional factors shall be considered:

1. Location, arrangement, size, design and general site compatibility of buildings, lighting and signs.
  2. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
  3. Location, arrangement, appearance and sufficiency of off-street parking and loading.
  4. Adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
  5. Adequacy of storm water and drainage facilities. Storm water leaving any site shall not exceed pre-development levels and facilities shall be designed to accommodate a 10-year storm or as may otherwise be required by any other applicable Township ordinance governing storm water, including the Township Storm Water Management Ordinance.
  6. Adequacy of water supply and sewage disposal facilities.
  7. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum retention of existing vegetation.
  8. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
  9. Special attention to the adequacy and impact of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- F. No application shall be approved unless it is found that, in addition to complying with each of the standards enumerated above, any of the applicable standards contained in this Ordinance shall be met. In instances where the supplemental standards contained herein do not adequately protect the general health, safety and welfare of parties effected, all conditions and safeguards deemed necessary by the Board to protect the general health, safety and welfare and implement the purposes of this Ordinance and the Pennsylvania Municipalities Planning Code shall be imposed as conditions of approval in accord with Section 912.1 or Section 913.2 of the Pennsylvania Municipalities Planning Code, as the case may be.

Conditions which might be imposed shall include (but not be limited to) provisions for additional parking, traffic control, submission of landscaping plans for screening, setbacks, special measures addressing sales period activities, environmental controls and other measures which mitigate any potential adverse impact the use may have on adjoining uses.

#### **608.5 Limitation of Approval**

Any conditional use approval granted by the Township Supervisors and any special exception approval granted by the Zoning Hearing Board shall expire one (1) year from the date such approval was granted if no building construction as approved has taken place or the use is not otherwise established as a functional and constructive activity prior to the expiration date. Upon such expiration, the said approval, and any permit issued subsequent thereto, shall be deemed null and void and the developer shall be required to submit another application for the same. The Board of Supervisors or Zoning Hearing Board as the case may be, however, may grant an extension of the time limitations, for good cause.

#### **608.6 Information Required**

- A. Documentation - The applicant shall supply the information required in this Section 608.6 and evidence regarding compliance with the express standards and criteria contained herein; and data or evidence may be accepted from protestants. Such evidence shall be evaluated relative to the injurious impact on the health, safety and welfare of the Township; and the proposed use shall be approved with appropriate conditions or denied based on said evaluation.
- B. Structures - In the case of an application involving the construction of any new structure or any addition to an existing structure, all of the information required in this Section 608.6 shall be provided by the applicant. However, the Planning Commission, Board of Supervisors, or the Zoning Hearing Board, as the case may be, may determine, as part of the review process, that certain information is not required for a particular application, and upon such determination, the specified information need not be provided by the applicant.
- C. Uses Not Involving Structures - In the case of an application which does not involve the construction of any new structure or any addition to an existing structure, a narrative providing details of the project shall be provided as required by this section. However, a plot plan shall not generally be required unless the Planning Commission, Board of Supervisors, or the Zoning Hearing Board, as the case may be, deems such plot plan necessary to evaluate and make a decision on the application. The Planning Commission, Board of Supervisors, or the Zoning Hearing Board, as the case may be, shall determine, as part of the review process, the type of information and level of detail of the plot plan if such plot plan is required.
- D. Information to be Included - In any case, Planning Commission, Board of Supervisors, or the Zoning Hearing Board, as the case may be, may require any other additional information or any level of detail deemed necessary to determine compliance with this Ordinance or to identify any impacts of the proposed use.
1. Names and address of the applicant, or appellant; and the name and address of the owner of the affected property
  2. A description of the existing and proposed use(s) of the property, including numbers of dwelling units, minimum square feet of proposed dwelling units and number of proposed business establishments, if any.
  3. A description of any proposed non-residential operations and storage in sufficient detail to indicate potential nuisances and hazards regarding noise, large truck traffic, glare, odors, dust, fire or toxic or explosive hazards or other significant public health and safety hazards.
  4. If a principal non-residential use is proposed within close proximity to dwellings, a description of hours of operation and proposed methods of storing garbage outdoors on-site.
  5. A listing of any specific sections of this Ordinances being appealed, with the reasons for any appeal and
  6. A plot plan legible in every detail and drawn to scale, and including the following information:
    - a. Name of the development.
    - b. Name and address of landowner and/or land developer. (if corporation give name of officers.)
    - c. Location map.
    - d. North arrow, true or magnetic.
    - e. Graphic scale.
    - f. Written scale.
    - g. Date plot plan was completed, with dates and identification of revisions.

- h. Names of adjacent property owners and tax map numbers, including those across adjacent roads.
- i. Proposed and existing street and lot layout including street names and right-of-way widths.
- j. Existing and proposed man-made and/or natural features:
  - 1. Water courses, lakes and wetlands (with names).
  - 2. Rock outcrops, ledges and stone fields.
  - 3. Buildings, structures, signs and setbacks required by the Zoning Ordinance.
  - 4. Approximate location of tree masses.
  - 5. Utility lines, wells and sewage system(s).
  - 6. Entrances, exits, access roads and parking areas including the number of spaces.
  - 7. Drainage and storm water management facilities.
  - 8. Plans for any required buffer planting
  - 9. Any and all other significant features.
- k. Location of permanent and seasonal high water table areas and 100 year flood zones.
- l. Tract boundaries accurately labeled.
- m. The total acreage of the tract and extent of the areas of the site to be disturbed and percentage lot coverage when the project is completed.
- n. Location and type of rights-of-way or other existing restrictive covenants which might affect the subdivision and/or development.
- o. A statement of the type of water supply and sewage disposal proposed.
- p. The present zoning district and major applicable lot requirements.

### **609 Zoning Hearing Board**

The Board of Supervisors shall appoint a Zoning Hearing Board, which shall have the number of members of such powers and authority as set forth in Article IX of the Pennsylvania Municipalities Planning Code as enacted or hereafter amended. The duties of the Zoning Hearing Board shall be limited to the following:

- A. The Board shall hear and decide appeals where it is alleged by the appellant that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of a valid ordinance or map or any valid rule or regulation governing the action of the Zoning Officer.
- B. The Board shall hear challenges to the validity of a Zoning Ordinance or map excepting cases where there has been an alleged defect in the process of enactment or adoption and where a landowner, on substantive grounds, desires to challenge the validity of an ordinance or map or any provision thereof which prohibits or restricts the use or development of land in which the landowner has an interest.
- C. The Board shall hear requests for variances where it is alleged that the provisions of the Zoning Ordinance inflict unnecessary hardship upon the applicant.
- D. The Board shall hear and decide requests for special exceptions pursuant to the criteria also applying to conditional uses and outlined in Section 608.
- E. The Board shall hear other appeals as provided by the Pennsylvania Municipalities Planning Code. In all its actions, the Zoning Hearing Board shall follow procedures as provided in Article IX and X-A of the Pennsylvania Municipalities Planning Code as amended. The Board may, pursuant to the Municipalities Planning Code, promulgate rules and regulations governing its proceedings.

**610 Appeals and Notices**

An appeal of this Ordinance, appeal of the decision of the Zoning Officer, request for special exception or request for variance shall be made in writing to the Chairman of the Zoning Hearing Board and shall state:

- A. The name and address of the applicant.
- B. The name and address of the owner of the real estate to be affected by such proposed special exception, or variance.
- C. A brief description and location of real estate to be affected by such proposed change.
- D. A statement of the present zoning classification of the real estate in question, the improvements thereon, and the present use thereof.
- E. A statement of the section of this Ordinance under which the variance, or special exception requested, may be allowed, and reasons why it should be granted.
- F. Any reasonably accurate description of the present improvements, and the additions intended to be made under this application, indicating the size of such proposed improvements, material, and general construction thereof. In addition, there shall be attached a plot plan drawn at an appropriate scale of the real estate to be affected, as required to accompany applications for structure permits indicating the location and size of the lot, and size of improvements now erected, and proposed to be erected thereon.

If the Zoning Hearing Board finds the appeal or request outside its scope of jurisdiction, it shall return the application for the same to the Zoning Officer for proper processing. Appeals shall otherwise be processed in conformance with the requirements of Article X-A of the Pennsylvania Municipalities Planning Code.

Notices, shall be required to be given by the petitioner, in the case of all variances, special exceptions, conditional uses, zoning changes, interpretations or other appeals, to all owners of property within 500 feet of the nearest line of the property for which the action is sought, and to such other property owners as the Chairman of the Zoning Hearing Board of Chairman of the Board of Supervisors may direct. Said notice is to be given by certified mail, return receipt requested, or by personal service to each and every owner.

**611 Variances**

The Zoning Hearing Board shall have the right to authorize such variances from this Ordinance as are permitted under the Pennsylvania Municipalities Planning Code. The Board may grant a variance provided the following findings are made where relevant in a given case:

- A. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that the unnecessary hardship is due to such conditions, and not their circumstances or conditions generally created by the provisions of the Zoning Ordinance in the neighborhood or district in which the property is located;
- B. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the Zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
- C. That such unnecessary hardship has not been created by the applicant.

- D. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property, nor to be detrimental to the public welfare; and
- E. That the variance, if authorized, will represent the minimum variance, that will afford relief and will represent the least modification possible of the regulation in issue.

In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of Article VI of the Pennsylvania Municipal Planning Code and the Zoning Ordinance.

### **612 Amendments**

The Board of Supervisors may amend the Zoning Ordinance by complying with the requirements set forth in Article VI of the Pennsylvania Municipalities Planning Code, as enacted or hereafter amended.

A landowner who desires to challenge on substantive grounds the validity of an ordinance or map or any provision thereof, which prohibits or restricts the use or development of land in which he has an interest may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided on as provided in 609.1, 609.2 and 916.1 of the Pennsylvania Municipalities Planning Code, as enacted and hereinafter amended.

### **613 Validity**

If any sections of this Ordinance shall be found to be invalid, the other sections of this Ordinance shall not be affected thereby.

## **ARTICLE VII-FLOOD PLAIN DEVELOPMENT STANDARDS**

### **701 General Provisions**

#### **701.1 Intent**

The intent of this Article is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.

#### **701.2 Applicability**

It shall be unlawful for any person, partnership, business or corporation to undertake, or cause to be undertaken, any construction or development anywhere within an identified floodplain area in the Township unless a permit has been issued by the Township in accord with this Article VII.

**701.3 Abrogation and Greater Restrictions**

This Article supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Article, the more restrictive shall apply.

**701.4 Warning and Disclaimer of Liability**

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur, Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain areas, or that land uses permitted within such areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the Township or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

**702 Administration****702.1 Permits Required; Special Exception in Floodway Areas**

Permits shall be required before any construction or development is undertaken within any identified floodplain area in the Township. Any development within a floodway shall be considered a special exception.

**702.2 Issuance of Permit**

- A. A permit shall be issued only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- B. Prior to the issuance of any permit, the Township shall review the application for the permit to determine if all other necessary government permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Pennsylvania Dam Safety and Encroachments Act (Act 1978-325, as amended); the Pennsylvania Clean Streams Act (Act 1937-394, as amended); and the U.S. Clean Water Act, Section 404, 33, U.S.C. 1344. No permit shall be issued until this determination has been made.
- C. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the Township, and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams, Waterways and Wetlands. In addition, the Federal Insurance Administrator and Pennsylvania Department of Community and Economic Development, shall be notified by the Township prior to any alteration or relocation of any watercourse.

**702.3 Application Procedures and Requirements**

- A. Applications for permits shall be made, in writing, to the Zoning Officer on forms supplied by the Township, and shall contain the following:
  1. Name and address of applicant.
  2. Name and address of owner of land on which proposed construction is to occur.
  3. Name and address of contractor.

4. Site location.
  5. Listing of other permits required.
  6. Brief description of proposed work and estimated cost.
  7. A plan of the site showing the exact size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, the applicant for a permits shall provide all the necessary information in sufficient detail and clarity to enable the Zoning Officer to determine that
1. all such proposals are consistent with the need to minimize flood damage and conform with the requirements of this and all other applicable codes and ordinances;
  2. all utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damage; and
  3. adequate drainage is provided so as to reduce exposure to flood hazards.
- C. Applicants shall file the following minimum information plus any other pertinent information as may be required by the Zoning Officer to make the above determination:
2. A completed Permit Application Form.
  3. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
    - a. north arrow, scale, and date;
    - b. topographic contour lines;
    - c. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
    - d. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
    - e. the location of all existing streets, drives, and other access ways; and
    - f. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water including direction and velocities.
  1. Plans of all proposed buildings, structures and other improvements, drawn at suitable scale showing the following:
    - a. the proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;
    - b. the elevation of the one hundred (100) year flood;
    - c. if available, information concerning flood depths, pressures, velocities, impact and uplift forces and other factors associated with a one hundred (100) year flood; and
    - d. detailed information concerning any proposed floodproofing measures.
- D. The following data and documentation:
1. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the pressures, velocities, impact and uplift forces associated with the one hundred (100) year flood. Such statement shall include a description of the type and extent of flood proofing measures which have been incorporated into the design of the structure and/or the development.

2. detailed information needed to determine compliance with Section 704.4, F, Storage, and Section 704.5, Development Which May Endanger Human Life, including:
  - a. the amount, location and purpose of any materials or substances referred to in Section 704.4, F, and Section 704.5, which are intended to be used, produced, stored or otherwise maintained on site.
  - b. a description of the safeguards incorporated into the design of the proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 704.5 during a one hundred (100) year flood.
  - c. the appropriate component of the Department of Environmental Protection's "Planning Module for Land Development."
3. where any excavation of grading is proposed, a plan meeting the requirements of the Department of Environmental Protection, to implement and maintain erosion and sedimentation control.

#### **702.4 Review by County Conservation District**

A copy of all applications and plans for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Township to the County Conservation District for review and comment prior to the issuance of a permit. The recommendations of the Conservation District shall be considered by the Township for possible incorporation into the proposed plan.

#### **702.5 Review of Application by Others**

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Township to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

#### **702.6 Changes**

After the issuance of a permit by the Township, no changes of any kind shall be made to the application, permit or any of the plans, specifications or other documents submitted with the application without the written consent or approval of the Township. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Zoning Officer for consideration.

### **703 Identification of Floodplain Areas**

#### **703.1 Identification**

The identified floodplain area shall be those areas of Damascus Township, Wayne County, Pennsylvania, which are subject to the one hundred (100) year flood, as identified in the Flood Insurance Study (FIS) dated September 30, 1988, and the accompanying maps prepared for the Township by the Federal Emergency Management Agency (FEMA), or the most recent revision thereof.

#### **703.2 Description of Floodplain Areas**

The identified floodplain area shall consist of the following specific areas:

- A. FW (Floodway Area) - the areas identified as "Floodway" in the AE Zone in the Flood Insurance Study prepared by the FEMA. The term shall also include floodway areas

- which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study.
- B. FF (Flood-Fringe Area) - the remaining portions of the one hundred (100) year floodplain in those areas identified as an AE Zone in the Flood Insurance Study, where a floodway has been delineated. The basis for the outermost boundary of this area shall be the one hundred (100) year flood elevations as shown in the flood profiles contained in the Flood Insurance Study.
  - C. FA (General Floodplain Area) - the areas identified as Zone A in the FIS for which no one hundred (100) year flood elevations have been provided. When available, information from other Federal, State, and other acceptable sources shall be used to determine the one hundred (100) year elevation, as well as a floodway area, if possible. When no other information is available, the one hundred (100) year elevation shall be determined by using a point on the boundary of the identified floodplain area which is nearest the construction site in question.

In lieu of the above, the municipality may require the applicant to determine the elevation with hydrologic and hydraulic engineering techniques. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers registered in Pennsylvania or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.

### **703.3 Changes in Identification of Area**

The identified floodplain area may be revised or modified by the Board of Supervisors where studies or information provided by a qualified agency or person documents the need for such revision. However, prior to any such change, approval must be obtained from the Federal Insurance Administration (FIA).

### **703.4 Boundary Disputes**

Should a dispute concerning any identified floodplain boundary arise, an initial determination shall be made by the Board of Supervisors, with the recommendation of the Township Planning Commission, and any party aggrieved by this decision or determination may appeal to the Zoning Hearing Board. The burden of proof shall be on the appellant.

## **704 Technical Provisions**

### **704.1 General**

- A. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Protection, Bureau of Dams, Waterways and Wetlands. In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community and Economic Development, shall be notified prior to any alteration or relocation of any watercourse.
- B. Any new construction, development, uses or activities allowed within any identified floodplain area, shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.

### **704.2 Special Requirements for FW and FA Areas**

- A. With any FW (Floodway Area), the following provisions apply:
  - 1. Any new construction, development, use, activity, or encroachment that would cause any increase in flood heights shall be prohibited.
  - 2. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Protection, Bureau of Dams, Waterways and Wetlands.
  
- B. Within any FA (General Floodplain Area), the following provisions apply:
  - 1. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
  - 2. Any new construction or development, which would cause any increase in flood heights shall be prohibited within any floodway area.

### **704.3 Elevation and Floodproofing Requirements**

- A. Residential and Non-Residential Structures - Within any identified floodplain area, any new construction or substantial improvement of a residential or non-residential structure shall have the lowest floor (including basement) elevated up to, or above, the regulatory flood elevation. The regulatory flood elevation is defined as the one hundred (100) year flood elevation plus a freeboard safety factor of one and one-half (1.5) feet.
- B. Space below the Lowest Floor
  - 1. Fully enclosed space below the lowest floor (including basement) is prohibited.
  - 2. Partially enclosed space below the lowest floor (including basement) which will be used solely for the parking of a vehicle, building access, or incidental storage in an area other than a basement, shall be designed and constructed to allow for the automatic entry and exit of flood waters for the purpose of equalizing hydrostatic forces on exterior walls. The term "partially enclosed space" also includes crawl spaces.
- C. Designs – Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - 1. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
  - 2. the bottom of all openings shall be no higher than one (1) foot above grade.
  - 3. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.
- D. Accessory Structures - Structures accessory to a principal building need not be elevated or floodproofed to remain dry, but shall comply, at a minimum, with the following requirements:
  - 1. the structure shall not be designed or used for human habitation, but shall be limited to the parking of vehicles, or to the storage of tools, material, and equipment related to the principal use or activity.
  - 2. floor area shall not exceed 600 square feet.
  - 3. the structure shall have a low damage potential.

4. the structure shall be located on the site so as to cause the least obstruction to the flow of flood waters.
5. power lines, wiring, and outlets shall be at least one and one-half (1.5) feet above the 100-year flood elevation.
6. permanently affixed utility equipment and appliances such as furnaces, heaters, washers, dryers, etc. are prohibited.
7. sanitary facilities are prohibited.
8. the structure shall be adequately anchored to prevent flotation or movement and shall be designed to automatically provide for the entry and exit of flood water for the purpose of equalizing hydrostatic forces on the walls. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or meet or exceed the following minimum criteria:
  - a. a minimum of two openings having a net total area of not less than one (1) square inch for every square foot of enclosed space.
  - b. the bottom of all openings shall be no higher than one (1) foot above grade.
  - c. openings may be equipped with screens, louvers, etc. or other coverings or devices provided that they permit the automatic entry and exit of flood waters.

#### **704.4 Design and Construction Standards**

The following minimum standards shall apply for all construction and development proposed within any identified floodplain area:

- A. Fill - If fill is used, it shall:
  1. extend laterally at least fifteen (15) feet beyond the building line from all points;
  2. consist of soil or small rock materials only - sanitary landfills shall not be permitted;
  3. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling;
  4. be no steeper than one (1) vertical to two (2) horizontal feet unless substantiated data, justifying steeper slopes are submitted to, and approved by the Township; and,
  5. be used to the extent to which it does not adversely affect adjacent properties.
- B. Drainage Facilities - Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner in accord with all applicable Township stormwater control requirements. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.
- C. Water and Sanitary Sewer Facilities and Systems
  1. All new or replacement water and sanitary sewer facilities and systems shall be located, designed and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
  2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
  3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all state and local regulations for

such systems. If any such system is permitted, it shall be located so as to avoid impairment to it, or contamination from it, during a flood.

- D. Other Utilities - All other utilities such as gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.
- E. Streets - The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.
- F. Storage - All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 704.5, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or flood proofed to the maximum extent possible.
- G. Placement of Buildings and Structures - All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.
- H. Anchoring
  - 1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
  - 2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.
- I. Floors, Walls and Ceilings
  - 1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain without causing structural damage to the building.
  - 2. Plywood used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
  - 3. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are "water-resistant" and will withstand inundation.
- J. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other "water-resistant" material.
- K. Paints and Adhesives
  - 1. Paints and other finishes used at or below the Regulatory Flood Elevation shall be of "marine" or "water-resistant" quality.
  - 2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or "water-resistant" variety.
- L. All wooden components (doors, trim, cabinets, etc.) used at or below the Regulatory Flood Elevation shall be finished with a "marine" or "water-resistant" paint or other finishing material.
- M. Electrical Components
  - 1. Electrical distribution panels shall be at least three (3) feet above the one hundred (100) year flood elevation.
  - 2. Separate electrical circuits shall serve lower levels and shall be dropped from above.
- N. Equipment - Water heaters, furnaces, air conditioning and ventilating units, and other electrical, mechanical or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

- O. Fuel Supply Systems - All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

#### **704.5 Development Which May Endanger Human Life**

- A. Any type of development or activity shall be prohibited which:
1. will be used for the production or storage of any of the following dangerous materials or substances; or,
  2. will be used for any activity requiring the maintenance of a supply of more than five hundred and fifty (550) gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,
  3. will involve the production, storage, or use of any amount of radioactive substances;
- B. The following list of materials and substances are considered dangerous to human life:
1. Acetone
  2. Ammonia
  3. Benzene
  4. Calcium carbide
  5. Carbon disulfide
  6. Celluloid
  7. Chlorine
  8. Hydrochloric acid
  9. Hydrocyanic acid
  10. Magnesium
  11. Nitric acid and oxides of nitrogen
  12. Petroleum products (gasoline, fuel oil, etc.)
  13. Phosphorus
  14. Potassium
  15. Sodium
  16. Sulphur and sulphur products
  17. Pesticides (including insecticides, fungicides, and rodenticides)
  18. Radioactive substances, insofar as such substances are not otherwise regulated.
  19. Any other substance as determined by the Township

#### **704.6 Special Requirements for Manufactured Homes and Manufactured Home Parks**

- A. Within any identified floodplain area, the commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision shall be prohibited.
- B. Within any FA (General Floodplain Area), manufactured homes shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- C. Where permitted within any floodplain area, all manufactured homes, and any improvements thereto, shall be:
1. Placed on a permanent foundation.

2. Elevated so that the lowest floor of the manufactured home is at or above the Regulatory Flood Elevation. (1.5 feet or more above the elevation of the 100-year flood.)
3. Anchored to resist flotation, collapse, or lateral movement.

#### **704.7 Hospitals, Nursing Homes, Jails or Prisons**

Within any identified floodplain area, 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 shall be prohibited:

- A. Hospitals
- B. Nursing homes
- C. Jails or prisons

### **705 Existing Structures in Identified Floodplain Areas**

#### **705.1 Existing Structures**

The provisions of this Article do not require any changes or improvements to be made to lawfully existing structures. However, when an improvement is made to any existing structure, the provisions of Section 705.2 shall apply.

#### **705.2 Improvements**

The following provisions shall apply whenever any improvement is made to an existing structure located within any identified floodplain area:

- A. No expansion or enlargement of an existing structure shall be allowed within any floodway area that would cause any increase in the elevation of the one hundred (100) year flood.
- B. Any modification, alteration, reconstruction, or improvement, of any kind to an existing structure, to an extent or amount of fifty (50) percent or more of its market value, shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.

### **706 Variances**

Requests for variances shall be considered by the Township Zoning Hearing Board in accord with Section 611 of this Zoning Ordinance and the following:

- A. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the one hundred (100) year flood elevation.
- B. No variance shall be granted for any construction, development, use, or activity that would violate any provisions of Section 704.5, Development Which May Endanger Human Life, Section 704.6, Special Requirements for Manufactured Homes and Manufactured Home Parks, or Section 704.7, Hospitals, Nursing Homes, Jails or Prisons.
- C. Whenever a variance is granted, the Township shall notify the applicant in writing that:
  1. The granting of the variance may result in increased premium rates for flood insurance.
  2. Such variances may increase the risks to life and property.

- D. In reviewing any request for a variance, the Zoning Hearing Board shall consider that the granting of the variance will (i) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expense, (ii) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable state or local ordinances and regulations.
- E. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted shall be included in the required reports to the Federal Emergency Management Agency.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one hundred (100) year flood.

### **707 Definitions**

The following definitions shall be specifically applied to this Article VII and shall supplement the definitions contained in Article II of this Zoning Ordinance.

**Completely Dry Space:** A space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.

**Development:** Any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, renovation, repair, expansion, or alteration of buildings or other structures; the placement of manufactured homes; streets, and other paving; utilities; filling, grading and excavation; mining; dredging; drilling operations; storage of equipment or materials; and the subdivision of land.

**Essentially Dry Space:** A space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.

**Flood:** A temporary inundation of normally dry land areas.

**Floodplain Area:** A relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.

**Floodproofing:** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway:** The designated area of a floodplain required to carry and discharge flood waters of a given magnitude. For the purposes of this Ordinance, the floodway shall be capable of accommodating a flood of the one hundred (100) year magnitude.

**Historic Structure:** Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - 1. By an approved state program as determined by the Secretary of the Interior; or
  - 2. Directly by the Secretary of the Interior in states without approved programs.

**Identified Floodplain Area:** The floodplain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood.

**Lowest Floor:** The lowest floor of the lowest fully enclosed area (including basement). An unfinished, flood resistant partially enclosed area, used solely for parking of vehicles, building access, and incidental storage, in an area other than a basement area is not considered the lowest floor of a building, provided that such space is not designed and built so that the structure is in violation of the applicable non-elevation design requirements of this ordinance.

**Manufactured Home:** A structure, transportable in one or more sections, which is built on a permanent chassis, and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes park trailers, travel trailers, recreational and other similar vehicles which are placed on a site for more than 180 consecutive days.

**Manufactured Home Park:** A parcel of land which has been planned and improved for the placement of two or more manufactured homes for non-transient use.

**Minor Repair:** The replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, oil, waste, vent, or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

**New Construction:** Structures for which the start of construction commenced on or after the date of the first flood plain development standards adopted by the Township, and includes any subsequent improvements thereto.

**One Hundred Year Flood:** A flood that, on the average, is likely to occur once every one hundred (100) years (i.e., that has one [1] percent chance of occurring each year, although the flood may occur in any year).

**Recreational Vehicle:** A vehicle which is (i) built on a single chassis; (ii) not more than four Hundred (400) square feet, measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable without a special permit by a light-duty truck or passenger automobile; (iv) not designed for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. This definition includes, but is not limited to, campers, travel trailers, buses, camping trailers, pick-up trucks with slide-in campers, recreational vehicle homes and motor homes.

**Regulatory Flood Elevation:** The one hundred (100) year flood elevation plus a freeboard safety factor of one and one-half (1.5) feet.

**Substantial Damage:** Damage from any cause sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent or more of the market value of the structure before the damage occurred.

**Substantial Improvement:** Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

- A. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or;
- B. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

#### **SEVERABILITY**

Should any section or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Ordinance as a whole, or any parts thereof.

#### **REPEALER**

All other Ordinances or sections of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

#### **ARTICLE VIII - ENACTMENT**

See original ordinances for enactment details.