

FOR INFORMATIONAL PURPOSES ONLY

# **TOWNSHIP OF RESERVE**

**ALLEGHENY COUNTY**

**PENNSYLVANIA**

**ZONING ORDINANCE**

**No. 610**

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**ARTICLE I  
GENERAL PROVISIONS**

**SECTION 100: ENACTMENT**

The Township Commissioners of the Township of Reserve hereby adopts and enacts the regulations, zoning districts, administrative structures, and administrative procedures that constitute this Zoning Ordinance No. \_\_\_\_\_. From and after the approval of this Ordinance, the districts specified herein shall be established, and the following regulations shall be in full force and effect.

**SECTION 101: SHORT TITLE**

This ordinance shall be known as the “Township of Reserve Zoning Ordinance No. \_\_\_\_\_.”

**SECTION 102: A READER’S GUIDE TO THE ORGANIZATION AND APPLICABILITY HAVE THIS ORDINANCE**

This ordinance regulates all land uses, lots, and structures within the Township of Reserve except those that are the property of the Township itself. Every regulated land use, lot, or structure must either conform to the rules of this ordinance or be a nonconforming use, nonconforming lot, or nonconforming structure. A nonconformity is defined as a use, lot, or structure that (1) was legally established before the effective date of this ordinance’s enactment (see *Section 105, “The Effective Date of This Ordinance’s Enactment”*), and (2) does not conform to the substantive requirements of this ordinance. Because nonconformities were legally established, and because their owners could not have known what the regulations of this ordinance were going to be in advance, the owners have a legal and ethical right to continue their nonconformities. However, all nonconformities, except nonconforming signs, are subject to the regulations of *Section 116, “Nonconformities.”* Special regulations for nonconforming signs are given in *Article X, “Signs.”* All regulated land uses, lots, and structures that are neither in conformance with the controls of this ordinance nor nonconformities are illegal -- and subject to the enforcement procedures and penalties specified in *Article III, Section 307, “Enforcement.”*

Zoning ordinances are always complex due to the complex nature of modern communities. However, this ordinance is organized to be simple and to minimize the amount of reading required to determine how a property or project is restricted.

All of the provisions in this ordinance that affect Reserve landowners on a daily basis, and apply to all properties within the Township are included in *Article I, “General Provisions.”* The sections in the remainder of *Article I* explain what the general purposes of this ordinance are, what its basic rules are, when zoning or occupancy permits are needed, how to get these permits, what extra regulations apply to nonconforming uses, what a variance is, how to get a variance, how the ordinance will be enforced, how landowners may contest the zoning officer’s determinations, and how landowners may dispute the validity of this ordinance. Anyone who has a question concerning how this ordinance regulates a property should read *Article I.*

However, many of the regulations in this ordinance should not be applied to all areas of the Township due to the differing statuses and goals of these areas. So *Article IV, "Zoning Districts,"* divides the Township into seven (7) "zoning districts"-- each of which is composed of areas with similar present-day statuses and goals, and faces a set of regulations that is different than the set faced by every other zoning district. *Article IV* then provides this set of regulations for each district, addressing such subjects as permitted land uses, off-street parking and loading facilities, setbacks, building heights, lot designs, and more. Although *Section 401, "The Purpose of Article IV"* explains how this article should be read in more detail, a general rule of thumb is that readers who have a question concerning how this ordinance regulates a property need to read only the parts of *Article IV* that concern the zoning district of that property.

*Article III, "Administration, Section 306: Special Exceptions and Conditional Uses,"* explains what a special exception use is, reveals what a conditional use is, illustrates the procedures for obtaining permits for these uses, lists the standards that the Zoning Hearing Board is to utilize in determining whether or not to grant a special exception use, and lists the standards that the Township is to employ in determining whether or not to grant a conditional use. *Article IV, "Temporary Uses,"* explains what a temporary use is, illustrates the procedures for obtaining permits for one, and lists the standards that the Township Commissioners is to utilize in determining whether or not to grant it. *Article V, "Supplemental Regulations,"* contains regulations that apply to only some kinds of land uses and structures. *Article X, "Signs,"* contains all of the ordinance's sign regulations. *Article III* contains the ordinance's administrative provisions that are relevant to municipal officials on a daily basis<sup>1</sup>, but not usually to landowners (administrative provisions that are more relevant to landowners are included in *Article I*). *Article II, "Terminology,"* provides a glossary of some of the terms used in this ordinance.

The sections in *Article IV* apply to every regulated land use, lot, and structure in the Township. Because they address each one of Reserve's seven (7) zoning districts, the sections in *Article IV* also apply to every regulated land use, lot, and structure in the Township. However, the sections of the *Zoning Ordinance* apply only when a provision of either *Article III* or *Article IV* explicitly says so. Municipal officials should be familiar with this entire ordinance. However, anyone who has a question concerning how this ordinance regulates a property only needs to read the following:

1. *Article I,*
2. the parts of *Article IV* that concern the zoning district of the involved property, and
3. the parts of *Zoning Ordinance* that:
  - a. are explicitly referenced by either *Article III* or the parts of *Article IV* that concern the property's zoning district, and
  - b. are relevant to the reader's specific concern.
4. the parts of *Article II* that define the terms used in the aforementioned relevant articles.

This ordinance is organized in this manner so that landowners can determine how the use of their property is restricted without reading the entire document.

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<sup>1</sup>Such provisions include explanations of the zoning-related functions of the Township's Zoning Officer, Zoning Hearing Board, and Township.

**SECTION 103: THE GENERAL PURPOSES OF THIS ORDINANCE & GOALS AND OBJECTIVES**

It is the intent, purpose and scope of this Ordinance to protect and promote safety, health and morals; to accomplish coordinated development; to provide for the general welfare by guiding and protecting amenity, convenience, future governmental, economic, practical, and social and cultural facilities, development and growth, as well as the improvement of governmental processes and functions; to guide uses of land and structures, type and location of streets, public grounds and other facilities; to promote the conservation of energy through the use of planning practices and to promote the effective utilization of renewable energy sources; to promote the preservation of this Township's natural and historic resources and prime agricultural land; to encourage the preservation of prime agricultural land and natural and historic resources through easements, transfer of development rights and rezoning; to facilitate the present and future economic viability of existing agricultural operations in this Township and to not prevent or impede the owner or operator's need to change or expand their operations in the future in order to remain viable; to encourage the revitalization of established urban centers; and to permit and to minimize such problems as may presently exist or which may be foreseen and to protect, preserve or conserve open land, consisting of natural resources, forests and woodlands, any actions taken to protect, preserve or conserve such land shall not be for the purposes of precluding access for forestry.

The secondary general purposes of this ordinance are adopted from the Reserve Planning Commission. Each of these is discussed below.

**Community Facilities**

- Goal:** Provide a complete array of community facilities to Township residents.
- Objective:** Acquire street furniture, sidewalks, or pedestrian oriented aesthetics and safety for Mount Troy Road Business District.
  
- Goal:** Provide police service at the lowest possible cost to the Township.
- Objectives:** Continue to have support agreements with adjacent police departments.
  
- Goal:** Expand Public Works Department and Equipment.
- Objective:** Develop a shared Public Works Department with neighboring municipalities to reduce costs to Township Residents. Also, to avoid duplication of service at a better economy of scale.

**Transportation**

- Goal:** Improve traffic circulation and safety in higher density residential areas – Lower Mount Troy Road and Business District
- Objective:** Develop pedestrian circulation plan for areas lacking sidewalks.

## Public Utilities

- Goal:** Establish potable water service on Spring Garden Avenue.  
**Objective:** Apply for CDBG funds to extend sanitary sewer service on Spring Garden Avenue.
- Goal:** Establish better water pressure service on Geyer Road.  
**Objective:** Apply for CDBG funds to extend sanitary sewer service on Geyer Road Area.

## Housing

- Goal:** Improve housing conditions for low-to-moderate income homeowners.  
**Objective:** Weatherize ten houses per year through the Allegheny County Redevelopment Authority and Action Housing Weatherization Program.
- Goal:** Provide a variety of housing types at various densities for all income levels – Single family, Two (2) bedroom Garden Apartments.  
**Objective:** Revise zoning ordinance to promote new housing development.  
Promote efficient housing.

## Land Use

- Goal:** Establish a commercial district along lower Mount Troy Road area.  
**Objective:** Revise the Township's Zoning Ordinance to encourage small-scale commercial land uses.
- Goal:** Maximize the value of vacant land in the Township to increase the tax base.  
**Objective:** Create adaptive reuse and infill standards to encourage a strong and diverse tax base.

## Recreation

- Goal:** Provide recreation for all age groups.  
**Objective:** Hire a shared recreation director to manage parks and provide program-planning functions.

## Economic Development

- Goal:** Attract development to the township.  
**Objective:** Market sites as an infill development of adaptive reuse candidate.
- Goal:** Increase Tax Base without increasing property tax.
- Objective:** Promote the adaptive reuse of existing buildings and also promote infill development in the township.

Because Reserve Township does not yet have a Comprehensive Plan that meets all requirements of the Pennsylvania Municipalities Planning Code, Act of 1968, P.L. 805, No. 247, as reenacted and amended, by adopting this set of community development goals and objectives satisfies the requirements of Section 606 of the Pennsylvania Municipalities Planning Code.

**The Reserve Township Planning Commission:** The Reserve Planning Commission used the following purposes to develop this ordinance. These purposes serve as secondary general purposes of this ordinance.

- To protect and promote the health, safety, and welfare of both the residents of the Township of Reserve and the general public
- To encourage the orderly growth and development of the Township in accordance with the recommendations of the Township's comprehensive plan goals, objectives, and policies of the Reserve Township Comprehensive Plan.
- To protect and maintain the character, stability, and value of the residential, commercial, and industrial areas of the Township
- To provide adequate light, air, and privacy, and to prevent the overcrowding of people and structures
- To provide protection against fire, explosion, noxious fumes, noise, and other hazards in the interest of the public health, safety, comfort, and general welfare
- To encourage the most appropriate use of the land and structures throughout the Township through the establishment of land use districts and the regulation of land, activities, and structures within these districts
- To provide for the gradual elimination of those uses of land, buildings, and structures which do not conform to the requirements of the district in which they are located and which adversely affect the development of neighboring properties
- To minimize the conversion of single family detached housing into multi-family dwellings thus maintaining the land values and neighborhood characteristics of large portions of the Township.

#### **SECTION 104: AUTHORIZATION**

The establishment of zoning districts within municipalities such as the Township of Reserve, the assignment of regulations to these districts, and the assignment of administrative structures and procedures to these regulations for purposes like those given in *Section 112, "General Rules for Land Use of Lots"* of this ordinance have been authorized by *the Pennsylvania Municipalities Planning Code* as reenacted and amended thru 2002.

**SECTION 105: THE EFFECTIVE DATE OF THIS ORDINANCE’S ENACTMENT**

The effective date of this ordinance’s enactment shall be the date that this ordinance was enacted by the Township Commissioners of the Township of Reserve. This date is shown above the signatures on the signature page in Article XI of this document.

**SECTION 106: INTERPRETING THE LANGUAGE OF THIS ORDINANCE**

For the purposes of this ordinance, words shall be interpreted as follows unless noted otherwise.

- A. When the meaning of a regulation as it applies to a given property is not clear, it shall be interpreted in favor of that property and against any implied extension of the regulation.

**SECTION 107: CONFLICT WITH OTHER REGULATIONS**

Where a provision of this ordinance conflicts with a provision of another ordinance, state law, or federal law, the stricter of the two provisions shall apply.

**SECTION 108: CONFLICT WITH FLOOD PLAIN REGULATIONS**

All structures and plans for structures within the Township’s flood plain as defined by *Township Ordinance No. 492* or any subsequent revisions thereof are subject to the flood plain regulations enacted by that ordinance.

**SECTION 109: SEVERABILITY**

The provisions of this act shall be severable, and should a court of competent jurisdiction declare any section or provision of this ordinance invalid or unconstitutional, the validity of any remaining sections or provisions shall not be declared invalid or unconstitutional.

**SECTION 110: APPLICABILITY OF THIS ORDINANCE TO PRIVATE AGREEMENTS**

This ordinance shall not annul any easements, covenants, or private agreements. However, the existence of any such easement, covenant, or private agreement shall not affect the enforceability of this ordinance.

**SECTION 111: APPLICATION OF REGULATIONS DURING LOCAL EMERGENCIES**

The Reserve Township Commissioners may temporarily waive some of the regulations of this ordinance during a local emergency.

**SECTION 112: GENERAL RULES FOR LAND USES AND LOTS**

All land uses shall be allowed on lots as a permitted principal use, permitted accessory use, special exception use, conditional use, and/or temporary use. The actual uses which are allowed on a lot are determined by the zoning district of that lot (see *Article IV, “Land Uses, Off-Street Parking, and Off-*

*Street Loading.*” However, the following rules shall apply to the establishment of land uses on lots in all districts.

- A. No permitted accessory use shall be constructed more than 180 days before the use to which it is accessory.
- B. No structure shall be located closer than 5 feet from another structure unless that structure is a fence, is attached to the other structure, or forms an integral part of the other structure.
- C. All commercial tanks that contain or carry more than 20 gallons of fuel, lubricants, or any other poisonous liquid shall be located at least 10 feet from all property lines and public rights-of-way.

**SECTION 113:        PARKING FACILITIES AND TEMPORARY EVENTS**

- A. **Parking Facilities and Zoning District Regulations:** All parking facilities are subject to the regulations of the zoning district in which they are located unless this ordinance specifically states otherwise. Furthermore, all parking garages are subject to the regulations on structures imposed by the zoning district in which they are located.
- B. **Emergency and Non-Profit Temporary Events:** Any parking or loading requirement of this ordinance may be waived by Township Commissioners for emergency, community or non-profit temporary events.

**SECTION 114:        CLASSIFICATION OF BUSINESSES THAT CONSIST OF SEVERAL USES**

For the purposes of this ordinance, businesses that consist of several land uses shall be classified as the constituent land use that this ordinance regulates the most strictly.

**SECTION 115:        OCCUPANCY PERMITS**

- A. **When an Occupancy Permit is Needed:** Before any landowner may use or occupy a vacant lot; use or occupy new, reconstructed, structurally altered, moved, and/or vacant non-sign structure; or change the use of a non-sign structure or lot, an occupancy permit must be obtained (unless this ordinance specifically states otherwise). *Article X “Signs,”* explains when occupancy permits are needed for signs.
- B. **The Procedure for Obtaining an Occupancy Permit:** After the completion of all development activities, but before the involved structure and/or lot is used or occupied, the applicant shall notify the Zoning Officer and pay the required fees set by Township Commissioners. The Zoning Officer shall examine the involved structure and/or lot within 10 days of this notification and payment. If the Zoning Officer determines that some requirements may not have been met he or she may require an as-built survey to verify that setback and other site plan requirements have been met. If the structure, lot, and the involved use comply with the provisions of this ordinance, other applicable ordinances and laws, and any plans approved for a zoning permit, then the Zoning Officer shall issue an

occupancy permit. Otherwise, he or she shall not. If the Zoning Officer does not act within the time required in this ordinance, then the permit shall be deemed to be issued.

- C. Temporary Occupancy Permits:** The Zoning Officer may issue a temporary occupancy permit, which allows the use, partial use, or occupancy of the involved structure or lot during development activities. Such a permit shall be valid for no longer than 3 months.
- D. Inspections:** In order to make the determinations required by *letter "B"* of this section, the Zoning Officer shall have the authority to enter any building, structure, premises, property, or development in the Township at any reasonable hour upon presentation of proper credentials.
- E. Revocation of Permits:** If the Zoning Officer discovers that the applicant has made any false statements or misrepresentations regarding the development, the Zoning Officer shall revoke the occupancy permit and proceed with whatever legal action is necessary to correct the violation (see *Article III, Section 307, "Enforcement"*).
- F. Permits Issued in Error:** Any occupancy permits issued in error shall be null and void.
- G. Appealing the Zoning Officer's Determination:** The applicant may appeal the denial of an occupancy permit, and aggrieved persons or neighbors may appeal the issuance of an occupancy permit, as specified in *Article III, Section 310, "Appealing the Determination of a Municipal Officer."*
- H. The Duration of Occupancy Permits:** Non-temporary occupancy permits shall be valid for the lifespan of the involved development, except if that development is either a temporary sign on private property (in which case the permit shall only be valid for 30 days) or a temporary sign on a public right-of-way (in which case the permit shall only be valid for 60 days).

## SECTION 116: NONCONFORMITIES

- A. The Purpose, Organization, and Applicability of this Section: Owners of nonconforming lots, structures, and uses as defined in Article II, Section 203 of this ordinance have the legal right to continue subject to reasonable regulations so that nonconformities are not damaging to adjacent properties.**

With this sole exception, *letter "B"* provides some rules concerning nonconforming structures, land uses, and lots. *Letter "C"* only addresses nonconforming structures, and *letter "D"* only addresses nonconforming land uses.

- B. General Rules Concerning Nonconformities:** The following rules apply to or concern all nonconforming structures, land uses, and lots.
  - 1. The Zoning Officer may keep and maintain a list of all nonconformities that exist in the Township on the effective date of this ordinance's enactment (see *Section 105, "The Effective Date of This Ordinance's Enactment"*) and on the effective dates of any amendments to either this ordinance or its map.

2. The owner of nonconformity may obtain a “certificate of nonconformity” from the Township’s Zoning Officer. This certificate shall state that the owner’s right to continue his or her nonconformity is guaranteed.
3. Aggrieved parties and the involved landowner may both appeal the Zoning Officer’s determination of whether or not a property is nonconforming according to the rules of *Article III, Section 310, “Appealing the Determination of a Municipal Officer.”*
4. Any structure, land use, or lot that was illegally established under a previous zoning ordinance or land use regulation shall remain illegal under this ordinance, even if it conforms to the regulations of this ordinance. No illegal structure, land use, or lot shall become nonconformity under this ordinance.
5. Any structure, land use, or lot (existing or future) that becomes a nonconformity due to an amendment made after the effective date of this ordinance’s enactment shall be subject to the regulations of this section.

**C. Nonconforming Structures or Buildings:** The following rules apply to all nonconforming structures.

1. A nonconforming structure or building may be altered, enlarged, repaired, or reconstructed provided that:
  - a. its nonconformity or nonconformities are not increased;
  - b. it will comply with the other applicable requirements of this ordinance;
  - c. all necessary zoning and occupancy permits are obtained (see *Sections 115, Occupancy Permits and Article III, Section 302 Zoning Permits*);
  - d. it follows any applicable building codes; and
  - e. it has not been abandoned, which shall be defined as having its windows or doors boarded up, having its maintenance discontinued, and/or being unused for a total of *6 months within an 12 month* period.
2. A nonconforming structure or building may be reconstructed after it is partially destroyed by a natural or artificial disaster, and any nonconforming use within it may be continued, provided that:
  - a. the regulations under *letter “C,” number “1”* above are followed;
  - b. a zoning permit has been acquired for its reconstruction within one year of the involved disaster; and
  - c. The damage to it does not exceed 99% of its fair market value. Based on an evaluation by a third party licensed appraiser and the township solicitor.

3. A conforming use in a nonconforming structure may expand within that structure.

**D. Nonconforming Uses:** The following rules apply to all nonconforming uses.

1. To allow for natural economic growth, a nonconforming use may expand in terms of 25% percent of gross floor area or lot coverage of existing structure – provided that the use’s owner can prove to the Township’s Zoning Hearing Board, via the procedure outlined in *Section 314, “The Zoning Hearing Board,”* that:
  - a. no aspect of the structure or structures that contain or will contain the use shall become either nonconforming or more nonconforming than it was before;
  - b. the use does not expand on to property that was acquired after or prior to the use became nonconforming;
  - c. the expansion does not eliminate off-street parking spaces or loading berths required by this ordinance; and
  - d. such an expansion is necessary to accommodate a normal increase in business.<sup>2</sup>
3. If a nonconforming use is changed to a conforming use, it shall not be subsequently changed back to a nonconforming use.
4. A nonconforming use may be changed to another nonconforming use if the use’s owner can prove to the Township’s Zoning Hearing Board -- via the procedure

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<sup>2</sup> See *Heyman v. Zoning Hearing Board of Abington Township* [601 A.2d 414 (Pa. Commonw. 1991)].

outlined in *Section 314, "The Zoning Hearing Board"*<sup>3</sup> -- that the proposed use is the same type of use as the original use, or is a use that conforms more closely to the purpose and regulations<sup>4</sup> of the involved zoning district than the original use. In making a judgment on similar uses, the Zoning Hearing Board shall be guided by the use classification system in the *Standard Industrial Classification Manual*, Federal Office of Management and Budget, current edition.

5. A nonconforming use that has been abandoned shall not be returned to a nonconforming use of any kind. A nonconforming use shall be abandoned when one or more of the following conditions have been met.
  - a. The owner's intent to discontinue the use is apparent through such actions as the boarding up of windows, the boarding up of entrances, or the discontinuation of maintenance.
  - b. The use has been discontinued for a total of 6 months within a 18-month period.
  - c. The use has been replaced by a conforming use.
  - d. The use has been changed to another nonconforming use as required by *letter "D," number 3* above.
6. A special exception or conditional use shall not be considered a nonconforming use, but rather a lawful conforming use.

## **SECTION 117: PRELIMINARY OPINIONS**

**A. The Purpose of Preliminary Opinions:** According to *Section 311, "Time Limitations,"* any aggrieved party who wishes to stop or limit a proposed construction, reconstruction, alteration, or other physical development by challenging either the procedural or substantive validity of this ordinance (see *Article III, Section 308, "Procedural Challenges,"* and *Article III, Section 309, "Substantive Challenges"*) may only do so within 30 days of the development's receiving a zoning permit (see *Article III, Section 302, "Zoning Permits"*). Likewise, any aggrieved party who wishes to stop or limit a proposed land use by challenging either the procedural or substantive validity of this ordinance may only do so within 30 days of the use's receiving an occupancy permit (see, *Section 115, "Occupancy Permits"*). "Preliminary opinions" are a tool that the landowner who is proposing the involved development or use may employ to shorten this 30-day time period.

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3. Note that the Zoning Hearing Board's decision on this matter may be appealed to the court of common pleas of the judicial district in which the involved property is located.

4. Setbacks, height regulations, lot requirements, and off-street parking and loading requirements shall be considered here, along with any of this ordinance's other regulations that the Zoning Hearing Board decides are relevant.

**B. The Procedure for Obtaining a Preliminary Opinion:** Preliminary opinions may be obtained by following this procedure:

In order not to unreasonably delay the time when a landowner may secure assurance that the ordinance or map under which he proposed to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the landowner may advance the date from which time for any challenge to the ordinance or map will run under section 914.1 of the PA MPC by the following procedure:

- 1 The landowner may submit plans and other materials describing his proposed use or development to the zoning officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a building permit so long as they provide reasonable notice of the proposed use or development and a sufficient basis for a preliminary opinion as to its compliance.
- 2 If the zoning officers preliminary opinion is that the use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall include a general description of the proposed use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under section 914.1 and the time therein specified for commencing a proceeding with the board shall run from the time when the second notice thereof has been published.
3. The Zoning Officer's decision regarding a preliminary opinion may be appealed to the Zoning Hearing Board (see *Section 314, "The Zoning Hearing Board"*).

**C. How an Approved Preliminary Opinion Affects the Time Limits of Section 311:** If the Zoning Officer approves the proposed use or development as specified under *letter "B"* above, then the 30 day period during which an aggrieved party may stop or limit the proposed use or development by challenging the procedural or substantive validity of this ordinance (see *Article III, Section 308, "Procedural Challenges,"* and *Article III, Section 309, "Substantive Challenges"*) begins on the date that the second notice is published -- instead of the date on which the proposed use or development receives the applicable permit.

**SECTION 118: AMENDING THIS ORDINANCE**

This ordinance may be amended through a landowner curative amendment, a municipal curative amendment, or a common amendment. The purposes behind and procedures for landowner curative amendments are given in *Article III, Section 309, "Substantive Challenges."* Municipal curative

amendments are only used by Township Commissioners, are used to cure substantial validity problems within this ordinance, and are addressed in *Section 315, "The Township Commissioner."* Common amendments are also addressed in *Section 315, "The Township Commissioner."*

## **ARTICLE II TERMINOLOGY**

### **SECTION 201: Purpose**

The purpose of this section of this chapter is to provide the reader with a clear understanding of how to interpret words and phrases.

### **SECTION 202: Rules for Word Usage**

For the purpose of this chapter, certain words and terms used herein shall be interpreted or defined as follows: Words used in the present tense include the future; the singular includes the plural, and the plural number includes the singular; the word "person" refers to a firm, association, organization, trust, partnership, company or corporation, as well as an individual; the word "shall" is mandatory and the word "may" is permissive; the word "lot" includes "plot, piece, and parcel"; and the word "building" includes all structures; The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, maintained or designed to be used or occupied. In case of any difference of meaning or implications between the text of this ordinance and any caption or illustration, the text shall control.

### **SECTION 203: Definitions Of Terms**

“ABANDONED” - A building or structure, which has not been occupied for a period of twelve months (one year). The building or structure shall be deemed deserted.

“ABANDONMENT” - The relinquishment of property, of a cessation of the use of the property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

“ACCESSORY BUILDING” - A building, which is, subordinate to the main building on the lot and is used for purposes customarily incidental to the use of the main building or lot.

“ACCESSORY STRUCTURE” - A Structure detached from a principal building located on the same lot and customarily incidental and subordinate to the principal building or use.

“ACCESSORY USE” - A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

“Acre” - A measure of land area containing 43,560 square feet.

“ADAPTIVE REUSE OF EXISTING BULDINGS” – The development of a new use for an older building or for a building originally designed for a special or specific purpose.

“ADDITION” - (1) A structure added to the original structure at some time after the completion of the original; (2) an extension or increase in floor area or height of a building or structure.

“AGRICULTURAL OPERATION” – Agricultural operation, an enterprise that is actively engaged in the commercial production and preparation for market of crops, livestock and livestock products and in the production, harvesting and preparation for market or use of agricultural, agronomic, horticultural, silvicultural and aquacultural crops and commodities. The term includes an enterprise that implements changes in production practices and procedures or types of crops, livestock, livestock products or commodities produced consistent with practices and procedures that are normally engaged by farmers or are consistent with technological development within the agricultural industry.

“ALLEY” - A service roadway providing a secondary means of public access to abutting property and not intended for general traffic circulation.

“ALTERATIONS, STRUCTURAL” - Any interior or exterior change which would prolong the life of the supporting members of a building such as bearing walls, columns, beams, or girders.

“AMERICANS WITH DISABILITIES ACT (ADA)” - A 1990 federal law designed to bring disabled Americans into the economic mainstream by providing them equal access to jobs, transportation, public facilities, and services.

“ANTENNA” - Shall mean any exterior apparatus designed for telephonic, radio, television communications through sending and/or receiving of electromagnetic waves. (See Ordinance 203)

“APARTMENT HOUSE” - A structure containing three or more rental dwelling units.

“APARTMENT” - One or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing three or more dwelling units.

“APARTMENT, EFFICIENCY” - See Dwelling Unit, Efficiency.

“APPLICANT” - A landowner or developer, as hereinafter defined, who has filed an application for development including his heirs, successors and assigns.

“APPLICATION FOR DEVELOPMENT” – Every application, whether preliminary, tentative, or final, required to be filed and approved prior to the start of construction or development including but not limited to an application for a building permit, for the approval of a subdivision plat or plan or for the approval of a development plan. (This may include zoning variances related to the application.)

“APPOINTING AUTHORITY” – The mayor in cities; the board of commissioners in counties; the council in incorporated towns and townships; the board of commissioners in townships of the first class; and the board of supervisors in townships of the second class; or as may be designated in the law providing for the form of government.

“AUTHORITY” – A body politic and corporate created pursuant to the act of June 19, 2001, (P.L. 287, No. 22), 53 Pa.C.S. section 5601, et seq., under the former Act of June 28, 1935 (P.L. 463, No. 191), known as the Municipality Authorities Act of 1935, or under the Act of May 2, 1945 (P.L. 382, No. 164), known as the “Municipality Authorities Act of 1945.

“ATTACHED DWELLING UNIT - See Dwelling, Attached

“AUTOMATIC CAR WASH” - A structure containing facilities for washing automobiles and automatic or semiautomatic application of cleaner, brushes, rinse water, and heat for drying.

“AUTOMOBILE REPAIR” - Engine rebuilding or major reconditioning work on damaged motor vehicles or trailers; collision service, including body, frame or fender straightening or repair; overall painting of vehicles, incidental repairs; replacement of parts; motor service to automobiles; state inspection.

“AUTOMOBILE SERVICE STATION” - Any building, land area, or other premises, or portion thereof, used for the retail dispensing or sales of vehicular fuels; servicing and repair of automobiles; and including as an accessory use of the sale and installation of lubricants, tires, batteries, and similar vehicle accessories.

“BAR” - Premises used primarily for the sale or dispensing of alcoholic beverages by the drink for on-site consumption and where food may be available for consumption on the premises as accessory to the principal use.

“BASEMENT” - A story partly underground, but having at least one-half of its height above the average level of the adjoining ground. A basement shall be counted as a story for the purpose of height measurement if the vertical distance between the ceiling and the average level of the adjoining ground is five (5) feet or more or if the basement is used for business or dwelling purposes.

“BOARD” - Any body granted jurisdiction under a land use ordinance or under the MPC, as amended, to render final adjudications.

“BUFFER AREA” - A strip of land, which is planted and maintained in shrubs, bushes, trees, grass, or other landscaping material and within which no structure is permitted, except a wall or fence. This includes open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances. Buffers are to be maintained by the property owner or homeowners association.

“BUILDABLE AREA” - The area of a lot remaining after the minimum yard and open space requirements of the zoning ordinance have been met.

“BUILDING” - Any structure having a roof supported by columns or walls, for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods or materials of any kind.

“BUILDING AREA” - The aggregate of the maximum horizontal cross-section areas of all buildings on a lot above the ground level, measured at the greatest outside dimensions, excluding cornices, eaves, gutters or chimneys projecting not more than 18 inches, bay windows not extending through more than one story and not projecting more than five (5) feet, one story open porches projecting not more than ten (10) feet, steps, and balconies.

“BUILDING, PRINCIPAL” - A building in which is conducted the principal use of the lot on which it is located.

“BUILDING COVERAGE” - The ratio of the horizontal area measured from the exterior surface of the exterior walls of the ground floor of all principal and accessory buildings on a lot of the total lot area.

“BUILDING, HEIGHT” - The vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs. Based on the basements finished floor height.

“BUILDING INSPECTOR” - The individual designated by the appointing authority to enforce the provisions of the building code.

“BUILDING LINE” - A line parallel to the street line touching that part of a building closest to the street.

“BUILDING MASS (Bulk)” - The height, width, and depth of a structure.

“BUILDING SCALE” - The relationship of a particular building, in terms of building mass, to other nearby and adjacent buildings.

“BUILDING SET-BACK LINE” - The line within a property defining the required minimum distance between any building and the adjacent right-of-way or property line. This face includes sun parlors and covered porches whether enclosed or unenclosed, but does not include walks, steps, paved areas or terraces. (DEF: Terrace - A flat roof used for open-air activities.)

1. Front Set-Back Line: The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of buildings and structures and the front lot line.
2. Side Set-Back Line: The line nearest the side of and across a lot establishing the minimum open space to be provided between the side line of buildings and structures and the side lot line.
3. Rear Set-Back Line: The line nearest the rear of and across a lot establishing the minimum open space to be provided between the rear line of buildings and structures and the rear lot line.
4. Width of Building Line: The horizontal distance between side lot lines measured at the minimum prescribed front yard setback line, after any easement areas are accounted for, as set forth in this ordinance.

“BULK REGULATIONS” - Standards and controls that establish the maximum size of buildings and structures on a lot and the buildable area within which the building can be located, including coverage, setbacks, height, floor area ratio, and yard requirements.

“BUS SHELTER” - A small, roofed structure, usually having three walls, located near a street and designed to accommodate the disabled.

“BUS TERMINAL or STATION” - Any premises for the storage or parking of motor-driven buses and the loading and unloading of passengers.

“BUS TURNOUT” - A paved indentation at the side of a roadway designed to allow buses to pick up and discharge passengers.

“CALIPER” - The diameter of a tree trunk, measured three feet or higher from ground level.

“CAMPING VEHICLE” - See Recreational Vehicle.

“CENTER for LOCAL GOVERNMENT SERVICES” – The Governor’s Center for Local Government Services located within the Department of Community and Economic Development.

“CERTIFICATE OF OCCUPANCY (CO)” - A document issued by a governmental authority allowing the occupancy or use of a building and certifying that the structure or use has been constructed and will be used in compliance with all the applicable municipal codes and ordinances.

“CHANGE OF USE” - Any use that substantially differs from the previous use of a building or land.

“CHILD-CARE CENTER” - An establishment providing for the care, supervision, and protection of children.

“CHURCH” - A building or structure, or groups of buildings or structures, that by design and construction are primarily intended for conducting organized religious services and associated accessory uses.

“CLUB” - A group of people organized for a common purpose to pursue common goals, interests, or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

“COMMERCIAL USE” - Activity involving the sale of goods or services carried out for profit.

“COMMERCIAL VEHICLE” - Any motor vehicle licensed by the state as a commercial vehicle.

“COMMON OPEN SPACE” - See Open Space, Common. A parcel or parcels of land or an area water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development not including streets, off-street parking areas, and areas set aside for public Facilities.

“COMPACT CAR Space” - Any motor vehicle space that does not exceed fifteen feet in length and five feet, nine inches in width.

“COMPREHENSIVE PLAN” - A comprehensive, long-range plan intended to guide the growth and development of a community or region that typically includes inventory and analytic sections leading to recommendations for the community’s future economic development, housing, recreation and open space, transportation, community facilities, and land use, all related to the community’s goals and objectives for these elements.

“CONCEPTUAL PLAN” - Informal review of a plan for development that carries no vesting rights or

obligations on any party. See Plat, Sketch.

“CONDITIONAL USE” - A use permitted in a particular zoning district pursuant to the provisions in article VI of the Pennsylvania Municipalities Planning Code. (A use permitted in a particular zoning district upon showing that such use in a specified location will comply with all the conditions and standards for the location or operation of the use a specified in the zoning ordinance and authorized by the approving agency.)

“CONDITIONAL USE PERMIT” - A permit issued by the Board of Commissioners of Reserve Township stating that the conditional use meets all conditions set forth in local ordinances.

“CONDOMINIUM” - Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in portions of the real estate designated for common ownership are vested in the unit owners.

“CONDOMINIUM ASSOCIATION” - The community association that administers and maintains the common property and common elements of a condominium.

“CONFERENCE CENTER” - A facility used for conferences and seminars, with accommodations for sleeping, food preparation and eating, recreation, entertainment, resource facilities, and meeting rooms.

“CONSERVATION AREA (Greenways)” - Environmentally sensitive areas with characteristics such as steep slopes, wetlands, flood plains, high water tables, forest areas, endangered species habitat, dunes, or areas of significant biological productivity or uniqueness that have been designated for protection from any activity that would significantly alter their ecological integrity, balance, or character.

“CONSISTENCY” – An agreement or correspondence between matters being compared which denotes a reasonable rational, similar, connection, or relationship.

“CONSTRUCTION PERMIT” - Legal authorization for the erection, alteration, or extension of a structure.

“CONVENTION FACILITY” - A building or portion thereof designed to accommodate three hundred or more people in assembly.

“CONVERSION” - A change in the use of land or a structure.

“COUNTRY CLUB” - Land area and buildings containing golf courses, recreational facilities, a clubhouse, and customary accessory uses, open only to members and their guests.

“COUNTY” – Any county of the second through eighth class.

“COUNTY COMPREHENSIVE PLAN” – A land use and growth management plan prepared by the county department of planning and economic development and adopted by Allegheny County which establishes broad goals and criteria for municipalities to use in preparation of their comprehensive plan and land use regulations.

“CUL-DE-SAC” - The turnout at the end of a dead-end street.

“DAY-CARE CENTER/DAY NURSERY” - See Child-Care Center

“DAYCARE”:

1. Child Daycare - Any premise other than the child's own home operated for profit or not for profit, in which child day care is provided at any one time to four, five, or six children who are not relatives of the care giver.
2. Elderly Daycare - Care given in a home or public structure to elderly persons who need supervision for personal needs in which meals and nursing care may or may not be directly available.

“DECIBEL” - A unit of sound pressure level.

“DECISION”-Final adjudication of any board or other body granted under jurisdiction under any land use ordinance or PA MPC to do so, either by reason of the grant of exclusive jurisdiction or by reason of appeals from determinations. All decisions shall be appealable to the court of common pleas of the county and the jurisdictional district wherein the municipality lies.

“DENSITY” - The number of families, individuals, dwelling units, households, or housing per unit of land.

“DESIGNATED GROWTH AREA” – A region within a county or counties described in a municipal or multimunicipal plan that preferably includes and surrounds a city, townships or village, and within which residential and mixed use development is permitted or planned for at densities of one unit to the acre or more, commercial, industrial and institutional uses are permitted or planned for and public infrastructure services are provided or planned.

“DESIGN REVIEW” - The submission of a site or building design for review by the design review body constituted to comment or make recommendations on the design or to grant approval.

“DESIGN STANDARDS” - A set of guidelines defining parameters to be followed in site and/or building design and development.

“DETENTION BASIN (POND)” - A facility for the temporary storage of storm water runoff.

“DETERMINATION” - A final action by an officer, body or agency charged with the administration of any land use ordinance or application there under, except the following:

- (1) the governing body
- (2) the zoning hearing board
- (3) the planning commission, only if and to the extent the planning agency is charged with the final decision on preliminary or final plans under the subdivision or land development

ordinance or planned residential development provisions. Determinations shall be appealable only to the boards designated as having the jurisdiction for such appeal.

“DEVELOPER” - Any landowner, agent of such landowner, or tenant with the permission of such landowner, who makes or causes to be made a subdivision of land or a land development.

“DEVELOPMENT OF REGIONAL SIGNIFICANCE AND IMPACT” – Any land development that, because of its character, magnitude, or location will have substantial effect upon the health, safety, or welfare of citizens in more than one municipality.

“DEVELOPMENT PLAN” – The provisions for development, including a planned residential development, a plat of subdivisions, all covenants related to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways, and parking facilities, common open space and public facilities. The phrase “provisions for the development plan” when used in this ordinance shall mean the written and graphic materials referred to in this definition.

“DISTRICT, ZONING” - A section of the Township for which uniform regulations governing the use, height, area, and intensity of use of buildings and land and open spaces about buildings are herein established and referenced on the Township Zoning Map.

“DRIVE AISLE” - The traveled way by which cars enter and depart parking spaces.

“DWELLING UNIT” - Any structure, or part thereof, designed to be occupied as living quarters as a single housekeeping unit.

1. Detached House: A dwelling unit occupying the whole of a freestanding residential structure.
2. Two Household or Semi-Detached House: A residential structure occupied by two (2) dwelling units with a common wall.
3. Duplex: A residential structure divided horizontally into two (2) dwelling units.
4. Row House or Town House: A structure with two (2) or more party walls of three (3) or more units not having any horizontal division between units.
5. Apartment: A dwelling unit separated horizontally and/or vertically from one or more other units in a structure.
  - a. Apartment House or Multi-Household Dwelling Unit: A residential structure containing three (3) or more dwelling units.
  - b. Garden Apartment: An apartment house not exceeding three (3) stories in height.

“ENGINEER” - A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency, or joint planning commission.

“ENVIRONMENTAL IMPACT STATEMENT (EIS)” - A statement of the effect of proposed

development and other major private or governmental actions, on the environment.

“ENVIRONMENTALLY SENSITIVE AREA” – An area with one or more of the following Characteristics:

- (1) Slopes in excess of twenty percent (25%) (Can exceed if a Professional Geologist report verifies that soils can exceed 25 % on 50% of the site)
- (2) Floodplain
- (3) Soils classified as having a high water table
- (4) Soils classified as highly erodible, subject to erosion, or highly acidic
- (5) Land incapable of meeting percolation requirements
- (6) Land formerly used in landfill operations or hazardous industrial use
- (7) Fault areas
- (8) Stream corridors
- (9) Estuaries
- (10) Mature strands of native vegetation
- (11) Aquifer discharge and recharge areas

“FAMILY” - A group of individuals not necessarily related by blood, marriage, adoption, or guardianship living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability.

“FARM STRUCTURE” - Any building or structure used for agricultural purposes.

“FAST-FOOD RESTAURANT” - An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building, in cars on the premises, or off the premises.

“FEASIBILITY STUDY” - An analysis of a specific project or program to determine if it can be successfully carried out.

“FENCE” - An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

“FENCE, LIVING” - A planted visual barrier provided along a property line consisting of low-level shrubs, hedges, or similar landscape screening materials, but excluding trees.

“FIRE LANE” - An unobstructed paved or improved surface area clearly defined by pavement markings and signs, at least twelve feet wide and designed to provide access for fire-fighting equipment.

“FISCAL IMPACT ANALYSIS (FIA)” - An analysis of the costs and revenues associated with a specific development application.

“FLAG LOT” - See Lot, Flag.

“FLOOD FRINGE AREA” - That portion of the flood hazard area outside of the floodway based on

the total area inundated during the regulatory base flood plus 25 percent of the regulatory base flood discharge.

“FLOOD HAZARD AREA” - The flood plain consisting of the floodway and the flood fringe area. See Flood Plain.

“FLOOD PLAIN” - The channel and the relatively flat area adjoining the channel of a natural stream or river that has been or may be covered by floodwater.

“FLOOD WAY” - The channel and the adjacent flat areas that must be reserved in order to discharge the regulatory base flood without cumulatively increasing the water surface elevation more than two tenths of one foot.

“FLOOR AREA” - The sum of the gross horizontal areas of the several floors of a building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor-to-ceiling height is less than six feet.

“FLOOR AREA, NET” - The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking and loading; and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

“FOOT CANDLEPOWER” - Luminous intensity expressed in Isolux patterns taken down to a specified level. (The unit of illumination when the foot is the unit of length.)

“FORESTRY” - The management of forests and timberlands when practiced in accordance with accepted silvi-cultural principles, through developing, cultivating, transporting and selling trees for commercial purposes, which does not involve any land.

“FRONT YARD” - See Yard, Front.

“FRONTAGE” - That side of a lot abutting on a street; the front lot line.

“FUTURE GROWTH AREA” - An area of a municipal or multimunicipal plan outside of and adjacent to a designated growth area where residential, commercial, industrial, and institutional uses and development are permitted or planned at varying densities and public infrastructure services may or may not be provided, but future development at greater densities is planned to accompany the orderly extension and provisions of public infrastructure services.

“GARAGE” - A deck, building, parking structure, or part thereof, used or intended to be used for the parking and storage of vehicles.

“GARAGE, MUNICIPAL” - A structure owned or operated by a municipality and used primarily for the parking and storing of vehicles owned by the general public.

“GARAGE, PRIVATE CUSTOMER AND EMPLOYEE” - A structure that is accessory to a non-retail commercial or manufacturing establishment, building, or use and is primarily for the parking and storage of vehicles operated by the customers, visitors, and employees of such building and that is not available to the general public.

“GARAGE, PRIVATE RESIDENTIAL” - A structure that is accessory to a residential building and that is used for the parking and storage of vehicles owned and operated by the residents thereof and that is not a separate commercial enterprise available to the general public.

“GARAGE, PUBLIC” - A structure, or portion thereof, other than a private customer and employee garage or private residential garage, used primarily for the parking and storage of vehicles and available to the general public.

“GARDEN APARTMENT” - See Dwelling, Garden Apartment.

“GASOLINE STATION” - See Automotive Service Station.

“GENERAL CONSISTENCY” – That which exhibits consistency.

“GOVERNING BODY” - The elected Township Commissioners of Reserve Township.

“GROSS FLOOR AREA” - See Floor Area, Gross and Net.

“HEALTH CARE FACILITY” - A facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical conditions.

“HEALTH CLUB” - An establishment that provides facilities for aerobic exercises, running and jogging, exercise equipment, game courts, swimming facilities, and saunas, showers, massage rooms, and lockers.

“HEARING”- An administrative proceeding conducted by a board pursuant to Article IX, Section 909.1 of the Pennsylvania Municipalities Planning Code, as amended.

“HELIPORT” - An area, either at ground level or elevated on a structure, licensed by the federal government or an appropriate state agency and approved for the loading, landing, and takeoff of helicopters and including auxiliary facilities, such as parking, waiting room, fueling, and maintenance equipment.

“HOME OCCUPATION” - A business, profession, occupation or trade conducted for gain or support entirely within a residential building or structure accessory thereto, without special signs or displays, which is incidental and secondary to the use of such building for dwelling purposes and does not change the essential residential character of such building. No one living outside the home may be employed nor shall any commodity be sold or warehoused in the residential building or structure.

“HOME PROFESSIONAL OFFICE” - A home occupation consisting of the office of a practitioner of a recognized profession. See Home Occupation.

“HOMEOWNERS ASSOCIATION” - A community association, other than a condominium association, that is organized in a development in which individual owners share common interests and responsibilities for costs and upkeep of common open space or facilities.

“HOMES FOR THE AGED” - See Adult Retirement Community; Assisted Living Facility; Congregate Residences; Continuing Care Retirement Community; Housing for the Elderly; Residential Health Care Facility; Retirement Community.

“HOSPITAL” - An institution providing primary health services and medical or surgical care to persons, primarily inpatients suffering from illness, disease, injury, deformity, and other abnormal physical or mental conditions and including, as an integral part of the institution, related facilities, such as laboratories, outpatient facilities, training facilities, medical offices, and staff residences.

“HOTEL” - A facility offering transient lodging accommodations to the general public and providing additional services, such as restaurants, meeting rooms, entertainment, and recreational facilities.

“IMPACT FEE” - A fee imposed on a development to help finance the cost of improvements or services. (As permitted under Article V, Section 505-A of the PA MPC).

“INDUSTRIAL PARK” - A tract of land that is planned, developed, and operated as an integrated facility for a number of individual industrial uses, with consideration to transportation facilities (rail and highway). Circulation, parking, utility needs, aesthetics, and compatibility.

“INDUSTRIAL, LIGHT” - Industrial uses that meet the performance standards, bulk controls, and other requirements established in an ordinance.

“INFILL DEVELOPMENT” – The development of new housing or other buildings on scattered vacant sites in a built-up area (I.E., villages)

“INFRASTRUCTURE” - Facilities and services needed to sustain industry, residential, commercial, and all other land use activities.

“JUNK” - Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed, or other use or disposition.

“LAND” - Ground, soil, or earth, including structures on, above, or below the surface.

“LAND DEVELOPMENT” - Any of the following activities:

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

(2) A subdivision of land.

(3) Development in accordance with section 503 (1.1) of the PA MPC.

“LANDOWNER” – The legal or beneficial owner or owners of land including the holder of an option or contract to purchase (whether or not such an option or contract is subject to any condition), a lessee if he is authorized under the lease to exercise the rights of the land owner, or other person having a proprietary interest in land.

“LANDSCAPE” - (1) An expanse of natural scenery; (2) lawns, trees, plants. (3) And other natural materials, such as rock and wood chips, and decorative features, including sculpture, patterned walks, fountains, and pools.

“LANDSCAPE PLAN” - A component of a development plan on which is shown: proposed landscape species (Such as number, spacing, size at time of planting, and planting details); proposals for protection of existing vegetation during and after construction; proposed treatment of hard and soft surfaces; proposed decorative features; grade changes; buffer and screening devices; and any other information that can reasonably be required in order that an informed decision can be made by the approving authority.

“LAND USE ORDINANCE”- Any ordinance or map adopted pursuant to the Pennsylvania Municipalities Planning Code.

“LICENSED CARE FACILITY” - A facility operated pursuant to a license issued by the Commonwealth of Pennsylvania for a nursing home, intermediate unit, personal care, assisted living or any similar care facility stated in the license other than a hospital or child care center.

“LIGHT INDUSTRY” - See Industry, Light.

“LOADING SPACE” - A space within the main building or on the same lot therewith providing for the standing, loading, or unloading of vehicles.

“LOT” - A designated parcel, tract or area of land established by a plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed or built upon.

“LOT AREA” - The total area within the lot lines of a lot, excludes any streets rights-of-way.

“LOT AVERAGING” - A design technique permitting one or more lots in a subdivision be undersized, providing an equal or greater area oversize the same number of lots in the same subdivision.

“LOT, BUILDING LINE OF” - The line that bounds the buildable area of the lot, including front, rear and side building lines exclusive of any easement.

“LOT, CONFORMING” - A lot occupied or unoccupied by building or structures, fronting on a public street or a street in a plan of land subdivision, and having such area and open spaces thereon as are required by this chapter for one (1) of the uses permitted in the district in which it is located.

“LOT, CORNER” - A lot or parcel of land abutting upon two or more streets at their intersection or

upon two parts of the same street forming an interior angle of less than 135 degrees.

“LOT COVERAGE” - That percentage of the parcel or lot area that is covered by the building area, paved areas, parking and accessory structures.

“LOT, DEPTH” - The distance between the front and rear lot lines, perpendicular or radial to the Right of Way line, measured along the median between the two (2) side lot lines.

“LOT, FLAG” - A large lot not meeting minimum frontage requirements and where access to the public road is by a narrow, private right-of-way or driveway.

“LOT, IMPROVED” - (1) A lot upon which a building can be constructed and occupied; (2) a lot with buildings or structures.

“LOT LINE” - A line of record bounding a lot that divides one lot from another lot or from a public or private street or any other public space.

“LOT LINE, FRONT” - The lot line separating a lot from a street right-of-way.

“LOT LINE, REAR” - The lot line opposite and most distant from the front lot line. In the case of triangular or otherwise irregularly shaped lots, a line ten feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line.

“LOT LINE, SIDE” - Any lot line other than a front or rear lot line.

“LOT, RECORDED” - A lot designated on a plot or subdivision duly recorded pursuant to the statute with the Recorder of Deeds of Allegheny County. A "recorded lot" may or may not coincide with a conforming lot or a non-conforming lot.

“LOT, REVERSE FRONTAGE” - A through lot that is not accessible from one of the parallel or nonintersecting streets upon which it fronts.

“LOT, THROUGH” - A lot that front upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot.

“LOT, WIDTH” - The horizontal distance between the side lot lines measured along the front and rear-building lines of the lot..

“MAINTENANCE GUARANTEE” - Any security that may be required and accepted by a governmental agency to assure that necessary improvements will function as required for a specific period of time. (As per Article V of the PA MPC). (Performance and Maintenance Bonds)

“MANUFACTURED HOUSING” - Factory-built, single-family structures that meets the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec. 5401), commonly known as the HUD (U.S. Department of Housing and Urban Development) code. (These units should have the DCED SEAL under the Kitchen Sink).

“MAP, OFFICIAL” - See Official Map.

“MARQUEE” - Any hood, canopy, awning, or permanent construction that projects from a wall of a building, usually above an entrance.

“MEDIATION” - A voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring their differences, culminating in a written agreement which the parties themselves create and consider acceptable.

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

“MINI-MALL” - A shopping center of between 80,000 to 150,000 square feet on a site of eight to fifteen acres where tenants are located on both sides of a covered walkway with direct pedestrian access to all establishments from the walkway.

“MIXED-USE ZONING” - Regulations that permit a combination of different uses within a single development.

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

“MOBILE HOME LOT” - A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single mobile home.

“MOBILE HOME PARK” - A parcel or contiguous parcels of land which has been so designated and improved that it contains two or more mobile home lots for the placement thereon of mobile homes.

“MODULAR UNIT, (MODULAR HOME)” - A unit transported on a removable or non-removable frame, in which some or all of the component parts are fabricated, formed or assembled off-site in a factory, transported to the site for assembly and installed on the building site with a permanent foundation. The term includes "module," "prefab," "factory built," "panel built," and similar other terms. The completed unit shall comply with building code standards for conventionally constructed units; the modular unit is considered real property. The completed unit's kitchen sink must display the seal of the Pennsylvania Department of Community Affairs.

“MOTEL” - An establishment providing sleeping accommodations with a majority of all rooms having direct access to the outside without the necessity of passing through the main lobby of the building.

“MOTION PICTURE THEATER” - A place where motion pictures are shown to the public for a fee.

“MULTIMUNICIPAL PLANNING AGENCY” - A planning agency comprised of representatives of more than one municipality and constituted as a joint planning commission in accordance with Article XI of the PA MPC, or otherwise by resolution of the participating municipalities to address on behalf

of the municipalities multi-municipal issues, including but not limited to, agricultural and open space preservation, natural and historic resources, transportation, housing and economic development.

“MULTIUSE BUILDING” - A building containing two or more distinct uses.

“MUNICIPAL AUTHORITY” - A body politic and corporate created pursuant to the act of June 19, 2001, (P.L. 287, No. 22), 53 Pa.C.S. section 5601, et seq., under the former Act of June 28, 1935 (P.L. 463, No. 191), known as the Municipality Authorities Act of 1935, or under the Act of May 2, 1945 (P.L. 382, No. 164), known as the “Municipality Authorities Act of 1945.

“MUNICIPAL ENGINEER” – A professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed as the engineer for a municipality, planning agency or joint planning commission.

“MUNICIPALITY” – Any city of the second class A or third class, township, incorporated town, township of the first or second class, county of the second through eighth class, home rule municipality, or any similar general purpose unit of government which shall hereafter created by the General Assembly.

“NET AREA OF LOT (NET ACREAGE)” - The are of the lot excluding those features or areas that the development ordinance excludes from the calculations.

“NO-IMPACT HOME BASED BUSINESS” – A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use as a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions to or from the premises, in excess of those normally associated with residential use. The business or commercial activity must satisfy the following requirements: (1) The business activity shall be compatible with the residential use of the property and surrounding residential uses; (2) The business shall employ no employees other than family members residing in the dwelling; (3) There shall be no display or sale of retail goods and no stockpiling or inventory of a substantial nature; 4) There shall be no outside appearance of a business use, including, but not limited to, parking, signs or lights; (5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood; (6) The business activity may not generate any solid waste or sewage discharge in volume or type which is not normally associated with residential use in the neighborhood; (7) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area; and (8) The business may not involve any illegal activity.

“NOISE” - An undesired audible sound.

“NOISE POLLUTION” - Continuous or episodic excessive noise in the human environment.

“NONCONFORMING LOT” - A lot the area or dimensions, of which was lawful prior to the adoption or amendment of the zoning ordinance, but that fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment.

“NONCONFORMING SIGN” - Any lawful existing sign on the effective date of an ordinance, or amendment thereto, that renders such sign nonconforming because it does not conform to all the standards and regulations of the adopted or amended ordinance.

“NONCONFORMING 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 hereinafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment or prior to the application of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include, but are not limited to, nonconforming signs.

“NONCONFORMING USE” - A use, whether of land or of structure, which does not comply with the applicable use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation

“NURSERY” - Land or greenhouses used to raise flowers, shrubs, and plants for sale.

“NURSERY SCHOOL” - See Child-Care Center.

“NURSING HOME” - See Extended Care Facility; Intermediate Care Facility; Long-Term care Facility. See Licensed Care Facility.

“OCCUPANCY or OCCUPIED” - The residing of an individual or individuals overnight in a dwelling unit or the storage or use of equipment, merchandise, or machinery in any public, commercial or industrial building.

“OCCUPANCY PERMIT” - A required permit allowing the use of a building or structure after it has been determined that all the requirements of applicable ordinances have been met. (DO WE WANT TO NOTE C/O ORDINANCE?)

“ODOROUS MATTER” - Any material that produces an olfactory nuisance to a human being.

“OFFICE BUILDING” - A building used primarily for conducting the affairs of a business, profession, service, industry, or government, or like activity, and may include ancillary services for office workers, such as a restaurant, coffee shops, newspaper or candy stand, and child-care facilities.

“OFFICE PARK” - A development on a tract of land that contains a number of separate office buildings, accessory and supporting uses, and open space designed, planned, constructed, and managed on an integrated and coordinated basis.

“OFFICIAL MAP” - A map adopted pursuant to Article IV of the Pennsylvania Municipalities Planning Code. (An ordinance in map form adopted by the governing body that conclusively shows the location and width of proposed streets, public facilities, public areas, and drainage rights-of-way.)

“OFF-SITE PARKING” - Parking provided for a specific use but located on a site other than the one on which the specific use is located.

“OFF-STREET LOADING” - Designated areas located adjacent to buildings where trucks may load and unload cargo.

“ON-STREET PARKING SPACE” - A temporary storage area for a motor vehicle that is located on a dedicated street right-of-way.

“OPEN SPACE, COMMON” - A parcel or parcels of land or an area water, or a combination of land and water within a development site and designed and intended for the use or enjoyment of residents of a development not including streets, off-street parking areas, and areas set aside for public Facilities. (Essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or the use and enjoyment of owners, occupants, and their guests of land adjoining or neighboring such open space)

“OPEN SPACE, GREEN” - An open space not occupied by any structures or impervious surfaces.

“OPEN SPACE, PRIVATE” - Common open space, the use of which is normally limited to the occupants of a single dwelling or building or property.

“ORDINANCE” - A municipally adopted law or regulation.

“ORNAMENTAL TREE” - A deciduous tree planted primarily for its ornamental value or for screening purposes; tends to be smaller at maturity than a shade tree.

“OUTDOOR STORAGE” - The keeping, in an enclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four hours.

“OVERLAY ZONE” - A zoning district that encompasses one or more underlying zones, and that imposes additional requirements above that required by the underlying zone.

“PARKING, SHARED” - Joint use of a parking area for more than use.

“PARKING ACCESS” - The area of parking lot that allows motor vehicles ingress and egress from the street.

“PARKING AREA” - Any public or private area of a building or structure, designed and used for parking motor vehicles including parking lots, garages, private driveways, and legally designated area of public streets.

“PARKING AREA, PRIVATE” - A parking area for the exclusive of the owners, tenants, lessees, or occupants of the lot on which the parking area is located or their customers, employees, or whomever else they permit to use the parking area.

“PARKING AREA, PUBLIC” - A parking area for or open to the public, with or without payment of a fee.

“PARKING BAY” - The parking module consisting of one or two rows of parking spaces and the aisle from which motor vehicles enter and leave the spaces.

“PARKING LOT” - An off-street, ground level open area, usually improved, for temporary storage of motor vehicles.

“PARKING SPACE” - A space for the parking of motor vehicle within a public or private parking area.

“PERFORMANCE STANDARDS” - A set of criteria or limits relating to certain characteristics that a particular use or process may not exceed.

“PERMIT” - Written governmental permission issued by an authorized official, empowering the holder thereof to do some act not forbidden by law but not allowed without such authorization.

“PERMITTED USE” - Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

“PLACE OF WORSHIP” - (1) A church, synagogue, temple, mosque, or other facility that is used for prayer by persons of similar beliefs; (2) a special purpose building that is architecturally designed and particularly adapted for the primary use of conducting on a regular basis formal religious services by a religious congregation. **(See Church)**

“PLANNED DEVELOPMENT” - An area of minimum contiguous size, as specified by ordinance, to be planned, developed, operated, and maintained according to plan as a single entity and containing one or more structures with appurtenant common areas.

“PLANNED RESIDENTIAL DEVELOPMENT (PRD)” - An area of land, controlled by a landowner, to be developed as a single entity for a number of dwelling units, or combination of residential and non-residential uses, the development plan for which does not correspond in lot size, bulk, type of dwelling, or use, density, or intensity, lot coverage, and required open space to the regulations established in any one district created, from time to time, under the provisions of the municipal zoning ordinance.

“PLANNING AGENCY” - A planning commission, planning department, or a planning committee of the governing body.

“PLAT” - The map or plan of a subdivision or land development, whether preliminary or final.

“PREEXISTING USE” - The use of a lot or structure prior to the time of the enactment of a zoning ordinance.

“PRESERVATION or PROTECTION” - When used in connection with the natural and historic resources, shall include means to conserve and safeguard these resources from wasteful or destructive use, but shall not be interpreted to authorize the unreasonable restriction of forestry, mining or other lawful uses of natural resources.

“PRIME AGRICULTURAL LAND” - Land used for agricultural purposes that contain soils of the first, second, or third class as defined by the United States Department of Agriculture natural resources and conservation services county soil survey.

“PRINCIPAL BUILDING - See Building, Principal.

“PRIVATE CLUB” - A building and related facilities owned or operated by a corporation, association, or group of individuals established for the fraternal, social, educational, recreational, or cultural enrichment of its members and not primarily for profit and whose members pay dues and meet certain prescribed qualifications for membership.

“PRIVATE SCHOOL” - See School, Private.

“PROFESSIONAL OFFICE” - The office of a member of a recognized profession maintained for the conduct of that profession.

“PROHIBITED USE” - A use that is not permitted in a zone district.

“PROPERTY” - A lot, parcel, or tract of land together with the building and structures located thereon.

“PROPERTY LINE” - See Lot Line.

“PROTECTIVE COVENANT” - See Restrictive Covenant.

“PUBLIC AREAS” - Parks, playgrounds, trails, paths, and other recreational areas and open spaces; scenic and historic sites; schools and other places where the public is directly or indirectly invited to visit or permitted to congregate.

“PUBLIC BUILDING” - Any building structure, facility, or complex used by the general public, whether constructed by any state, county, or municipal government agency or instrumentality or any private individual, partnership, association, or corporation including, but not limited to, assembly buildings, such as auditoriums, libraries, public eating places, schools and theaters; business buildings, such as offices; and factories and industrial buildings.

“PUBLIC GROUNDS” – Includes:

- (1) Parks, playgrounds, trails, paths and other recreation areas and other public areas;
- (2) Sites for schools, sewage treatment, refuse disposal and other publicly owned or operated facilities; and
- (3) Publicly owned or operated scenic and historic sites

“PUBLIC HEARING” - A formal meeting held pursuant to public notice by the governing body, or planning agency intended to inform and obtain public comment, prior to taking actions in accordance with the provisions of the PA MPC.

“PUBLIC INFRASTRUCTURE AREAS” – A designated growth area and all or any portion of a future growth area described in a county or multimunicipal comprehensive plan where public infrastructure services will be provided and outside of which such public infrastructure services will not be required to be publicly financed.

“PUBLIC INFRASTRUCTURE SERVICES” – Services provided to areas with densities of one or more units to the acre, which may include sanitary sewers and facilities for the collection and treatment of sewage, water lines and facilities for pumping and treating of water, parks and open space, streets and sidewalks, public transportation and other services that may be appropriated within a growth area, but shall exclude fire protection and emergency medical services and any other service required to protect the health and safety of residents.

“PUBLIC MEETING” - A forum (meeting) held pursuant to notice under 65 Pa. CH. 7.

“PUBLIC NOTICE” - A notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than thirty days and the second publication shall not be less than seven days from the date of the hearing.

“PUBLIC UTILITY” - A closely regulated enterprise with a franchise for providing to the public a utility service deemed necessary for the public health, safety, and welfare.

“REAR LOT LINE” - See Lot Line, Rear.

“REAR YARD” - See Yard, Rear.

“RECREATION FACILITY” - A place designed and equipped for the conduct of sports and leisure-time activities.

“RECREATION FACILITY, COMMERCIAL” - A recreation facility operated as a business and open to the public for a fee.

“RECREATION FACILITY, PERSONAL” - A recreation facility provided as an accessory use of the same lot as the principal permitted use and designed to be used primarily by the occupants of the principal use and their guests.

“RECREATION FACILITY, PRIVATE” - A recreation facility operated by a nonprofit organization and open only to bona fide members and guests of such nonprofit organization.

“RECREATION, PUBLIC” - A recreation facility open to the general public.

“RECREATIONAL VEHICLE” - A vehicle-type portable structure without permanent foundation that can be towed, hauled, or driven and primarily designed as a temporary living accommodation for recreational, camping, and travel use.

“REGIONAL PLANNING AGENCY” – A planning agency that is comprised of representatives from more than one county. Regional planning shall include providing technical assistance to counties and municipalities, mediating conflicts across county lines and reviewing county comprehensive plans for consistency with one another.

“RELIGIOUS USE” - A structure or place in which worship, ceremonies, rituals, and education pertaining to a particular system of beliefs are held.

“REPAIR GARAGE” – A structure where motor vehicles and their parts are serviced and repaired for a fee.

“REPORT” - Any letter, review, memorandum, compilation or similar writing made by any body, board, officer or consultant other than a solicitor to any other body, board, officer or consultant for the purpose of assisting the recipient of such report in the rendering of any decision or determination. All reports shall be deemed recommendatory and advisory only and shall not be binding upon the recipient, board, officer, body or agency, nor shall any appeal lie there from. Any report used, received or considered by the body, board, officer or agency rendering a determination or decision shall be made available for inspection to the applicant and all other parties to any proceeding upon request, and copies thereof shall be provided at cost of reproduction.

“RENEWABLE ENERGY SOURCE” – Any method, process or substance whose supply is rejuvenated through natural processes and, subject to those natural processes, remains relatively constant, including, but not limited to, biomass conversion, geothermal energy, solar and wind energy and hydroelectric energy and excluding those sources of energy used in the fission and fusion processes.

“RESIDENTIAL CLUSTER” - A form of planned residential development to be developed as a single entity according to a plan and containing residential housing units that have a private or public open space area as an appurtenance.

“RESIDENTIAL DENSITY” - The number of dwelling units per acre of residential land.

“RESIDENTIAL HEALTH CARE FACILITY (RHCF)” - Residences usually occupied by the frail elderly that provide rooms, meals, personal care, and health monitoring services under the supervision of a professional nurse and that may provide other services, such as recreational, social, and cultural activities, financial services, and transportation.

“RESTAURANT “ - An establishment where food and drink are prepared, served, and consumed primarily within the principal building. See Restaurant, Carry-Our..

“RESTAURANT, CARRYOUT” - An establishment that by design of the physical facilities, service, or packaging sells prepared ready-to-eat foods intended primarily to be consumed off the premises where food and/or beverages are sold in a form ready for consumption, and pickup of food may take place from an automobile.

“RETAIL FOOD ESTABLISHMENT, MOBILE” - A vehicle, normally a van, truck, towed trailer, or pushcart, from which food and beverages are sold.

“RETAIL SALES” - Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

“RETAIL SALES, OUTDOOR” - The display and sale of products and services primarily outside of a building or structure, including vehicles, garden supplies, gas, tires and motor oil, food and beverages,

boats and aircraft, farm equipment, motor homes, burial monuments, building and landscape materials, and lumber yards.

“RETAIL SERVICES” - Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal service, motion pictures, amusement and recreation services, health, educational, and social services, museums, and galleries.

“RETAIL WAREHOUSE OUTLET” - Retail operation from a warehouse as an accessory use to the principal warehouse use.

“RETIREMENT COMMUNITY” - Any age-restricted development, which may be in any housing form, including detached and attached dwelling units, apartments, and residences, offering private and semiprivate rooms.

“REVERSE FRONTAGE” - See Lot, Reverse Frontage.

“RURAL RESOURCE AREA” – An area described in a municipal or multimunicipal plan within which rural resource uses including, but not limited to, agriculture, timbering, mining, quarrying, and other extractive industries, forest and game lands, and recreation and tourism are encouraged and enhanced, development that is compatible with or supportive of such uses is permitted, and public infrastructure services are not provided except in villages.

“SATELLITE DISH ANTENNA” - A device comprised of a reflective surface that is solid, open mesh, or bar-configured and is in the shape of a shallow dish, cone or horn. Such device shall be used to transmit or receive radio or similar type signals between terrestrially and/or Earth orbiting satellites. This definition is meant to include but is not limited to what are commonly referred to as satellite Earth stations, TVRO's (Television Reception Only), and microwave antennas.

“SCHOOL” - Any building or part thereof, which is designed, constructed, or used for education or instruction in any branch or knowledge.

“SCHOOL, ELEMENTARY” - Any school licensed by the state and that meets the state requirements for elementary education.

“SCHOOL, PAROCHIAL” - A school supported and controlled by a church or religious organization. See School, Private.

“SCHOOL, PRIVATE” - Any building or group of buildings the use of which meets state requirements for elementary, secondary, or higher education and which use does not secure the major part of its funding from any governmental agency.

“SCHOOL, SECONDARY” - Any school licensed by the state and that is authorized to award diplomas for secondary education.

“SCHOOL DISTRICT” - A district that serves as a unit for state financing and administration of elementary and secondary schools.

“SCREENING” - (1) A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms, or densely planted vegetation; (2) the removal of relatively coarse floating and/or suspended solids by straining through racks or screens.

“SEASONAL STRUCTURE” - A temporary covering erected over a recreational amenity, such as a swimming pool or tennis court, for temporary or extended use, during cold weather months of inclement conditions.

“SEASONAL USE” - A temporary use carried on for only a part of the year, such as outdoor golfing, swimming during the summer months or skiing during the winter months.

“SELF-SERVICE STORAGE FACILITY” - A structure containing separate, individual, and private storage spaces of varying sizes leased or rents on individual leases for varying periods of time.

“SERVICES” - Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government, and other enterprises, including hotels and other lodging places; personal, business, repair, and amusement services; health, legal, engineering, and other professional services; educational services; membership organizations; and other miscellaneous services.

“SETBACK” - The distance between the building and lot line.

“SETBACK LINE” - The line that is the required minimum distance from any lot line and that establishes the area within the principal structure must be erected or placed. See Building Line.

“SHADE TREE” - A tree, usually deciduous, planted primarily for overhead canopy.

“SHARED DRIVEWAY” - A single driveway serving two or more adjoining lots.

“SHARED PARKING” - See Parking, Shared.

“SHED” - A building or structure used as a storage place or workshop and may not have a maximum square footage of greater than 160 square feet and a maximum height of 10 feet.

“SHOPPING CENTER” - 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, and landscaping and signage in accordance with an approved plan.

“SIDE YARD” - See Yard, Side.

“SIGN” - Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination, or projects images.

“SIGN ANIMATED OR MOVING” - Any sign or part of a sign that changes physical position or light intensity by any movement or rotation or that gives the visual impression of such movement or

rotation.

“SIGN, AWNING, CANOPY, OR MARQUEE” - A sign that is mounted, painted, or attached to an awning, canopy, or marquee that is otherwise permitted by ordinance.

SIGN, BENCH” - A sign painted, located on, or attached to any part of the surface of a bench, seat, or chair placed on or adjacent to a public place or roadway.

“SIGN, BILLBOARD” - A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than the premises on which the sign is located.

“SIGN, BULLETIN BOARD” - A sign that identifies an institution or organization on the premises on which it is located and that contains the name of the institution or organization, the names of individuals connected with it, and general announcements of events or activities occurring at the institution or similar messages.

“SIGN, BUSINESS” - A sign which directs attention to a business, or profession conducted, or to a commodity or service sold, offered, or manufactured, or to an entertainment offered on the premises where the sign is located.

“SIGN, CONSTRUCTION” - A temporary sign erected on the premises on which construction is taking place, during the period of such construction, indicating the names of the architects, contractors or similar artisans, and the owners, financial supporters, sponsors, and similar individuals or firms having a role or interest with respect to the structure or project.

“SIGN, DIRECTIONAL” - Signs limited to directional messages, principally for pedestrian or vehicular traffic, such as “one-way,” “entrance,” and “exit.”

“SIGN, DIRECTORY” - A sign listing the tenants or occupants of a building or group of buildings and that may indicate their respective professions or business activities.

“SIGN, FAÇADE” - See Sign, Wall.

“SIGN, FACE” - The area or display surface used for the message.

“SIGN, FLASHING” - Any directly or indirectly illuminated sign that exhibits changing natural or artificial light or color effects by any means whatsoever.

“SIGN, FREESTANDING” - any non-movable sign not affixed to a building.

“SIGN, GOVERNMENTAL” - A sign erected and maintained pursuant to and in discharge of any governmental functions or required by law, ordinance, or other governmental regulation.

“SIGN, GROUND” - Any sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground and is independent of any other structure.

“SIGN, HOLIDAY DECORATION” - Temporary signs, in the nature of decorations, clearly

incidental to and customarily and commonly associated with any national, local, or religious holiday.

“SIGN, HOME OCCUPATION” - A sign containing only the name and occupation of a permitted home occupation.

“SIGN, IDENTIFICATION” - A sign giving the nature, logo, trademark, or other identifying symbol; address; or any combination of the name, symbol, and address of a building, business, development, or establishment on the premises where it is located.

“SIGN, ILLUMINATED” - A sign lighted by or exposed to artificial lighting either by lights on or in the sign or directed toward the sign.

“SIGN, INFLATABLE” - Any display capable of being expanded by air or other gas and used on a permanent or temporary basis to advertise a product or event.

“SIGN, MEMORIAL” - A sign, tablet, or plaque memorializing a person, event, structure, or site.

“SIGN, NAMEPLATE” - A sign located on the premises, giving the name or address, or both, of the owner or occupant of a building or premises.

“SIGN, OFF-PREMISES” - See Sign, Billboard.

“SIGN, ON-SITE INFORMATIONAL” - A sign commonly associated with, and not limited to, information and directions necessary or convenient for visitors coming on the property, including signs marking entrances and exits, parking areas, circulation direction, rest rooms, and pickup and delivery areas.

“SIGN, POLE” - A sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign face is six feet or more above grade.

“SIGN, POLITICAL” - A temporary sign announcing or supporting political candidates or issues in connection with any national, state, or local election.

“SIGN, PORTABLE” - A sign that is not permanent, affixed to a building, structure, or the ground.

“SIGN, PRIVATE SALE OR EVENT” - A temporary sign advertising private sales of personal property, such as “house sales,” “garage sales,” “rummage sales,” and the like, or private not-for-profit events, such as picnics, carnivals, bazaars, game nights, or art fairs, craft shows, and Christmas tree sales.

“SIGN, PROJECTING” - A sign that is wholly or partly dependent upon a building for support and that projects more than twelve (12) inches from such building.

“SIGN, REAL ESTATE” - A sign pertaining to the sale or lease of the premises, or a portion of the premises, on which the sign is located.

“SIGN, ROOF” - A sign that is mounted on the roof of a building or that is wholly dependent upon a

building for support and that projects above the top wall or edge of a building with a flat roof, the eave line of a building with a gambrel, gable, or hip roof, or the deck line of a building with a mansard roof.

“SIGN, SUSPENDED” - A sign hanging down from a marquee, awning, or porch that would exist without the sign.

“SIGN, TEMPORARY” - A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a short period of time.

“SIGN, WALL” - A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than twelve (12) inches from such building or structure.

“SIGN AREA” - The entire face of a sign, including the advertising surface and any framing, trim, or molding but not including the supporting structure.

“SIGN CONTROL” - Regulations on the number, size, location, height, color, materials, lighting, and content of signs.

“SIGN PROJECTION” - On a sign attached to a wall, the distance from the exterior wall surface to the sign element farthest distance from such surface.

“SPECIAL EXCEPTION” - A use permitted in a particular zoning district pursuant to the provisions of Articles VI and IX of the Pennsylvania Municipalities Planning Code and Article 306 of this ordinance.

“SPECIALTY FOOD STORE” - A retail store specializing in a specific type or class of foods, such as an appetizer store, bakery, butcher, delicatessen, fish market, or gourmet store.

“SPECIFICATIONS” - Detailed instructions that designate the quality and quantity of materials and workmanship expected in the construction of a structure.

“SPECIFIC PLAN” – A detailed plan for nonresidential development of an area covered by a municipal or multimunicipal comprehensive plan, which when approved and adopted by the participating municipalities through ordinances and agreements supersedes all other applications.

“STATE LAND USE AND GROWTH MANAGEMENT REPORT” – A land use and growth management report to be prepared by the Center for Local Government Services and which shall contain information, data and conclusions regarding growth and development patterns in this Commonwealth and which will offer recommendations to commonwealth agencies for coordination of executive action, regulation and programs.

“STORY, HALF” - A space under a sloping roof that has the line of intersection of the roof and wall face not more than three (3) feet above the floor level and in which space the possible floor area with head room of five feet or less occupies at least forty (40) percent of the total area of the story directly beneath.

“STREET” – Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, ally, viaduct

and any other ways used or intended to be used for vehicular traffic or pedestrians whether public or private.

“STRUCTURE” - Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to land.

“STRUCTURE, HEIGHT OF” - (other than a building), The vertical measured distance from the adjacent finished grade level to the highest point of the structure.

“SUBDIVISION” – The division or re-division 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 (10) acres, not involving any new street or easement of access or any residential dwelling, shall be exempted.

“SUBSTANTIALLY COMPLETED” – Where, in the judgment of the municipal engineer, at least 90 % of (based on the cost of the required improvements for which financial security was posted pursuant to Article V, Section 509 of the PA MPC), for those improvements required as a condition for final approval have been completed in accordance with the approved plan, so that the project will be able to be used, occupied or operated for its intended use.

“SWIMMING POOL, PRIVATE” - A water filled enclosure, permanently constructed or portable, having a depth of more than eighteen (18) inches below the level of the surrounding land, or an above-surface pool, having a depth of more than thirty (30) inches, designed, used, and maintained for swimming and bathing.

“TAVERN” - An establishment used primarily for the serving of liquor by the drink to the general public and where food or packaged liquors may be served or sold only as accessory to the primary use.

“TAX MAP” - The map of delineated lots or tracts in a municipality showing boundaries, bearings, sizes, and dimensions, including the block and lot numbers.

“TEMPORARY STRUCTURE “- A structure without any foundation or footings and that is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

“TEMPORARY USE” - A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

“THEATRE” - A building or part of a building devoted to showing motion pictures or for dramatic, dance, musical, or other live performances.

“THEATER, DRIVE-IN” - an open lot devoted primarily to the showing of motion pictures or theatrical productions on a paid admission basis to patrons seated in automobiles.

“TOWNSHIP” – The Township of Reserve.

“TRAILER” - A structure standing on wheels, towed or hauled by another vehicle, and used for short-term human occupancy, carrying of materials, goods, or objects, or as a temporary office.

“TRADITIONAL NEIGHBORHOOD DEVELOPMENT” – An area of land developed for a compatible mixture of residential units for various income levels and nonresidential commercial and workplace uses, including some structures that provide for a mix of uses within the same building. Residences, shops, offices, workplaces, public buildings, and parks are interwoven within the neighborhood so that all are within relatively close proximity to each other. Traditional neighborhood development is relatively compact, limited in size and orientation toward pedestrian activity. It has an identifiable center and discernible edge. The center of the neighborhood is in the form of a park, common, plaza, square or prominent intersection of two or more major streets. Generally, there is a hierarchy of streets laid out in a rectilinear or grid pattern of interconnecting streets and blocks that provides multiple routes from origins to destinations and are appropriately designed to serve the needs of pedestrians and vehicles equally.

“TRANSFER OF DEVELOPMENT RIGHTS (TRD)” - The attaching of development rights to specific lands which are desired by a municipality to be kept undeveloped, but permitting those rights to be transferred from those lands so that the development potential which they represent may occur on other lands where more intensive development is deemed appropriate. .

“USE” - The purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

“USE, ACCESSORY” - See Accessory Use.

“USE, CONDITIONAL” - See Conditional Use.

“USE, EXISTING” - See Existing Use.

“USE, INSTITUTIONAL” - See Institutional Use.

“USE, PERMITTED” - See Permitted Use.

“USE, RELIGIOUS” - See Religious Use.

“USE, TEMPORARY” - See Temporary Use.

“USE VARIANCE” - See Variance Use.

“USER CHARGES” - A requirement of government under which those that benefit directly from a particular municipal service pay all or part of the cost.

“UTILITY, PRIVATE OR PUBLIC” - (1) Any agency that, under public franchise or ownership, or under certificate of convenience and necessity, or by grant of convenience and necessity, or by grant of authority by a governmental agency, provides the public with electricity, gas, heat, steam, communication, transportation, water, sewage collection, or other similar service; (2) a closely regulated enterprise with a franchise for providing a needed service, See Public Utility.

“VARIANCE” - Relief granted pursuant to the provisions of Articles VI and IX of the PA MPC. (Permission to depart from the literal requirements of a zoning ordinance).

“VARIANCE, DIMENSIONAL” - A departure from any provision of a zoning ordinance except use. See Variance, Hardship.

“VARIANCE, HARDSHIP” - A departure from the provisions of a zoning ordinance relating to setbacks, side yards, frontage requirements, and lot size that, if applied to a specific lot, would significantly interfere with the use of the property. **(Up to JV)**

“VARIANCE, USE” - A variance granted for a use or structure that is not permitted in the zone.

“VEHICLE, MOTOR” - A self-propelled device used for transportation of people or goods over land surfaces and licensed as a motor vehicle.

“VEHICLE, OFF-ROAD (ORV)” - Vehicles designed for use on a variety of non-improved surfaces and including dune buggies and all-terrain vehicles, snowmobiles, trail bikes, mopeds, and motor bikes.

“VEHICLE, RECREATIONAL” - See Recreational Vehicle.

“WAREHOUSE” - A building used for the storage of goods and materials.

“YARD” - An open space that lies between the principal building or buildings and the nearest lot line. The minimum required yard as set forth in the ordinance is unoccupied and unobstructed from the ground upward except as may be specifically provided in the zoning ordinance. See buildable Area; Lot Line; Yard Depth; Yard Lines.

“YARD, FRONT” - A space extending the full width of the lot between any building and the front lot line and measured perpendicular to the building at the closest point to the front lot line.

“YARD, REQUIRED” - A space extending across the full width of the lot between the principal building and the rear lot line and measured perpendicular to the building to the closest point of the rear lot line.

“YARD, SIDE” - A space extending from the front yard to the rear yard between the principal building and the side lot line and measured perpendicular from the side lot line to the closest point of the principal building.

“ZERO LOT LINE” - The location of a building on a lot in such a manner that one or more of the building’s sides rest directly on a lot line.

“ZONING” - The delineation of districts and the establishment of regulations governing the use, placement, spacing and size of land and buildings.

“ZONING APPEALS” - The Zoning Hearing Board hears and decides requests by landowners or persons aggrieved who believe that any officer or agency of the municipality made a decision or issued

an order that is not authorized by or is contrary to the ordinance.

“ZONING HEARING BOARD” – The Reserve Township Zoning Hearing Board.

“ZONING ORDINANCE” – A ordinance or map adopted pursuant to the authority granted in Articles IV, V, VI, and VII of the Pennsylvania Municipalities Planning Code.

“ZONING MAP” - The map or maps that are a part of the zoning ordinance and delineate the boundaries of zone district.

“ZONING OFFICER” - The administrative officer designated to administer the zoning ordinance and issue zoning permits.

“ZONING PERMIT” - A document signed by a zoning officer, as required in the zoning ordinance, as a condition precedent to the commencement of a use, or the erection, construction, reconstruction, restoration, alteration, conversion, or installation of a structure or building, that acknowledges that such use, structure, or building complies with the provisions of the municipal zoning ordinance or an authorized variance therefore.

## ARTICLE III ADMINISTRATION

### Section 301: PURPOSE

The purpose of this Article is to define the following administrative provisions: *zoning permits*, how to get *zoning permits*, *variances*, how to get a *variance*, *special exception uses*, *conditional uses*, procedures for obtaining permits for *special exception* and *condition uses*, lists the standards that the *Zoning Hearing Board* is to utilize in determining whether or not to grant a *special exception use*, lists the standards that the Township Board of Commissioners is to employ in determining whether or not to grant a *conditional use*, how the Ordinance is enforced, how landowners may contest the *Zoning Officer's* determinations, how landowners may dispute the validity of this Ordinance and the Ordinance's administrative provisions that are relevant to municipal officials such as the *zoning*-related duties of the *Zoning Official*, Township Board of Commissioners, and the establishment and conduct of the *Zoning Hearing Board*.

### Section 302: ZONING PERMITS

#### A. When Zoning Permits Are Needed:

A *zoning permit* is needed before a land owner may have a non-sign structure erected, constructed, altered, razed, converted, or moved onto his or her *lot*; or have a *nonconforming*, non-sign structure reconstructed, structurally altered, or moved on his or her *lot* (unless this ordinance specifically states otherwise). Article X, "Signs," explains when *zoning permits* are required for *signs*. No land improvements or other development activities shall be commenced before the involved *landowner* has a *zoning permit* for these activities.

#### B. The Procedure For Obtaining A Zoning Permit:

Anyone who wishes to obtain a *zoning permit* shall follow the procedure below.

##### 1. Application for Permits:

All *applications* for *Zoning Permits* shall be accompanied by a drawing in duplicate, drawn to a scale of one (1") inch equals forty (40') feet, actually showing the shape and dimensions of the *lot* to be built upon, the exact size and location of any *buildings* existing on the *lot*, the lines within which the proposed *building* or structure shall be erected or altered, the existing and intended *use* of each *building* or part of a *building*, the number of *households* or *dwelling units* the *building* is designed to accommodate, and such information as may be necessary to determine compliance with this Ordinance and all other pertinent ordinances. Both copies of such plans shall be approved. One copy shall remain with the township and one will be returned to the applicant. All *applications* with accompanying plans and documents shall become a public record after a *permit* is issued or denied.

2. Issuance or Denial of Permits:

The issuance or denial of *zoning permits* shall follow the following procedure.

a. Filing:

An application shall not be officially filed until all required information has been submitted. Within 30 days of this official filing, the *Zoning Officer* shall either issue or deny the *zoning permit in writing citing the sections of the ordinance provision not met*. Arrived parties may appeal the Zoning Officers Decision as per Article III, Section 310 of this ordinance.

b. Review:

The *Zoning Officer* shall not issue a *permit* unless it is determined that (1) the proposed development complies with the provisions of this and all other pertinent ordinances, and (2) the *permit* meets approvals thru the interdepartment review process.

c. Decision:

If these determinations are made, then the *Zoning Officer* shall issue a *zoning permit*. If the *Zoning Officer* does not act within the required 30 day time period, then the permit shall be deemed to be issued.

C. Vested Rights:

Nothing in this Ordinance shall require any change in the development or *use* of a *lot* or structure for which a *zoning permit* was lawfully issued prior to the effective date of this ordinance's enactment (or the effective date of an amendment to this ordinance), provided that development (other than excavations) has begun or contracts have been let pursuant to the *permit*. However, any *zoning permit* which was issued after the first public hearing on this ordinance (or an amendment to this Ordinance) but prior to the effective date of this ordinance's enactment (or the amendment's enactment) shall be declared void if the involved development does not conform to the provisions of this ordinance, development (other than excavations) has not begun, and contracts have not been let pursuant to the *permit*.

D. Development Changes:

If a *zoning permit* is issued, the involved development shall not deviate from the plans and other information submitted to the *Zoning Officer* without the written approval of the *Zoning Officer* -- or the Township Board of Commissioners in the case of a conditional or *temporary use* and the *Zoning Hearing Board* in the case of a *special exception*. Requests for all such approvals shall be submitted in writing to the *Zoning Officer*.

E. The Duration of Zoning Permits:

A *zoning permit* shall expire within twelve (12) months of the date of issuance if all required permits have not been approved regardless of jurisdiction. If all required permits have not been approved in the specified time period a *permit* extension may be requested through the issuing Authority.

F. Inspections:

In order to determine if the information submitted on or with an *application* is true and is being adhered to, the *Zoning Officer* shall have the authority to enter any *building*, structure, *premises*, *property*, or development in the Township at any reasonable hour upon presentation of proper credentials. If the party seeking a *zoning permit* believes that the denial of a *zoning permit* was made in error aggrieved persons may appeal the issuance of a *zoning permit*, as specified in Section 310, "Appealing the Determination of a *Zoning Officer*."

G. Revocation of Permits:

If the *Zoning Officer* discovers that the development does not comply with the approved *application* or any applicable laws or ordinances, or if the *permit* fee required by this ordinance has not been paid, or if the *Zoning Officer* determines that an *applicant* has made any false statements or misrepresentations regarding the development, the *Zoning Officer* shall revoke the *zoning permit* and proceed with whatever legal action is necessary to correct the violation (see Section 307, "Enforcement").

H. Permits Issued in Error:

Any *zoning permits* issued in error shall be null and void.

I. Appeals:

The *applicant* may appeal the denial of a *zoning permit*, and aggrieved persons may appeal the issuance of a *zoning permit*, as specified in Section 310, "Appealing the Determination of a *Zoning Officer*."

**Section 303: SUPPLEMENTAL ZONING PERMIT REQUIREMENTS - SEXUALLY ORIENTED BUSINESS.**

In order that the *Zoning Officer* may have a reasonable basis upon which to approve a proposed *sexually oriented business* or an expansion of an *sexually oriented business* for conformity to the requirements of this Ordinance, the data required in Article VIII, "*Sexually Oriented Business*" ("C-2," Commercial Zoning District), shall be submitted with an *application* for a *permit*; in addition to the requirements aforementioned for a *zoning permit* in Section 302, "*Zoning Permits*."

## **Section 304: SUPPLEMENTAL ZONING PERMIT REQUIREMENTS - INDUSTRIAL ZONES**

In order that the *Zoning Officer* may have a reasonable basis upon which to approve a proposed industrial operation or an expansion of an existing industrial operation for conformity to the requirements of this Ordinance, the data required in Section 304, “Supplemental *Zoning Permit* Requirements”(Light-Industrial Zone), and Section 304, “Supplemental *Zoning Permit* Requirements”, shall be submitted with an *application for a permit*; in addition to the requirements aforementioned for a *zoning permit* in Section 302, “*Zoning Permits*.”

## **Section 305: VARIANCES**

The regulations of this Ordinance apply to and are designed to address the conditions of either the entire Township or an entire zone. Thus, they are not precisely geared to any one *property*. The regulations were designed in this manner to avoid unequal, unfair, or arbitrary treatment of different landowners. Because these generalized regulations were not designed with any one *property* in mind, however, it is possible -- in a few situations -- that they could prevent any *use* of a *property*. The function of a *variance* is to provide relief from such a situation. A *variance* gives a *landowner* or tenant permission to do something that violates a provision of this Ordinance in order to keep him or her from suffering an “unnecessary hardship” due to that provision.

However, *variances* should not be given freely. If every *landowner* or tenant who suffered any kind of a hardship due to the regulations of this Ordinance were granted a *variance*, then this Ordinance would be unable to fulfill its purposes. Thus, letter “C” below specifies conditions that the *Zoning Hearing Board* (Section 314) *uses* to distinguish genuine unnecessary hardships from common inconveniences.

### A. Who May Apply:

Any landowner or any tenant with the written permission of such landowner may apply for a variance.

### B. Procedure:

A party listed in letter “A” above who wishes to obtain a *variance* must submit a written *application* to the *Zoning Officer* on a form supplied by the *Zoning Hearing Board*. This *application* shall specifically cite the provisions of this Ordinance from which the *applicant* is seeking relief. After determining that the *application* is complete, the *Zoning Officer* shall forward the *application* to the members of the *Zoning Hearing Board*. At the involved hearing, the *Zoning Hearing Board* shall follow the procedure specified in Section 314, “The *Zoning Hearing Board*.” 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 this Ordinance. Appeals to the Board’s decision may be made to the court of common pleas in the judicial district where the involved *property* is located.

C. Conditions:

The *Zoning Hearing Board* may only grant a *variance* when it makes all of the following five findings where relevant in a given case:

1. that there are unique and peculiar physical conditions present on the involved *property*, such as the size, shape, or topography of the involved *lot*, that were not created by the provisions of this ordinance;
2. that, because of these conditions, there is no possibility that the involved *property* can be developed in strict conformity with the provisions of this ordinance -- that if these provisions were rigidly implemented, the *property* would be virtually unusable and without any economic value;
3. that this unnecessary hardship was not created by the *applicant property* owner/tenant or any of his or her predecessors;
4. that the *variance* requested, if granted, (1) will not alter the essential character of the involved *neighborhood* or *zoning district*, (2) will not substantially or permanently impair the appropriate *use* or development of any adjacent properties, and (3) will not be detrimental to the public welfare; and
5. that the *variance*, if granted, will be the smallest possible modification of the involved regulation that will provide relief from this regulation.

**Section 306: SPECIAL EXCEPTIONS AND CONDITIONAL USES**

Within the township generally, or within certain *zoning districts*, certain *uses* specified in this Ordinance are appropriate for certain *zoning districts* only if adequate precautions are taken to assure that they do not generate adverse impacts and to assure that they comply with the purpose of the *zoning district* and this Ordinance. These *uses* are of such a nature that the heightened scrutiny of special and intensive review is required to determine whether they should be *permitted* in specific locations, and if any special conditions and safeguards should be applied if a *special exception* or a *conditional use permit* is granted.

It is important to note that *special exceptions* and *conditional uses* are not deviations from this Ordinance or its purposes listed in **Section 301, "Purpose."** These *uses* are both envisioned by this Ordinance and -- if the location and operation standards prescribed by this article are followed -- *permitted* by this Ordinance.

Both a "*special exception*" and a "*conditional use*" are permissions granted to an *applicant* to *use* land in a *zoning district* for a purpose or land *use* that is not *permitted* outright (i.e., that is not a *permitted principal* or *accessory use*) in that district. *Special exceptions* and *conditional uses* are utilized by this Ordinance because merely allowing and not allowing land *uses* is too narrow for sound planning in some zones. Some land *uses* fall in between what is consistent and what is not consistent with a zone's planned way of life.

Furthermore, some *uses* should be located in a zone, but should be very carefully sited or controlled in order to protect the zone's overall quality of life. Establishing a *special exception/conditional use* system for the Township of Reserve that allows such land *uses* in appropriate zones, subject to location and operation standards that are to protect the quality of life in those zones, is the general purpose of this section.

Procedures for granting *special exceptions* or *conditional use permits* as provided herein are intended to assure that such review is made on the basis of findings of fact, that due process is assured, and appropriate conditions and safeguards are attached if warranted by the findings of facts. Such conditions shall be based upon the standards in this Ordinance. *Special exception* and *conditional use permit* procedures shall be applied, and such permits granted, only as specified in this Ordinance.

A major difference between *special exceptions* and *conditional uses* is that the former are granted or denied by the *Zoning Hearing Board*, while the latter are granted or denied by the Township Board of Commissioners.

Land *uses* that are allowed as *special exceptions* generally affect only their particular *neighborhoods*, while land *uses* that are allowed as *conditional uses* may affect the entire Township -- and thus, should be under the jurisdiction of the Township's primary elected officials.

Another major difference between a *special exception* and *conditional use* is that a *conditional use* must be referred to the planning agency for recommendation.

### **Section 306.1: THE PROCEDURE FOR OBTAINING A SPECIAL EXCEPTION**

The procedure that an *applicant* is to *use* in obtaining a *special exception* is provided in this section. The standards that the *Zoning Hearing Board* is to *use* in determining whether or not a *special exception* should be granted to the *applicant* are provided in the Sections of Article IV, "Zoning Districts," that pertain to the *applicant's property*. This article and its regulations only apply to land *uses* that are proposed to be established in a zone where those *uses* are allowed only as *special exceptions*.

All *applications* for *special exceptions* shall be made according to the following rules.

A. Who May Apply:

Any *landowner*, ownership interest or tenant with the written permission of his or her *landowner* may apply for a *special exception*.

B. Permitted Land Uses:

The only land *uses* that may be *permitted* through a *special exception* are those that are expressly *permitted* as *special exceptions* for the involved zone as listed within the Sections of Article IV, "Zoning Districts," that pertain to the *applicant's property* or other parts of this Ordinance.

C. Applications:

Any one of the aforementioned parties who wishes to establish a land *use* that is *permitted* in the involved *zoning district* as a *special exception* shall file an *application* with the *Zoning Officer* on forms and with supporting material as required by the rules of the *Zoning Hearing Board*. The *Zoning Officer* or designee shall establish an agenda for hearing, cause notice of the time and place of the hearing to be published, and give notice to parties in interest as proscribed in Section 314, “The *Zoning Hearing Board*.” Within five days of receiving an *application* for a *special exception*, the Township Clerk shall forward a complete copy of the *application* to the applicant.

*Zoning Hearing Board.*

An *application* for a *special exception* shall not be considered complete unless it provides all required information enabling the *Zoning Hearing Board* to determine if the proposed land *use* meets the standards given for that *use* under the Article IV, “Zoning Districts,” that pertain to the *applicant's property*.

D. Procedure:

The procedure that the *Zoning Hearing Board* is to *use* in deciding whether or not to grant a *special exception* is given in Section 314, “The *Zoning Hearing Board*,” letter “G.”

In granting any *special exceptions*, the *Zoning Hearing Board* shall state in said approval any lighting requirements, *sign* restrictions, parking requirements, operating hours and any other reasonable conditions and safeguards it may deem necessary to implement the purposes of this Ordinance.

E. Burdens Of Proof:

In *special exception* hearings, the burden of proof shall be on the *applicant or objector* to prove that his or her proposed *use* meets the standards prescribed for it by the Sections of Article IV, “Zoning Districts,” that pertain to the *applicant's property*.

F. Conditions:

In granting a *special exception*, the *Zoning Hearing Board* may attach reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance (see Section 301, “Purpose”). Such conditions shall “run with the land,” and shall not be tied solely to a particular *landowner*. If a condition is violated subsequent to the grant of a *special exception*, it shall be enforced according to the provisions of Section 307, “Enforcement.”

## **Section 306.2: THE PROCEDURE FOR OBTAINING A CONDITIONAL USE**

The procedure that an *applicant* is to *use* in obtaining a *conditional use* is provided in this section. The standards that the Township Board of Commissioners is to *use* in determining whether or not a *conditional use* should be granted to the *applicant* are provided in the Sections of Article IV that pertain to the *applicant's property*. This article and its regulations only apply to land *uses* that are proposed to be established in a zone where those *uses* are allowed only as a *conditional use*.

All *applications* for *conditional uses* shall be made according to the following rules.

A. Who May Apply:

Any *landowner* or any *tenant* with the written permission of such *landowner* may apply for a *conditional use*.

B. Permitted Land Uses:

The only land *uses* that may be *permitted* through a *conditional use* are those that are expressly *permitted* as *conditional uses* for the involved zone as listed within the Sections of Article IV, "Zoning Districts," that pertain to the *applicant's property* or other parts of this Ordinance.

C. Applications:

Any one of the aforementioned parties who wishes to establish a land *use* that is *permitted* in the involved *zoning district* as a *conditional use* shall file an *application* with the *Zoning Officer* on forms and with supporting material as required by the rules of the Township Board of Commissioners. The *Zoning Officer* shall forward the *application* to the Township Clerk who shall establish an agenda for public hearing, cause notice of the time and place of the hearing to be published, and give notice to parties in interest as proscribed in Section 315, "The Township Board of Commissioners." Within five days of receiving an *application* for a *conditional use permit*, the *Zoning Officer* shall forward a complete copy of the *application* to the Planning Commission for its review and recommendation.

D. Recommendation By The Planning Commission:

The Planning Commission shall review the *conditional use application* for a period not to exceed 45 days. Within that time period, the Planning Commission shall make a recommendation to the Township Board of Commissioners as to whether the *application* should be approved without conditions, approved with specific conditions, or denied. The Planning Commission's failure to make a recommendation within the 45-day review period automatically results in a Planning Commission recommendation of approval of the *conditional use permit* without conditions. Township Board of Commissioners shall not take action until after the 45-day review period has expired.

E. Procedure:

The procedure that Township Board of Commissioners is to *use* in deciding whether or not to grant a *conditional use* is given in Section 315, “The Township Board of Commissioners,” letter “A,” number “1.”

F. Burdens Of Proof:

In *conditional use* hearings, the burden of proof shall be on the *applicant* to prove that his or her proposed *use* meets the standards prescribed for it by the Sections of Sections of Article IV, “Zoning Districts,” that pertain to the *applicant’s property*.

G. Conditions:

In granting a *conditional use*, the Township Board of Commissioners may attach reasonable conditions and safeguards as it may deem necessary to implement the purposes of this Ordinance (see Section 301, “Purpose”). Such conditions shall “run with the land,” and shall not be tied solely to a particular *landowner*. If a condition is violated subsequent to the grant of a *conditional use*, it shall be enforced according to the provisions of Section 307, “Enforcement.”

1. The Township Board of Commissioners and Planning Commission shall review each *application* for a *conditional use permit* to determine whether each proposed *use* meets the following standards and, in addition, shall recommend approval of the *application* if the evidence presented at the hearing on the *conditional use permit* shows that the proposed *use* meets these standards:

- a. The proposed *use* will be harmonious and in accordance with the statement of objectives of the municipality concerning its future development of the Township of Reserve.
- b. The proposed *use* will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance and performance with the intended character of the general vicinity and the *zoning district*.
- c. The proposed *use* will not substantially change the character of the surrounding *neighborhood* when its effect is considered in conjunction with the cumulative effect of existing *conditional uses* of all types in the surrounding *neighborhood* and the township as a whole.
- d. The proposed *use* will not be hazardous to existing or future *uses* and will not adversely affect *property* values in the general vicinity of the proposed *use*.

- e. The proposed *use* will not create *uses*, activities, processes, materials and equipment, or *property* that will harm the general welfare by causing excessive pollution, noise, traffic, smoke, fumes, glare, or odors.
- f. The proposed *use* will not unduly burden essential public services such as drainage facilities, public utilities, and those services pertaining to public health, safety, and welfare in general.

2. Use-Specific Standards:

In addition to requirements set forth in this Section, letter “G,” paragraph “1,” the following requirements and limitations shall apply to the *uses* or structures that follow in districts where such *uses* and structures require a *conditional use permit*:

- a. For a community residence for which neither the State of Pennsylvania nor Township of Reserve requires a license, the Township Board of Commissioners may condition approval of the *conditional use permit* on the operator meeting criteria similar to state licensing standards, or certification standards of an appropriate national accreditation agency, for a comparable community residence that serves a similar population.
- b. For a treatment center for which neither the State of Pennsylvania nor Township of Reserve requires a license, the Township Board of Commissioners may condition approval of the *conditional use permit* on the operator meeting criteria similar to state licensing standards, or certification standards of an appropriate national accreditation agency, for a comparable treatment center that serves a similar population.

H. Appealing the Decision of the Township Board of Commissioners:

The decision of the Township Board of Commissioners regarding a *conditional use application* may be appealed to the relevant court of common pleas.

**Section 307: ENFORCEMENT**

The purpose of Section 307 is to prescribe procedures that will effectively enforce the provisions of this ordinance while (1) protecting the legal rights of landowners, and (2) adhering to the rules for *zoning* ordinance enforcement that are established in the Pennsylvania Municipalities Planning Code, as amended.

These procedures apply to situations in which a *person*, partnership, or corporation, reconstructs, repairs, alters, maintains, establishes, or *uses* a structure, *sign*, *building*, *lot*, or *land use* in a manner that violates one or more of the provisions of this Ordinance. In other words, these procedures apply to

situations involving an illegal structure, *sign, lot, or use*. They do not apply to situations involving a structure, *sign, lot, or use* that is a nonconformity (as defined in Article I, Section 116 “*Nonconformities*”) or that has a *variance* (as defined in Section 305, “*Variations*”).

In Pennsylvania, *zoning* ordinances are enforced through legal proceedings. The following groups of people may institute these proceedings.

1. The Township Board of Commissioners;
2. The *Zoning Officer* of the Township with the approval of the Governing Body;
3. The Township Solicitor as deemed by the Township Board of Commissioners;
4. An aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation. In addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure, landscaping or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. When any such action is instituted by a landowner or tenant, notice of that action shall be served upon the municipality at least 30 days prior to the time the action is begun by serving a copy of the complaint on the governing body of the municipality. No such action may be maintained until such notice has been given.

The procedure that is to be used by the first three of these groups is discussed under number “A” as deemed by the Township Board of Commissioners below. The procedure that is to be used by aggrieved parties is discussed under number “B” below.

A. Township Enforcement Procedure:

If it appears to the Township that a violation of this Ordinance has occurred, then enforcement proceedings shall be instituted as described below.

1. Before any other enforcement actions begin, the *Zoning Officer* shall send enforcement notice to the following parties;
  - a. the owner of record of the parcel on which the violation has occurred,
  - b. any *person* who has filed a written request to receive enforcement notices regarding the involved parcel, and
  - c. any *person* that the owner requested, in writing, to receive a copy.
2. Each enforcement notice required by this section shall contain:
  - a. the name of the involved *landowner* and any other persons against whom the Township intends to take action,
  - b. the location of the *property* in violation,

- c. a description of the specific violation involved,
  - d. citations and descriptions of the specific provisions of this Ordinance which have been violated,
  - e. the date before which the steps for compliance must be commenced, as well as the date before which these steps must be completed, and
  - f. a statement noting that the recipient has the right to appeal the enforcement notice to the *Zoning Hearing Board* within 30 days, and that failure to comply with the notice within the time specified -- unless it is extended by appeals -- constitutes a violation of this ordinance, with possible sanctions clearly described.
5. In a *Zoning Hearing Board* hearing where an enforcement notice is appealed, the Township shall present its evidence against the appellant first.
  4. Any filing fees paid by a party to appeal an enforcement notice to the *Zoning Hearing Board* shall be returned to that party by the Township if the Board or any court in a subsequent appeal rules in the appellant's favor.
  5. After all necessary enforcement notices are sent as required above, the Township Board of Commissioners, Township Manager or designee or, acting with Board of Commissioner's approval, officers of the Township, as well as certain aggrieved parties, may institute civil proceedings with the appropriate district justice to enforce the provisions of this Ordinance -- and to prevent, restrain, correct, or abate an illegal structure, *sign, lot, or land use*.
  6. Any *person, partnership, or corporation* who has violated or *permitted* the violation of this Ordinance shall, upon being found liable in a civil enforcement proceeding, pay a judgment of not more than \$500.00 plus all court costs -- including all judgments reasonable attorney fees incurred by the Township. No penalties shall be imposed on the liable party until the date of the determination of a violation by the involved district justice. If the liable party neither pays nor appeals the judgment in a timely manner, the Township shall enforce the judgment pursuant to the applicable rules of civil procedure.
  7. Each day that a violation continues shall constitute a separate violation, unless the district justice finds that there was a good faith basis for the liable party to have believed that there was no such violation. In this situation, there shall be only one violation until the fifth day following the date of the determination of a violation by the district justice -- after which each day that the violation continues shall constitute a separate violation.
  8. The court of common pleas, upon petition, may grant an order of stay, upon cause shown, tolling the per diem fine pending a final adjudication of the violation and judgment.

B. Aggrieved Party Enforcement Procedure:

Aggrieved parties may file an equity action in court (i.e., not with the district justice) to enforce the provisions of this ordinance -- and prevent, restrain, correct, or abate an illegal structure, *sign, lot, or land use*. Such parties may file such an action only after serving notice on the Township of Reserve at least 30 days in advance. This notice is to allow the Township time to investigate the situation and to issue an enforcement notice, if warranted.

**Section 308: PROCEDURAL CHALLENGES**

The Pennsylvania Municipalities Planning Code specifies procedures that are to be used to adopt and amend this Ordinance. These procedures are designed to offer ample opportunities for public participation and to make the ordinance as fair as possible. It is feasible, however, that this ordinance or any one of its amendments was not adopted according to these procedures, and thus, is procedurally flawed. The purpose of this section is to give landowners and other parties aggrieved by such a flaw -- as well as officers and agencies of the Township itself -- a process through which they may challenge the procedural validity of the ordinance or amendment. This process may be used to guarantee adequate public participation and fairness in the adoption process, and to overturn any unfair ordinances or amendments.

A. Where Procedural Challenges may be Heard:

The parties named in Section 307, "Enforcement," may file a procedural challenge with either the relevant court of common pleas or the *Zoning Hearing Board*. Procedural challenges taken to the *Zoning Hearing Board* may have to follow the rules established by Section 311, "Time Limitations," and the Board shall hear all such challenges according to the procedure given in Section 314, "The *Zoning Hearing Board*."<sup>1</sup>

B. Time Limitations:

All such challenges shall be raised by an appeal taken within 30 days of the effective date of the involved ordinance or amendment.

**Section 309: SUBSTANTIVE CHALLENGES**

The Constitution of the United States, the Constitution of the Commonwealth of Pennsylvania, and various federal and state laws limit what this Ordinance may regulate -- so that the rights and *property* of Reserve's citizens and neighbors are protected. It is feasible, however, that one or more of this Ordinance's provisions violate these laws -- and are thus, substantively flawed.

The purpose of this section is to give landowners and other parties aggrieved by such a flaw -- as well as officers and agencies of the Township itself -- a process through which they may challenge the

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<sup>1</sup> Note that the *Zoning Hearing Board's* decision may be appealed to the relevant court of common pleas.

substantive validity of the involved provision.

This process may be used to insure that this Ordinance respects the laws of the United States and the Commonwealth, as well as to overturn any illegal or unconstitutional provisions.

A party named above who wishes to challenge the substantive validity of this Ordinance has the following two choices. A *person* or party who wishes to challenge the substantive validity of this Ordinance because he or she is aggrieved by a *use* or development *permitted* on another *person's* land must initially select choice "2." However, all of the other named parties are free to choose from either option.

1. applying to the Township Board of Commissioners for a "*landowner* curative amendment," or
2. requesting that the *Zoning Hearing Board* hear a substantive validity challenge.

*Landowner* curative amendments and substantive validity challenges are essentially the same type of appeal -- with some minor procedural differences. A validity challenge must be in writing and contain reasons for the challenge, but unlike the curative amendment, does not have to contain materials describing the proposed development or amendments.

A. Landowner Curative Amendments:

*Applications* for a *landowner* curative amendment shall be governed by the rules outlined below.

1. All such *applications* shall be made to the *Zoning Officer*, who shall forward them to the Township Board of Commissioners. These *applications* may be subject to the time limitations of Section 311, "Time Limitations."
2. All such *applications* shall be made in writing, and shall contain the following:
  - a. the reasons why the Ordinance should be amended as proposed,
  - b. plans and explanatory materials describing the *use* or development proposed by the *landowner* in lieu of the *use* or development allowed by this ordinance (these plans must be of sufficient quality and detail to allow an evaluation of this ordinance in light of the proposed *use* or development), and
  - c. the amendment or amendments that the *landowner* proposes to cure the alleged defects in this ordinance.
  - d. The Township Board of Commissioners shall hear and decide on *applications* for *landowner* curative amendments as required in Section 315, "The Township Board of Commissioners."
  - e. Appeals of the Township Board of Commissioners decision shall be taken to the court of common pleas in the judicial district where the

involved *property* is located.

B. Substantive Validity Challenges:

All substantive validity challenges to the validity of the zoning ordinance shall be filed with the *Zoning Hearing Board* and shall be governed by the rules below.

1. All such requests shall be made to the *Zoning Officer*, who shall forward them to the *Zoning Hearing Board*. These *applications* may be subject to the time limitations of Section 311, “Time Limitations.”
2. All such requests shall be made in writing, and shall contain the reasons for the involved challenge.

C. Appeals from the Zoning Hearing Board or the Governing Body:

Appeals from the *Zoning Hearing Board’s* or from the *governing body* decision shall be taken to the court of common pleas in the judicial district where the involved *property* is located.

- D. A landowner who has challenged on substantive grounds the validity of the zoning ordinance or map either by submission of a curative amendment to the governing body under subsection (a) (2) or to the zoning hearing board under section 909.1 (a) (1) of the Pennsylvania MPC shall not submit any additional substantive challenges involving the same parcel, group of parcels or part thereof until such time as the status of the landowners original challenge has been finally determined or withdrawn: Provided, however, that if after the date of the landowners original challenge the Township adopts a substantially new or different zoning ordinance or zoning map, the landowner may file a second substantive challenge to the new or different zoning ordinance or zoning map.

When (1) a *landowner* curative amendment proposal is approved by Township Board of Commissioners, (2) a substantive validity challenge is sustained by the *Zoning Hearing Board*, or (3) the relevant court sustains either of these actions in a final appeal, the involved developer may (1) file a *subdivision application* within two years and (2) apply for a *zoning permit* within one year without losing the rights granted to him in the relevant validity challenge to a subsequent change or amendment in any land *use* ordinance.

**Section 310: APPEALING THE DETERMINATION OF THE ZONING OFFICER**

Any *landowner* or party who is affected by a *zoning*-related determination of the *Zoning Officer* may appeal this determination to the *Zoning Hearing Board*. Such appeals may concern (but are not limited to):

1. the granting or denial of any permit, including a failure to act on the *application*;
2. the issuance of any enforcement notice via Section 307, “Enforcement”; or,
3. the registration or refusal to register any *nonconforming use*, structure, or *lot*.

Section 311, “Time Limitations,” may place time limitations on such appeals. The *Zoning Hearing Board* shall hear all such appeals according to the provisions of Section 314, “The *Zoning Hearing Board*.”

### **Section 311: TIME LIMITATIONS**

The purpose of this section is to avoid both of these situations by limiting the amount of time that both landowners and aggrieved parties have to file for a hearing before the *Zoning Hearing Board* or (where applicable) the Township Board of Commissioners when a proposed *use* or development is involved.

The rules of this section, which are listed in the following paragraph titled “Time Limitation Rules,” only apply to:

1. a *landowner* who wishes to appeal a determination by the *Zoning Officer* not to grant a *zoning permit* for his or her proposed construction, reconstruction, *alteration*, or other physical development (see Section 115 “*Occupancy Permits*” and Section 302, “*Zoning Permits*”),
2. an aggrieved party who wishes to appeal a determination by the *Zoning Officer* to grant a *zoning permit* to another party’s proposed construction, reconstruction, *alteration*, or other physical development (see Section 115 “*Occupancy Permits*” Section 302, “*Zoning Permits*”),
3. a *landowner* or an aggrieved party who wishes to appeal a determination by the *Zoning Officer* concerning the *nonconforming* status of a structure, land *use*, or *lot* (see Article I, Section 116 “*Nonconformities*”),
4. a *landowner* who wishes to contest the *Zoning Officer’s* issuance of a enforcement notice for his or her *property* (see Section 307, “*Enforcement*”),
5. a *landowner* who wishes to reverse or limit a determination that (1) was made by the *Zoning Officer* according to the provisions of this ordinance, and (2) opposes the *landowner’s* proposed *use* or development<sup>2</sup>, by challenging the procedural or substantive validity of this ordinance before either the *Zoning Hearing Board* or (where applicable) Township Board of Commissioners (see Section 308, “*Procedural Challenges*,” or Section 309, “*Substantive Challenges*”), and
6. an aggrieved party who wishes to reverse or limit a determination that (1) was made by the *Zoning Officer* according to the provisions of this ordinance, and (2) approves a proposed *use* or development on another party’s land by challenging the procedural or substantive validity of this ordinance before either the *Zoning Hearing Board* or (where applicable) Township Board of Commissioners (see Section 308, “*Procedural Challenges*,” or Section 309, “*Substantive Challenges*”).

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<sup>2</sup> Such a determination might involve the refusal of a *zoning permit* or a grant of nonconformity status.

Time Limitation Rules:

1. No person shall be allowed to file any proceeding with the board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the landowner to appeal from an adverse decision on a tentative plan pursuant to section 709 of the MPC or from an adverse decision by a zoning officer on a challenge to the validity of an ordinance or map pursuant to section 916.2 of the MPC shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.
2. All appeals from determinations adverse to the landowners shall be filed by the landowner within 30 days after notice of the determination is issued.

**Section 312: APPEALS TO COURT**

The final adjudication of any Township officer or body is appealable to the court of common pleas of the involved *property's* county and judicial district. Nothing in this ordinance shall be construed to deny an appellant the right to bypass either the *Zoning Hearing Board* or Township Board of Commissioners, and proceed directly to court -- where authorized by law.

Furthermore, nothing in this ordinance shall be construed to deny the right to bypass the procedures for challenging the procedural or substantive validity of this ordinance that are given in this article.

**Section 313: THE ZONING OFFICER**

A *Zoning Officer* shall be appointed in accordance with the Pennsylvania MPC, As such, he or she is a non-elected member of the Township's executive branch. The *Zoning Officer* is hereby given the duty, power, and authority to enforce the provisions of this Ordinance as provided for in Section 313, "The *Zoning Officer*," are in accordance with requirements of this Ordinance, record and file all *applications* for permits with accompanying plans and documents, identify and register all *nonconforming uses* and *nonconforming* structures, and make such reports as may be required. All documents, *applications*, permits and certificates required by and issued during the enforcement of this Ordinance shall be permanently maintained by the *Zoning Officer*.

The provisions of this section only apply to the *Zoning Officer* and the parties with which he or she comes into contact.

A. Appointment:

A *Zoning Officer* shall be appointed by the Board of Commissioners to administer this Ordinance. This officer shall:

1. not hold any elected offices within the Township,
2. meet qualifications established by the Township,
3. be able to demonstrate to the satisfaction of the Board of Commissioners a working knowledge of municipal *zoning*, and
4. be familiar with both this Ordinance and the *comprehensive plan*.

B. Powers:

The *Zoning Officer* shall enforce this Ordinance in accordance with its literal terms. He or she shall not have the power to permit any construction, *use*, or change of *use*, which does not conform to the provisions of this ordinance.

C. Duties Of The Zoning Officer:

1. The *Zoning Officer* shall receive, process, file copies of, and make decisions on all *applications* for *zoning permits* as required by Section 302, “*Zoning Permits*.” Where such a permit is denied, the *Zoning Officer* shall inform the *applicant*, in writing, of the basis for this denial, including a reference to the specific ordinance section.
2. The *Zoning Officer* shall receive, process, file copies of, forward, and schedule hearings for all *applications* for hearings before the *Zoning Hearing Board*.
3. The *Zoning Officer* shall inform the Township Board of Commissioners and the Planning Commission concerning *applications* for *conditional uses*;
4. The *Zoning Officer* shall send enforcement notices to alleged violators of this Ordinance as specified in Section 307, “*Enforcement*.” Such notices shall be sent via certified mail, return receipt requested, or personally served to provide proof that the notice was received.
5. “The *Zoning Officer*,” in accordance with requirements of this Ordinance, record and file all *applications* for permits with accompanying plans and documents, identify and register all *nonconforming uses* and *nonconforming* structures, and make such reports as may be required.

**Section 314: THE ZONING HEARING BOARD**

The *Zoning Hearing Board* of the Township of Reserve is a quasi-judicial body within the municipal government. It has no legislative power, has no enforcement power, and cannot make or modify *zoning* policy. It is instead a judicial-like body that helps to assure fair and equitable *application* and administration of this Ordinance. The purposes of this section are to establish the Board, outline its duties, and prescribe procedures that it is to *use* in fulfilling its duties.

Letter “A” of this section explains how the Board is to be established, while letter “B” details how its members may be removed. Letter “C” explains how the Board is to be organized and provides some guidance concerning how it is to operate. Letter “D” discusses how the Board may spend money. Letter “E” lists the duties of the Board, and provides some rules on how these duties are to be carried out. Letter “F” notes that the Board’s decisions may be appealed to the relevant court of common pleas.

The *Zoning Hearing Board* must *use* the same procedure in each of its hearings -- regardless of which one of its duties from letter “E” that hearing falls under. In this Ordinance, provisions that concern the *Zoning Hearing Board* indicate that it is to hear the involved case “via the procedure outlined in Section 314.” This procedure is provided in a multi-page table under letter “G.”

The provisions of Section 314 only apply to the *Zoning Hearing Board* and the parties with which it comes into contact.

A. The Formation of the Zoning Hearing Board:

The *Zoning Hearing Board* of the Township of Reserve shall consist of three (3) residents of the Township, appointed by Township Board of Commissioners via a resolution. Each member’s term of office shall be three (3) years, and shall be so fixed that the term of office of one member of a three (3) member board shall expire each year. Members of the *Zoning Hearing Board* shall hold no other office in the Township government.

The Township Board of Commissioners may also appoint by resolution from one to three residents of the Township to serve as alternate members of the Board. The term of office of an alternative member shall also be three years. When an alternative is seated on the Board (see letter “C” below), he or she shall be entitled to participate in all proceedings to the same extent as any other member of the Board. However, alternates shall not be entitled to vote as a member of the Board or be compensated unless they have been designated as a voting alternate member as required by letter “C” below. Alternates shall also hold no other office in the Township government.

B. The Removal of Zoning Hearing Board Members:

Any board member may be removed for malfeasance, misfeasance, or nonfeasance in office or for other just cause by a majority vote of the Township Board of Commissioners. However, the member must receive written notice of the intent to take such a vote at least 15 days before the actual vote is taken, and he or she may request that a hearing be held in connection with the vote.

C. The Organization of the Board:

The *Zoning Hearing Board* shall elect officers from its own membership. Such officers shall serve annual terms and may succeed themselves.

For the conduct of any hearing and the taking of any action or votes, a quorum shall be no less than a majority of all of the members of the Board.

If, for reasons of absence or disqualification, a quorum is not reached, the chairman of the Zoning Hearing Board shall *designate* enough alternates as voting alternative members to reach the quorum. Any alternate so *designated* shall continue to serve on the Board in all proceedings involving the matter or case for which he or she was *designated* until the Board has made a final determination on that matter or case. Such *designations* shall be made on a rotating basis among all alternates on the order of declining seniority.

Tie votes shall be interpreted as maintaining the status quo in the matter at hand. For instance, *special exceptions* are denied when the Board is tied.

The Board may make, alter, and rescind rules and forms for its procedure, consistent with the requirements of this ordinance and the laws of the Commonwealth of Pennsylvania. The Board shall keep full public records of its business<sup>3</sup>, and shall submit a report of its activities to Township Board of Commissioners if requested.

D. How the Zoning Hearing Board Expenditures for Services:

Within the limits of funds appropriated by the governing body, the board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the board may receive compensation for the performance of their duties, as may be fixed by the governing body, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the governing body. Alternate members of the board may receive compensation, as may be fixed by the governing body, for the performance of their duties when designated as alternate members pursuant to section 314, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members of the governing body.

E. The Duties of the Zoning Hearing Board:

The Board's duties shall be as follows. All hearings conducted in pursuit of these duties shall be held according to the rules of *letter "G"* below.

1. The Board shall hear substantive challenges to the validity of this Ordinance and its amendments in accordance with Section 309, "Substantive Challenges."
  - a. Based on the testimony presented at the hearing or hearings, the Board shall determine whether the challenged ordinance, ordinance provision, or map is defective as alleged by the *applicant*. If the challenge is found to have merit, then the final decision of the Board shall include recommended amendments to the challenged ordinance, which will cure the involved defects.

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<sup>3</sup>Such records shall be the *property* of the Township.

- b. In reaching its decision on a substantive challenge to validity of this Ordinance or its amendments, the Board shall consider:
    - (1) the impact of the proposal on roads, sewer facilities, water supplies, *schools*, and other public service facilities;
    - (2) if the proposal is for a residential *use*, the impact of the proposal on regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or map;
    - (3) the suitability of the site for the intensity of *use* proposed, considering the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources, and other natural features;
    - (4) the impact of the proposed *use* on the site's soils, slopes, woodlands, wetlands, floodplains, natural resources, and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development, and any adverse environmental impacts; and
    - (5) the impact of the proposal on the preservation of agriculture and other land *uses* which are essential to public health and welfare.
  - c. The challenge shall be deemed to be denied if the Board (2) fails to commence the hearing within 60 days, or (3) fails to act on the *application* within 45 days of the close of the last involved hearing. In the latter two of these cases, the involved time limit may be extended by mutual consent of the *applicant* and the municipality or if the landowner requests or consents to do so. If no such consent is reached, the challenge shall be denied on the day after the last day that the Board could have taken the involved action.
2. The Board shall hear procedural challenges to the validity of this Ordinance or one of its amendments in accordance with Section 308, "Procedural Challenges."
  3. The Board shall hear appeals from the *zoning*-related determinations of any municipal officer -- including the *Zoning Officer* -- in accordance with Section 310, "Appealing the Determination of the *Zoning Officer*."
  4. The Board shall hear appeals from the determinations of the municipal engineer with reference to any floodplain provisions of any land *use* ordinance.

5. The Board shall hear *applications* for *variances* in accordance with Section 305, “*Variances*.”
6. The Board shall hear *applications* for *special exceptions* in accordance with Section 306, “*Special Exceptions and Conditional Uses*”. In granting a *special exception*, the Board may attach any reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this ordinance.
7. The Board shall hear *applications* to expand a *nonconforming land use* or to change one *nonconforming land use* to another in accordance with Article I, Section 116 “*Nonconformities*”.
8. For land *uses* not listed under any “Permitted Use,” “Special Exception,” or “*Conditional Use*” in Sections of Article IV, “Zoning Districts,” the Board shall determine (1) in which *zoning districts* the land use shall be allowed in, (2) how the land use shall be allowed in those districts (i.e., as *permitted principal uses*, *permitted accessory uses*, *conditional uses*, etc.), and (3) which sections of the remainder of the ordinance apply to the land use. The Board may ask the Planning Commission for a recommendation on these matters.
9. The Board shall hear all other *applications* and appeals that are assigned to it by this Ordinance or the laws of the Commonwealth of Pennsylvania.

F. Appeals:

All decisions rendered by the *Zoning Hearing Board* may be appealed to the court of common pleas of the judicial district where the involved land is located; so long as these appeals are filed no more than 30 days after the Board renders its decision.

G. Procedure:

In fulfilling its duties listed under letter “E” above, the Board shall follow the rules and procedures specified below.

1. Time Limitations:

- a. The hearings shall be conducted by the board or the board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the board; however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the board and accept the decision or findings of the hearing officer as final.
- b. The *Zoning Hearing Board* or the Hearing Officer (as the case may be) shall render a written decision or (when no decision is called for) make written findings on the *application* within 45 days of the end of the hearing.

- c. If the hearing is conducted by a hearing officer (see letter “C” above), and there has been no stipulation that his or her decisions or findings are final, the *Zoning Hearing Board* shall make his or her report and recommendations available to all of the involved parties within 45 days of the end of the hearing. The parties are then entitled to make written responses to this report. The *Zoning Hearing Board* shall make a final decision after reading these responses, but no later than 30 days after the Hearing Officer’s report is issued.
- d. Where the *Zoning Hearing Board* fails to render this decision within the required period, or where the Board fails to hold the hearing within the required period, the decision shall be deemed to have been rendered in favor of the *applicant* or appellant (as the case may be) -- unless either (1) the *applicant*/appellant has agreed in writing or on the record to an extension of time, or (2) the hearing concerns a challenge to the substantive validity of the ordinance<sup>4</sup> (see Section 309, “Substantive Challenges”).

When a deemed decision is rendered, the Board shall give notice of this -- within 10 days of the last day that it could have met to render a decision -- to the parties and at the locations listed under “Required Public Notice” below. If the Board fails to provide such notice, the *applicant*/appellant may do so. Protesting or aggrieved parties cannot obtain a deemed decision.

2. Required Public Notice:

- a. The Secretary shall publish a notice containing the information listed below under “Contents of Required Public Notice” and such notice shall be published once each week for two successive weeks in a newspaper of general circulation in the Township. The first of these publications shall be published not more than 30 days before the date of the hearing, and the second shall published not less than 7 days before the date of the hearing.
- b. Written notice shall be provided by the *Zoning Officer*,
- c. Mailed to (1) the *applicant*, (2) the Planning Commission, (3) all residents and owners of contiguous properties to the subject site, (4) any party that has requested such notice and (5) conspicuously posted on the involved tract of land at least one week prior to the hearing. The timing and manner of this notice shall follow the rules adopted by the *Zoning*

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<sup>4</sup> Where the *Zoning Hearing Board* fails to commence a hearing on the substantive validity of the ordinance within 60 days of the involved request, or where the Board fails to act on such a hearing within 45 days of its closure, the challenge shall be deemed to be denied.

*Hearing Board.*

3. Contents of the Required Public Notice:

- a. The required notice shall be written by the *Zoning Officer* in plain language and shall state that the *Zoning Hearing Board* of the Township of Reserve will hold a public hearing on the appropriate date, at the proper timing, and pertinent location.
- b. The name of the *applicant* or appellant (as the case may be) shall be given, as well as the nature of the hearing for which a permit is sought, and where and when written comments will be received concerning the request. The notice shall also state that the Township of Reserve shall promptly make a copy of the *application* and supporting documentation available for inspection by an interested *person* at the Reserve Township Municipal Building.
- c. The location or locations of the involved *property* or properties shall be provided.
- d. All applicable sections of the Ordinance shall be cited.
- e. If the involved hearing involves a substantive challenge to the validity of this Ordinance or one of its amendments, then the notice shall state that the validity of the Ordinance is being questioned.
- f. The following statement shall be included: “All persons having an interest in these matters are encouraged to attend this meeting. Persons with a *disability* who wish to attend this hearing and require an auxiliary aid, service, or other *disability* accommodation to participate in the proceedings can be accommodated by contacting the Township Clerk’s Office.”
- g. The date of the publication shall be given.

4. Stays of Proceedings:

- a. An appeal to the *Zoning Hearing Board* automatically stops all affected land development. However, if the *Zoning Officer* certifies that such a halt would cause an imminent danger to life or *property*, then the development may be stopped only with a restraining order granted by the *Zoning Hearing Board* or by any court with competent jurisdiction -- following notice to the *Zoning Officer*.
- b. An *applicant* or appellant may petition a court of competent jurisdiction to force those contesting an authorized permit or approval to either post bond or drop their appeal. The burden of proof shall be on the *applicant/appellant* to prove that the appeal is frivolous. If the party

contesting an authorized permit or approval refuses to post bond as ordered by the involved court, appeals to an appellate court, and loses, then that party is liable for all reasonable costs, expenses, and attorney fees incurred by the *applicant*/appellant.

5. Fees:

- a. Through a separate resolution, the Township Board of Commissioners may prescribe reasonable fees for a *Zoning Hearing Board* hearing which may include (1) compensation for the secretary and members of the Board, (2) public notice and advertising costs, (3) necessary administrative overhead connected with the hearing, and (4) one half the cost of a stenographer.
- b. The cost of the original transcript shall be paid by the Board if the original is ordered by the Board or the Hearing Officer, and shall be paid by the *applicant*/appellant if he or she orders it.
- c. Additional copies shall be paid for by the parties requesting them. Fees may not compensate for the legal expenses of the Board. Furthermore, fees may not be used to compensate engineering, architectural, planning, or other technical consultants or expert witnesses.

6. The Zoning Hearing Board's Solicitor:

- a. The *Zoning Hearing Board* may hire its own solicitor.
- b. The *Zoning Hearing Board's* solicitor shall be a different *person*, and shall be from a different law firm, than the Township's Solicitor.

7. Conducting the Hearing:

- a. Either the *Zoning Hearing Board* or a Hearing Officer (see letter "C" above) shall conduct all hearings.
- b. A stenographic record that conforms to civil trial transcripts must be taken in all hearings. Furthermore, written minutes shall be taken of all Board meetings. The substance of all official actions, the names of people who appear officially, and the subject of their testimony must be recorded.
- c. Each party has the right to be represented by counsel, to present and respond to evidence, and to cross-examine adverse witnesses on all relevant issues.
- d. The parties to the hearing shall be (1) the Township, (2) any *person* affected by the *application* or appeal who has made timely appearance of record before the Board, and (3) any other *person* -- including civic or

community organizations -- *permitted* to appear by the Board. The Board may require that everyone who wishes to be considered a party to a hearing fill out a form that asks (1) the *person's* name and address, (2) who he or she is representing, and (3) whether or not he or she desires a copy of any final decision in the case.

- e. The chairman of the *Zoning Hearing Board* (if a Hearing Officer has not been appointed) or the Hearing Officer (if one has been appointed, see letter "C" above) has the power to administer oaths and issue subpoenas to compel both the attendance of relevant witnesses and the production of relevant papers. All testimony should be affirmed, as unaffirmed statements do not constitute legal evidence to make a record.
- f. Formal rules of evidence do not apply to hearings. However, the *Zoning Hearing Board* may exclude any irrelevant, immaterial, or unduly repetitious evidence. Hearsay evidence, if not objected to, may be given its natural probative value. Yet, the Board has the power to reject even uncontradicted testimony if it finds this testimony to be lacking in credibility.
- g. In the time following the beginning of a hearing and prior to a rendering of the decision or findings, the Board shall not communicate with any party or party representatives unless all parties are given an opportunity to participate. No communication, reports, staff memoranda, or other materials -- except advice from the Board's own solicitor -- may be accepted or noticed by the Board unless all parties are given an opportunity to contest that information. The Board shall not inspect the involved site or its surroundings during the hearings unless all parties are given an opportunity to be present. Any reports by the *Zoning Officer* shall be filed with all involved parties.
- h. A case should not be postponed to a later date without substantial or compelling reasons, especially if the issue is of great concern and has attracted an audience. However, where (1) a new issue is raised for the first time at a hearing, and (2) the *applicant/appellant* had no notice of this issue, the hearing should be continued at a later date to give the *applicant/appellant* an opportunity to react properly. When a case is continued at a second hearing, a notice shall be prominently posted at the hearing site, and all involved parties must be notified.

8. Mediation:

- a. Mediation is "a voluntary negotiating process in which parties in a dispute mutually select a neutral mediator to assist them in jointly exploring and settling their differences, culminating in a written agreement which the parties themselves create and consider acceptable"

Mediation is intended to supplement, but not replace, the procedures for

*Zoning Hearing Board* hearings specified here. It can provide a potentially less costly mechanism for resolving land *use* disputes, as well as a less polarized process.

- b. In no case may the *Zoning Hearing Board* initiate mediation or participate as a mediating party.
- c. Participation in mediation must be voluntary, and the involved parties must agree to (1) funding, (2) the selection of a mediator, (3) the completion of mediation (including the time limits for such a completion), (4) the suspension of the time limits authorized by this ordinance and the Pennsylvania Municipalities Planning Code provided there is written consent by the mediating parties and by an applicant or municipal decision making body if either is not a party to the mediation,<sup>5</sup> (5) the identification of all parties, (6) the determination of whether some or all sessions shall be open or closed, and (7) the issuance of mediation solutions in writing, subject to review and approval by the decision making body.
- d. No offers or statements made in the mediation sessions, excluding the final written mediated agreement, shall be admissible as evidence in any subsequent judicial or administrative proceedings.

9. Making a Decision:

- a. The decision or, where no decision is called for, the findings shall be made by the *Zoning Hearing Board*. However, the *applicant*/appellant and the Township may agree before this decision to waive this and instead accept the decision or findings of the Hearing Officer as final (if a Hearing Officer has been appointed).
- b. In voting on a final decision, the vote cast by each member of the Board (or the Hearing Officer, where appropriate) shall be made publicly.
- c. Where an *application* or appeal is contested or denied, the resulting decision must be accompanied by a finding of fact, the conclusions based on these facts, and the reason that such conclusions were drawn.
- d. Detailed findings and conclusions will show that the decision was reasoned and not arbitrary. References to any provisions of any ordinance, rule, or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.

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<sup>5</sup> The suspension of these time limits must be agreed to in writing by the involved parties, and by both the *applicant*/appellant and the municipality (not the *Zoning Hearing Board*) -- even if neither one of these two is a party to the mediation.

- e. Even where an *application* or appeal is not contested, the resulting decision should be accompanied by a statement of findings or an opinion that is detailed enough to substantiate the *Zoning Hearing Board's* decision.
- f. A copy of the final decision, or where no decision is called for, the findings must be delivered or mailed to the *applicant/appellant* no later than the day after the date of the report.
- g. All other parties to the hearing, as well as all of the parties that are listed under "Required Public Notice" above, shall be sent a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

### **Section 315: THE TOWNSHIP BOARD OF COMMISSIONERS**

The Township Board of Commissioners of Reserve is the chief governing body of the Township, and is the only body that can set the Township's *zoning* policy. The Board of Commissioners, of course, has many duties. The purpose of this section is to address only Board of Commissioners *zoning*-related duties -- outlining these duties and prescribing the procedures that Board of Commissioners is to *use* in fulfilling them.

Letter "A" of this section lists Board of Commissioners major duties under this Ordinance and specifies some rules that apply to each. Letter "A" number "1" discusses the granting of *temporary uses* (see Article V's applicable sections"), and number "2" deals with the granting of *conditional uses* (see Section 306, "*Special Exceptions and Conditional Uses*"). Number "3" specifies the process by which Board of Commissioners may amend this ordinance, while number "4" explains how the Board of Commissioners is to hear and decide *landowner* curative amendments to this ordinance (see Section 309, "*Substantive Challenges*"). Number "5" discusses the setting of *off-street parking space* and loading berth requirements.

Letter "A" number "6" explains the procedure for municipal curative amendments. A municipal curative amendment can be used to fix a portion of this ordinance that is substantially invalid. It has a major advantage over fixing invalid provisions via a plain amendment (i.e., the procedure described in letter "A" number "3") in that the Township need not entertain any substantive challenges to these provisions (see Section 309, "*Substantive Challenges*") during the municipal curative amendment process -- which can save the Township a *significant* amount of time and money.

The provisions of this section only apply to the Township Board of Commissioners and the parties with which it comes into contact on *zoning*-related issues.

#### A. Zoning-Related Duties:

The Township Board of Commissioners major duties under this Ordinance -- as well as some rules that apply to these duties -- are provided below.

1. Conditional Uses:

The Township Board of Commissioners shall hear all *applications* for *conditional uses* according to both the following rules and the express provisions of Section 306, “*Special Exceptions and Conditional Uses.*”

- a. The Board of Commissioners pursuant to the express standards and criteria of this Ordinance, shall hold hearings on and decide requests for such conditional uses in accordance with such standards and criteria. The hearing shall be conducted by the Board or the Board may appoint any member or an independent attorney as a hearing officer. The decision, or, where no decision is called for, the findings shall be made by the Board. However, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final. In granting a conditional use, the governing body may attach such reasonable conditions and safeguards, in addition to those expressed in the ordinance, as it may deem necessary to implement the purposes of this act in the zoning ordinance.
- b. (1) The Board of Commissioners body shall render a written decision or, when no decision is called for, make written findings on the conditional use application within 45 days after the last hearing before the governing body. Where the application is contested or denied, each decision shall be accompanied by findings of fact or conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found.
- (2) Where the governing body fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing, within 60 days from the date of the applicants request for a hearing or fails to complete the hearing no later than 100 days after the completion of the applicants case in chief, unless extended for good cause upon application to the court of common pleas, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the governing body to meet or render a decision as hereinabove provided, the governing body shall give public notice of the decision within ten days from the last day it could have met to render a decision in the same manner as required by the public notice requirements of this act. If the governing body shall fail to provide such notice, the applicant may do so.

- (3) 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.
- c. An *application* for a *conditional use permit* may be withdrawn at any time, but if withdrawn after the Township Board of Commissioners has convened the public hearing at which it was considered, or if denied by the Township Board of Commissioners, a substantially similar *application* shall not be considered within 365 days from the date of withdrawal.
  - d. No *application* for a *conditional use permit* that has been denied wholly or in part by the Reserve Township Board of Commissioners shall be resubmitted within 365 days of the date on which the permit was denied, except on the grounds of newly discovered evidence or proof of changed conditions. A *reapplication* shall require a new fee and the process will have to begin anew.
  - e. A copy of the final decision shall be hand delivered or mailed to the *applicant* no later than 7 days after the Board of Commissioners renders such decision.
  - f. When granted, a *conditional use permit*, together with any conditions or safeguards attached, shall apply to the land, structure, or *use* for which it was issued, and not to a particular *person* or *property* owner.
  - g. The Township Board of Commissioners shall have the authority to revoke any *conditional use permit* following a hearing conducted by the Township Board of Commissioners, after it has been proven that the holder of the permit has failed to comply with any of the applicable conditions specified in the permit. After a revocation notice has been issued, the *use* for which the permit was granted must be terminated within thirty (30) days. Failure to discontinue the *use* for which the permit was revoked within sixty (60) days is declared to be a nuisance per se and a violation of this Ordinance.
  - h. Decisions on *applications* for *conditional uses* may be appealed to any court of competent jurisdiction.

2. Enacting Amendments:

The Township Board of Commissioners shall enact all amendments to this Ordinance that are not *landowner* curative amendments, at the Board of Commissioners discretion, according to the rules below.

- a. Before voting on the enactment of such an amendment, the Township Board of Commissioners shall hold a public hearing.
- b. Public notice of this hearing shall be provided according to the rules below.
  - (1) The public notice shall include the time and place of the hearing, the purpose of the hearing, the full text or a brief summary of the proposed amendment prepared by the Planning Commission, the date of the publication, and a statement that reads “All persons having an interest in these matters are encouraged to attend this meeting.
  - (2) Persons with a *disability* who wish to attend this hearing and require an auxiliary aid, service, or other *disability* accommodation to participate in the proceedings can be accommodated by contacting the Township Clerk’s Office.”
  - (3) If a summary of the proposed amendment is included in the public notice instead of its full text, then (1) the notice shall include a place within the municipality where copies of the full text may be examined without charge or copied at cost, (2) a copy of the full text shall be supplied to a newspaper of general circulation in the Township at the time the public notice is published in that paper, and (3) an attested copy of the full text shall be filed in the Allegheny County law *library*.
  - (4) The public notice shall be published in a newspaper of general circulation once each week for two consecutive weeks. The first of these publications shall not be more than 60 days before the hearing. The second of these shall not be less than 7 days before either the hearing or passage.
  - (5) If substantial changes are made in the proposed amendment before passage but after the involved public hearing, then a notice shall be published in a newspaper of general circulation within Reserve at least 10 days prior to enactment that sets forth the provisions in reasonable detail together with a summary of the changes made. If these changes involve land that was previously not affected by the proposed amendment, then this requirement does not apply, and the public hearing process shall begin again pursuant to the public notice requirements of this ordinance. If substantial amendments are proposed then the amended ordinance must be readvertise at least 10 days prior to enactment.
  - (6) Where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the municipality at least thirty days prior to the date of the hearing by first class mail to

the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the municipality. The notice shall include the location, date and time of the public hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection.

- c. A proposed amendment shall be submitted to the county planning agency at least 30 days prior to the hearing so that the planning agency may submit its recommendations.
- d. A proposed amendment shall be submitted to the county planning agency within 30 days after the enactment.
- e. If the amendment was prepared by a group other than the planning commission, then Township Board of Commissioners shall submit it to the planning commission at least 30 days prior to that amendment's hearing so that the planning commission may submit its recommendations.
- f. The Township may offer a mediation option as an aid in completing this section's proceedings. Mediation is described in Section 314, "The *Zoning Hearing Board*," letter "G."<sup>6</sup>

3. Curative Amendments:

The Township Board of Commissioners shall hear all *applications* for *landowner* curative amendments according to both the following rules and the provisions of Section 309, "Substantive Challenges."

- a. The Board of Commissioners shall commence a hearing on a proposed *landowner* curative amendment within 60 days of the filing of a complete *application* for that amendment.
- b. Public notice of this hearing shall be given according to the requirements for enacting amendments described above. This notice shall include (1) notice that the validity of the ordinance or map is in question, and (2) the place and times where a copy of the proposed amendment -- including any plans or explanatory materials -- may be examined by the public.
- c. The Township Board of Commissioners shall submit the proposed amendment to the planning commission at least 30 days prior to the hearing so that the planning commission may submit its recommendations.

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<sup>6</sup> The Township Board of Commissioners shall be substituted for the *Zoning Hearing Board* as it applies to this section.

- d. A proposed amendment shall be submitted to the county planning agency at least 30 days prior to the hearing so that the planning agency may submit its recommendations.
- e. A proposed amendment shall be submitted to the county planning agency within 30 days after that amendment's enactment.
- f. The Township Board of Commissioners shall render a written decision within 45 days of the end of the hearing.
- g. The Township Board of Commissioners may prescribe reasonable fees for such a hearing which may include (1) compensation for the clerk, (2) public notice and advertising costs, (3) necessary administrative overhead connected with the hearing, (4) enacting amendments as described above, and (5) one half of the stenographer's fee. The Township shall pay the cost of the original transcript if the original is ordered by the Township, and shall be paid by the *applicant* if he or she orders it. The parties requesting the transcript, shall pay for additional copies. Fees may not be used to pay the legal expenses of the Board of Commissioners. Furthermore, fees may not be used to compensate engineering, architectural, planning, or other technical consultants or expert witnesses.
- h. Conducting the Hearing:
  - (1) A stenographic record that conforms to civil trial transcripts must be taken in all hearings. The substance of all official actions, the names of people who appear officially, and the subject of their testimony must be recorded.
  - (2) Each party has the right to be represented by legal counsel before the Board of Commissioners, to present and respond to evidence, and to cross-examine adverse witnesses on all relevant issues.
  - (3) The Township Solicitor shall represent the Township Board of Commissioners, if requested. However, the Board of Commissioners may retain an independent attorney to present the defense of the challenged ordinance.
  - (3) The Board of Commissioners has the power to administer oaths and issue subpoenas to compel both the attendance of relevant witnesses and the production of relevant papers. All testimony should be affirmed, as unaffirmed statements do not constitute legal evidence to make a record.
  - (4) Formal rules of evidence do not apply to these hearings. However, the Board of Commissioners may exclude any irrelevant, immaterial,

or unduly repetitious evidence. Hearsay evidence, if not objected to, may be given its natural probative value.

- (5) The Board of Commissioners has the power to reject even uncontradicted testimony if it finds this testimony to be lacking in credibility.
- (6) In the time following the beginning of a hearing and prior to a rendering of the decision or findings, the Board of Commissioners shall not communicate with any party or party representatives unless all parties are given an opportunity to participate. No communication, reports, staff memoranda, or other materials may be accepted or noticed by the Board of Commissioners unless all parties are given an opportunity to contest that information. The Board of Commissioners should not inspect the involved site or its surroundings during the hearings unless all parties are given an opportunity to be present. Any reports by the *Board of Commissioners* shall be filed with all involved parties.
- (7) A case should not be postponed to a later date without substantial or compelling reasons, especially if the issue is of great concern and has attracted an audience. However, where (1) a new issue is raised for the first time at a hearing, and (2) the *applicant* had no notice of this issue, the hearing should be continued at a later date to give the *applicant* an opportunity to react properly. When a case is continued at a second hearing, a notice shall be prominently posted at the hearing site, and all involved parties must be notified.

a. Making a Decision:

- (1) In voting on a final decision, the vote cast by each Board of Commissioner member shall be made publicly.
- (2) In making its decision, Board of Commissioners shall consider (1) the proposed amendments, plans, and explanatory materials submitted by the *applicant*; (2) the impact of the proposal on roads, sewer facilities, water supplies, *schools*, and other public service facilities; (3) the impact of the proposal on regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions; (4) the suitability of the site for the intensity of *use* proposed (considering the site's soils, slopes, woodlands, wetlands, floodplains, aquifers, natural resources, and other natural features);
- (3) The impact of the proposed *use* on the site's soils, slopes,

woodlands, wetlands, floodplains, natural resources; and

- (4) The impact of the proposal on the preservation of agriculture and other land *uses* which are essential to public health and welfare.
  - (5) Where Board of Commissioners fails to render this decision within the required period, or fails to hold the hearing within the required period, the decision shall be deemed to have been rendered against the amendment. When a deemed decision is rendered in favor of the amendment, the Board of Commissioners shall give notice of this within 10 days of the last day that it could have met to render a favorable decision.
  - (6) If the Board of Commissioners determines that a validity challenge has merit, then it may either accept the *applicant's landowner* curative amendment -- with or without revision -- or adopt an alternative amendment that will cure the alleged defects in this ordinance.
  - (7) Where an *application* is denied, the resulting decision must be accompanied by a finding of fact, the conclusions based on these facts, and the reason that such conclusions were drawn. This will show that the decision was reasoned, and not arbitrary. References to any provisions of any ordinance, rule, or regulation relied on for any conclusion must be made, along with the reason that the conclusion is appropriate for the particular case at hand.
  - (8) Even where an *application* is not denied, the resulting decision should be accompanied by a statement of findings or an opinion that is detailed enough to substantiate the involved decision.
  - (9) A copy of the final decision must be delivered or mailed to the *applicant* no later than the day after the date of the report.
- j. The decision of the Board of Commissioners may be appealed to the Court of Common Pleas in the judicial district where the subject property is located.

4. Municipal Curative Amendments:

If the Township Board of Commissioners determines that this Ordinance or a portion thereof is substantially invalid or defected, then the Board of Commissioners may initiate a municipal curative amendment as follows.

- a. The Board of Commissioners shall first (1) declare this ordinance or the substantially invalid portion or portions thereof to be invalid by formal action, and (2) propose to prepare a municipal curative amendment to overcome these invalidities.
- b. Within 30 days of the declaration and proposal, the Board of Commissioners shall: (1) make findings by resolution that set forth the declared invalidity or invalidities (this may include references to specific *uses* which are either not *permitted* or not *permitted* in sufficient quantity, to a class or *use* or *uses* which require revision, or to the entire Ordinance), and (2) begin to prepare and consider a curative amendment to the *zoning* ordinance that will correct these invalidities.
- c. Within 180 days of the declaration and proposal, the Board of Commissioners shall either (1) enact this curative amendment according to the provisions of letter “A,” number “4” of this section, or (2) reaffirm the validity of this ordinance.
- d. During this 180 day period, the Township of Reserve, its Board of Commissioners, and its *Zoning Hearing Board* shall not be required to entertain or consider any substantive challenges to the validity of this ordinance (as laid out in Section 309, “Substantive Challenges”) that are based on the same invalidities declared under letter “b” above.
- e. The Township may not initiate another municipal curative amendment for 36 months after the date that either the curative amendment is enacted or the validity of this ordinance is reaffirmed. However, if a new duty or obligation is imposed on the Township by a statute or a Pennsylvania Appellate Court decision, then the Township may ignore this rule in order to amend this ordinance to fulfill said duty or obligation.

## ARTICLE IV ZONING DISTRICTS

### SECTION 401: Purpose

**A. Purpose:** The purpose of this section of this Article is to provide the reader with a clear understanding of how to interpret the Township’s zoning districts. The overall purpose of these districts is to bring to fruition the “Goals and Objectives” Section of the **Reserve Township Comprehensive Plan**. This section of the ordinance has been created in order to achieve these Goals and Objectives. Further, the purpose of zoning districts is to accomplish the following:

- 1) Establish areas in of the township that are of harmonious character and environment
- 2) Eliminate conflicting land uses within township neighborhoods
- 3) Provide buffers where differing land uses adjoin one another

To this extent, Article IV, Section 402 has established seven (7) “Zoning Districts” within Reserve Township. Each of these seven (7) zoning districts has similar character and environmental characteristics that make them unique. All land within the entire township is contained within one of the seven (7) zoning districts found in this Article and Ordinance.

Article VI, Section 403 establishes the Reserve Township Zoning Map. The Reserve Township Zoning Map establishes physical boundaries between zoning districts. These boundaries are delineated by color and in heavy black line on the Reserve Township Zoning Map.

Each section of this Article (IV) from Section 401 through 403 contains standards for each of these individual districts. Specifically, these sections contain the township standards for the following:

- 1) Use regulations (Permitted, Conditional and Special Exceptions)
- 2) Use regulations (Accessory uses)
- 3) Off-street parking requirements
- 4) Off-street loading requirements
- 5) Lot standards
  - a. Area
  - b. Frontage
  - c. Width
  - d. Setbacks
  - e. Zero Lot Line applicability
  - f. Prohibited (Reverse Frontage Lots)
  - g. Required evergreen buffer

**B. Applicability:** Sections 402 through 403 of this ordinance establish Reserve Township’s seven (7) zoning districts. These districts include all land within the entire township. Each subsection of Section 402 applies to all lands in Reserve Township. However, each subsection is applicable to its specific zoning district.

**C. Principal Uses on Residential Lots:**

There shall be one (1) principal and permitted use on a legally sized and dimensioned lot in all Residential Zones.

**SECTION 402: Zoning Districts**

In order to achieve the purpose of this Article (Article IV, Section 401), “*Purpose*” Reserve Township is hereby divided into seven (7) zoning districts. The following chart is a complete listing of Reserve Township’s seven (7) zoning districts.

<b>ZONING DISTRICT NAME</b>	<b>SHORT CODE IDENTIFICATION</b>
Single Household Residential	R-1
Two Household Residential	R-2
Multi Household Residential	R-3
Trailer Household Residential	R-4
Neighborhood Commercial	C-1
General Commercial	C-2
Light Industrial	LI

**A. Single Household Residential R-1**

The aim of this district is to retain a rural character and allow for residential development in areas that do not have public infrastructure. Due to the lack of public sewer and water, development is proposed to occur in lots large enough to support both water well and a on lot sewage disposal systems. Geological constraints such as slope and soil type are other factors that contribute to the land use/zoning classification.

**B. Two-Household Residential R-2**

The district was established to encourage single household dwelling units in areas serviced by public water and sewer at a higher net density than that in the R-1 Residential district. Maximum net densities in this district are capped at two single household dwelling units per acre. This district permits single household attached and detached dwelling units.

**C. Multi Household Residential R-3**

This district has been formed to allow higher density than R-1 or R-2 for a variety of single household dwelling types at a variety of densities. Access to public sewer and water is a standard that guided the location of these districts. Not only are single household dwelling units permitted as a regular use; but multi family units such as Garden Apartments and Condominiums are as well. Land use concepts such as performance zoning, Zero Lot Line technique, Density Bonuses and Clustering are encouraged in this district. This district is proposed to be serviced by both public sewer and water.

#### **D. Trailer Household Residential R-4**

In order to have areas of the township that permit mobile homes and trailers as regular uses, the R-4 Residential district has been established. Zoning ordinance standards regarding permanent foundations and availability of public infrastructure should be considered when developing in this district.

#### **E. Neighborhood Commercial C-1**

This zoning district has been established to encourage retail activity and nearby residential areas and neighborhood commercial services that are geared toward the local community. All establishments should be required to have rear loading access via a service street or alley, sufficient parking, landscaping and lighting. Sidewalks and street furniture are encouraged at shopping centers and commercial strips.

#### **F. Commercial District C-2**

This district is designed to encourage large scale retail, commercial, and service activities. These commercial activities require larger parking facilities, lighting, landscaping and off street loading areas. Commercial activities in this district are regional in nature and serve the regional population rather than the local community. All establishments should be required to have rear loading access via a service street or alley, sufficient parking, landscaping and lighting. Sidewalks and street furniture are encouraged at shopping centers and commercial strips.

#### **G. Light Industrial L-1**

This zone has been created to provide areas for assembly, processing and small-scale manufacturing. Access to Interstate Highways and Public Infrastructure are the foundation for establishing this type of land use in the township. Due to the amount of existing commercial uses in the current Manufacturing Zone commercial uses will be permitted as lesser uses in this zone.

**H. Permitted Uses** Permitted uses are those that do not require variances and simply require a “Zoning Permit” and/ or an “Occupancy Permit” from the Reserve Township Zoning Officer. Article III, Section 302 addresses “Zoning Permits” and Article I, Section 116 addresses “Occupancy Permits.” Table IV-A, the Reserve Township Land Use, Off-street parking, and Off-street loading requirements illustrates permitted uses with a “P” on the table.

#### **R-1 Single Household Residential District**

See TABLE IV -A

#### **R-2 Two-Household Residential District**

See TABLE IV -A

#### **R-3 Multi Household Residential District**

See TABLE IV -A

**R-4 Trailer Household Residential District**

See TABLE IV -A

**C-1 Community Commercial District**

See TABLE IV -A

And less intense residential area

**C-2 Regional Commercial District**

See TABLE IV -A

And less intense residential area

**LI Light Industrial District**

See TABLE IV -A

And less intense residential area

**I. Conditional Uses** Conditional Uses are those that require approval from the Township Board of Commissioners. Conditional uses have a set of requirements found in Article III, Section 306 “*Conditional Uses*”. Table IV-A, the Reserve Township Land Use, Off-street parking, and Off-street loading requirements illustrates permitted uses with a “C” on the table.

The following are conditional uses in Reserve Township:

**R-1 Single Household Residential District**

See TABLE IV -A

**R-2 Two-Household Residential District**

See TABLE IV -A

**R-3 Multi Household Residential District**

See TABLE IV -A

**R-4 Trailer Household Residential District**

See TABLE IV -A

**J. Accessory Uses** Accessory uses are those that are ancillary to the principal permitted use on the lot. Accessory uses are those that do not require variances and simply require a “*Zoning Permit*” and/ or an “*Occupancy Permit*” from the Reserve Township Zoning Officer. Article III, Section 302 addresses “*Zoning Permits*” and Article I, Section 115 addresses “*Occupancy Permits.*” Table IV-A, the Reserve Township Land Use, Off-street parking, and Off-street loading requirements illustrates permitted uses with an “A” on the table.

**See TABLE IV -A**

**K. Special Exception Uses** Special Exception Uses are those that may be allowed on a particular lot provided that the Reserve Township Zoning Hearing Board approves the use. Conditions of the use may be required as part of the granting of the special exception use. Article III, Section 306 addresses “*Special Exception Uses*”. Table IV-A, the Reserve Township Land Use, Off-street parking, and Off-street loading requirements illustrates permitted uses with an “S” on the table.

**See TABLE IV -A**

**L. Temporary Uses** Temporary Uses are those that may be allowed on a particular lot provided that the Reserve Township Zoning Officer approves the use for a period not to exceed 90 days unless renewed. Conditions of the use may be required as part of the granting of the special exception use. Article IX, Section 901 addresses “*Temporary Uses*”. Table IV-A, the Reserve Township Land Use, Off-street parking, and Off-street loading requirements illustrates permitted uses with a “T” on the table.

Carnival Structures  
Construction Trailers

#### **SECTION 403: Zoning Map**

The locations and boundaries of the districts enumerated in Section 402 are hereby established as shown upon the map attached to this document. It shall be designated as the "Official Zoning Map." The zoning map and all information shown thereon are hereby made a part of this Article and this Ordinance. The "Official Zoning Map" shall be dated and shall carry the signature of the Township Secretary certifying that it is the true map adopted by the Reserve Township Board of Commissioners.

The Zoning Officer at the Municipal Building shall maintain the “Official Zoning Map.” For informational purposes, a Zoning Map is attached to this ordinance, but in the event of any dispute between the informational map and the ordinance, or the official map at the Municipal Building, the "Official Zoning Map" shall control.

1) **District Boundaries**

- a. Boundaries indicated as approximately following natural features or the centerlines of streets, highways or alleys should be construed to follow such centerlines.
- b. Boundaries indicated as approximately following the boundary line of a recorded lot or separate parcel of land shall be construed as following said line of recorded lot or parcel of land.
- c. Boundaries indicated, as approximately following Township boundaries shall be construed as to follow said Township boundaries.
- d. Such dimensions shall determine boundaries indicated by measured distances on the zoning map. The scale of the map shall determine distances not specifically indicated on the zoning map.

2) Amending the Zoning Map: The Reserve Township Zoning Map may be amended **only** through the following:

- a. Simple amendment the Reserve Township Zoning Ordinance
- b. Landowner curative amendment as provided by the Reserve Township Zoning Ordinance and PA MPC, as reenacted and amended.
- c. Municipal curative amendment

3) Map amendment time frames: Any amendment to the Reserve Township Zoning Map must be made within sixty days of the amendment. All changes will be made through ordinance. The map revisions will require the following:

- a. Revision Date
- b. Ordinance Number
- c. Signature of the Chairman of the Reserve Township Secretary

**Table IV-A**  
**RESERVE TOWNSHIP ZONING AND OFF STREET PARKING AND LOADING CHART**

Land Use	R-1	R-2	R-3	R-4	C-1	C-2	LI	Minimum Required Off-street Parking Spaces	Minimum Required Off-street Loading Spaces
Adult/Sexually Oriented Business	N	N	N	N	N		S N	See Article 519	See Article 521
Agricultural Operation	P	P	P	P	P	P	C	See Article 519	See Article 521
Auto Car Wash	N	N	N	N	P	P	C	See Article 519	See Article 521
Auto Repair	N	N	N	N	P	P	C	See Article 519	See Article 521
Auto Service Station	N	N	N	N	P	P	C	See Article 519	See Article 521
Banks	N	N	N	N	P	P	C	See Article 519	See Article 521
Bar	N	N	N	N	P	P	C	See Article 519	See Article 521
Barber Shop	N	N	N	N	P	P	C	See Article 519	See Article 521
Bowling Alley	N	N	N	N	P	P	C	See Article 519	See Article 521
Bus Shelter	C	C	C	C	P	P	C	See Article 519	See Article 521
Child Care Center	C	C	C	C	P	P	C	See Article 519	See Article 521
Church	P	P	P	P	P	P	P	See Article 519	See Article 521
Club	N	N	N	N	C	C	C	See Article 519	See Article 521
Condominium	N	N	P	P	C	C	C	See Article 519	See Article 521
Conference Center	N	N	N	N	C	P	C	See Article 519	See Article 521
Convenience Store	N	N	N	N	P	P	C	See Article 519	See Article 521
Country Club	C	C	C	C	C	C	C	See Article 519	See Article 521
Daycare-Child	C	C	C	C	C	C	C	See Article 519	See Article 521
Daycare-Adult	C	C	C	C	C	C	C	See Article 519	See Article 521
Dwelling-Duplex	N	N	P	P	C	C	P	See Article 519	See Article 521
Dwelling-Apartment (Garden)	N	N						See Article 519	See Article 521
Forestry	C	C	C	C	C	C	C	See Article 519	See Article 521
Garage-Residential	A	A	A	A	A	A	A	See Article 519	See Article 521
Garage-Municipal	P	P	P	P	P	P	P	See Article 519	See Article 521
Garage-Public	N	N	N	N	C	P	P	See Article 519	See Article 521
Greenhouses	C	C	C	C	P	P	P	See Article 519	See Article 521
Health Care Facility	N	N	N	N	P	P	C	See Article 519	See Article 521
Health Club	N	N	N	N	P	P	C	See Article 519	See Article 521
Home Occupation	P	P	P	P	C	C	C	See Article 519	See Article 521
Home Professional Office	C	C	C	C	C	C	C	See Article 519	See Article 521
Homes for the Aged	C	C	C	C	C	P	C	See Article 519	See Article 521
Hospital	N	N	N	N	N	P	P	See Article 519	See Article 521
House-Trailer	N	N	N	P	N	N	N	See Article 519	See Article 521
Industrial Park	N	N	N	N	N	N	P	See Article 519	See Article 521
Industrial Light	N	N	N	N	N	N	P	See Article 519	See Article 521
Mall-Small Scale	N	N	N	N	C	C	C	See Article 519	See Article 521
Mobile Home	N	N	N	P	N	N	N	See Article 519	See Article 521
Mobile Home Park	N	N	N	P	N	N	N	See Article 519	See Article 521
Modular Home	P	P	P	P	P	P	P	See Article 519	See Article 521
Motel	N	N	N	N	C	P	C	See Article 519	See Article 521
Multi-use building	N	N	N	N	P	P	P	See Article 519	See Article 521
NonImpact Home Business	P	P	P	P	P	P	P	See Article 519	See Article 521

Land Use	R-1	R-2	R-3	R-4	C-1	C-2	LI	Minimum Required Off-street Parking Spaces	Minimum Required Off-street Loading Spaces
Nursery	C	C	C	C	C	C	C	See Article 519	See Article 521
Nursery School	C	C	C	C	C	C	C	See Article 519	See Article 521
Nursing Home	C	C	C	C	C	C	C	See Article 519	See Article 521
Office Building	N	N	N	N	P	P	C	See Article 519	See Article 521
Office Park	N	N	N	N	P	C	C	See Article 519	See Article 521
Planned Residential Development (PRD)	C	C	C	C	N	N	N	See Article 519	See Article 521
Private Club	N	N	N	N	C	C	C	See Article 519	See Article 521
Professional Office	N	N	N	N	P	P	P	See Article 519	See Article 521
Recreational Facility-Commercial	N	N	N	N	C	C	C	See Article 519	See Article 521
Recreational Facility-private	N	N	N	N	C	C	C	See Article 519	See Article 521
Recreational Facility-public	P	P	P	P	P	P	P	See Article 519	See Article 521
Religious Use	C	C	C	C	C	P	C	See Article 519	See Article 521
Residential Health Care Facility	C	C	C	C	C	C	C	See Article 519	See Article 521
Restaurant	N	N	N	N	C	P	C	See Article 519	See Article 521
Restaurant-carryout	N	N	N	N	C	C	C	See Article 519	See Article 521
Restaurant-drive in	N	N	N	N	C	C	C	See Article 519	See Article 521
Retail Sales-Outdoors	N	N	N	N	C	C	C	See Article 519	See Article 521
Retail Services	N	N	N	N	C	C	C	See Article 519	See Article 521
Retail Warehousing	N	N	N	N	C	C	C	See Article 519	See Article 521
Retirement Community	C	C	C	C	C	C	C	See Article 519	See Article 521
Satellite Dish Antenna	A	A	A	A	A	A	A	See Article 519	See Article 521
School-elementary	C	C	C	C	C	C	C	See Article 519	See Article 521
School-parochial	C	C	C	C	C	C	C	See Article 519	See Article 521
School-vocational	C	C	C	C	C	C	C	See Article 519	See Article 521
Self-service storage facility	N	N	N	N	C	C	P	See Article 519	See Article 521
Specialty Food Store	N	N	N	N	C	C	C	See Article 519	See Article 521
Swimming Pool- private	A	A	A	A	A	A	A	See Article 519	See Article 521
Swimming Pool- public	C	C	C	C	C	C	C	See Article 519	See Article 521
Theater	N	N	N	N	C	C	P	See Article 519	See Article 521
Trailer-construction	A	A	A	A	A	A	A	See Article 519	See Article 521
Utility-public/private	C	C	C	C	C	C	C	See Article 519	See Article 521
Warehouse	N	N	N	N	C	C	P	See Article 519	See Article 521

**LEGEND:**

- P = Permitted**
- C = Conditional Use**
- A = Accessory Use**
- N = Not Permitted**
- S = Special Exception**

**RESERVE TOWNSHIP  
AREA AND YARD CHART**

<b>ZONING SCHEDULE</b>									
<b>Zone</b>	<b>Use</b>	<b>Min. Lot Area (Sq. Ft.)</b>	<b>Min. Lot Width</b>	<b>Min. Front Yard</b>	<b>Min. Rear Yard</b>	<b>Side Yard</b>	<b>Max. Lot Cov.</b>	<b>Max. Bldg. Height</b>	<b>Net Density</b>
<b>R-1</b>	<b>1 Family</b>	20,000	75	30	30	15/30	50%	35'	1
<b>R-2</b>	<b>1 Family</b>	20,000	75	30	30	10/25	50%	35'	1
	<b>2 Family</b>	20,000	100	30	30	10/25	50%	35'	1
<b>R-3</b>	<b>1 Family</b>	20,000	75	30	30	10/25	50%	35'	1
	<b>2 Family</b>	10,000	75	30	30	10/25	50%	35'	1
	<b>Townhouse</b>	10,000	150	30	30	10/25	50%	35'	2/4
<b>R-4</b>	<b>1 Family</b>	10,000	75	30	30	10/25	50%	35'	1
	<b>2 Family</b>	10,000	75	30	30	10/25	50%	35'	1
	<b>Townhouse</b>	10,000							
	<b>Mobile Home</b>	10,000							
<b>LI</b>	<b>Light Ind.</b>	40,000	200	40	40	20	25%	35'	1
<b>C1</b>	<b>Community Commercial</b>	20,000	80	25	25	20	30%	40'	1
<b>C2</b>	<b>General Commercial</b>	20,000	100	50	50	20	30%	40'	1

A minimum overall gross acreage of two acres is necessary to develop townhouses on a site. A density bonus may be granted for developments that dedicate affordable housing, open spaces, etc. for those uses that note two net densities.

The maximum percent of paved areas in all C and LI Districts is 50%.

**ARTICLE IV-A**  
**PLANNED RESIDENTIAL DEVELOPMENTS**

**Section 400A.1:      **Applicability.****

The requirements for approval of a development plan under this Article shall be an exception to and in lieu of the Subdivision Ordinance No. 108, as amended. Failure to comply with the provisions of this chapter with respect to a recorded development plan shall be deemed to constitute a violation of this chapter.

**Section 400A.2:      **Application and review procedures.****

A.      Preliminary application.

- (1)      The preliminary application shall include a preliminary development plan and this Article may require other information. The application shall be submitted to the Commissioners with not less than eight (8) copies and shall be accompanied by a fee as may from time to time be determined by the Township Board of Commissioners.
- (2)      The Planning Commission shall be the responsible reviewing agency. However, the Township Board of Commissioners shall make all approvals or disapprovals of the preliminary or final development plans.
- (3)      Preapplication conferences. Each applicant should confer with the Planning Commission in connection with the preparation of the planned residential development application and prior to the submission of such application. The purpose of preapplication to conferences is to benefit the applicant by providing information and guidance before the applicant shall have entered

into binding commitments or incurred any substantial expense in the preparation of plans, surveys and other data.

- (4) The preliminary development plan shall be an overall plan in the form of both maps and a written statement and shall include:
- (a) A vicinity map showing enough of the surrounding area to demonstrate the relationship of the planned development to adjoining uses.
  - (b) The location, size and topography of the site and other pertinent natural features such as tree cover, landslide-prone conditions and the extent of mining or coal reserves.
  - (c) The density of land use to be allocated to parts of the site to be developed.
  - (d) The location and size of the open space and the form of organization proposed to own and maintain the open space.
  - (e) The use and approximate height, bulk and location of buildings and other structures.
  - (f) The feasibility of proposals for the disposition of sanitary waste and storm water and the approval of the Girty's Run Joint Sanitary Authority or the approval of any other municipal entity.
  - (g) The feasibility of the proposals for water and the approval of the West View Water Authority, Shaler Township or any other required municipal entity.
  - (h) The substance of covenants, grants or easements or other restrictions proposed to be imposed upon the use of the land, buildings and structures, including proposed easements or grants for public utilities.
  - (i) The provisions for parking of vehicles and the location and width of proposed streets and public ways.
  - (j) The required modifications in the municipal land use regulations otherwise applicable to the subject property.
  - (k) In the case of development plans which call for development over a period of years, a schedule showing the proposed times within which application for final approval of all sections of the planned residential development are intended to be filed. This schedule must be updated

annually, on or before the anniversary of its approval, until the development is completed and accepted.

- (1) The application for tentative approval of a planned residential development shall include a written statement by the landowner setting forth the reasons why, in his opinion, a planned residential development would be in the public interest and would be consistent with the Comprehensive Plan for the development of the municipality.
- B. Preliminary review. The Board of Commissioners shall forward one (1) copy each of the preliminary application to the Planning Commission, to, to the Township Engineer, the Allegheny County Department of Economic Development, the responsible water and sanitary sewer entity, and the Allegheny County Health Department. The Commissioners shall not approve the preliminary application until reports from each of these agencies have received or until the expiration of thirty (30) days from the date the copies of the application for development were forwarded to said agencies.
- C. Public hearings. The Township Board of Commissioners shall hold a public hearing as required by law within sixty (60) days of the filing of the preliminary application for a development plan.
- D. Criteria for tentative approval. The Township Board of Commissioners may give tentative approval to a proposed development plan if, and only if, it is found to meet the following criteria:
- (1) The proposed development plan complies with all standards and conditions of Article I, preserves the community development objectives of this Article and is found by the Commissioners to be consistent with the accepted community development objectives.
  - (2) Where the proposed development plan provides standards varying from those in this Article and the subdivision regulations otherwise applicable to the subject property provided such departure is in the public interest and promotes the health, safety and general welfare of the public.
  - (3) The proposals for the maintenance and conservation of any proposed common open space are reliable, and the amount and extent of improvements of the remaining land and common open space are appropriate with respect to the purpose, use and type of residential development proposed.
  - (4) The physical design of the proposed development plan adequately provides for the public service, traffic facilities and parking, light, air, recreation and visual enjoyment.

- (5) The total environment of the proposed development plan is harmonious and consistent with the neighborhood in which it is located. The flexibility of design innovation and imagination of the site plan is clearly evident.
  - (6) The proposed development plan will afford a greater degree of protection of natural watercourses, topsoil, trees and other features of the natural environment and prevention of erosion, landslides, siltation and flooding than if subject property were developed in accordance with the provisions of this chapter and the Subdivision Ordinance which otherwise apply.
  - (7) In the case of a development plan which proposes development over a period of years, the terms and conditions intended are sufficient to protect the interests of the public and of the residents of the planned residential development in the integrity of the development plan.
- E. Grant or denial of tentative approval. The Township Board of Commissioners shall render their decision not later than sixty (60) days after the conclusion of the public hearing or within 180 days of filing the application, whichever occurs first.
- (1) The decision of the Township Board of Commissioners shall be in writing and shall be given to the Developer personally or mailed to him at his last known address not later than five (5) days following the decision.
  - (2) The Township Board of Commissioners may:
    - (a) Grant tentative approval of the development plan as submitted;
    - (b) Grant tentative approval subject to specified conditions not included in the development plan as submitted; or
    - (c) Deny approval of the development plan.
  - (3) The grant or denial of tentative approval shall include findings of fact related to the proposed development plan as submitted for approval; and the reasons for the decision shall be set forth with particularity in what respect the proposed development plan would or would not be in the public interest, including, but not limited to, each of the above criteria.
  - (4) In the event that the development plan is granted tentative approval with or without conditions, the Township Board of Commissioners may set forth in the official written communications the time within which an application for final approval of the development plan shall be filed or, in the case of a development plan which provides for development over a period of years, the periods of time within which applications for final approval of each part

thereof shall be filed. Except upon the consent of the landowner, the time so established between grant of tentative approval and an application for final approval shall not be less than three (3) months, and, in the case of development over a period of years, the time between applications for final approval of each part of a plan shall not be less than twelve (12) months.

- (5) If the developer chooses to reject any conditions attached to the grant of tentative approval, he may void such tentative approval by notifying the Township Board of Commissioners within thirty (30) days of the decision of the Township Board of Commissioners.
- (6) The grant of tentative approval shall be revoked by the Township Board of Commissioners if they are notified by the developer of his intention to abandon the proposed development plan. The grant of tentative approval shall be deemed to be revoked if the developer does not submit an application for final approval within the time limits required by law.

F. Status of plan after tentative approval.

- (1) The official written communication provided for in this Article shall be certified by the Secretary or Clerk of the governing body and shall be filed in his or her office, and a certified copy shall be mailed to the landowner. Where tentative approval has been granted, the same shall be noted on the Zoning Map.
- (2) Tentative approval of a development plan shall not qualify a plat of the planned residential development for recording nor authorize development or the issuance of any building permits. A development plan which has been given tentative approval as submitted or which has been given tentative approval with conditions which have been accepted by the landowner (and provided that the landowner has not defaulted nor violated any of the conditions of the tentative approval) shall not be modified or revoked nor otherwise impaired by action of the municipality, provided that an application for final approval is filed or, in the case of development over a period of years, provided that applications are filed, within the periods of time specified in the official written communication granting tentative approval.
- (3) In the event that a development plan is given tentative approval and thereafter, prior to final approval, the landowner shall elect to abandon said development plan and shall so notify the governing body in writing, or in the event the landowner shall fail to file application or applications for final approval within the required period of time, as the case may be, the tentative approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final approval has not been

given shall be subject to those local ordinances otherwise applicable thereto as they may be amended from time to time, and the same shall be noted on the Zoning Map and in the records of the Secretary or Clerk of the municipality.

G. Application for final approval

- (1) An application for final approval may be for all of the land included in a development plan or, to the extent set forth in the tentative approval, for a section thereof. Said application shall be filed with the Township Board of Commissioners not later than six (6) months following the grant of tentative approval. The Township Board of Commissioners may grant an extension of time upon written request from the applicant.
- (2) The application for final approval shall include all data required for final plats as specified in the Subdivision Ordinance, including construction drawings, specifications, covenants, easements and deed restrictions, and shall incorporate any conditions or modifications as set forth in the official written communication at the time of tentative approval. Approvals from all applicable state, county and federal agencies must also be included.

H. Guaranty of improvements. No development plan shall be finally approved unless a guaranty that the owner will install the improvements is presented to the Board of Commissioners in the form of a bond or deposit of funds or securities in escrow in the amount of one hundred percent (110%) of the cost of the improvements, which may be required. Such guaranty shall provide for and secure to the public the completion of all declared improvements for the stage within a period of three (3) years from the date of the final approval of the development plan of the stage.

I. Final review. The Township Board of Commissioners shall forward one (1) copy each of the application for final approval to the Planning Commission, the Township Engineer, the Allegheny County Department of Economic Development, to a township planning consultant and the Allegheny County Health Department. The Township Board of Commissioners shall not approve the final application until reports from each of these agencies have been received or until the expiration of thirty (30) days from the date the copies of the final application were forwarded to said agencies.

J. Final approval. In the event the application for final approval has been filed, together with all drawings, specifications and other documents in support thereof, and as required by the ordinance and the official written communication of tentative approval, the Township shall, within 45 days from the date of the regular meeting or the governing body or the planning agency, whichever first reviews the application, next following the date the application is filed, grant such

development plan final approval. Provided, however, that should the next regular meeting occur more than 30 days following the filing of the application, the 45-day period shall be measured from the 30th day following the day the application has been filed.

- K. Recording. The developer shall record the approved development plan in the office of the County Recorder of Deeds within ninety (90) days of final approval.
- L. Revocation. The approval of the development plan shall be revoked if the developer gives notice of his intention to abandon the plan or if the developer fails to complete the development within three (3) years of the date of final approval or, if the development is approved in stages, then three (3) years from the scheduled date of commencement of any stage; and no further development shall take place on the property included in such development plan unless a subsequent development plan is approved or such development complies with this chapter and the Subdivision Ordinance.

**Section 400A.3: Development Standards**

- A. Site requirements. The site for any planned residential development plan shall meet the following requirements:
  - (1) Ownership. The entire site for the development plan shall be owned or controlled by the developer.
  - (2) Minimum size. The site shall not be less than twenty (20) contiguous acres.
  - (3) Frontage. The minimum frontage abutting on a public right-of-way shall not be less than one-hundred (100) feet.
  - (4) Access. The site must provide for direct access from arterial or collector streets indicated on the development concept plan to assure convenient and safe access, which will not cause undue congestion or hazard on local streets.
  - (5) The site shall be such a character as to avoid danger to health or peril from fire, flood or other hazards.
  - (6) The rules and regulations of any water or sewer municipal entity shall be observed.
- B. Permitted uses. Residential dwellings (a mixture of housing types is preferred), recreation facilities similar to hiking, walking and bicycle trails, tennis, basketball and volleyball courts, swimming pool and related facilities and putting greens and accessory uses may be permitted in a development plan, provided that their design, arrangements, landscape development and construction meet the requirements

established by the township and the facilities are for use by the tenants, owners and their guests only.

- C. Permitted density. The average or overall density for all types of combined residential units shall not exceed twelve (12) residential units per gross acre for the entire planned residential area.
- D. Yard and open space requirements. There shall be no restrictions regarding lot size, lot width, setbacks or percentage of lot coverage except as follows:
  - (1) Not less than twenty (20%) percent of the total site area shall be set aside for undeveloped open space.
  - (2) Minimum building setback. No structure shall be located closer to any boundary of the site than seventy-five (75) feet.
  - (3) The total building coverage shall not exceed fifty percent (50%) of the total site area.
  - (4) Space between buildings. Every structure shall be separated by not less than twenty-five (25) feet from any other structure on the site.
  - (5) All paved areas, including roads, parking areas and service yards, or areas developed in intensive recreational uses as permitted by this Article, and any land within twenty (20) feet of townhouses or apartments shall not be considered part of the required open space.
  - (6) Building grouping. Each building used for multiple dwellings, including accessory buildings, shall be so oriented as to ensure adequate light and air exposure for walls containing main window exposure or main entrances. Each building shall be so arranged as to avoid undue exposure to concentrated loading or parking facilities and shall be so oriented as to promote visual and audible privacy between adjacent buildings and adjacent lots. A building containing a dwelling unit shall not be so situated that it is inaccessible by emergency vehicles. Each building used for multiple dwellings, including accessory buildings, shall be twenty-five (25) feet distant from any other building on the lot or a greater distance if deemed advisable by the township upon inspection of the site plan.
  - (7) Open spaces.
    - (a) Open spaces between structures, including those spaces being used as recreational areas, shall be protected by adequate covenants running with the land or by conveyances or dedications, as the Board

of Commissioners and Planning Commission shall specify, consistent with applicable state statutes.

- (b) Defaults. In cases where the township will not be accepting dedications of streets, recreation areas or open spaces, the landowner shall provide for an organization (including complete bylaws and, if required, a charter) or trust for ownership and maintenance. In the event of default, the township may assume control and the resulting costs may be assessed against the properties that have right of enjoyment of these spaces and facilities as specified by applicable state statutes.
- (8) Roads and parking areas. Only arterial or collector streets shall provide access to planned residential developments. The dimensions and construction of roads, alleys and parking areas provided within the development, whether or not dedication to the township is contemplated, shall conform to all applicable township ordinances and regulations. In cases where the developer can demonstrate that the density and flow of vehicular and pedestrian traffic do not require such conformations, the Board of Commissioners may establish lesser requirements, which shall not be contrary to the interest of the community. Every single-family dwelling shall have access to a street or court dedicated to public use.
- E. Height limitations. No structure shall exceed a height of three (3) stories, which shall not exceed thirty-five (35) feet measured from the lowest point of intersection of the structure with the ground to the highest peak of the roof.
- F. Maximum size of structures. No structure shall be comprised of more than eighteen (18) dwelling units. No structure shall have an overall horizontal dimension greater than two hundred (200) feet.
- G. Open space reservation. Open space generated by the application of the provisions of this Article shall be so dedicated or otherwise preserved and maintained as to always remain open. The land to be used for open space may be acceptable if the following conditions are met:
  - (1) The land shall be dedicated to the township for township park use; or
  - (2) The land and facilities shall be deeded to an organization representing the property owners of the development. The organization shall covenant to operate and maintain the land; or
  - (3) The land shall be deeded to the abutting lot owners as tenancy in common.

- H. Open space maintenance. In the event that the organization established to own and maintain open space, or any successor organization, shall at any time after establishment of the development plan fail to maintain the open space in reasonable order and condition in accordance with the development plan, the municipality may take remedial actions to cause the open space to be properly maintained, as provided by the Pennsylvania Municipalities Planning Code.<sup>7</sup>
- I. Staging development. In no instance shall the density (dwelling units per acre) of any stage of the development exceed the allowable density (dwelling units per acre) as permitted under this Article within the zoning district or districts as established by this Article.

**Section 400A.4: Enforcement and amendment**

To ensure the integrity of the development plan and guarantee that modifications in the plan do not adversely affect the public interest, the enforcement and modification of the provisions of the development plan as finally approved, whether those are recorded by plat, covenant, easement or otherwise, shall be subject to the following provisions:

- A. Provisions in favor of municipality. The provisions of the development plan relating to the use, bulk and location of buildings and structures, the quantity and location of common open space, except as otherwise provided in this Article, and the intensity of use or the density of residential units shall run in favor of the municipality. As provided by law, these provisions shall be enforceable at law or in equity by the Township without limitation on any powers of regulation otherwise granted the Township by law.
- B. Provisions in favor of residents. All provisions of the development plan shall run in favor of the residents of the planned residential development but only to the extent expressly provided in the development plan. Furthermore, these provisions, whether recorded by plat, covenant, easement or otherwise, may be enforced at law or in equity by said residents acting individually, jointly or through an organization designated in the development plan to act on their behalf. No provisions of the development plan shall, however, be implied to exist in favor of residents of the planned residential development except as to those portions of the development plan, which have been finally approved and have been recorded.
- C. Modifications. All those provisions of the development plan authorized to be enforced by the Township under this section may be modified, removed or released by the Township, except grants or easements relating to the service or equipment of a public utility, subject to the following conditions:

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<sup>7</sup> Editor's Note: See 53 P.S. 10101 et seq. In particular, see 53 P.S. 10705

- (1) No such modification, removal or release of the provisions of the development plan by the Township shall affect the rights of the residents of the planned residential development to maintain and enforce those provisions, at law or equity, as provided in this section.
  - (2) No modification, removal or release of the provisions of the development plan by the Township shall be permitted except upon the findings by the Board of Commissioners or its designated agency, following a public hearing thereon pursuant to public notice called and held in accordance with the provisions of the Pennsylvania Municipalities Planning Code. These findings must indicate that the changes are consistent with the efficient development and preservation of the entire planned residential development and do not adversely affect the enjoyment of the land abutting upon or across the street from the planned residential development or the public interest and are not granted solely to confer a special benefit upon any person.
- D. Release of rights. Residents of the planned residential development may, to the extent and in the manner expressly authorized by the provisions of the development plan, modify, remove or release their rights to enforce the provisions of the development plan, but no such action shall affect the right of the Township to enforce the provisions of the development plan in accordance with the provisions of this section.

## **ARTICLE V OFF-STREET PARKING**

### **Section 501:           Applicability - General**

For every use, activity, or structure permitted by this Article and for all buildings or structures erected in accordance therewith, there shall be provided sufficient space for access and off-street standing, parking, circulation, unloading and loading of motor vehicles that may be expected to transport its occupants, whether as patrons, residents, customers, employees, goods, guests, materials, services, supplies or otherwise, to an establishment, activity, or place of residence at any time under normal conditions for any purpose. When a use is expanded, accessory off-street parking and loading shall be provided in accordance with the regulations herein for the area or capacity of such expansion including bringing the area into compliance with the township standards in the Reserve Township Ordinances. No vehicle shall be parked in any one location for more than a two (2) week continuous period on any street or sidewalk other than properly licensed automobiles and RV's in residential zones, and no parking whatsoever shall be permitted on lawns or landscaped areas. No repair work or service work shall be performed in open view on any vehicle, boat or recreational vehicle for any period extending beyond three (3) days.

### **Section 502:           Parking of Commercial and Recreational Vehicles, Trailers and Trucks.**

Commercial and Recreational Vehicles, Trailers and Trucks shall not be parked in any garage or upon any space in any Zoning District, except as may be permitted by Township Ordinance.

No trailer shall be stored in open view in any residential zone except for those in the engaged loading of goods or services or those being for agricultural purposes at any time. Those trailers that are engaged in loading or agricultural purposes must be attached to cabs or tractors at all times.

All Commercial and Recreational Vehicles, Trailers and Trucks shall be required to maintain current insurance, registration and state inspection stickers regardless of where they are located within the township.

Any vehicle engaged in the loading of goods and services, excluding personal care vehicles, shall not be closer than twenty feet (20') from the existing right of way line of any roadway and twenty feet (20') of any side or rear yard setback line.

### **Section 503:           Procedure**

Every building permit application for a new, enlarged, or remodeled building, structure or use other than single family detached residential dwelling units shall include therewith, as part of its

land development plan drawn to scale and fully dimensioned, showing any off-street parking or loading facilities and related site improvements and landscaping.

**Section 504:           Decreased Parking Demand**

When a building or structure undergoes a decrease in the number of dwelling units, gross floor area, seating capacity, number of employees, or other units of measurement specified hereinafter as a means for determining required off-street parking or loading facilities may be so decreased only when the parking or loading facilities remaining would at least equal or exceed the off-street parking or loading requirements resulting from application of the provisions of these standards to the entire building, activity, or structure as modified.

**Section 505:           Increased Parking Demand**

When any building or structure undergoes a change or expansion of use of unit measurement specified hereinafter as a means for determining required off-street parking or loading facilities will be required off-street parking or loading facilities will be required to comply with the standards set forth in this ordinance.

**Section 506:           Ingress/Egress**

All entrances and exits and loading areas from a public right-of-way shall be subject to specific approval by the Planning Commission and/or the Board of Commissioners, Allegheny County and/or PennDOT by land development plan approval in order to ensure the smooth and safe circulation of vehicles to and from the public street system. In no event shall parking in a loading space be provided in a manner requiring the backing out of vehicles into public rights-of-way.

**Section 507:           Location of Parking or Loading Space**

All required off-street parking or loading spaces shall be provided on the same lot or same zoning districts of a parcel of land occupied by the use or building to which it is appurtenant: provided, however, an alternative off site location for any portion of the required parking for a non residential use which will adequately serve the public interest may be provided, subject to all the following conditions:

1. Required accessory off-street parking facilities may be provided elsewhere than on the lot on which the principal use served is located, provided that the property occupied as parking is in the same possession, either by deed, by easement, or by long term lease which has a term equal to or exceeding the projected life of the facility occupied by the principal use, and further provided that the owner shall be bound by covenants filed on

record in the Allegheny County Recorders Office, requiring the owner and his or hers and successors assigns, to maintain the required number off-street parking spaces during the existence of such principal use;

2. Pedestrian access shall be available within a walking distance of not more than one hundred fifty feet (150') measured from the nearest point of public access to the building to the nearest part of the accessory parking area, unless special provisions for other transportation such as shuttle services are made available and permitted by the township; and
3. Such separated parking space shall be usable without causing unreasonable traffic congestion, detriment to any residential neighborhood, or hazard to pedestrians or vehicular traffic, and
4. All handicapped parking stalls will be in compliance with the ADA requirements and each handicapped stall will be located as close to the building entrance as permissible.
5. All handicapped parking stalls will be in marked by striping, lettering, and sign.

**Section 508:           Joint Parking Facilities**

1. Off-street parking facilities for different buildings, structures, or uses, or for mixed uses, may be provided and used collectively or jointly in any zoning district in which separate off-street parking facilities for each constituent use would be permitted, subject to the following provisions:
  - A. A written agreement in recordable form approved by the Township Solicitor assuring perpetual joint usage of said common parking for the combination of uses or buildings is properly drawn and executed by the parties concerned and is filed with and made part of application for a building permit; and
  - B. Up to 50 percent (50%) of the parking spaces required for a theater or other place of evening entertainment, for a church, for multi-family dwelling units, or for a school, may be provided and used jointly by banks, offices, retail stores, repair shops, service establishments, and similar uses not normally open, used, or operated during evening hours if specially approved by the Planning Commission and/or the Board of Commissioners provided, however, that written agreement assuring the retention for such purposes should be properly drawn and executed by the Planning Commission and/or the Board of Commissioners provided, however that a written agreement in recordable form approved by the Township Solicitor assuring the retention for such purposes are properly drawn and is filed with and made part of the application for a building permit. And, sufficient documentation such as parking studies shall be performed by a professional Transportation Consultants and submitted with the development application as evidence of this requirement.

**Section 509: Number of Parking and Loading Spaces Required**

The required number of off-street parking and loading spaces is set forth in Section 519 Schedule of Minimum Parking Requirements, Schedule of Minimum Loading Requirements.

**Section 510: Modification in the Required Number of Parking and Loading Spaces**

1. The number of parking and loading spaces to be constructed may be less than the number of spaces required herein in the event that the following conditions are met to the satisfaction of the Planning Commission and the Board of Commissioners is satisfied that such reduction is not detrimental to the general health, safety and welfare of the township:
  - A. Evidence (a traffic study) is submitted firmly documenting that the special nature of the use, activity, or building proposed requires less parking area or spaces than required by Section 519 for same;
  - B. If the modification is based on assumptions which the Planning Commission reasonably believes could change due to unforeseen conditions, the land development plan approved shows therein reserved areas for the location and layout of that portion of the parking requirement deemed unnecessary can and will be constructed accordingly in the event that the Planning Commission determined at any time after notice to the landowner and hearing therein that all or any portions of this parking are necessary in the interests of the public health, safety, and welfare;
  - C. In no event shall that portion of the required parking or loading which is so designated but not constructed as provided herein be counted as open space or other non-paved area required by other provisions of this Article; and
  - D. All parking and loading areas must comply with the Standards and Provisions set forth in the Americans with Disabilities Act.

**Section 511: Design and Maintenance Standards**

1. Development and maintenance of parking and loading areas. Every parcel of land hereafter used as a public or private parking area for three (3) or more vehicles or loading area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:
  - A. Screening and landscaping: Off-street parking areas for three (3) or more vehicles and off-street loading areas shall be screened on the side or sides which adjoin residential properties at the same or substantially the same evaluation;

- B. Minimum distances and setbacks: No off-street loading area or parking area or part thereof for three (3) or more vehicles shall be closer than twenty (20) feet to any dwelling, school, hospital or other institution for human care located on an adjoining lot, or ten feet (10') from any lot line;
- C. Surfacing: All off-street parking areas shall be paved in accordance with the land development standards of all Township Ordinances and the Americans with Disabilities Act. All areas shall be marked so as to provide for the orderly and safe loading, parking and storage of self-propelled vehicles.
- D. Lighting:
  - 1. Lighting used to illuminate any off-street parking or loading areas shall be arranged so as to reflect the light away from adjoining premises or the adjoining street; and
  - 2. Off-street parking facilities for multi-family structures containing four (4) or more families shall be so adequately lighted.
- E. Drainage: Any off-street parking area and off-street loading areas shall be graded and drained so as to dispose of all surface water without detriment to surrounding uses.
- F. Striping: All parking lot markings and striping is required to meet PENN DOT Specifications.
- G: Sight Triangles:**
  - 1. Clear sight triangles must be provided wherever a parking lot entrance road intersects with another entrance/ egress streets. Sight Triangle landscaping is regulated in Article VI, Section 614.1 (Dimensions should be in the Subdivision Land Use Ordinance).

**Section 512: Location of Parking**

All parking and loading areas shall be properly screened and landscaped as required. It is the purpose and intent of this Section to require adequate protection for contiguous property against undesirable effects from the creation and operation of parking or loading areas and to protect and preserve the appearance and character of the surrounding neighborhoods and of the Township through the screening effects and aesthetic qualities of such landscaping and as such additional requirements may be imposed by the Township in circumstances that warrant such requirements.

- 1. Off-street parking spaces for special zones and all other uses shall not be located between the front building line and street line. On corner lots, this restriction shall also apply to the space between the side street line and the side building line;

2. Where there is no substantial grade differential between the street and parking area and parking is permitted between the front building line and the street line, whether by ordinance, land development plan modification, or variance, a safety island or raised median separation the public street from the parking area shall be provided in accordance with the following minimum requirements:
  - A. The width of the safety island shall be that width between the proposed street curb line to a point five feet (5') inside the property line
  - B. Safety islands shall be raised a minimum of six inches (6") above the adjacent parking area
  - C. Safety islands shall be top soiled and seeded or otherwise landscaped to provide a clear and unmistakable distinction between the parking area and the safety island;
  - D. Notwithstanding the use of maintenance free materials there shall be provided at least one (1) deciduous shade tree two inches (2") in diameter at breast height every forty feet (40') or part thereof, on all safety islands. A greater distance will be allowed for plantings if necessary for traffic safety
  - E. No commercial signs shall be permitted in the safety islands; provided however directional signs no more than two (2) square feet in size and no more than twenty-four inches (24") in height at the top edge of each sign, shall be permitted and the location shown on the land development plan; and
  - F. When parking areas abut the safety island, a continuous wheel stop shall be provided three (3) feet from the normal edges of the island, and the minimum depth of stalls shall be increased by one (1) foot. If a cast-in-place curb is used for the wheel stop, it shall be placed as above stated and the stall depth measured from a point two (2) feet outside the face of the curb.

**Section 513: Small Parking Areas**

Parking lots having fifty (50) or fewer spaces shall be designed to provide the following minimum design requirements:

1. A safety island or raised median as herein described;
2. A five foot (5') unbroken landscaped dividing strips along all side property lines from the street line to the rear lot line, unless otherwise specified herein;
3. Not more than one (1) two-way access drive or two (2) one-way access drives on anyone (1) street unless approval otherwise is obtained from the Planning Commission, Board of Commissioners and officials having jurisdiction over the plan;

4. All safety islands and landscaped dividing strips planted with at least one (1) deciduous tree with a trunk of two inch (2") diameter at six feet (6') in height at the time of field planting every forty feet (40'), or part thereof, and the area between trees planted with a minimum of three (3) evergreen-type shrubs;
5. All plantings in landscape islands; except trees, must not exceed twenty-four (24) inches in height when mature in the sight triangle designated areas, in other areas the plantings may not exceed eight feet (8') in height; and
6. All entrance and exit drives shall be curbed on both sides from the street curb to a point at the beginning of the access drive or parking stalls.

#### **Section 514: Large Parking Areas**

Parking lots, which have a capacity for parking more than fifty (50) vehicles, shall incorporate the following minimum design standards:

1. All entrance and exit drives shall be curbed on both sides a minimum distance of one hundred feet (100') back from the street curb or to a major collector aisle;
2. No parking stalls which require the use of the entrance and exit drives as access aisles shall be permitted;
3. All access drives located along one-way streets of divided highways shall be separate one-way drives. Said drives shall be located so that vehicles enter the parking area at the beginning of the property and exit at the far end of the property unless other considerations, such as median opening, dictate otherwise;
4. All directional (one-way) drives shall be marked by appropriate signs facing all peripheral service roads serving the property as well as the parking area;
5. On lots having a frontage of one hundred feet (100') or fewer driveways, exits and entrances shall be located as far as practical from an intersection. On lots having a frontage in excess of one hundred feet (100'), driveways, exits and entrances shall be located as near the middle line as practical. However, on such lots the entrance or exit driveways need not be located more than five hundred feet (500') from the intersection. Measurements shall be taken for the purpose of locating the driveways from the curb line of the intersection;
6. No driveway shall be located less than ten feet (10') from the side property line or within thirty feet (30') of an existing drive, whichever is greater;
7. No property having a frontage of less than one hundred feet (100') shall have more than

one (1) two-way driveway on one (1) street. No property having less than one thousand foot (1,000') frontage shall have more than two (2) driveways on one (1) street. Any frontage greater than one thousand feet (1,000') may have more than two (2) drives on (1) street; however, the number, location, size and design shall be subject to approval of the Planning Commission and the Board of Commissioners.

8. All safety islands and landscaped dividing strips planted with at least one (1) deciduous tree with and two low land evergreen shrubs with a trunk of two inch (2") diameter at six feet (6') in height at the time of field planting every forty feet (40'), or part thereof, and the area between trees planted with a minimum of three (3) evergreen-type shrubs;
9. All plantings in landscape islands; except trees, must not exceed twenty-four inches (24") in height when mature; and
10. There shall be provided internal landscaped areas. The planting required within the parking area shall be considered exclusive from any other plantings that may be required for screening or foundation planting. The following criteria is in addition to the provisions required by *Article V, Section 515 "Parking Area Landscaping for Large Scale Areas,"* of the Reserve Township Ordinances shall apply for internal landscaping within parking areas:
  - A. They shall have a minimum width of seven feet (7') and a minimum area of one hundred (100) square feet;
  - B. They shall be top soiled, seeded or mulched;
  - C. They shall be planted with deciduous trees of two-inch (2") diameter at six feet (6') height having a maximum distance between trunks at ground level of forty feet (40');
  - D. The area between trees shall be planted with an appropriate mix of evergreen and deciduous shrubs and ground cover and may contain light standards; and
  - E. The landscaped areas shall have harmonious design within the parking area and the landscaped areas in the aggregate shall equal or exceed five (5) square feet of landscaped area for each one (1) parking space.

**Section 515:                    Parking Area Landscaping for Large Scale Areas**

Every parking lot with one hundred (100) or more spaces shall be divided as nearly as possible into smaller lots of fifty (50) spaces separated by landscaped dividing strips, excepting the area for access aisles. The planting required within the parking area shall be considered exclusive

from any other plantings that may be required for screening or foundation planting. The following criteria shall apply for internal landscaped dividing strips:

1. They shall have a minimum width of seven feet (7’);
2. They shall be top soiled, seeded or mulched;
3. They shall be planted with deciduous trees of two inch (2”) diameter at six feet (6’) in height at the time of field planting having a maximum distance between trunks at ground level of forty feet (40’); and
4. The area between trees shall be planted with an appropriate mix of evergreen and deciduous shrubs and ground cover.
5. All safety islands and landscaped dividing strips planted with at least one (1) deciduous tree with a trunk of two inch (2”) diameter at six feet (6’) in height at the time of field planting every forty feet (40’), or part thereof, and the area between trees planted with a minimum of three (3) evergreen-type shrubs;
6. All plantings in landscape islands; except trees, must not exceed twenty-four (24) inches in height when mature; and

**Section 516: Retaining Walls and Embankments**

1. Retaining Walls and Embankments must be designed to comply with the Township Grading Ordinance;
2. When retaining walls or embankments or similar types of earthen materials necessitated adjacent to or within parking area, they shall be kept in good repair or otherwise maintained so as to keep the parking area free of debris and dirt.
3. All retaining walls must match the color of the exterior of the building on the site on which the retaining wall is located.

**Section 517: Screening of Refuse Area**

These areas adjacent to or within the parking area designated as refuse, storage and pickup areas shall be properly screened to prevent the unsightly display and the scattering of debris. The following minimum requirements shall apply:

1. The area shall be surrounded on at least three (3) sides by a solid uniform fence or a wall not less than five feet (5’) nor more than eight feet (8’) in height and maintained in good condition. The wall of an adjacent building may serve as one (1) side. Said fence shall be exempt from the provisions of any ordinance of this municipality regulating the height of fences and requiring permits therefore; and

2. The opening in said screen wall or fence shall be located as to prevent the visual display of refuse from any adjacent parking area or street.

**Section 518: Screening of Equipment and Machinery**

1. When the effective operation of a building or structure, or equipment within a building or structure, necessitates placing machinery, motors, generators, or similar devices for cooling, heating or generating purposes outside or on top of any structure, it shall be screened from public view as the same may be seen from an elevation equal to that of the principle entrance to the building such equipment serves. Said screening notwithstanding any other provisions of this Article may consist of any of the following materials:
  - A. Densely planted evergreen shrubs which shall grow to not less than five feet (5') after one (1) growing season;
  - B. A solid and uniform fence at least five feet (5') in height on four (4) sides of said equipment; or
  - C. A masonry wall at least five feet (5') in height on four (4) sides of said equipment; or
  - D. Any similar type of solid uniform screening, which will prevent exposure of such equipment to public view.
2. The above requirements shall not be construed to prevent an opening in any required screening for maintenance purposes. However, any such opening shall be made as inconspicuous as possible so as not to present a display of said equipment to public view

**Section 519: Minimum Off-Street Parking Spaces Required**

No building or structure shall be erected nor any major reconstruction or change in use be made to an existing building or structure unless there already is existing upon the lot or unless provisions are made for off-street parking facilities providing adequate parking spaces on the basis of the following minimum requirements:

1. Automotive repair, garage or body shop: one (1) parking space for each four hundred (400) square feet of gross floor area;
2. Automobile sales: three (3) parking spaces for each one thousand (1,000) square feet of gross floor area for exclusive use of customers. In addition, there shall be provided at least one hundred seventy (170) square feet of lot area for each vehicle stored on the premises to be sold, rented or otherwise used in the operation of the business. The lot area to be used to compute the number of vehicles that can be stored on the premises

shall be the total lot area not used for building or customer parking as herein provided;

3. Automotive service station: four (4) parking spaces for each service bay, exclusive of vehicle service area. In no instance shall there be fewer than four (4) off-street parking spaces;
4. Banks, savings and loan associations and similar financial institutions: one (1) parking space for each three hundred (300) square feet of gross floor area;
5. Bar, cocktail lounge or nightclub, including restaurants with bars: one (1) parking space for each seventy-five (75) square feet of gross floor area;
6. Barber and beauty shop: two (2) parking spaces for each chair;
7. Bowling alley: four (4) parking spaces for each alley. Other commercial uses within the same building will be computed separately in accordance with this Ordinance;
8. Business offices: one (1) parking space for each two hundred (200) square feet of gross floor area;
9. Car washes: five (5) parking spaces for employees plus off-street storage space equal to at least five (5) times the number of cars that can be in the wash process at one time. For self-wash or self-service car washes, the requirement for employee parking shall be eliminated;
10. Church, temple or chapel: one (1) parking space for each four (4) seats in the main auditorium. Where no individual seats are provided, twenty inches (20") of bench shall be considered as one (1) seat;
11. School:

Elementary	2 spaces/classroom, but not less than 1/teacher and staff plus 10%
Intermediate	2 spaces/classroom, but not less than 1/teacher and staff plus 10%
Secondary	10 spaces/classroom, but not less than 1/teacher and staff plus 10%
12. Community Center, library, museum or art gallery: one (1) parking space for each two hundred (200) square feet of gross floor area;
13. Community Club, private club or lodge: one (1) parking space for each one hundred (100) square feet of gross floor area, plus two (2) spaces for each boat slip where applicable;

14. Convalescent home, nursing home or rest home: one (1) parking space for each three (3) beds, plus one (1) parking space for each two (2) employees, including nurses and other staff;
15. Meeting rooms, assembly or exhibition halls: without fixed seats, one (1) parking space for each fifty (50) square feet of gross floor area; with fixed seats, one (1) parking space for every four (4) seats;
16. Dwellings: two (2) parking spaces for each single-family dwelling;
17. Dental or medical offices: two (2) parking spaces for each doctor, plus one (1) parking space for each two hundred (200) square feet of gross floor area;
18. Drive-in Restaurant: one (1) parking space for each fifty (50) square feet of enclosed floor area, plus one (1) parking space for each four (4) seats;
19. Driving range or miniature golf: one (1) parking space for each tee or hole;
20. Furniture, appliance stores or similar types of uses requiring large amounts of storage: one (1) parking space for each four hundred (400) square feet up to four thousand (4,000) plus one (1) parking space each eight hundred (800) square feet of gross floor area above four thousand (4,000);
21. Government, County or Municipal Offices: four (4) parking spaces for each one thousand (1,000) square feet of gross floor area;
22. Hardware or auto supply stores: one (1) parking space for each four hundred (400) square feet of gross floor area;
23. Hospital (general, mental or sanitarium): one (1) parking space for each three (3) beds plus one (1) space for each employee on the shift having the greatest number of employees, plus one (1) space for each visiting doctor;
24. Hotel or motel: one (1) parking space for each rental unit. Each commercial use within the building shall be computed separately according to the requirements for such use set forth herein. The Board of Commissioners may allow up to fifty percent (50%) of the required parking for commercial uses in the hotel or motel to be satisfied by guest room parking;
25. Laundromats or similar coin-operation cleaning: one (1) parking space for each four (4) cleaning units or fraction of four (4) cleaning units;
26. Manufacturing or industrial establishment, research or testing laboratory, bottling plant or similar uses: one (1) parking space for each eight hundred (800) square feet of gross floor area or two (2) parking spaces for each three (3) employees, whichever is greater.

If the number of employees or the gross square footage of the principal building(s) cannot be determined at the time of application, the sufficient land area shall be reserved to provide a total number of spaces at the rate of one (1) space for each three hundred (300) square feet of maximum lot coverage;

27. Marina, boat yard or boat sales: one (1) parking space for each boat slip, plus one (1) space for each employee;
28. Mortuary funeral home: one (1) parking space for every fifty (50) square feet in slumber rooms, parlors and funeral service rooms;
29. Multi-family apartments: two (2) parking spaces per unit up to one (1) bedroom and den or two (2) bedrooms; every two additional bedrooms shall require an one (1) additional parking space;
30. Nursery school, day camp or similar uses; one (1) parking space for each employee, plus one (1) parking space for each vehicle used for transportation of students;
31. Personal service establishment: one (1) parking space for each two hundred (200) square feet of gross floor area, plus one (1) space for each vehicle used in connection with the business;
32. Professional office, such as architectural, clerical engineering, legal and similar uses: one (1) parking space for each two hundred (200) square feet of gross floor area;
33. Public and private utilities (electrical substation, gas regulator, water works, station and similar facilities): one (1) parking space for each vehicle stored on the premises, plus one (1) parking space for each employee on the shift which has the greatest number of employees;
34. Restaurant, cafe or diner: one (1) parking space for each seventy-five (75) square feet of gross floor area;
35. Recreation facilities: those not specifically mentioned herein shall be determined by the Board of Commissioners.
36. Retail stores, except otherwise specified: one (1) parking space for each two hundred (200) feet of gross floor area;
37. Studio (art, music or dance for the purpose of giving instruction): one (1) parking space for each one hundred (100) square feet of floor area used for giving such instructions;
38. Shopping centers: one (1) parking space for each two hundred (200) square feet of gross floor area;

- 39. Theater: one (1) parking space for each three (3) seats;
- 40. Veterinary or animal hospital: one (1) parking space for each four hundred (400) square feet of gross floor area;
- 41. Warehouse, wholesale, machinery or large equipment sales: one (1) parking space for each five thousand (5,000) square feet of gross floor area, plus one (1) space for each vehicle used in connection with the business; and
- 42. Colleges or universities: two (2) parking spaces for each three (3) students, plus one (1) parking space for each administrator teacher and any other employees.

**Section 520:           Miscellaneous**

- 1. In computing the number of the above-required parking spaces, the following rules shall govern:
  - A. Where fractional spaces result, the required number shall be construed to be the nearest whole number of the higher degree; and
  - B. The parking space required for a use not specifically listed in *Section 519 "Minimum Off-Street Parking Spaces Required,"* above should be that for a listed use of a similar nature as determined by the Planning Commission.

**Section 521:           Off-Street Loading**

- 1. In all Zones except Residential, in connection with buildings occupied by industrial, commercial and certain institutional uses, there shall be provided and maintained on the same lot with such building, off street loading spaces in accordance with the requirement of the table following;
- 2. Size and location: each loading space shall be not less than twelve feet (14') in width, thirty-five feet (35') in length and have a minimum vertical clearance of fourteen feet (14') and may occupy only areas previously designated by this ordinance.
- 3. Required number of off-street loading spaces:

**TABLE V-A**

USE	LOADING SPACE
School, Hospital; square feet of gross floor area	1

USE	LOADING SPACE
Under 10,000	1
10,000 - 30,000	2
Funeral Home, Office, Hotel, Retail Service, Wholesale, Warehouse, Manufacturing, Processing or Repairing	
Floor Area	
Under 10,000	0
10,000 - 25,000	1
25,001 - 40,000	2
40,001 - 60,000	3
60,001 - 100,000	4
Shopping Center; for each building exceeding 75,000 square feet	2

4. Loading areas will be designed in accordance with all articles of this section.

**Section 522:            Lighting**

Lighting shall be provided to illuminate any off-street parking or loading spaces to be used at night, in accordance with Chapter 5. If provided, lighting shall be maintained and arranged and installed to deflect, shade, and focus lights away from adjacent properties. The height, type, spacing, and degree of cut off of a light standard may be further regulated by the Planning Commission in relation to specific site conditions or types of development.

**Section 523:            Signage**

All signs in all parking areas must comply with the Pennsylvania Department of Transportation Specifications regarding their location, height, mountings, reflective coatings, materials, dimensions, colors, notice of the amount of the fine to be paid for handicapped and designated areas.

1.     **INTERNAL TRAFFIC CONTROL SIGNS:** Stop signs should have a reflective red background with a reflective white border and lettering, octagonal in shape and mounted at a clearance of seven foot to the bottom of the sign.

2. PEDESTRAIN CROSSING SIGNS and STRIPING: Pedestrian crossing signs should have a yellow background with a black border and lettering, inverted triangular in shape and mounted at a clearance of seven foot to the bottom of the sign.

**Section 524: Maintenance**

Any person operating or owning a parking lot shall keep it free, as may be practical, of dust and loose particles and shall promptly remove the snow and ice from the surface of the parking lot. Such persons shall also keep all adjacent sidewalks free from dirt, ice, sleet and snow and shall keep all sidewalks in a safe condition for use by pedestrians. All signs, markers, location of parking spaces shall be maintained in a neat and legible condition. Likewise any walls, landscaping including trees and shrubbery, as well as surfacing and curbing of the parking lot, shall be maintained in good condition throughout its use for parking purposes. Failure to maintain any parking and loading facilities including but not limited to landscaping areas shall be a violation of the ordinance and subject to enforcement pursuant to these requirements of Reserve Township.

The following parking, access road, and load space design standards shall apply:

1. Parking Lot, Driveway and Loading Area Designed Standards:

All paved areas shall be constructed to the following specifications:

2"	FABC - 1 surface course
5"	Stabilized base course
6"	Type 1-5 sub base

Paving thickness may be reduced based upon the certified results of soil testing and analysis conducted by the applicant to determine the bearing strength at the subgrade soil together with the projected use of the street or highway with an adequate margin to cover all contingencies and extraordinary conditions. Such pavement design must be reviewed by and approved by the Township Engineer.

2. Sizes and Access

- A. Each dead storage by an off-street parking space may be perpendicular with the aisle, parallel with the aisle, or at any angle between sixty (60) degrees and ninety (90) degrees. The following are minimum stall and aisle dimensions:
  - i. Perpendicular: ninety (90) degrees: stall width - nine feet (9'); stall depth - eighteen feet (18'); aisle width - twenty feet (20'); Commercial Vehicles and Trailers stalls will be thirty feet (30') in width, sixty feet (60') in depth and maintain an aisle width of sixty feet (60');

- ii. Angle: sixty (60) degrees to ninety (90) degrees: stall width - ten feet (10'); stall depth – twenty-four feet (24'); aisle width – twenty feet (20'); Commercial Vehicles and Trailers stalls will be thirty feet (30') in width, sixty feet (60') in depth and maintain an aisle width of sixty feet (60');
  - iii. Parallel: stall width - twenty-one (21) feet; stall depth - nine feet (9'); aisle width - twelve foot (12') single lane, twenty foot (20') double lane; and
  - iv. Handicapped Stalls shall be perpendicular and have a stall depth of twenty feet (20') and width of twelve (12') feet with railings on both sides.
- B. No area shall be used for parking if it is not large enough to provide for at least three (3) contiguous stalls, unless approval is obtained from the Planning Commission.
  - C. When the parking area is designed for angle parking the stalls on both sides shall be inclined so as to permit a driver approaching from one end of the aisle only to have access to the stalls on two (2) sides.
  - D. In lots having capacity of more than one hundred (100) cars, a main access drive shall be provided from points of ingress and egress. No parking shall be permitted on the main access drive, nor shall it serve as an access aisle to adjacent parking spaces.
  - E. All parking areas shall be paved in accordance with the requirements of this Article and shall include barrier lines, lane lines, directional arrow and stop lines.
  - F. Entrance and exit drives shall have a minimum width of sixteen feet (16') for those designed for one-way traffic and twenty-four feet (24') for those carrying two-way traffic.
  - G. All access drives shall provide a minimum turning radius of thirty feet (30').

## **ARTICLE VI BUFFERS**

### **Section 600:           General**

In instances where the Planning Commission determines that buffer planting is necessary to protect the general welfare of the public, planted buffer areas shall be installed to provide year-round screening from offensive views and noise. In particular, the Planning Commission shall decide those instances where a greater separation between incompatible land uses on adjacent sites is necessary. Also, buffers are necessary to assure aesthetics, functional, operational and visual aspects of site development and its effect on neighboring properties is minimum.

Land uses should be encouraged to minimize conflicts by site selection. Land developments should be discouraged from being located adjacent to a conflicting use. Natural and physical features such as steep sloped areas, wetlands, vegetation, railroads and roads should be used to separate conflicting uses.

### **Section 601:           Minimum Widths**

Widths shall be a minimum of ten feet (10') or a maximum of sixty feet (60') as deemed necessary by the Planning Board to be effective.

Widths will be based on compatibility of land uses.

Land Uses in the municipal zoning ordinance are classified as follows:

#### Rank   Land Uses

1.     Single Family Residential, Recreational, Agricultural, Governmental
2.     Multi-Family Residential, Mobile Home Parks, Apartments, Townhouses
3.     Business, Professional Offices,
4.     Hotel, Motel, Conference Centers, Commercial Recreational (private) Office Parks
5.     Retail, Wholesale, Warehousing, Light Industrial, Construction Activities, Shopping Centers
6.     Heavy Industrial, Manufacturing, Large Scale Commercial/Shopping Centers, Expressways, Arterial Highways

**Section 602: Buffer Types**

The following table lists the type of buffer required based on the ranking of land uses.

<u>Type</u>	<u>Description of Buffer</u>	<u>Width</u>
A.	Minor Separation, limited screening required Fence, Shrubs or trees	10'
B.	Moderate screening required, total visual screening various landscaping materials, fences, shrubs, hedges	20'
C.	Substantial separation, total visual screening mixed landscaping (deciduous 40 % and evergreen 60 % mix) solid fence or berm allowed	40'
D.	Major separation required, total visual and noise, odor and lighting screening mixed landscaping (deciduous 20 % and evergreen 80 % mix) solid fence or berm allowed	60'
E.	Maximum separation, total visual as well as traffic, noise, odor and lighting screening	80'

<b>Table VI-A</b>
<b>Buffers Required</b>

<b>Proposed Use Class</b>	<b>Existing Class of Adjacent Use or Zoning District</b>					
	1	2	3	4	5	6
1	*	A	B	C	D	E
2	A	*	A	B	C	D
3	B	A	*	A	B	C
4	C	B	A	*	A	B
5	D	C	B	A	*	A
6	E	D	C	B	A	*

**Section 603: Buffers Separating Uses**

Where multi-family or townhouses structures adjoin a single-family area, a minimum twenty (20) foot wide buffer shall be provided within the multi-family or townhouse area.

**Section 603.1: Buffers Separating Districts**

1. Where a Commercial district is contiguous to a residential district, the commercial user shall provide a minimum twenty-foot (20') wide buffer within the Commercial district.
2. Where an Industrial district is contiguous to the Light Industrial Zone (L-I), the industrial user shall provide a minimum seventy-foot (70') wide planted buffer within the Industrial district.
3. Where an Light Industrial (L-1) district is contiguous to any residential, the user shall provide a minimum forty-foot (40') wide planted buffer within the Light Industrial (L-1) district.

If a road should separate two (2) districts, planted buffers shall be provided within the district of higher intensity.

**Section 604: Buffer yard Maintenance**

1. Planted buffers shall be properly installed and maintained in good condition under the supervision of the appropriate authority. If the Zoning Officer, upon inspection, determines that the streetscape or screening material is not being maintained in satisfactory condition, he shall notify the owner in writing of his findings and order that any negligent or improper maintenance on the part of the owner be corrected within thirty (30) days of the date of said notice. In the event that any plantings required by this Ordinance fail to live, they shall be replaced within one (1) growing season. Any failure on the part of the owner to comply with said notice shall be deemed a violation of this Ordinance and is subject to the penalties of this Ordinance. The Zoning Officer may, in addition, recommend revocation of the Certificate of Occupancy.

**Section 605: Planting Plan**

Planting Plans shall be based on the compatibility of land uses. Compatibility shall be based on the use and zone in which it is located.

The design of planted buffers shall consider the use of the portion of property being screened, the distance between the use and the adjoining property line and the distance in elevation. It may also incorporate existing woods, a wall or fence; earth berms or other man-made and natural features as deemed acceptable to the Planning Commission. Plant materials utilized should consist of an appropriate mix of deciduous and evergreen trees, shrubs and ground covers and shall be of sufficient size to render instant effect.

Notwithstanding the above, a minimum of one-half (2), but in no case less than ten feet (10') of the horizontal width of any buffer required along a periphery shall have an area be designed, planted, graded and otherwise developed to obscure the activities of this site from view.

The following standards are required to be included in all landscaping plans:

1. The names of the proposed plantings (both Botanical and Common) shall be noted on the Landscaping Plan.
2. Each planting shall be free from disease, insect infestation, and mechanical injuries and in all respects, be ready for field planting.
3. All plantings shall be guaranteed from the period of installation for a period of no less than one year from the date of installation.
4. All plants shall conform to the American Standard for Nurserymen Stock (ANSI-1986) in regards to sizing, growing and B & B Specifications.
5. Additional shrubbery should be provided around the perimeter of the building and site, as well as the entrance area.
6. The limit of clearing line should be identified on the plans.
7. Each tree having a caliper of eight inches (8") or more measured three feet (3') or more above the ground should be delineated on the plans and in the field by lath or ribbon.

**Section 606: Alternatives**

The Reserve Township Planning Commission will allow developers to propose alternate landscaping plans. These alternative plans will be considered if the proposed planting plans meets all the requirements listed in the required landscaping standards of this section of the ordinance. A narrower planting scheme may be devised if it can be demonstrated to the satisfaction of the Planning Commission that it will provide effective relief from noise, odor, lighting and visual screening from the use or site being developed. The proposed planting scheme must demonstrate that all species will be able to spread and survive if spaced more closely together.

**Section 607: Required Plantings**

1. Buffer yards will be planted with a mix of native deciduous and evergreen species of plants (shrubs, grasses, wildflowers and perennials). Minimum Size of Trees shall be as follows:
2. Large trees, those trees whose ultimate height will be more than forty feet (40') from ground level with a minimum caliper of three inches (3") DBH
3. Medium trees, those trees whose ultimate height will be more than twenty (20') to forty (40') feet from ground level with a minimum caliper of two inches (2") DBH
4. Small trees those trees whose ultimate height will be less than twenty feet (20') from ground level with a minimum caliper of one and a half inches (1.5") DBH
5. The density of screening required shall determine quantities and spacing of plant materials. Existing natural features, woodlands and significant vegetation shall be preserved within the buffer yard wherever possible and may be used as part of the required planting scheme.

**Section 608: General Standards**

1. Buffer yards shall be provided by the applicant around the entire perimeter of the site or lot and shall extend to the adjoining property or right of way line. If uses or zones differ along a sites boundary, the buffer yard shall change correspondingly.
2. Buffer yards shall be maintained by the owner of the property. Buffer yards shall be kept free of debris and trash at all times. Plant materials shall be inspected annually and all dead, diseased, damaged and insect infested plants shall be replaced within 60 days of the inspection report date.
3. No structure or vehicular use areas, buildings, accessory use buildings, light standards, etc. shall be permitted in a buffer yard. Access drives are permitted in buffer yards so long as they are used to separate a proposed development from a street.
4. Buffer yards may be used for passive recreation uses such as pedestrian and bicycle trails, provided that the required separation and screening are maintained.
5. All Landscaping Plans shall be prepared, signed and sealed by a registered Landscape Architect and an active member of the American Society of Landscape Architects.

**Section 609: Energy Conservation**

When few natural constraints exist which limit street layout and location, such as but not limited to steep slopes and unsuitable soils, streets should have an east-west orientation to the greatest

extent possible with acceptable variations of ten (10) degrees to the northwest and twenty-five (25) degrees to the Southwest of due east in order to provide for orientation of buildings to the south and thereby encourage the use of solar energy systems.

All development should be designed to encourage energy conservation.

1. By taking advantage of southerly exposures, proposed lots should have good solar access to the maximum extent possible.
2. By providing each building with sufficient solar access to make effective use of a passive solar system.
3. Windbreaker of evergreen plants is recommended for planting on northeast and northwest exposures where there are no conflicts with visibility and or safety. Deciduous trees are recommended on south and western exposures.
4. Window openings on northern exposures should be limited in size and number.
5. Solar access of adjacent buildings shall be protected to the extent of the yard requirements provided unless the Planning Commission so determines that solar easements are necessary to incur an energy efficient plan, in which case solar easements shall be provided.

**Section 610: Fences and Walls**

- A. Height and Location: Fences, walls, and other screens may be erected in any yard subject to the following height requirements, with height measured from the existing ground elevation:
1. Front yard and side yard between the front yard and rear building line – maximum of four (4) feet.
  2. Corner Lot: Front yard and side yard between the front yard and rear building line – maximum of four (4) feet. Side or rear yard – six (6) feet maximum provided the ratio of solid to open portion does not exceed 1:2.
  3. Side or rear yard – six (6) feet maximum provided the ratio of solid to open portion does not exceed 1:2.
  4. Fences, screens, or living fences up to ten (10) feet in height may be approved by the Zoning Hearing Board for any yard of a public school, recreational facility, or public building provided that the ratio of solid to open portion does not exceed 1:2.
  5. A fence, wall, or living fence cannot be erected in a public or dedicated right-of-way.

6. Fences along an abutting property shall be set back at least six (6) inches from the property line.
7. Fences or living fences either publicly or privately owned shall not block the clear sight distance at street intersections or driveways.
8. Fences shall not include barbs or other harmful projections unless approved by the Zoning Hearing Board for security reasons.
9. The finished side of fences or walls shall always face the abutting street or property.
10. A swimming pool shall be enclosed by a fence or ladder that locks to prevent accidental or unauthorized entry. The height requirement for fences enclosing an above ground pool may be met via railings attached to the pool wall, in which the lowest ground elevation at any point for the pool and railing combined is six (6) feet.
11. A fence or wall shall require a building permit, be in keeping with the surrounding area, and not hinder the appropriate development or use of adjacent buildings or impair their value.

**Section 611: General Regulations**

- A. No fences shall be erected within the municipality without the permission of the owner of the premises or his representative, authorized in writing to make such application.
- B. Application for such fences shall be made in writing to the Zoning Officer of Reserve Township and shall set forth the following information.
  1. The owner and address of premises where the fence is to be erected.
  2. A description and specifications of the fence, including size, height, dimensions, material and size and percentage of openings.
  3. A sketch or plan of the fence.
  4. If deemed necessary by the Zoning Officer, a certified plot plan and survey of the premises in question shall be submitted, which shall show streets abutting and at the nearest intersection, and shall approximately indicate the location of structures within ten feet (10') of the fence. The Zoning Officer shall have the right to refer review to the Planning Commission.
- C. The fee for such permit shall be as specified by the building inspector.

- D. Any existing deed restrictions shall not to be superseded by this Section.
- E. Fences accessory to farm operation are exempt from the requirements of this Section with respect to permit, fee, construction or materials. This exception shall not extend to that percentage of farm property set aside for residential purposes as determined by the Planning Commission.
- F. These fence regulations shall not apply to the erection of an open wire fence within a publicly owned park, playground or school premises if the need for such a fence for such use as athletic fields is demonstrated to and approved by the Reserve Township Zoning Officer.

**Section 612: Regulations for Residential Lots**

Fences on residential lots may be erected as hereinafter set forth:

1. Fences shall be no closer than one foot (1') to a right-of-way.
2. Fences not exceeding forty-eight inches (48") in height above ground level may be erected between a township road, street and/or right-of-way and the building line.
3. A private residential in-ground swimming pool area must be surrounded by a fence at least four feet (4'), but no more than six feet (6') in height.
4. A tennis court may be surrounded by a fence a maximum of fence at least four feet (4'), but no more than six feet (6') in height.
5. A tennis court area may be surrounded by a fence a maximum of fifteen (15) feet in height; said fence to be set back from any lot line the distance required for accessory buildings in the zoning district.
6. Front fences on corner properties shall not be constructed of materials that would block the view of vehicular traffic at the intersection and shall comply with requirements of site triangle easement of the Site Triangle Section.
7. Fences must be maintained by the owner and kept in alignment and shall be maintained in a safe, sound and upright condition and in accordance with the approved plan on file with the Reserve Township.
8. All fences must be erected within the property limits, and no fence shall be erected so as to encroach upon the upon the right-of-way.
9. All permitted fences shall be situated on a lot in such a manner that the finished side of the fence shall face adjacent properties. No fence shall be erected of any material or in

any manner which may be dangerous to persons or animals, except that these provisions shall not apply to farms provided the fence(s) is or are set back from any street line at least ten (10) feet, and except further, that requirements of state or federal regulations shall prevail.

10. A dog run area may have fencing a maximum of six (6) feet in height provided such area is located in rear yard areas only and is set back from any lot line at least ten (10) feet.

**Section 613: Regulations for Commercial/Industrial Use**

1. Fences shall be no closer than one (1) foot to a Right-of-way.
2. Fences shall not be less than four (4) feet in height and shall be of a material acceptable to the Planning Commission.

**Section 614: Landscaping Prohibited Area**

**Section 614.1: Sight Triangles**

Clear sight triangle easements shall be required at intersections, in addition to the specified right-of-way widths, in which no plantings or structures may be located.

**TABLE VII-B****Suggested Plantings for Parking Areas and Gateways to Communities**

Local indigenous plants should be used when developing landscaping plans for site plans and subdivisions. Plantings listed above are recommended in large and small-scale retail, commercial, and office developments. Also, the gateways to a community may be beautified through the use of the plantings listed below. Plantings listed above are noted for their ability to survive in “urban air quality”, drought, and road salt brine from plowing and melting of snow.

**Deciduous Trees**

Common Name	Scientific Name	Characteristics
Pin Oak	<i>Quercus palustris</i>	Wet, poorly drained soils, 50' + height
White Oak	<i>Quercus Alba</i>	Uplands w/ moist soils, 80' + height
Silver Maple	<i>Acer saccharinum</i>	Floodplains and moist soils, 50' + height
Norway Maple	<i>Acer platanoids</i>	Street tree, urban tolerant, 60' + height
Red Maple	<i>Acer rubrum</i>	Street tree, urban tolerant, 60' + height
Sugar Maple	<i>Acer saccharinum</i>	Handsome tree, beautiful foliage 60' + height
Mountain Maple	<i>Acer spicatum</i>	Hardy, shade tolerating, colorful in fall 60' + height
Flowering Dogwood	<i>Cornus florida</i>	Uplands & Valleys, slopes, 30' + height
American Chestnut	<i>Castanea dentata</i>	Large, dense crown, 100' + height
Crab Apple	<i>Malus coronaria</i>	Short trunk, small spreading branches 30' + height
Callery Pear	<i>Pyrus communis</i>	Broad crown, shiny green leaves, white flowers
American Beech	<i>Fagus grandifolia</i>	Shade Tree, produces food for small animals/birds
Hawthorn	<i>Crataegus phaenopyrum</i>	Rounded, brilliant color 30' + in height
Honey Locust	<i>Gleditsia triacanthos</i>	Wet soils, good in flood plains, 80' + in height
Weeping Willow	<i>Salix babylonica</i>	Wet soils, good in flood plains, 40' + in height

### Deciduous Shrubs

Common Name	Scientific Name	Characteristics
Blue Violet	<i>Viola papilionacea</i>	Wet soils, 8" high, bright colors
Burning Bush		
Daylily	<i>Hemerocallis</i>	Tough 1' tall deciduous Flowers all summer long Tolerates most soil conditions Prefers slopes/well drained soils
Gaura "Whirling Butterflies"	<i>Guara lindheimeri</i>	2-3' tall wildflower 1" pink flowers that turn white Good in sun/slopes
Flame Azalea	<i>Rhododendron calendulaceum</i>	Clusters of orange, yellow & scarlet Dry, open areas (parking lots), 3'-15' in height
Indian Paintbrush	<i>Castilleja coccinea</i>	Scarlet colored leaves, 1'-3' in height
Red Dogwood	<i>Cornus stolonifera</i>	Native to area, provides food for wildlife, 3'-10' in height
Russian Sage	<i>Perovski atiplicifolia</i>	3-5' tall, 3-4' wide Airy spikes of lavender-blue flowers Good in sun/slopes
Saint John's Wart	<i>Hypericum perforatum</i>	Bright yellow, 3-5' tall, native to PA

### Evergreen Shrubs

Common Name	Scientific Name	Characteristics
Beaberry	<i>Arctostaphylos uva-ursi</i>	Tough 1' tall evergreen Tolerates most soil conditions Good in shade/sun/slopes Pink Flowers
Dwarf Hinoki Cypress	<i>Chameacyparis</i>	Tough 3' tall evergreen Tolerates most soil conditions Good in sun/slopes
Mountain Laurel	<i>Kalmia latifolia</i>	Compact rounded crow, 2'-20' in height

**ARTICLE VII  
ACCESSORY USES**

**SECTION 701: General Intent**

The regulations that are included in this Article are intended for all uses, buildings, structures, or lots within all Zoning Districts unless otherwise provided for in this Ordinance.

**SECTION 702: General Requirements and Exceptions**

- A. **Mixed Uses:** The use of residential buildings, land, or structures shall be designed and designated for uses which are approved for the appropriate zoning district. Except where specifically noted in this ordinance, any multiple use of buildings, land, or structures is strictly prohibited. Except where permitted, not more than one (1) principal residential building shall be located on a conforming lot, nor shall a principal detached residential building be located on the same conforming lot with any other principal building.
  
- B. **Cellar or Basement Dwellings:** Any dwelling contained solely within a cellar or basement below surface grade level shall be prohibited.

**SECTION 703: Accessory Uses**

- A. **Permitted Accessory Uses:**

Any permitted accessory uses must meet the requirements found in the definition of "accessory use" contained within this ordinance. Examples of such uses are:

- 1. Carports, garages, and sheds or buildings and structures used for storage.
- 2. Private greenhouses, gazebos, or garden sheds.
- 3. Civil defense shelter for not more than ten (10) persons.
- 4. Fences, as regulated in this ordinance.
- 5. Signs, as regulated in this ordinance (Article X).
- 6. Radio, television, or satellite dish antennas, as regulated by the Township Ordinance.
- 7. Storage of merchandise, which is normally stocked on the same lot as the retail, service, manufacturing, or office use, unless prohibited by this ordinance.

8. Swimming pools shall have a fence to provide for safety, see Article VI, Section 610 of this Zoning Ordinance for proper regulations.

**SECTION 704: Prohibited Accessory Uses**

- A. All of the following shall not be parked or stored in a public right-of-way in the R-1 and R-2 districts:
  1. Any truck or van exceeding 11,000 pounds gross weight or designated as Class 5 or above by the Pennsylvania Motor Vehicle Code.
  2. Construction vehicles.
- B. No vehicle which is disabled from which the wheels or engine have been removed, which is not in operating condition or which does not have a current motor vehicle license and inspection sticker attached shall not be placed, parked, stored, or repaired on any street, right-of-way, or in any yard in any district, nor shall any owner or occupant of property in any district permit said property to be used for the parking, storage, or repair of said motor vehicles. The foregoing shall not prohibit the rental of space in a private or public garage, or repairs in a permitted garage in the C-2, and LI Districts see *Article IV, Table IV-A*.
- C. Any outdoor storage of supplies or equipment shall not be permitted as an accessory unless specifically authorized by this ordinance.

**SECTION 705: Accessory Use Limitations**

- A. All accessory structures shall comply with the use limitations of this ordinance for each zoning district.
- B. No accessory structure shall be used for a dwelling unless authorization is expressed granted by this ordinance.
- C. No accessory structure shall precede the construction of the main structure to which it is accessory.

**SECTION 706: Height and Lot Requirements of Accessory Uses**

The following requirements shall apply unless otherwise provided within this ordinance.

- A. No accessory structure shall exceed fifteen (15) feet in height unless otherwise specified by this ordinance.
- B. Lot Requirements of Accessory Uses:

1. Front Yard: No accessory use or structure shall be permitted in the required front yard setback, except for authorized signs or fences. In commercial and industrial districts, off-street parking may be permitted, in a required front yard provided that any front yard parking have a minimum of a three (3) foot landscape setback from any street or sidewalk line.
  2. Side Yard: Accessory uses may be permitted in any required side yard provided they are no closer than three (3) feet from any existing building, structure, or lot line on the same lot and meet respective side yard setbacks.
  3. Rear Yard: No accessory use shall occupy more than thirty (30) percent of any required rear yard except under any other provision of this ordinance. In commercial and industrial districts, parking may exceed thirty (30) percent of any required rear yard, provided any rear yard parking shall not be located within five (5) feet of any rear property line. Rear setbacks for detached garages shall be five (5) feet or the setback of the closest adjacent detached garage, whichever is less.
  4. Corner Lot: An accessory use located in a side yard or rear yard shall maintain the same setback from the street right-of-way as the principal structure on the lot.
- C. No part of any accessory structure shall be located closer than ten (10) feet to any principal structure, unless it is attached to or forms a part of such principal structure. No accessory structure shall be located closer than five (5) feet to another structure, other than a fence on an abutting property.

**SECTION 707: Satellite Dishes, Antennas**

- A. Satellite Dishes:
1. A satellite dish and other antenna are a permissible accessory structure in any zoning district subject to the requirements of this section.
  2. Such antennas may be installed in rear and side yard, provided that no structure shall be located within seven (7) feet of any property lines and may be installed on roof tops.
- B. Exceptions to regulations: Any applicant may apply to the Zoning Hearing Board for a special exception regarding the height, size, or placement of a satellite dish when it is demonstrated that the present requirements are detrimental to reception.

**ARTICLE VIII**  
**SEXUALLY ORIENTED BUSINESSES**

**SECTION 800** An Ordinance Amending The Zoning Ordinance Of Reserve Township To Regulate The Time, Manner And Place Of Sexually Oriented Business

**SECTION 801: PURPOSE AND INTENT**

WHEREAS, the Act of 1996, October 16, P.L. 696, No. 120, 68 Pa.C.S. § 5501, contains various finding of the General Assembly of the Commonwealth of Pennsylvania, which findings are hereby adopted by the Board of Commissioners of Reserve Township; and

WHEREAS, it is not the intent of this Article to suppress any freedom of speech or freedom of expression activities protected by the First Amendment of the United States Constitution or Article I, § 7 of the Pennsylvania Constitution; and

WHEREAS, it is not the intent of the Board of Commissioners of Reserve Township to condone or to legitimize the distribution of obscene materials; and

WHEREAS, the stated findings, purposes and intent of the Board of Commissioners in adopting this Sexually Oriented Business Article shall be interpreted consistently with the decision of the Pennsylvania Supreme Court, *Pap's A.M. t/d/b/a Kandyland v. City of Erie*, \_\_\_ Pa. \_\_\_, \_\_\_ A.2d \_\_\_ (2002), 2002 Pa. LEXIS 2806, Nos. 16 and 17 WAP 1997, filed December 19, 2002; and

WHEREAS, it is a stated purpose of this Article to comply with the Pennsylvania Supreme Court decision of *Pap's A.M. t/d/b/a Kandyland v. City of Erie, supra*, and it is specifically **not** a stated purpose of this Article to combat any secondary effects of adult businesses that may infringe upon any citizen's freedom of expression

**SECTION 802: Definitions.**

A. **ADULT ARCADE** means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

B. **ADULT BOOKSTORE or ADULT VIDEO STORE** means an establishment having a substantial or significant portion of its stock and trade in, or an establishment which as one of its principal business purposes, offers for sale, books, films, video cassettes or magazines and other periodicals which are distinguishable or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities and, in conjunction therewith, has facilities for the presentation of adult entertainment for observation by patrons.

C. **ADULT ENTERTAINMENT** means:

- i. An exhibition of any adult-oriented motion pictures, meaning those distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
- ii. A live performance, display or dance of any type which has as a significant or substantial portion of the performance any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas, removal of articles of clothing or appearing unclothed, pantomiming, modeling or any other personal services offered customers.

D. **ADULT MINI-MOTION PICTURE THEATER** means an enclosed building with a capacity of less than 50 persons which has a principal business purpose of exhibiting, presenting or selling material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

E. **ADULT MOTEL** means a hotel, motel or similar commercial establishment which:

- i. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public right of way which advertises the availability of this adult type of photographic reproductions; or
- ii. Offers sleeping rooms for rent four (4) or more times in one calendar day during five (5) or more calendar days in any continuous 30-day period.

F. **ADULT MOTION PICTURE THEATER** means an enclosed building with a capacity of 50 or more persons which has a principal business purpose of exhibiting, presenting or selling material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons.

G. **ADULT-ORIENTED ESTABLISHMENT** includes, without limitation, the following establishments when operated for profit, whether direct or indirect:

- i. Adult bookstores.

- ii. Adult motion picture theaters.
- iii. Adult mini-motion picture theaters.
- iv. Any premises to which the public, patrons or members are invited or admitted and which are so physically arranged as to provide booths, cubicles, rooms, studios, compartments or stalls separate from the common areas of the premises for the purpose of viewing adult-oriented motion pictures or where an entertainer provides adult entertainment to a member of the public, patron or a member.
- v. An adult entertainment studio or any premises that are physically arranged and used as such, whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

The term “**booths, cubicles, rooms, studios, compartments or stalls**” for purposes of defining adult-oriented establishments does not mean enclosures which are private offices used by the owner, manager or persons employed on the premises for attending to the tasks of their employment, and which are not held out to the public for the purpose of viewing motions pictures or other entertainment for a fee, and which are not open to any persons other than employees.

H. **CHILD-ORIENTED BUSINESS** means a commercial establishment which, as one of its principal business purposes, serves, sells and/or caters food, apparels, goods, services, play and/or entertainment to children and their families.

I. **EMPLOYEE** means any and all persons, including independent contractors, who work in or at or render any services directly related to the operation of an adult-oriented establishment.

J. **ENTERTAINER** means a person who provides entertainment within an adult-oriented establishment, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or an independent contractor.

K. **ESCORT** means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person and who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

L. **ESCORT AGENCY** means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

M. **PERMITTEE and/or LICENSEE** means a person in whose name a permit and/or license to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit and/or license.

N. **NUDE MODEL STUDIO** means 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.

O. **NUDITY or a STATE OF NUDITY** means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast.

P. **OPERATOR** means a person, partnership or corporation operating, conducting or maintaining an adult-oriented establishment.

Q. **PERSON** means an individual proprietorship, partnership, corporation, association, or other legal entity.

R. **RESTAURANT** means a place where the principal and substantial activity is the sale of food and the incidental sale of non-intoxicating beverages or intoxicating beverages if licensed by the Pennsylvania Liquor Control Board.

S. **SEMI-NUDE** means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

T. **SEXUAL ACTIVITIES** does not include any of the following:

- i. Medical publications or films or bona fide educational publications or films.
- ii. Any art or photography publications which devote at least 25% of the lineage of each issue to articles and advertisements dealing with subjects of art or photography.
- iii. Any news periodical which reports or describes current events and which from time to time publishes photographs of nude or seminude persons in connection with the dissemination of the news.
- iv. Any publications or films which describe and report different cultures and which from time to time publish or show photographs of depictions of nude or seminude persons when describing cultures in which nudity is indigenous to the populations.

U. **SEXUAL ENCOUNTER CENTER** means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

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

V. **SEXUALLY ORIENTED BUSINESS** means an adult arcade, adult bookstore or adult video store, adult motel, adult mini-motion picture theater, adult motion picture theater, escort agency, nude model studio, or sexual encounter center or any other adult-oriented establishment.

W. **SPECIFIED ANATOMICAL AREAS** means:

- i. Less than completely and opaquely covered:
  1. Human genitals or pubic region;
  2. Buttocks; or
  3. Female breasts below a point immediately above the top of the areola.
- ii. Human male genitals in a discernible turgid state, even if completely opaquely covered.

X. **SPECIFIED SEXUAL ACTIVITIES** means and includes any of the following:

- i. Human genitals in a state of sexual stimulation or arousal.
- ii. Acts of human masturbation, sexual intercourse or sodomy.
- iii. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

Y. **SUBSTANTIAL ENLARGEMENT** of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five percent (25%), as the floor areas exist on date of enactment of this Article.

Z. **TOWNSHIP** means the Township of Reserve.

AA. **TRANSFER OF OWNERSHIP OR CONTROL** of a sexually oriented business means and includes any of the following:

- i. The sale, lease, or sublease of the business;
- ii. The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- iii. The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

BB. **ZONING OFFICER / BUILDING INSPECTOR** means the Zoning Officer and/or Building Inspector of the Township of Reserve.

**SECTION 803: Classification.**

Sexually oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstores or adult video stores;
- C. Adult mini-motion picture theaters;
- D. Adult motels;
- E. Adult motion picture theaters;
- F. Escort agencies;

- H. Nude model studios;
- I. Sexual encounter centers; and
- J. Any other adult-oriented establishment.

**SECTION 804: Permit Required.**

A. Any person who operates a sexually oriented business without a valid permit issued by the Zoning Hearing Board granting such use as a special exception is guilty of a violation of the Zoning Ordinance of the Township.

B. An application for a permit to operate a sexually oriented business must be made on a form provided by the Zoning Officer / Building Inspector of the Township. The application must be accompanied by a sketch or diagram showing the floor plan and plot plan configuration of the premises, including a statement of the total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches (6"). Parking facilities must be specifically identified and shall meet all zoning ordinance requirements. Nonconforming structures and those structures not having the required parking sites shall not be issued permits unless the sexually oriented business was in existence as a lawful use prior to the date of this Article.

C. The applicant must be qualified according to the provisions of this Article and the premises must be inspected and found to be in compliance with the law by the Zoning Officer / Building Inspector and the Fire Marshall.

D. If a person who wishes to operate a sexually oriented business is an individual, he must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity which wishes to operate such a business, each individual having a direct or indirect interest of ten percent (10%) or greater in the corporation must sign the application for a permit as applicant.

E. The fact that a person possesses other types of Township permits does not exempt the person from the requirement of obtaining a sexually oriented business permit.

**SECTION 805: Special Exception and Issuance of Permit.**

A. The Zoning Hearing Board of the Township of Reserve shall hear and decide requests for a special exception to operate a sexually oriented business and shall approve the issuance of a permit to an applicant within thirty (30) days after receipt of an application and permit fee, unless it finds one or more of the following to be true:

- i. An applicant is under eighteen (18) years of age.
- ii. An applicant or an applicant's spouse is overdue in his payment to the Township of taxes, fees, fines, or penalties assessed against him or imposed upon him in relation to a sexually oriented business.
- iii. An applicant has failed to provide information reasonably necessary for issuance of the special exception and permit or has falsely answered a question or request for information on the application form.
- iv. An applicant is residing with a person who has been denied a permit by the Township to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose license to operate a sexually oriented business has been revoked within the preceding twelve (12) months.
- v. The premises to be used for the sexually oriented business have been reviewed and have been disapproved by either the Zoning Officer / Building Inspector or the Fire Marshall as not being in compliance with applicable laws and ordinances and the Zoning Hearing Board affirms such determination.
- vi. The permit fee required by this Article has not been paid.
- vii. An applicant of the proposed establishment is in violation of, or is not in compliance with, any of the provisions of this Article.
- viii. An individual applicant, or any individual holding a direct or indirect interest of more than ten percent (10%) of a corporate applicant, or any of the officers and directors of a corporate applicant, if the applicant is a corporation, or any of the partners, including limited partners, if the applicant is a partnership, or the manager or other person in charge of the operation of the applicant's business, has, or have been convicted of an offense involving sexual misconduct within the Commonwealth of Pennsylvania, including, but not limited to, prostitution, obscenity and possession of child pornography, or convicted of any offense in any jurisdiction other than the Commonwealth of Pennsylvania that would have constituted an offense involving sexual misconduct if committed within the Commonwealth of Pennsylvania. In order for approval to be denied pursuant to this subsection, the person or persons' conviction or release in connection with the sexual misconduct offense must have occurred within two (2) years of the date of application in the event of a misdemeanor and within five (5) years of the date of application in the event of a felony.

B. If the special exception is granted, the permit shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be easily read at any time.

C. The Zoning Officer / Building Inspector and Fire Marshall shall complete their certification that the premises are in compliance or not in compliance within twenty (20) days of receipt of the application by the Zoning Officer / Building Inspector. The certification shall be promptly presented to the Zoning Hearing Board.

**SECTION 806: Fees.**

The annual fee for a sexually oriented occupancy permit is Two Thousand (\$2,000.00) Dollars or such other fee as the Township may establish by Resolution of the Governing Body.

**SECTION 807: Inspection.**

A. An applicant, or permittee, shall permit representatives of the Police Department, Fire Marshall, the Zoning Officer / Building Inspector or other Township departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time that the sexually oriented business is occupied or open for business.

B. A person who operates a sexually oriented business or his agent or employee violates the Zoning Ordinance of the Township if he refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

**SECTION 808: Expiration of Permit.**

A. Each permit shall expire one (1) year from the date of issuance and may be renewed only by making application to the Zoning Hearing Board. Applications for renewal should be made at least thirty (30) days before the expiration date and, when made fewer than thirty (30) days before the expiration date, the pendency of the application will not prevent the expiration of the permit.

B. If the Zoning Hearing Board denies renewal of a license, the applicant shall not be issued a permit for one year from the date of denial, except that after ninety (90) days have elapsed since the date of denial, the applicant may be granted a permit if the Zoning Hearing Board finds that the basis for the denial of the renewal permit has been corrected or abated.

**SECTION 809: Suspension of Permit.**

The Zoning Officer / Building Inspector shall suspend a permit for a period not to exceed thirty (30) days if he determines that a permittee or an employee of a permittee has:

A. Violated or is not in compliance with any section of this Article;

B. Engaged in excessive use of alcoholic beverages while on the sexually oriented business premises;

C. Refused to allow an inspection of the sexually oriented business premises as authorized by this Article;

D. Knowingly permitted gambling by any person on the sexually oriented business premises;

E. Failed to man managers' stations and/or maintain viewing rooms as set forth in Section 813.

**SECTION 810: Revocation of Permit.**

A. The Zoning Officer / Building Inspector shall revoke a permit if a cause of suspension set forth in Section 809 occurs and the permit has been suspended within the preceding twelve (12) months.

B. The Zoning Officer / Building Inspector shall revoke a permit if he determines that:

- i. A permittee, or any of the persons specified in Section 805(A)(viii), is or has been convicted of the offenses specified in Section 805(A)(viii);
- ii. A permittee gave false or misleading information in the material submitted to the Township or the Zoning Hearing Board during the application process;
- iii. A permittee or an employee of a permittee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- iv. A permittee or an employee of a permittee has knowingly allowed prostitution on the premises;
- v. A permittee or an employee of a permittee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended;
- vi. A permittee or an employee of a permittee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or other explicit sexual conduct to occur in or on the permitted premises;
- vii. A permittee is delinquent in payment to the Township or State of any taxes or fees relating to sexually oriented businesses.

C. When the Zoning Officer / Building Inspector revokes a permit, the revocation shall continue for one (1) year, and the permittee shall not be issued a sexually oriented business permit for one (1) year from the date revocation became effective, except that if the revocation is pursuant to (B)(i) above, the revocation shall be effective for two (2) years in the event of a misdemeanor or five (5) years in the case of a felony.

D. After denial of an application, or denial of a renewal of an application, or suspension or revocation of a permit, the applicant or licensee or permittee shall have the right to appeal said action and to seek prompt judicial review of such administrative action in any court of competent jurisdiction.

**SECTION 811: Transfer of Permit.**

A permittee shall not transfer his permit to another person. A permittee shall not operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

**SECTION 812: Location of Sexually Oriented Businesses.**

A. A person is guilty of a violation of the Zoning Ordinance if he operates or causes to be operated a sexually oriented business in any location in which a sexually oriented business is not a permitted use. No sexually oriented businesses shall be located outside a location in which a sexually oriented business is a permitted use. Sexually oriented businesses as defined herein shall be permitted only as a Special Exception in a C-2 Commercial Zoning District.

B. A person is guilty of a violation of the Zoning Ordinance if he operates or causes to be operated a sexually oriented business within the below listed distances of the following institutions or residences, and a special exception shall not be granted and no permit will be issued for any such sexually oriented business which intends to be located within the below listed distances of such institutions or residences:

- i. A church - 500 feet;
- ii. A public or private pre-elementary, elementary, or secondary school - 1000 feet;
- iii. A public library - 500 feet;
- iv. A child care facility or nursery school - 500 feet;
- v. A public park adjacent to any residential district - 1000 feet;
- vi. A child-oriented business - 500 feet;

vii. A residence - 150 feet.

C. A person is guilty of a violation of the Zoning Ordinance if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership of control of a sexually oriented business, and no special exception shall be granted and no permit shall be issued for any such sexually oriented business intended to be located within seven hundred and fifty feet (750') of another sexually oriented business.

D. A person is guilty of a violation of the Zoning Ordinance if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof; or the increase of floor areas of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

E. For the purpose of this Article, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, public or private pre-elementary, elementary, or secondary school, public library, child care facility, or nursery school; or to the nearest boundary of an affected public park or residence.

F. For purposes of subsection C of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

G. Any sexually oriented business lawfully operating on date of enactment of this Article that is in violation of subsection A through F of this section shall be deemed a nonconforming use. Such nonconforming uses shall not be increased, enlarged, extended or altered, except that the use may be changed to a conforming use. In the event that two or more sexually oriented businesses are within seven hundred and fifty feet (750') of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business is nonconforming.

H. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a church, public or private pre-elementary, elementary, or secondary school, public library, child care facility, nursery school, public park or residence within those distances set forth in Section 812(B) of the sexually oriented business. This provision applies only to the renewal of a valid permit, and does not apply when an application for a special exception and a permit is submitted after a permit has expired or has been revoked.

**SECTION 813: Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos.**

A. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film or video cassette, or other video or other image production or reproduction which depicts specified sexually activities or specified anatomical areas, shall comply with the following requirements:

- i. The application for a permit to operate a sexually oriented business shall be accompanied by a floor plan and plot plan diagram of the premises showing a plan thereof specifying the location of one or more manager's stations, the location of all viewing rooms, partitions and doors and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The Zoning Hearing Board may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- ii. The application shall be sworn to be true and correct by the applicant.
- iii. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Zoning Hearing Board.
- iv. It is the duty of the owners and operators of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
- v. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction or viewing equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.

- vi. It shall be the duty of the owners and operators, and it shall also be the duty of any agents and employees present on the premises to ensure that the view area specified in subsection v. remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection i. of this section.
- vii. No viewing room may be occupied by more than one (1) person at any time. No connections or openings to an adjoining viewing room shall be permitted.
- viii. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1) foot candle as measured at the floor level.
- ix. It shall be the duty of the owners and operators and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

B. No sexually oriented business, other than an adult motel, shall open to do business before 10:00 A.M., Monday through Saturday, prevailing time; and no sexually oriented business, other than an adult motel, shall remain open after 10:00 P.M., Monday through Saturday, prevailing time. No sexually oriented business, other than an adult motel, shall be open for business on any Sunday or on a legal holiday as set forth in the Act of May 31, 1893, P.L. 188, § 1, as amended, 44 P.S. § 11.

C. A person having a duty under subsection i. through ix. of subsection A or a duty under subsection B is guilty of a violation of the Zoning Ordinance if he knowingly fails to fulfill that duty.

**SECTION 814: Exemptions.**

A. It is a defense to prosecution under Section 805 and Section 812 that a person appearing in a state of nudity did so in a modeling class operated:

- 1. By a proprietary school, licensed by the Commonwealth of Pennsylvania, or a college, junior college, or university supported entirely or partly by taxation;
- 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; or

3. In a structure -
  - (a) which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
  - (b) where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
  - (c) where no more than one (1) nude model is on the premises at any one time.

**SECTION 815: Injunction.**

A person who operates or causes to be operated a sexually oriented business without a valid permit or in violation of this Article is subject to an action in equity or a suit for injunction as well as citations for violations of the Zoning Ordinance.

**SECTION 816: Severability.**

The provisions of this Article are severable and, if any section, sentence, clause, part or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect the remaining sections, sentences, clauses, parts or provisions of this Article. It is hereby declared to be the intent of Board of Commissioners that this Article would have been adopted if such illegal, invalid or unconstitutional section, sentence, clause, part or provision had not been included herein.

**SECTION 817: Effective Date.**

Upon enactment, existing businesses as defined in this Article, shall have one year to come into compliance with the regulations contained in this Article, excluding location requirements of Section 812 contained herein.

## ARTICLE IX TEMPORARY USES

### SECTION 901: Temporary Uses

A. Permits Required:

A certificate of occupancy issued by the Zoning Officer in accordance with the provisions of this Ordinance is required for any temporary use of land and/or structure.

B. Authorized Temporary Uses:

1. Residential Districts:

- a. Model home in a plan of homes used as a sales office, which shall terminate upon the sale or rental of the last property including said unit.
- b. Rental or sales office in a multi-household residential complex.
- c. Outdoor fair, exhibit, show, other special event sponsored by a nonprofit organization.

2. All Other Zoning Districts:

- a. Outdoor fairs, exhibits
- b. Temporary sales events
- c. Other uses as approved by the Zoning Hearing Board

3. No Approval for Temporary Uses shall be granted unless the following are provided:

- a. Adequate off-street parking provided
- b. Adequate pedestrian and traffic access provided
- c. Any licenses and permits to sell or handle products or food from governmental agencies shall be submitted prior to the issuance of a certificate of occupancy
- d. Township Chief of Police and the Fire Chief shall be notified of any temporary usages

- e. If the temporary-use applicant does not own the land, then a letter stating the applicant is using the land must be submitted by the owner and the applicant
- f. The applicant is responsible for any activity taking place during the time of the temporary use
- g. The Zoning Officer may submit the application for a temporary use to the Township Planning Commission for review and recommendations

C. Temporary Construction Structures:

Temporary structures and trailers used in conjunction with construction work may not be moved onto a site until the building permit has been issued and must be removed within thirty (30) days after the end of the work. Permits for such temporary structures shall not exceed one (1) year.

## ARTICLE X SIGNS

*Signs* may be erected and maintained only when in compliance with the provisions of this Article and any and all other ordinances and regulations relating to the erection, *alteration*, or maintenance of *signs* and similar devices.

### **Section 1000:           PURPOSE**

The purposes of this article are the following: to encourage the effective *use* of *signs* as a means of communication in the Township of Reserve, to maintain and enhance the Township aesthetic environment and its ability to attract sources of economic development and growth, to improve pedestrian and traffic safety, to minimize the possible adverse effect of *signs* on nearby public and private *property*, and to enable the fair and consistent enforcement of this article's provisions.

Article X applies to all *signs* located in the Township of Reserve.

### **Section 1001:           SIGNS TYPES ON PRIVATE PROPERTY**

*Signs* are allowed on private *property* in the Township of Reserve with or without permits as specified Table "A" below. The explanation and key to the table is as follows:

1. If the letter "P" (permitted) appears for a *sign* type in a column of this table, such a *sign* is *permitted* on private *property* in the *zoning district* represented by that column without any permits.
2. If the letter "S" (special exception) appears for a *sign* type in a column of this table, such a *sign* is allowed on private *property* in the *zoning district* represented by that column only after *zoning permits* have been secured according to the explanation below.
  - a. If the letter "S" appears for a *sign* type in a particular district a *zoning permit* must be obtained for that *sign* before it may be erected. *Article III, Section 302 ("Zoning Permits")* explains how to obtain a *zoning permit*.

3. If the letter “N” (not) appears for a *sign* type in a column of this table, such a *sign* is not allowed on private *property* in the *zoning district* represented by that column.

**TABLE A**

<b>Sign Type</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>C-1</b>	<b>C-2</b>	<b>L-I</b>
<b>Billboards/Outdoor Advertising</b>	N	N	N	N	N	N	S
<b>Incidental</b>	N	N	N	N	S	S	P
<b>Plaza</b>	N	N	N	N	N	S	S
<b>Residential</b>	P	P	P	P	P	P	P
<b>Temporary</b>	P	P	P	P	P	P	P
<b>Other</b>	N	N	N	N	S	S	S
<b>Banner<sup>8</sup></b>	N	N	N	N	S	S	S
<b>Building Marker</b>	P	P	P	P	P	P	P
<b>Canopy</b>	N	N	N	S	S	S	S
<b>Identification</b>	P	P	P	P	P	P	P
<b>Incidental</b>	N	N	N	N	P	P	P
<b>Marquee</b>	N	N	N	N	N	S	S
<b>Plaza</b>	N	N	N	N	N	S	S
<b>Projecting</b>	N	N	N	N	N	S	S
<b>Roof</b>	N	N	N	N	N	S	S
<b>Roof, Integral</b>	N	N	N	N	N	S	S
<b>Suspended</b>	N	N	N	N	S	S	S
<b>Temporary<sup>9</sup></b>	N	N	N	N	S	S	S
<b>Wall</b>	N	N	N	N	S	S	S
<b>Window</b>	N	N	N	N	S	S	S
<b>Banner</b>	N	N	N	N	N	S	S
<b>Bus Shelter</b>	N	N	N	N	N	S	S
<b>Flag<sup>10</sup></b>	P	P	P	P	P	P	P
<b>Portable</b>	N	N	N	N	S	S	S

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<sup>8</sup> Must be removed ninety (90) days after permit approval.

<sup>9</sup> A temporary sign on private property shall stand for no more than 45 days. A temporary sign in a public right of way may stand for no more than 60 days and must adhere to the requirements of Section 1006, "Signs in the Public Right-of-way."

<sup>10</sup> The involved flag shall not exceed 60 square feet in area and shall not be flown from a pole that is more than 40 feet tall.

**Section 1002:           SIGN AREA PER LOT**

Any *sign* designated by an “S” or “P” in Table “A” shall be allowed on private *property* only if the sum of the area of all *building*, freestanding and miscellaneous *signs* on the *lot* conforms with the maximum *permitted sign* area as determined by the formula for the *zoning district* in which the *lot* is located as specified in Table “B.”

A.     How to Compute the Sign Area of Individual Signs:

The area of a *sign* face (which is also the *sign* area of a *wall sign* or other *sign* with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the *sign* from the backdrop or structure against which it is placed, but not including any supporting framework, bracing, or decorative *fence* or *wall* when such *fence* or *wall* otherwise meets the provisions of this ordinance and is clearly incidental to the display itself.

B.     How to Compute the Sign Area of Multifaceted Signs:

The *sign* area for a *sign* with more than one face shall be computed by adding together the area of all *sign* faces visible from any one point. When two identical *sign* faces area are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such *sign* faces are part of the same *sign* structure and are not more than 42 inches apart, the *sign* area shall be computed by the measurement of one of the faces.

C.     How to Compute the Maximum Total Permitted Sign Area for a Lot:

The *permitted* sum of the area of all individual *signs* on a *lot* shall be computed by applying the formula contained in Table “B” of Section 1002 (“Sign Per Lot Area”) to the *lot frontage*, *building frontage*, or *wall* area, as appropriate, for the *zoning district* in which the *lot* is located. *Lots* fronting on two or more *streets* are allowed the *permitted sign* area for each *street frontage*. However, the total *sign* area that is oriented toward a particular *street* may not exceed the portion of the *lot’s* total *sign* area allocation that is derived from the *lot*, *building*, or *wall* area *frontage* on that *street*.

The maximum total area of all *signs* on a *lot* -- except incidental *signs*, *building* marker *signs*, identification *signs*, and *flags* shall not exceed the lesser of the following:

**TABLE B**

	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>C-1</b>	<b>C-2</b>	<b>L-I</b>
Total Square Feet	10	10	20	20	80	100	100
Percentage of the Ground <i>Floor area</i> of the <i>Lot's Principal Building</i>	NA	NA	NA	NA	2%	3%	3%
Square Feet of Signage per Linear Foot of <i>Street Frontage</i>	NA	NA	NA	NA	2.0	2.0	3.0

**Section 1003: QUANTITY, AREA, HEIGHT, AND PLACEMENT OF SIGNS**

The size, location, and number of *signs* on the *lot* must conform to the requirements of Table “C” and Table “D” below, which establish *permitted sign* dimensions by *sign* type.

A. How to Compute Sign Height:

The height of a *sign* shall be computed as the distance from the base anchoring at normal grade to the top of the highest attached component of the *sign*. Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the *sign*. In cases in which the normal grade cannot reasonably be determined, *sign* height shall be computed on the assumption that the elevation of the normal grade at the base anchoring of the *sign* is equal to the elevation of the nearest point of the crown of a public *street* or the grade of the land at the principal entrance to the principal structure on the *lot*, whichever is lower.

An individual *sign*, including base anchoring shall not exceed the applicable maximum number, dimensions, or *setbacks* shown on Table “C” and on Table “D.”

**TABLE C SIGN REQUIREMENTS**

<b>Sign Type</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>C-1</b>	<b>C-2</b>	<b>L-I</b>
<b>Maximum Area</b> (in sq. ft.)	10	10	20	20	60	100	100
<b>Maximum Height</b> (in feet) (also see “A” below)	7	7	7	7	15	15	15
<b>Minimum Setback</b> (in feet) from all <i>lot lines</i> (also see “B” below)	2	2	2	2	2	3	3

<b>Sign Type</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>C-1</b>	<b>C-2</b>	<b>L-I</b>
<b>Number</b> <i>permitted per lot per foot of street frontage</i> (also see “C” below)	1 per 10	1 per 10	1 per 10	1 per 10	1 per 10	1 per 15	1 per 15
<b>Area</b> (max. sq. ft.)	6	6	6	6	NA	NA	NA
<b>Wall Area</b> (percent) (also see “D” below)	NA	NA	NA	NA	3%	3%	5%

B. Additional Height Requirements:

1. Billboard/outdoor advertising *signs* shall have no less than (3) feet of bottom *open space* along its entire length. Latticing shall be regarded as satisfying this requirement.

C. Additional Setback Specifications:

1. In addition to the *setback* requirements of Table “D,” no *sign* shall be located closer than 10 feet to an intersection between public and/or *private roads* and/or driveways unless that *sign* allows a clear view between the intersecting roads and/or driveways at all heights between 3 and 10 feet.
2. In any zone where *signs* containing commercial messages are *permitted*, a pole(s) or standard(s) may be located at any point within a required yard if, between the level of thirty (30") inches above curb level and the level of ten (10') feet above curb level, the diameter or greatest dimension of the supporting pole(s) or standard(s) does not exceed twenty (20") inches.
3. No billboard/outdoor advertising *sign* or structure shall be erected within 300 feet of any church or *school*.
4. No billboard/outdoor advertising *sign* shall be erected within 500 feet of any other outdoor advertising *sign*.

D. Additional Number of Signs Per Lot Specifications:

*Lots* fronting on two or more *streets* are allowed the *permitted signage* for each *street frontage*. However, this *signage* cannot be accumulated and used on one *street* in excess of that allowed for *lots* with only one *street frontage*.

E. Additional Wall Area Specifications:

The percentage figure of “*Wall Area*” shall be interpreted as a maximum percentage of the area of the *wall* of which such a *sign* is a part or to which each *sign* is most nearly parallel.

No *sign* shall exceed any applicable maximum numbers or dimensions shown on Table “D.” Likewise, no *sign* shall encroach on any applicable minimum clearances shown below.

**TABLE D INDIVIDUAL SIGNS BY SIGN TYPE**

<b>NUMBER AND DIMENSIONS OF CERTAIN INDIVIDUAL SIGNS BY SIGN TYPE</b>				
<b>Sign Type</b>	<b>Number Allowed</b>	<b>Maximum Sign Area</b>	<b>Vertical Clearance from Sidewalk, Private Drive, or Parking</b>	<b>Vertical Clearance from Public Street</b>
<b>FREESTANDING</b>				
Billboards/Outdoor Adv	see Table “C”	200 sq. ft.	15 ft.	15 ft. <sup>11</sup>
Residential, Other, Plaza and Incidental	see Table “C”	see Table “C”	NA	NA
<b>BUILDING</b>				
Banner	1 per <i>building</i>	24 ft.	9 ft.	15 ft.
<i>Building</i> Marker	1 per <i>building</i>	4 sq. ft.	NA	NA
Canopy	1 per <i>building</i>	25% of the canopy’s vertical surface	9 ft.	15 ft.
Identification	1 per <i>building</i>	NA	NA	NA
Incidental	NA	NA	NA	NA
Marquee	1 per <i>building</i>	NA	9 ft.	15 ft.
Plaza	1 per development	150 sq. ft.	9 ft.	15 ft.
Projecting	1 per <i>building</i>	20 sq. ft.	9 ft.	15 ft.
Residential	see Table “C”	NA	NA	NA
Roof	NA	NA	NA	NA
Roof, Integral	2 per principal <i>building</i>	NA	NA	NA
Suspended	1 per entrance	NA	9 ft.	NA
<i>Temporary</i>	see Table “C”	NA	NA	NA
<i>Wall</i>	NA	NA	NA	NA

<sup>11</sup> No billboard/outdoor advertising *signs* shall be higher than 15 feet from the grades of the lot on which the outdoor advertising *sign* is located, provided that when outdoor advertising *signs* are located such that the *signs* are oriented towards an elevated highway, the measure of height shall be made from the grade of the road, not lot grade.

<b>NUMBER AND DIMENSIONS OF CERTAIN INDIVIDUAL SIGNS BY SIGN TYPE</b>				
<b>Sign Type</b>	<b>Number Allowed</b>	<b>Maximum Sign Area</b>	<b>Vertical Clearance from Sidewalk, Private Drive, or Parking</b>	<b>Vertical Clearance from Public Street</b>
Window	NA	25% of the window's total area	NA	NA
<b>MISCELLANEOUS</b>				
Banner	NA	NA	9 ft.	15 ft.
Flag	NA	60 sq. ft.	9 ft.	15 ft.
Portable	1 where allowed	20 sq. ft.	NA	NA

**Section 1004: SIGN CHARACTERISTICS BY DISTRICT**

The size location, and number of *signs* on the *lot* must conform with any additional limitations listed in Table “A,” Section 1001, “Sign Types on Private *Property*,” and the characteristics of the *sign* must conform with the limitations of Table “E” below, and with any additional limitations listed in Table “A.” The key to the table is as follows:

1. A “P” *signifies* that the characteristic is allowed in the column’s *zoning district*, while “N” *signifies* that the characteristic is not allowed.

**TABLE E SIGN TYPE**

<b>Sign Type</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>C-1</b>	<b>C-2</b>	<b>L-I</b>
Animation	N	N	N	N	N	N	<b>P</b>
Changeable Copy	N	N	N	N	N	<b>P</b>	<b>P</b>
Internal Illumination	N	N	N	N	N	<b>P</b>	<b>P</b>
External Illumination	N	N	N	N	<b>P</b>	<b>P</b>	<b>P</b>
Exposed Bulbs or Neon Illumination	N	N	N	N	N	N	<b>P</b>

All *permitted signs* must follow the requirements of Section 1005, “*Design, Construction, and Maintenance*”.

**Section 1005: DESIGN, CONSTRUCTION, AND MAINTENANCE**

- A. All *signs* shall be constructed of permanent materials and shall be permanently attached to the ground, a *building*, or another structure by direct attachment to a rigid *wall*, frame, or other structural element.
- B. Furthermore, all *signs* shall be maintained in good structural condition, in compliance

with all applicable federal, state and local *building* and electrical codes.

- C. A *sign* that conforms with the requirements of the following: Section 1001, “Signs Types on Private *Property*,” Section 1002, “Sign Area Per *Lot*,” Section 1003, “Quantity, Area, Height, and Placement of *Signs*,” Section 1004, “Sign Characteristics By District,” Section 1006, “*Signs* in the Public *Right-of-way*,” or Section 1008, “Prohibited *Signs*,” may be (1) repaired, (2) repainted, (3) removed for repair and then re-mounted, or (4) replaced with an identical *sign* without any permits. Note that this ordinance considers replacing a *sign* with a non-identical *sign* to be the same as erecting a new *sign*. Thus, such a replacement may or may not require a *zoning permit*, depending on the type and location of the involved *sign*.
- D. *Billboards/outdoor advertising signs* may have four *sign* faces, (2) on each side and each with a maximum length of 25 feet, inclusive of any border trim on a single structure. When two or more *sign* faces are utilized in the back-to-back arrangement, they shall be parallel and directly opposite *sign* faces oriented in opposite directions located not more than 15 feet apart.
- E. When the V-type *sign* arrangement is used for two or more *sign* faces, the *sign* shall be located on a steel support so that when viewed from above, the faces are oriented in different positions forming the shape of the letter “V” and located not more than 15 feet apart at the farthest point.
- F. The general area in the vicinity of any *billboards/outdoor advertising signs* on undeveloped *property* shall be kept free and clear of *sign* material debris.
- G. Except for banners, *flags*, *temporary signs*, and *window signs* in all respects shall comply with the requirements of this Ordinance.

**Section 1006:           SIGNS IN THE PUBLIC *RIGHT-OF-WAY***

- A. Sign Types Allowed in Public *Right-of-ways*:
  - 1. Public *signs* erected by or on behalf of a governmental body to post legal notices;
  - 2. *Signs* identifying public *property*;
  - 3. Conveying public information;
  - 4. *Signs* required by Penn DOT of a regulatory or cautionary nature and containing no commercial messages;
  - 5. Bus stop *signs* erected by a public transit company;
  - 6. Informational *signs* of a public utility regarding its poles, lines, pipes, or other facilities;
  - 7. Awning, projecting, and suspended *signs* projecting over a public *right-of-way* in conformity with the requirements of Table “A”;
  - 8. *Temporary signs* are allowed in public *right-of-ways* only if they contain no commercial messages and are no more than two square feet in area; and

9. Emergency warning *signs* are allowed in public *right-of-ways* if they are erected by a *governmental agency*, a public utility company, or a contractor doing authorized or *permitted* work within the public *right-of-way*.

B. Forfeiture of Signs Located in Public *Right-of-ways*:

Any *sign* installed or placed on public *property*, except in conformance with the requirements of this article, shall be forfeited to the Township and subject to immediate confiscation. The Township shall have the right to recover from the owner or *person* placing such a *sign* the full costs of removal and disposal of the *sign*.

**Section 1007:           SIGNS THAT ARE EXEMPT FROM THE REQUIREMENTS OF THIS ARTICLE**

The following kinds of *signs* are exempt from the requirements of this article:

- A. Any public notice or warning required by a valid and applicable federal, state, or local law, regulation, or ordinance;
- B. Any *sign* that is inside a *building*, not attached to a window or door, or not legible from a distance of more than 3 feet beyond the *lot line* of the involved *lot* or parcel;
- C. Works of art that do not include a commercial message;
- D. *Signs* on the scoreboard or outfield *fence* of an athletic field;
- E. Holiday lights and decorations with no commercial message; and
- F. Traffic control *signs* on private *property*, such as “STOP,” “YIELD,” and similar *signs*, the face of which meet the Pennsylvania Department of Transportation (PENN DOT) standards and which contain no commercial message of any sort.

**Section 1008:           PROHIBITED SIGNS**

All *signs* that are not expressly *permitted* under this Ordinance or exempted from its regulations by Section 1007, “*Signs that are Exempt from the Requirements of this Article*,” are prohibited in the Township of Reserve. Such *signs* include, but are not limited to beacons, pennants, strings of lights that are not permanently mounted to a rigid background (except those exempt under Section 1001, Table A) inflatable *signs*, and tethered balloons, and sexually suggestive *signs* containing advertisements, merchandise displays, *signs*, or any other exhibit depicting adult *entertainment* activities or *sexually oriented businesses* placed within the interior of buildings or *premises* shall be arranged and screened to prevent public viewing from outside such buildings or *premises*. No sexually suggestive *signs* shall contain photographs, silhouettes, drawings or

pictorial representations of any kind.

**Section 1009: ABANDONED SIGNS**

If a conforming *use* has been discontinued for a total of twelve (12) months, then all *signs* that are related to that *use* -- as well as any structures that support these *signs* -- shall constitute “*abandoned signs*.” Likewise, if a *nonconforming use* has been *abandoned* as described in Article III, Section 116, “*Nonconformities*,” paragraph “2,” then all *signs* that are related to that *use* -- as well as any structures that support these *signs* -- shall constitute “*abandoned signs*.” All *abandoned signs* shall be removed at the expense of their owners. If such a *sign* is not removed promptly, the *Zoning Officer* shall enforce the requirements of this section via the procedure given in Article III, Section 307, “Enforcement.”

**Section 1010: NONCONFORMING SIGNS**

A. Applicability:

The requirements of this section only apply to *nonconforming signs*. A *nonconforming sign* is defined as a *sign* that (1) was legally established before the effective date of this Ordinance’s enactment (see Article I, Section 105, “The Effective Date of This Ordinance’s Enactment”), and (2) does not conform the requirements of the following: Section 1001, “*Sign Types on Private Property*”; Section 1002, “*Sign Area Per Lot*”; Section 1003, “*Quantity, Area, Height, and Placement of Signs*”; Section 1004, “*Sign Characteristics By District*”, Section 1006, “*Signs in the Public Right-of-way*”; or Section 1008, “*Prohibited Signs*”. Because *nonconforming signs* are not illegal, they have a right to temporarily remain in place and to be maintained. However, they must adhere to the requirements of this section.

B. Phasing Out Nonconforming Signs:

So long as it does not threaten the public health or welfare, a *nonconforming sign* may temporarily maintain its *nonconforming* characteristic or characteristics. However, all *nonconforming signs* that are not *temporary* shall be brought into conformance with the requirements of Article X within 10 years of the effective date of this Ordinance’s enactment (see Article I, Section 105, “The Effective Date of This Ordinance’s Enactment”). All *nonconforming temporary signs* shall be brought into conformance with the requirements of Article X within 90 days of the effective date of this Ordinance’s enactment (see Section Article I, Section 105, “The Effective Date of This Ordinance’s Enactment”).

C. Nonconforming Status:

The following rules apply to or concern all *nonconforming signs*.

1. The *Zoning Officer* may keep and maintain a list of all *nonconforming signs* that exist in the Township date of this Ordinance's enactment and on the effective dates of any relevant amendments to either this Ordinance or its zoning map.
2. The owner of a *nonconforming sign* may obtain a "certificate of nonconformity" from the Township's *Zoning Officer*. This certificate shall state that the *sign* may continue to be used until a date that is 90 days from the effective date of this Ordinance's enactment (see Article I, Section 105) in the case of *temporary signs*, or a date that is 10 years from the effective date of this Ordinance's enactment in the case of *non-temporary signs*.
3. Aggrieved parties and the involved *landowner* may appeal the *Zoning Officer's* determination of whether or not a *sign* is *nonconforming* according to the rules of Article III, Section 310, "Appealing the Determination the *Zoning Officer*."
4. Any *sign* that was illegally erected or painted under a previous *zoning* ordinance or *land use* regulation shall remain illegal under this Ordinance, even if it conforms to this Ordinance's regulations.
5. Any *sign* that becomes a *nonconforming sign* due to an amendment made after the effective date of this Ordinance's enactment shall be subject to the regulations of this section.

D. Maintaining Nonconforming Signs:

The following rules apply to all *nonconforming signs*.

1. If any *nonconforming sign* deteriorates to an unsightly or hazardous condition, the owner of that *sign* shall repair, repaint, remove, or replace it. If the Township *Zoning Officer* finds that such a *sign* has not been repaired, repainted, removed, or replaced, he or she shall enforce this requirement via the procedures given in Article III, Section 307, "Enforcement."
2. A *nonconforming sign* may be (1) repaired, (2) repainted, or (3) removed for repair and then re-mounted without obtaining a *zoning permit*.

E. Replacing Nonconforming Signs:

1. Within the periods established under letter "B" above, a *nonconforming sign* may be replaced with an identical *nonconforming sign* if the *use* that the *sign* relates to (1) has not changed since the original *sign* was constructed or painted, and (2) has not been discontinued for a total of twelve (12) months or *abandoned* as described in Article I, Section 116, "Nonconformities," paragraph "2". Otherwise, the *nonconforming sign* may only be replaced with a new, conforming *sign*.
2. Replacing a *temporary nonconforming sign* with an identical *temporary*

*nonconforming sign* does not require any permits. However, replacing a *non-temporary, nonconforming sign* with an identical *non-temporary, nonconforming sign* requires both a *zoning permit*. Article III, Section 302, “*Zoning Permits*,” explains how to obtain a *zoning permit*. Note that this Ordinance considers replacing a *nonconforming sign* with a non-identical *sign* to be the same as erecting a new *sign*. Thus, such a replacement may or may not require a *zoning permit*, depending on the type and location of the involved *sign*.

F. Enlarging, Relocating, or Altering Nonconforming Signs:

1. A *nonconforming sign* shall not be enlarged or relocated within the Township.
2. A *nonconforming sign* shall not be altered in any aspect except (a) to make safety improvements, (b) to keep the *sign* maintained in accordance with the requirements of this section or other Township ordinances, or (c) to bring the *sign* into conformance with the requirements of this ordinance.

G. Bringing a Nonconforming Sign into Conformance:

If a *nonconforming sign* is altered so that it becomes a *conforming sign*, it shall not be subsequently altered back to a *nonconforming* state. Likewise, if a *nonconforming sign* is replaced with a *conforming sign*, that *conforming sign* shall not be subsequently replaced with another *nonconforming sign*.

H. Abandoned Nonconforming Signs:

If a *conforming use* has been discontinued for a total of twelve (12) months, then all *nonconforming signs* that are related to that *use* -- as well as any structures that support these *signs* -- shall constitute “*abandoned nonconforming signs*.”

Likewise, if a *nonconforming use* has been *abandoned* as described in Article I, Section 116, “*Nonconformities*”, paragraph “2,” then all *nonconforming signs* that are related to that *use* -- as well as any structures that support these *signs* -- shall constitute “*abandoned nonconforming signs*.” All *abandoned nonconforming signs* shall be removed at the expense of their owners. If such a *sign* is not removed, the *Zoning Officer* shall enforce this requirement via the procedures given in Article III, Section 307, “*Enforcement*.”

**ARTICLE XI  
ENACTING CLAUSE**

Ordained and enacted into law, this \_\_\_ day of \_\_\_\_\_, 2003.

ATTEST:

TOWNSHIP OF RESERVE

\_\_\_\_\_  
Shirley M. Scherling  
Secretary

\_\_\_\_\_  
James Helfrich  
President  
Board of Commissioners

SEAL